



**AGENDA FOR THE**

**ORDINARY MEETING OF**  
**SELWYN DISTRICT COUNCIL**

**TO BE HELD IN THE**  
**COUNCIL CHAMBERS**

**SELWYN DISTRICT COUNCIL**  
**ROLLESTON**

**WEDNESDAY 10 AUGUST 2022**

**COMMENCING AT 1 PM**

## Council 10 August 2022

Attendees: Mayor (S T Broughton), Councillors, M A Alexander, J B Bland, S N O H Epiha, J A Gallagher, D Hasson, M P Lemon, M B Lyall, S G McInnes, G S F Miller, R H Mugford & N C Reid

10 August 2022 01:00 PM - 05:00 PM

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Public portions of this meeting are audio-recorded and livestreamed via the Council's website and YouTube channel.

Whakataka te hau ki  
te uru

Cease the winds from  
the west

Whakataka te hau ki  
te tonga

Cease the winds from  
the south

Kia mākinakina ki uta

Let the breeze blow  
over the land

Kia mātaratara ki tai

Let the breeze blow  
over the sea

E hī ake ana te  
atakura

Let the red-tipped  
dawn come with a  
sharpened air

He tio, he huka, he  
hau hū

A touch of frost, a  
promise of a glorious  
day

Tīhei mauri ora!



## **COUNCIL AFFIRMATION**

Let us affirm today that we as Councillors will work together to serve the citizens of Selwyn District.

To always use our gifts of understanding, courage, common sense, wisdom and integrity in all our discussions, dealings and decisions so that we may solve problems effectively.

May we always recognise each other's values and opinions, be fair minded and ready to listen to each other's point of view.

In our dealings with each other let us always be open to the truth of others and ready to seek agreement, slow to take offence and always prepared to forgive.

May we always work to enhance the wellbeing of the Selwyn District and its communities.

**MINUTES OF AN ORDINARY MEETING OF THE  
SELWYN DISTRICT COUNCIL  
HELD IN THE COUNCIL CHAMBER AND VIA ZOOM  
ON WEDNESDAY 6 JULY 2022 COMMENCING AT 1PM**

**PRESENT**

Mayor S T Broughton, Councillors, M A Alexander, J B Bland (via Zoom), S N O H Epiha, J A Gallagher (via Zoom), D Hasson, M B Lyall, S McInnes, G S F Miller, R H Mugford and N C Reid

**IN ATTENDANCE**

Messrs. D Ward (Chief Executive), K Mason (Group Manager Organisational Performance), D Marshall (Group Manager Property, for the Mayor's Report), M Washington (Group Manager Infrastructure), S Hill (Group Manager Communication and Customer Services), T Harris (Group Manager Environmental and Regulatory Services), M England (Asset Manager Water Services), R Love (Team Leader Strategy & Policy), and M Logan (Senior District Arts, Culture and Lifelong Learning Advisor); Mesdames D Kidd (Group Manager Community Services & Facilities), N Moen (Manager Arts, Culture and Lifelong Learning), S Atherton (Team Leader Compliance), K Waghorn (Senior Community Services & Facilities Advisor), E McLaren (Water Services Delivery Manager), J Lewes (Strategy and Policy Planner), and N Smith (Executive Assistant to the Chief Executive), and Ms T Davel (Committee Advisor)

*The meeting was livestreamed.*

The Mayor opened the meeting with the karakia and Councillor Affirmation and welcomed everyone to the meeting. He also welcomed everyone online listening to the meeting.

**APOLOGIES**

An apology was received in relation to Councillor Lemon.

**Moved** – Councillor Epiha / **Seconded** – Councillor Alexander

*'That the Council receives the apology from Councillor Lemon, for information.'*

**CARRIED**

**IDENTIFICATION OF ANY EXTRAORDINARY BUSINESS**

None.

**CONFLICTS OF INTEREST**

Councillors Reid, Hasson, Lyall and Alexander in respect to the plan change hearings panel items in the public excluded agenda (items 21 & 22).

Councillor Miller in respect to the item Consent to grant an easement to Central Plains Water Limited in the public agenda.

## **PUBLIC FORUM**

Mr Tim Sanson presented to Council regarding recent flood damage on his property in Taumutu. He had a PowerPoint presentation and hand-out.

Mr Sanson said he was disappointed that no-one had been out to look at the damage and it was only when he had a visit from Councillor Epiha that there was any traction on the issue. Mr Sanson explained the damage to the property and noted that his presentation focuses on his property only although other properties also sustained damage.

Mr Sanson said the debris on his property was not his and he wanted it removed. He said it either belonged to Selwyn District Council, Environment Canterbury or LINZ. He asked for the sandbank to be reinstated noting that recently there was activity on the beach to work on sand banks, but that nothing was done on his property.

The new bank will protect his property but Mr Sanson said it appears that no-one is taking responsibility. ECan told him in so many words they will not reinstate the bank. He is hopeful that Council will offer some solution. Mr Sanson said they felt neglected and the only staff member who had been helpful to him with good and effective community was Kate Attwood. He invited the Mayor and Councillors to visit the property and see first hand the damage and potential solutions. He said it had been impossible for him to get before the ECan Councillors and they did not appear interested in his plight.

Mr Sanson said it wouldn't take a very high tide to have it all flooded again adding that previously it would take a 2.8m rise to flood, whereas these days it would take not much more than a 2.2m rise. Strong Southerlies also play its part in causing climate changes and flooding. Despite predictions that the lake will eventually become an estuary Mr Sanson said the last time the lake breached was 44 years ago and before that 70 years, so obviously a bank works.

The Mayor thanked Mr Sanson for his presentation and said he would like to take him up on the offer of visiting the site. He said Councillors and staff, also Councillors from ECan will be invited. The Mayor asked for a report from staff about what has been noted today so that Council could consider any options to find a solution.

## **CONFIRMATION OF MINUTES**

### **1. Minutes of an ordinary meeting of the Selwyn District Council held in the Council Chamber on Wednesday 22 June 2022**

Councillor Reid noted that in respect of PC 73 Councillors Hasson and Lyall excused themselves from the discussion on the item, and not Councillors Reid and Alexander.

**Moved** (as amended) – Councillor Lyall / **Seconded** – Councillor Mugford

*'That the Council confirms the minutes of the ordinary meeting of the Selwyn District Council held on Wednesday 22 June 2022, as circulated.'*

**CARRIED**

**2. Minutes of an extraordinary meeting of the Selwyn District Council held in the Council Chamber on Wednesday 29 June 2022**

**Moved** – Councillor Lyall / **Seconded** – Councillor Alexander

*'That the Council confirms the minutes of the extraordinary meeting of the Selwyn District Council held on Wednesday 29 June 2022, as circulated.'*

**CARRIED**

**MATTERS REQUIRING ATTENTION**

See table at the end of the minutes.

**REPORTS**

**1. Mayor**

*Mayor's Report*

The Mayor started his report by acknowledging Mr Douglas Marshall for his work, and in particular during emergencies. He said Mr Marshall had been an important part of Council. The Mayor said Mr Marshall had successes in the build of many of the District's facilities and the 'legacy of Marshall' continues on. The Mayor said it was easy to forget the involvement of key people and it's good to remember that it's not just about the building but also the relationship built with people.

Councillor Alexander said Mr Marshall had a great career here, working long hours and going beyond the call of duty. He said he hoped Mr Marshall will still be around and he looked forward to seeing him at other events. His contribution to Selwyn will live on for many generations.

Councillor Hasson said that on behalf of the communities she had been associated with she would like to thank Mr Marshall for the work he undertook working alongside the community. She thanked him very much for the time he took to work alongside the communities.

Councillor Lyall said Mr Marshall had always been a connector, and said he can think of many public meetings which got heated but that Mr Marshall could handle it calmly and very well.

Councillor Epiha addressed Mr Marshall with a short mihi noting he had known him for a short while only but enjoyed his direct nature in getting things done. He added Mr Marshall could step into spaces where others might have been fearful to go. On behalf of himself and his community he wished Mr Marshall all the best with future success. Councillor Epiha led Council in a waita to acknowledge Mr Marshall.

The remainder of the Mayor's report was taken as read.

**Moved** – Mayor Broughton / **Seconded** – Councillor Lyall

*‘That Council receives the Mayor’s Report for June 2022 for information.’*

**CARRIED**

## **2. Chief Executive**

*Local Government New Zealand Remits*

The Chief Executive referred to the 28 July LGNZ AGM where six remits will be voted on, and asked Council’s direction on this.

During the discussion Council mainly supported the remits but debated the benefit of the public transport remit to Selwyn and in particular it’s rural communities.

**Moved (as amended)** – Mayor Broughton / **Seconded** – Councillor Lyall

*‘That Council:*

*a) Receives the Local Government New Zealand Remits report for information; and*

*b) Requests AGM delegates to the Local Government New Zealand Annual General Meeting (LGNZ AGM) to vote in accordance with the wishes of Council on each Remit in front of the LGNZ AGM to be held on Thursday 28 July 2022, as follows:*

- 1. Central government funding for public transport but include extending into rural areas;*
- 2. Review of Government transport funding;*
- 3. Illegal street racing;*
- 4. Bylaw infringements;*
- 5. Density and proximity of vaping retailers;*
- 6. Polling LGNZ members*

**CARRIED**

## **3. Group Manager Organisational Performance**

*Selwyn District Council Finance and Performance Report for the period to 31 May 2022*

Mr Mason noted capital expenditure was running slightly behind budget with a similar variance to the previous period. There continued to be large volumes of consenting movement and this was up 12% from last year. Compliance dates were moving in the right direction which showed a positive improvement. Resource consents were up 10%.

Councillor Miller asked that his absolute dissatisfaction be minuted, that at the end of the triennium there had been nothing achieved in terms of an investment strategy and re-investment plan. He said there was no current methodology to advance it either.

**Moved** – Councillor Alexander / **Seconded** – Councillor Lyall

*‘That the Council receives for information the report – Selwyn District Council Finance and Performance Report for the period to 31 May 2022’.*

**CARRIED**

**4. Regulatory Manager**

*Proposed Gambling Venue Policy 2022 for Adoption*

Staff briefly outlined the options available to Council, noting the policy need to be reviewed every three years.

**Moved** - Councillor McInnes / **Seconded** – Councillor Bland

*‘That the Council resolve:*

*(a) To adopt the Gambling Venue Policy 2022;*

*(b) That all submitters receive advice of the Council’s decision.’*

**CARRIED**

**5. Manager Arts, Culture and Lifelong Learning**

*2021 / 2022 Council Arts Update*

Staff told Council that Te Ara Atea combines a gallery, library and museum experience. They said they will start including performing arts such as the Christchurch Symphony Orchestra and having junior and senior drama lessons.

Staff also explained they will be looking at how art is stored and displayed. They now have professional team members with knowledge on art and how to handle and preserve art. Art will be displayed around the District in community facilities, mainly within their most logical and appropriate locations.

**Moved** – Councillor Alexander / **Seconded** – Councillor Mugford

*‘That the Council receives the Report “2021/2022 Council Arts Update” for information.’*

**CARRIED**

**6. Group Manager – Community Services and Facilities**

*Selwyn Community Grants Fund Accountability Report 2021 / 2022*

Staff agreed to add more detail in terms of what events were funded. Councillors also thanked staff for their hard work in this space.

**Moved** – Councillor Epiha / **Seconded** – Councillor Miller

*‘That the Council receives the Report “Community Services and Facilities Group Update” for information.’*

**CARRIED**

**7. Acquisitions, Disposals and Leasing Manager & Lease / Licence Officer**

*Consent to Grant an Easement to Central Plains Water Limited*

*Councillor Miller moved away from the table due to a conflict and took no part in the discussions or voting.*

**Moved** – Councillor Alexander / **Seconded** – Councillor Epiha

*‘That Council:*

- a) Approves the granting of an easement to Central Plains Water Limited (CPWL) for the construction of a turnout facility and an extension to the underground pipeline of the Stage 2 Distribution Network and for the right to convey water in gross along the pipeline over Water Race Survey Office Plan 2008 Gazette 1902 p6 and Main Race No 1 Water Race Gazette 1888 p485 adjacent to Tramway Road, Darfield.*
- b) Consent to the easement referred to in (a) above pursuant to Section 48(1) of the Reserves Act 1977, pursuant to a delegation from the Minister of Conservation dated 12 June 2013 under Section 10 of the Reserves Act 1977;*
- c) Approves that the easement be at a nil consideration in accordance with previous easements granted by Council to CPWL and due to Council being a Shareholder of the Central Plains Water Scheme.’*

**CARRIED**

*Councillor Miller moved back to the table at the end of the item.*

**8. Asset Manager Water Services, and Water Service Delivery Manager**

*Water Services Monthly Update*

Staff updated Council noting that 14 schemes across New Zealand had been identified with a priority need for fluoridation, with Selwyn not in that first tranche.

Council next discussed the public forum presentation. Councillor Miller said he had sympathy for the presenter as it appears his home was in danger. He added it also seems the works required to reinstate the bank will not be very expensive to do.

The Mayor said he will visit the site and invite the Chair of ECan and Councillors along to expose the situation. The team managing the opening of the lake should also be invited to attend the site visit.

Staff said they would invite ECan staff to attend a Councillor briefing so that Council can get staff's side of the story. They said it was a long-lasting issue and there are a number of communities who will be challenged by flooding.

**Moved** – Councillor Reid / **Seconded** – Councillor Epiha

*‘That the Council receives the report “Water Services Monthly Update” for information’*

**CARRIED**

**GENERAL BUSINESS****Register of Signed and Sealed Documents**

Staff would report back as to whether the first transaction leaves Council as the owner of a forestry block.

**Moved** – Councillor Alexander / **Seconded** – Councillor Lyall

*‘That the following transactions and the fixing of the Common Seal under authorised signatures have been approved.’*

1	Name of other party	Southbridge Primary School Board of Trustees
	Transaction type	Deed of Surrender of Lease
	Transaction description	Reserve 2559 (for forestry purposes) on the Rakaia River – 4.0469 hectares

2	Name of other party	Tui Company Limited
	Transaction type	Deed of Surrender of Licence
	Transaction description	Reserve 2319 Te Pirita Road, Hororata

3	Name of other party	P G & L M Lowery Farms Limited
	Transaction type	Licence to Occupy Unformed Legal Road
	Transaction description	Off Leeston Road, Doyleston

4	Name of other party	Carlow 1 Limited
	Transaction type	Deed of Surrender of Licence
	Transaction description	Reserve 2301 Ardlui Road, Hororata

5	Name of other party	Sally Anne Warner
	Transaction type	Deed of Licence
	Transaction description	Lot 5 Upper Selwyn Huts

6	Name of other party	Robin William Hyde
	Transaction type	Deed of Licence
	Transaction description	Lot 1 Upper Selwyn Huts

**CARRIED**

**MATTERS RAISED IN PUBLIC FORUM**

Noted under Item 8 *Water Services Monthly Update*

**RESOLUTION TO EXCLUDE THE PUBLIC**

**Moved** – Councillor Reid / **Seconded** – Councillor Gallagher

*‘That the public be excluded from the following proceedings of this meeting. The general subject matter to be considered while the public is excluded, the reason of passing this*



resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered		Reasons for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution	Date information can be released
1.	PX Minutes, Ordinary 22 June, & Extraordinary 29 June	<i>Good reason to withhold exists under Section 7</i>	<i>Section 48(1)(a)</i>	
2.	Processing plan change requests in response to the resource management (enabling housing supply and other matters) amendment act 2021			
3.	Proposed district plan - composition of hearings panel for intensification variation			
4.	Continuation of the Proposed selwyn district Plan hearings panel post Local body elections			
5.	Rolleston Town Centre Development			

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

2	<i>To protect all communications between a legal adviser and clients from being disclosed without the permission of the client</i>	<i>Section 7(2)(g)</i>
1 – 2, 5	<i>Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or</i>	<i>Section 7(2)(h)</i>
1 – 2	<i>Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or</i>	<i>Section 7(2)(i)</i>
2.	<i>To prevent use of the information for improper gain or advantage</i>	<i>Section 7(2)(j)</i>

3 - 4	<i>To protect the privacy of natural persons, including that of deceased natural persons;</i>	Section 7(2)(a)
3 - 4	<i>The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.</i>	Section 7(2)(b)(ii)

2 *that appropriate officers remain to provide advice to the Committee.'*

**CARRIED**

Council had a brief break between 2.45pm – 3pm.

The public meeting moved into Public Excluded at 3pm.

The meeting resumed in open meeting at 4.29pm and ended at 4.29pm.

DATED this                      day of                      2022

\_\_\_\_\_  
**MAYOR**

**PUBLIC MATTERS UNDER INVESTIGATION**

<b>Item</b>	<b>Meeting referred from</b>	<b>Action required</b>	<b>Report Date</b>
Roading code of practice review	Council 11 May and 25 May	To bring back a revised code of practice for consideration	24 August 2022
Accessibility Report: how staff can encourage applicants to ensure buildings were as accessible as possible	13 October 2021	Staff report to consider modifications	24 August 2022
Potential Stock Water Race Closure	April 2022	Review and consider the additional correspondence received in respect of the Proposed Closure of the McLeans Island Road section	10 August 2022
Flooding Sansbrook, Taumutu – presentation Tim Sanson, public forum	6 July 2022	Staff report and presentation to Council on options – to include ECan staff  Site visit Mayor, Councillors and ECan Councillors and staff from both SDC and ECan	2 August 2022 workshop  As soon as possible
Community Centres, Halls and Libraries Network Plan	13 October 2021	Report on landbanking - buying land now for future community facilities	23 November 2022

UNCONFIRMED

## REPORT

**TO:** Council

**FOR:** Council Meeting – 10 August 2022

**FROM:** Mayor Sam Broughton

**DATE:** 4 August 2022

**SUBJECT:** **MAYOR'S REPORT – JULY 2022**

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### RECOMMENDATION

*'That Council receives the Mayor's Report for July 2022 for information.'*

#### 1. Acknowledgements

This month's 'Shout Out' goes to the Revenue Team who have been instrumental in assisting with setting the rates for the 2022/23 rating year.

#### 2. Meetings

- |         |  |
|---------|--|
| 4 July  | One Water Field Trip to view water infrastructure in the district along with Councillors McInnes and Reid, Te Taumutu and Ngāi Tūāhuriri representatives.  |
| 5 July  | Met with the new Chinese Consul General Madame He Ying. Meeting with the Associate Minister of Local Government Hon. Kieran McAnulty.  |
| 6 July  | Met with the Canterbury Regional Public Service Commission team Eamon Coulter, Anna Davidson and Leeann Blanken. Council meeting.  |
| 7 July  | Met with KiwiRail representatives to discuss scenic services and the cycle trail Arthur's Pass to Taumutu.<br>Met with Darfield high school and Primary school principals along with SDC staff to discuss pool facilities upgrade in Darfield.<br>RM Reforms update held via zoom meeting. |
| 8 July  | Greater Christchurch Partnership Committee meeting.<br>NZIA Awards presentation held at the Town Hall. Te Ara Ātea won their category.   |
| 11 July | Met with Tasman District Council and Nelson City Council Mayors at their respective offices in Richmond and Nelson.  |

- 19-22 July Local Government NZ annual conference held in Palmerston North. LGNZ Awards - Te Ara Ātea won the Cultural Wellbeing Excellence. Highly Commended Award for Trailblazers in their category.
- 25 July Mayoral Forum visit to University of Canterbury.
- 26 July Met with the Principal of Lemonwood School in Rolleston. Met with Selwyn Secondary School Principals.
- 27 July Council meeting. Attended Friends of Te Ara Kākāriki meeting at Lincoln University.
- 28 July 35<sup>th</sup> AGM of Local Government NZ zoom meeting.
- 29 July Resource Management Reform Local Government Steering Group meeting held online.

**3. Events attended by Councillors on behalf of the Mayor**

Councillor Malcolm Lyall attended the “Building Awesome Young Men” Breakfast hosted by Lincoln High School.



Sam Broughton  
**MAYOR**

## REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Asset Manager Water Services, and  
Water Service Delivery Manager

**DATE:** 1 August 2022

**SUBJECT:** **WATER SERVICES MONTHLY UPDATE**

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### RECOMMENDATION

*‘That the Council:*

- a. receives the report “Water Services Monthly Update” for information’, and*
- b. adopts the WSE Bill submission lodged on the 2<sup>nd</sup> July 2022’*

### 1. PURPOSE

The purpose of this report is to inform Council on matters of interest in the context of the 5 Waters activity.

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

As this report is for information only it is not considered to be significant in the context of Council's Significance Policy.

### 3. HISTORY/BACKGROUND

Selwyn District Council's goal for the 5 Waters activities is:

*‘To provide water services that meet all relevant standards with a level of service the public can afford and have confidence in, both now and moving forward into the future’.*

We discuss key considerations for the 5 Waters activities (Water, Wastewater Stormwater, Land Drainage and Water Races).

#### **Springfield Water Supply**

The new 125mm OD PE pipeline between Springfield and Annat, the 180mm OD PE pipeline between Sheffield and Annat and the pumping station site at Annat are now installed.

Final modifications to the Springfield Water Treatment Plant are underway and on track for completion. The new reservoir (adjacent to the existing water treatment plant) is also progressing well despite some shipping delays and should be ready to commission a few weeks after the new pipeline from Sheffield is operational.

### 3 Waters Reform

The government introduced the Water Services Entities Bill (the **Bill**) to Parliament 2 June 2022. If enacted, the Bill will establish four new Water Services Entities (**WSEs**) to manage, develop and deliver drinking water, wastewater and stormwater services across New Zealand. The Bill provides for the objectives, functions, service delivery areas and governance arrangements for the WSEs. The Bill will be subject to the select committee process providing the opportunity for public submissions.

Submissions closed 22 July 2022 and Selwyn District Council made a submission (Thursday 21 July 2022), after Councillor and staff feedback. Council's submission is included as **Attachment 1** to this report.

Council has been advised that Transition Funding of \$574 k will be made available to cover costs borne by Council during the Transition process

#### One Water Strategy and Water Blue Print

**One Water Strategy.** An advisory group to oversee the development of the Strategy has been established with three representatives from each of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga, the Mayor and two Councillors: Cr. Sophie McInnes and Nicole Reid.

The project kicked-off with a field trip for members of the advisory group from Castle Hill/Kura Tāwhiti to Te Waihora, looking at the management of water within the District Ki Uta Ki Tai (Mountains to the Sea).

The next steps involve a commencement hui of the advisory group, being organised by Mahaanui Kurataiao to confirm project milestones, direction and strategic intent.

A **Drinking Water Blueprint** is currently being developed. The blueprint will provide direction including potentially moving towards centralised, sustainable and efficient water treatment and interconnecting reticulated networks. These concepts are not new in Canterbury and have been put into practice already by Council e.g. Leeston-Doyleston, Springfield-Sheffield connections and Rolleston-Burnham, Edendale to West Melton etc.

As part of the Blue Print work, a multi-criteria assessment is being developed. 18 attributes of each water supply are being critically considered to bring focus to the challenges faced by each. These include factors such as nitrate-nitrogen base levels and trends, previous bacteriological events, climate resilience, redundancy of source water and treatment system, network leakage levels and treatment operations costs (current and likely future).

The Blueprint is intended to provide guidance for Council and, as appropriate, the Three Waters National Transition Unit (NTU) and its Local Transition Team (LTT) regarding the strategic issues, challenges and high-level funding requirements with respect to



supply of drinking water. The results will be used along with other information, to support possible future investment prioritisation.

### Temporary Chlorination and Consultation Update

At the Council meeting on Wednesday 27 July, Council was presented at public forum with two presentations in opposition to the temporary chlorination of Councils water supplies as required by the Water Services Act 2021. The main concerns presented related to health impacts anticipated by the presenters. There was also a request to delay the temporary chlorination and instead focus on the installation of UV treatment as an alternative.

1. Can temporary chlorination be postponed? As outlined in the 5 Water Report presented 8 June 2022 legal advice received by Council confirming the requirement to chlorinate by 15 November 2022.
2. UV is now operational on 86% of Councils water treatment plants with the remaining near completion.
3. Discussion on health impacts are included in the [Chlorine Risk Assessment](#), within the report 'Water Supply Chlorination – A Risk Based Approach.

Further information including frequently asked questions can be found on the Council website [Selwyn District Council - Water Chlorination](#)

Temporary chlorination will be rolled out in general accordance with the draft program below:

Order	Scheme	Proposed Date
1	Kirwee	22/08/2022
2	Darfield	29/08/2022
3	Te Piritā	05/09/2022
4	Lake Coleridge	05/09/2022
5	Dunsandel	12/09/2022
6	Rolleston	19/09/2022
7	West Melton	26/09/2022
8	Lincoln	03/10/2022
9	Leeston	10/10/2022
10	Prebbleton	17/10/2022
11	Jowers Road	17/10/2022
12	Springston	24/10/2022
13	Rakaia Huts	24/10/2022
14	Taumutu	31/10/2022
15	Raven Drive	07/11/2022

The timeline for the next two exception applications is 9 September 2022 for Springston and 30 September 2022 for Prebbleton. A further update on this will be provided next month.

A communications plan has been drafted and is now in progress, this includes public notification in digital (website, social media, digital advertising and noticeboards throughout Council facilities) and print forms giving residents of Selwyn both advanced notice of the coming changes and scheme specific information over the next few months.

## **Water Resources**

As of the 28 July 2022, soil moisture levels are currently wetter than historical average, although, are consistent compared to those experienced this time last year. **Refer Appendix 1.**

Ground water levels are now showing an upward trend, which is a typical pattern for this time of year. **Refer Appendix 2.**

## **Stimulus Funding – Darfield Pipeline**

Much of the main pipeline route has been installed and practical completion inspections have begun. The only remaining sections of pipeline are, the connection into the Pines WwTP and the Connection under KiwiRail/SH73 at Kirwee and the section along SH73 to the Kirwee pump station. These final connections amount to approx. 390m of pipe.

The road closures and temporary traffic management requirements of the pipeline installed have now eased and roads re-opened. The only impact is at the KiwiRail crossing to SH73 on Courtney Rd in Kirwee. The installation of three different pipes under the rail corridor require a pit to be excavated in the middle of the road. Because of this and the safety requirements of KiwiRail, the only option is to close this section of road. Alternatives were explored but unworkable in meeting all the requirements, especially those around the safe passage of vehicles through this area.

Work to construct two pump stations, one at Darfield and one at Kirwee were due to commence in August with completion in early and mid-October respectively.

However, the impacts on global transit have dealt this project a further and unexpected delay for Darfield. The ship carrying the wet-well was due to depart Melbourne on 11<sup>th</sup> July and was cancelled with no-notice. No other sailing is scheduled until September. Alternatives have been explored and the wet-well has been transported to Brisbane and loaded onto a ship bound for Auckland on 16<sup>th</sup> July. Delivery is now expected at the end of August. An example of the challenges faced in sourcing product into NZ at the current time.

**Note:** A more complete project update, along with financials is provided to Council via the Audit & Risk Major Projects Reporting.

## **Rainfall Event(s)**

We acknowledge the significant effort put in by Staff and Contractors dealing with these issues over the month. Significant amount of hours has been put into the response.

July is statistically the wettest month of the year, average rainfall for the month is 60-70 mm. This month, this total was reached by the 10 July. On track for wettest record July with 200 mm recorded. (Whitecliffs 226.5 mm, Tai Tapu 224 mm).

We have had 3 weather events all back to back over the last 3 x weeks with very little sunshine drying days in between. This has led to extremely high groundwater levels and completely water logged soils. Even a small amount of rain now will cause runoff and streams to rise.

The rain events themselves are not considered to be major (All less than 1 in 5 year events). But the accumulative effect and saturated soils has caused us our problems.

**Event 1 – 12th July.** This was a South East Rainfall that affected the Malvern Hills area the worst. Significant contributor was 45mm of rain over the week prior. Soils moisture were very high and water logged. This meant when heavy rain fell it almost was all runoff and overland flow.

65mm recorded at Whitecliffs about 1 in 5 year rain event. Because of the water logged soils this caused an overland flow flood event affecting the Malvern area the worst.

Whitecliffs flooding was caused by run-off originating from the hills behind the township overwhelming the stormwater network, drains and culverts. Flooding into private properties and very nearly into 2 x houses.

Hororātā significant flows from overland flow catchment above the township overwhelmed channels and stormwater network, including some recent flood mitigation works. Pumps were deployed early, however when Happy Jacks creek overtopped and flowed overland into township more pumps were required. Even the large Civil defence pump struggled to keep up with the flow resulting in one house with water inside.

Sheffield Caused by significant overland flows forming in the rural catchment between the township and Springfield. Bishops Creek stayed within its channel in Springfield because it was snowing above town. Overland flows enter town and overwhelmed the water race channel. No Stormwater Network in Sheffield.

Kirwee - Significant overland flows coming from well above the township. Rural subdivisions to the west hit hard with 3 x properties with water inside.

**Event 2 – 21st July** this was forecast to be a large volume of rain, significant North West storm and rain spill over the Alps. This didn't eventuate to the levels anticipated but the level of rain nearly caused overland flow paths to start flowing. Norwest turned to Southwest and recorded about 30 – 40 mm of rain.

**Event 3 – 26th July** Soil moisture levels extremely high runoff likely from very early in a rain event. South East rain that hit the Springs Area the most. Heaviest rain fell on Banks Peninsular / Port Hills. Halswell rain gauge at Tai Tapu 60mm of rain over 2 days. Selwyn areas of issues Halswell Catchment, Tai Tapu, Lincoln, Prebbleton with overland flows starting again in farm areas above Kirwee. Tai Tapu system performed well with pump set up.

Significant overland flows moved down plains entering into and backing up within developments in Lincoln and Prebbleton. In Prebbleton, this also overloaded the wastewater network. Lincoln this very close to entering houses.

Greenstead development in Lincoln had some concerns with the performance of the soakage system and interception and influence with overland flow paths.

**4. PROPOSAL**

Staff seek that the Council consider and implement the recommendation set out above.

**5. OPTIONS**

The options available to Council are to:

- (a) To approve the recommendation of this report, or
- (b) To decline the recommendation of this report


Staff would appreciate feedback on the subject matter and level of information provided in this report.

**6. VIEWS OF THOSE AFFECTED / CONSULTATION**

Not applicable

**7. FUNDING IMPLICATIONS**

No funding implications have been identified in relation to the recommendation of this report.



Murray England  
**ASSET MANAGER WATER SERVICES**



Elaine McLaren  
**WATER SERVICES DELIVERY MANAGER**

*Endorsed For Agenda*



Murray Washington  
**GROUP MANAGER INFRASTRUCTURE**

**Attachment 1 – Selwyn District Council Submission on Water Services Entities Bill**

**Attachment 2 – Soil moisture Deficit**

**Attachment 3 – Ground water levels**

## **Attachment 1 – Selwyn District Council Submission on Water Services Entities Bill**

21 July 2022

Committee Secretariat  
Chair of the Finance and Expenditure Committee  
Parliament Buildings  
**Wellington**

[fe@parliament.govt.nz](mailto:fe@parliament.govt.nz)

### **SELWYN DISTRICT COUNCIL SUBMISSION ON WATER SERVICES ENTITIES BILL**

#### **INTRODUCTION**

- 1.1. Selwyn District Council (the Council) thanks the Finance and Expenditure Committee for the opportunity to provide comment on the Water Services Entities Bill (the Bill).
- 1.2. The Selwyn District is the fastest growing district in New Zealand, growing from 42,900 people in 2011 to around 75,000 today. The Council provides reticulated water supplies to 77% of the District's population, from 27 schemes. Wastewater services are provided to approximately 66% of the District (15 schemes), stormwater services are managed for 21 communities. Council also manages the districts land drainage network for our rural community (7 schemes + 2 River management schemes) along with 3 Water Race networks providing stock water services.
- 1.3. The Council supports the Government's intent to provide for a more robust and comprehensive three waters management regime which began with the enactment of the Taumata Arowai Water Regulator Act 2020 and the Water Services Act 2021. The Council supports the intention to improve the delivery and management of waters within New Zealand, to improve health and environmental outcomes, and the effect given to Te Tiriti o Waitangi and Te Mana o Te Wai, sought by the reform programme.
- 1.4. The Council acknowledges the need for substantive improvement in water service delivery across New Zealand. However, we do not believe the current reform package is right for our Selwyn communities.
- 1.5. The mandatory establishment of the entities, and the lack of any effective consultation has alienated a significant portion of our community.
- 1.6. Selwyn identified the need for reform early, we meter our potable supplies, charge by volume used, whilst maintaining equitable access charges across the District, and have implemented a multi-barrier approach to drinking water safety.
- 1.7. All our wastewater services are fully consented, and discharge to land rather than rivers or ocean.
- 1.8. We have some of the newest and best quality infrastructure in New Zealand, as well as providing the most affordable drinking water.
- 1.9. We have invested heavily and appropriately in quality systems
- 1.10. We identify that the impact of the 4 Entity model, will require our customers to subsidise many others who have chosen not to, nor had the ability to invest.
- 1.11. Our rūnanga partners, Te Taumutu and Te Ngāi Tūāhuriri are working with us to co-design and scope a One Water Strategy for Selwyn.

- 1.12. We acknowledge Ngāi Tahu rangatiratanga within the takiwā, and support co-governance.
- 1.13. However, we strongly affirm, that in Canterbury we could have achieved an effective and more meaningful structure, if we had been able to advance a Canterbury regional entity which sits within the Ngai Tahu takiwa.
- 1.14. The Canterbury Region has a proven record of regional water management through the Canterbury Water Management Strategy (CWMS) and Water Zone Committees, including rūnanga partnerships. The CMWS, initiated in 2005 by the Canterbury Mayoral Forum, is a collaborative process between the Canterbury Regional Council, the ten territorial authorities of Canterbury and Ngāi Tahu, as well as key environmental and industry stakeholders. The CWMS addresses critical water management issues: the declining health of both surface and groundwater, habitats and ecosystems, an ongoing loss of cultural value and recreational opportunities as well as the declining availability and reliability of water for agricultural and energy use. This, along with other regional collaborations, highlight the value added through regionalised management, an opportunity and scale which the Council supports for the Water Services reform.
- 1.15. Fundamentally Selwyn has achieved its stellar growth, by being flexible and agile, willing to form strong partnerships with developers and key stakeholders, to deliver quality infrastructure and provide effective and efficient delivery systems to meet the demands of our growing community and deliver on key Government objectives in providing ongoing and sustainable housing provision.
- 1.16. It is paramount that our ability to meet that demand, is not compromised by the reform, by providing delivery services at arm's length from our community. The entity's should be growth plan takers from Councils and joint special planning process.
- 1.17. We again affirm that the Council is committed to ensuring that our residents continue to have access to safe drinking water.
- 1.18. The Council wishes to appear in support of this submission, either in person or via audio or videoconference link. The Council will be represented by Mayor Sam Broughton, supported by a staff member.
- 1.19. In our submission we address seven key issues as well as additional specific submission points we would like the Select Committee to consider.

## **2. KEY ISSUES**

- 2.1. There are seven key issues the Council wishes to draw to the attention of the Select Committee:

- Planning and Strategic documents – Growth and Planning
- Clarity around Surface Water Management
- Timing and staging of the transition, specifically stormwater
- Concerns around the scale of the four entity model
- Debt transfer and Development Contributions
- Local talent pipeline
- Community input and local governance

### **Planning and Strategic documents - Growth and Planning**

- 2.2. As the fastest growing district in New Zealand, Council is required to undertake integrated planning and work with developers and stakeholders to instate efficient and effective service delivery, in an adaptive and responsive manner, while carefully balancing the costs and effects. This requires integrated planning across the activities of Council, and strong relationships with developers, contractors and stakeholders.
- 2.3. The Council is concerned that the transfer of water services to the Water Services Entity (WSE) will result in restrictions in growth planning and infrastructure provision in the District due to the

size and scope of Entity D, and inability to prioritise the needs of Selwyn District communities to plan for growth.

- 2.4. To enable continuation of efficient and effective spatial planning, the Council seeks to retain planning and delivery flexibility necessary to provide for the development demand, supported by the National Policy Statement on Urban Development 2020 (NPS-UD), in which Selwyn District was recognised as a Tier 1 Urban Environment.
- 2.5. The Council seeks confirmation that the WSE will be a growth enactor not the planner of growth, and that Council, will be enabled to continue to support growth under the intention of the NPS-UD, in line with development demand and community expectations and that the WSE will support the implementation of the necessary infrastructure requirements, within an integrated planning approach. As leaders in community wellbeing and placemaking, the Council needs to be supported by the WSE in this intent, as enablers and implementers of wider community plans for wellbeing, growth and development.
- 2.6. The Council recommends that clauses 11 and 13 of the Bill require the WSEs to recognise, support and enable councils' role in placemaking and community wellbeing, as expressed in the long-term plan and annual plan adopted following a community consultation process, consistent with the requirements of the Local Government Act 2002. The Council support the specific wording proposed in the submission by Local Government New Zealand to this effect.
- 2.7. Council seek additional clarity around how existing council engagement with communities and their strategic planning and decision-making will inform the various planning and accountability documents that the WSEs will be responsible for preparing. This includes our existing documents such as long-term plans, annual plans, asset management plans, infrastructure strategies, strategies and policies as well as regional policy statements, regional and district plans, and other community plans.

#### **Clarity around Surface Water Management**

- 2.8. Council manages the following surface water: Stormwater (21 urban schemes), Land Drainage (7 schemes + 2 river schemes) and Water Races (3 rural and urban schemes), as part of our integrated Five Waters activity.
- 2.9. Council notes that the Government's proposals for stormwater remains underdeveloped, and acknowledges the complexity in reviewing and structuring stormwater management across significant areas of rural and urban environments, under a range of current operating environments. Given the nature of these complexities, intended timeframes are a matter of concern for Council (refer *Timing and Staging of the Transition, Specifically Stormwater*).
- 2.10. Due to the integrated management of Five Waters by the Council, the Council supports an 'all in or all out' approach to stormwater. If stormwater services are to be managed by the new WSE, then the other two surface waters (land drainage and water races) should also transfer to the new entity. Council is concerned that the current scope would result in the Council being left with stranded, inefficient assets, further impacted by the movement of staff to the WSE. Not including other land drainage assets neglects the connected nature of the flow of water and importance of its continuity.
- 2.11. Council seeks timely clarity to enable the WSE to understand the complexities of our entire water management activities, the interactions with other activities within our district including flood management, land use planning, transport and parks and reserves and to enable a smooth transition of assets.

#### **Timing and staging of the transition, specifically stormwater**

- 2.12. As part of our growth and earthquake recovery in the Selwyn District, the Council has invested in quality infrastructure, placing our district and communities in a good position with water services.
- 2.13. As a sector, local government is facing significant capacity and capability and wide ranging, simultaneous review and reform programmes, with similar pressures on iwi and rūnanga. To

help relieve these pressures on the sector and iwi, and to maximise on the effectiveness of reform, a staged implementation is recommended. While Council do not support a single entity transitioning first due to the differences between the entities and communities, we are supportive of a staged transition of services.

- 2.14. Given the complicated delivery of current stormwater services, a one-size-fits-all approach to stormwater is unlikely to work. The Council seek that the transfer of stormwater (including water races and land drainage) be staged, allowing for further consideration of the complexity and variation of stormwater management across New Zealand and the entities, including Selwyn District Council's integrated stormwater, land drainage and water races activities (refer *Clarity about Stormwater Management*).

#### **Concerns around the scale of the four entity model**

- 2.15. There is a clear, and recognised need for the WSE model to be scaled to deliver the needs of councils, our communities, including mana whenua, while providing improved water services. As identified in this submission, there are complexities and variations within communities and districts which warrant localised decision making and delivery, such as Selwyn's growth, which should be balanced with the efficiencies and effectiveness of larger scale proposals.
- 2.16. The Council is concerned by the scale of the proposed Entity D, the variation and complexities of the wider takiwā, including differences in drivers and investment, and the limited representation to support participatory deliver of water services, which meet community expectations, development drivers and delivery on community wellbeing.
- 2.17. The Council is supportive of a smaller scale entity, aligned with regional boundaries. This is consistent with a range of other regionalised services or regional collaborations which our district benefits from, including the CWMS as identified in this submission, the Canterbury Mayoral Forum and Emergency Management. The Council is confident that this scale would enable appropriate participation of all councils and communities, build on developed papatipu rūnanga relationships, and enable localised input and delivery to water services which align with and deliver our community wellbeing and outcomes.

#### **Debt transfer and Development Contributions**

- 2.18. As a high growth Council, we have been utilising development contributions and internal and external debt-funding to ensure that our communities have high-quality and effective infrastructure. These activities are closely linked to other aspects of Council's operating model.
- 2.19. To be able to assess the impact of the new WSE model (including the post-transfer shape of the Council's balance sheet), we require certainty on how the debt and development contributions transfer will work. This includes what borrowing and development contributions will be eligible, the process to identify and confirm amounts, as well as transfer mechanics. We request that this be clarified as a matter of urgency.

#### **Local talent pipeline**

- 2.20. Regardless of the scale of the WSEs, Council supports the use of local providers and contractors to support service delivery and community wellbeing outcomes achieved through contribution to local economies and the employment levels of communities. The development of local capability, through the development and support of local, New Zealand staffing and supporting businesses in the new entities is encouraged. We also support the legislation (or constitutions) preserving a preference for local contractors to be used and retained for scheduled and reactive works. Legislation should remain broad enough to allow entity constitutions to reflect their location and partners.
- 2.21. Council is supportive of the role of iwi in the management of water services but urge the government to recognise capacity constraints on rūnanga, particularly under the current reform programmes. Council urges that financial and capacity/capability support for iwi is provided. This is to allow the backfilling of roles. Not just the movement of a person into a role somewhere else.



### **Community input and local governance**

- 2.22. The entities at the current scale, mark a proposed shift to pan-regional planning and delivery. This must be balanced with local consultation and democratic input from our communities. Provision must be made to ensure that local communities continue to exercise their right to contribute to decisions which affect their community, and to ensure localised decision making aligns with community wellbeing and outcomes. Council urges the Finance and Expenditure Committee to ensure local voices are not further alienated from decision making. Further consideration on effective, direct channels must be considered to overcome additional administrative layers with the proposed structure. There is little confidence in the community that the proposed reform will achieve similar or improved public participation.
- 2.23. The Council, and our communities have concerns about how genuine and meaningful engagement will occur within the scale of the proposed WSEs, particularly considering existing relationships we have facilitated within our district, with community members, rūnanga, developers and other stakeholders. Council is also concerned by the lack of explicit commitment to the local presence within the entities takiwā, to support timely response and 24/7 service support (refer *Local Talent Pipeline*). We agree with the requirements for the WSEs to engage with and seek input directly from communities and the engagement provisions set out in the Bill. We also support the establishment of consumer forums. However, it's critical that the breadth of communities covered by each WSE area is represented and suggest that legislation would provide accountability.

### **3. OTHER MATTERS**

- 3.1. **Funding and pricing:** to better understand the financial implications of the reform on our communities., Council seek detail on how funding and pricing decisions will be made. The Council is concerned that, the staging of funding and pricing in the Stage 2 Bill does not provide for informed decision making and input into the reform, with an assumption being that this will be satisfactorily resolved at a later date. Council also requires this information to support our funding and planning responsibilities, and the balancing of costs on our communities.
- 3.2. **Affordability and equity:** Council is concerned by the absence of reference to affordability and considerations of equity and communities' ability to pay for different service, matters which we balance through our long term planning and rating models.
- 3.3. **Central policy must be supported by centralised funding:** Council urge that Government ensure that central policy direction be supported by greater central government investment. Central government also needs to assist with assessing and funding investment needed to address historic degradation and inequalities. As a Council who have proactively invested in infrastructure, funded by our communities, we wish to ensure that financial burden is not unduly placed on our communities to support other areas within the WSE takiwā where this investment has not been made.
- 3.4. **Protection against privatisation:** the transfer of three waters assets and direct operational control from Council to a pan-regional WSE is significant matter for Council and our communities, one which is restricted under Council's Significance and Engagement Policy. We support the protections against privatisation that are included in the Bill, including the changes made as a result of the recommendations of the Governance, Representation and Accountability Working Group but seek that further protection through support for the entrenchment of the provisions protecting against privatisation be secured beyond a simple Parliamentary majority, to provide greater confidence to communities who have a sense of ownership of assets.
- 3.5. **Civil Defence and Emergency Management:** Council plays a key role, supported regionally and nationally, in civil defence and emergency management. Managing the response and recovery phases of an emergency, can require actions relating to infrastructure and services intended for transition to WSE. The Council's seeks recognition of the WSEs' subordinate place to councils as civil defence and emergency management leaders be made explicit in the legislation.

- 3.6. **Accountability** Stakeholders and consumers need clearly understood avenues to seek influence and/or accountability for particular matters within the overall WSE/three waters system (Taumata Arowai, the economic regulator, the WSE board/management, the Regional Representative Group and the local council). Council is also concerned by the lack of accountability measures which local authorities are subject to around local input into decision making, levels of service planning and funding. Councils must be closely involved in developing the WSE constitutions and Councils and communities must also have strong mechanisms to feed into the development of the WSEs' various planning and accountability documents.

#### **4. SUMMARY AND CONCLUSIONS**

- 4.1. The Council remains committed to ensuring that our water services support the health, economic wellbeing and environmental outcomes for our communities and that our residents have access to safe drinking water. We favour a risk-based approach, as demonstrated through robust drinking water safety plans and source water risk management plans.
- 4.2. The Council has identified seven key issues, and other matters for consideration. In summary, we offer the following for consideration by the Finance and Expenditure Committee in regard to the Water Services Entity Bill:
- i. Support for changes to water services delivery and the role of the new regulator Taumata Arowai
  - ii. Concern about the scale of the proposal and lack of community engagement in the reform, and in particular the transition of assets which if not legislated would fall to the Council's Significance and Engagement Policy requires public consultation in accordance with the requirements of the Local Government Act 2002.
  - iii. Council acknowledge the role of mana whenua in the future of water management and support Te Mana o Te Wai.
  - iv. Support for a regionalised entity scale, to align with current regional boundaries and participation, supporting an appropriate level of engagement with communities, iwi and stakeholders, built on existing relationships, to address concerns of scale and lack of localised service delivery.
  - v. Acknowledgement that it is paramount that our ability to meet demand, and support further growth within our District, is not compromised by the reform, and Council seeks that the WSE be confirmed as a growth enactor not the planner of growth, and that Council, will be enabled to continue to support growth and continue its role in place-making and community wellbeing leadership.
  - vi. Seeking clarity on alignment of current Council planning, through community consultation, with the various planning and accountability documents that the WSEs will be responsible for preparing.
  - vii. Seeking clarification on the extent of stormwater management as including urban stormwater, land drainage and water races.
  - viii. Support for a phasing of stormwater transition to the WSE, to enable further understanding of the complexity of stormwater management arrangements.
  - ix. Request for information pertaining to the certainty on how the debt and development contributions transfer will occur. Council also requests that detail on funding and pricing be provided to enable informed decision making and that affordability and equity concerns can be addressed.
  - x. Support the use of local providers and contractors to support service delivery and community wellbeing and the capacity building of iwi to engage in the reform and proposed structure. Confirmation of local delivery and timely 24/7 response capacity is provided for.

- xi. Request for improved local consultation and democratic input to ensure localised decision making aligns with community wellbeing outcomes, improved accountability requirements on the entities and support for increased protection against privatisation beyond a Parliamentary majority.
- xii. Request for recognition that central policy direction should be supported by central funding.
- xiii. Request that the role of Council in civil defence and emergency management, including response and recovery, be acknowledged in relation to the WSE responsibilities.

The Council wishes to appear in support of this submission, either in person or via audio or videoconference link. The Council will be represented by Mayor Sam Broughton, supported by a staff member.

Thank you for the opportunity to provide this submission.

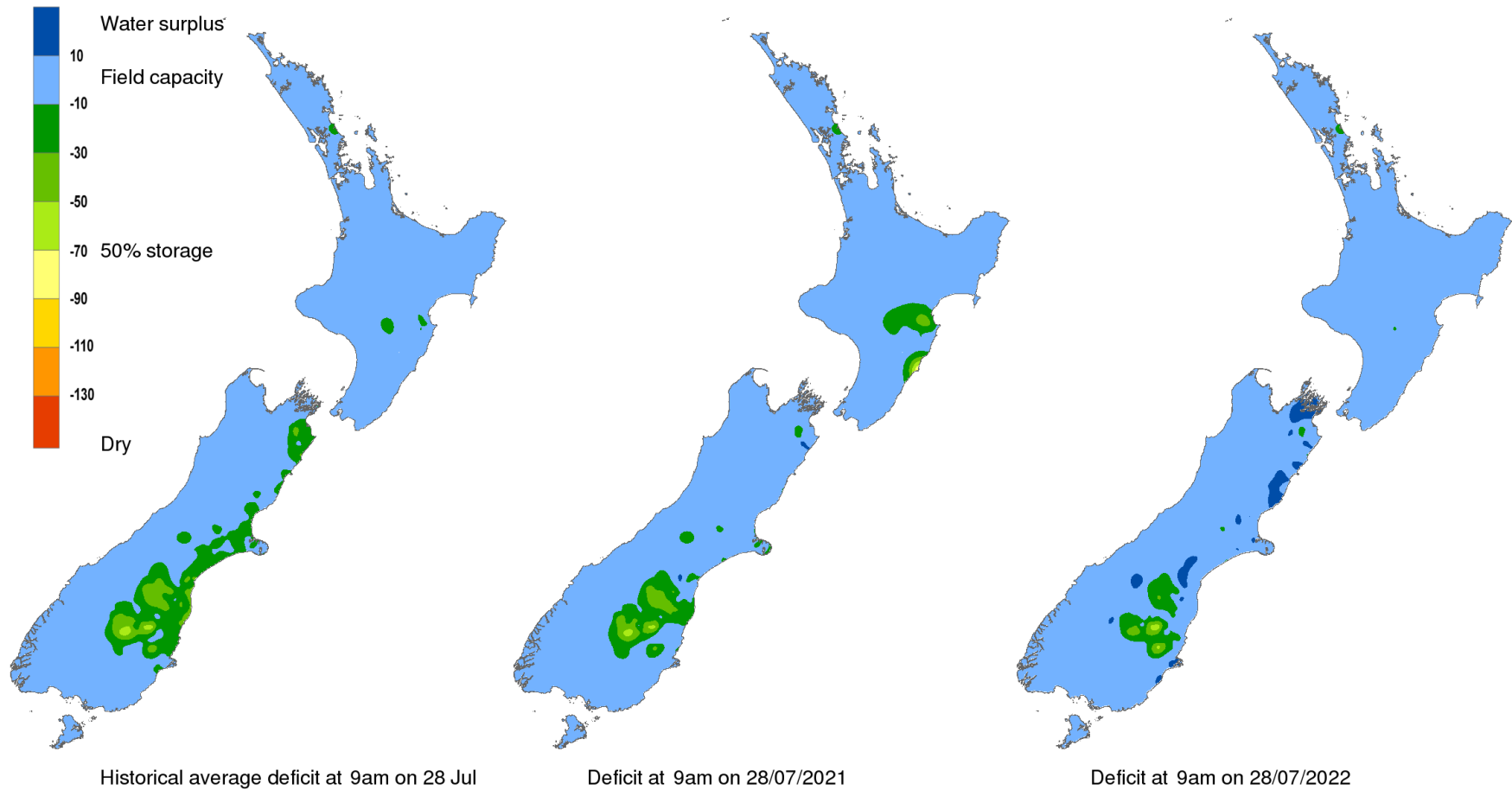
For any clarification on points within this submission please contact Murray Washington ([Murray.Washington@selwyn.govt.nz](mailto:Murray.Washington@selwyn.govt.nz)).

Yours sincerely

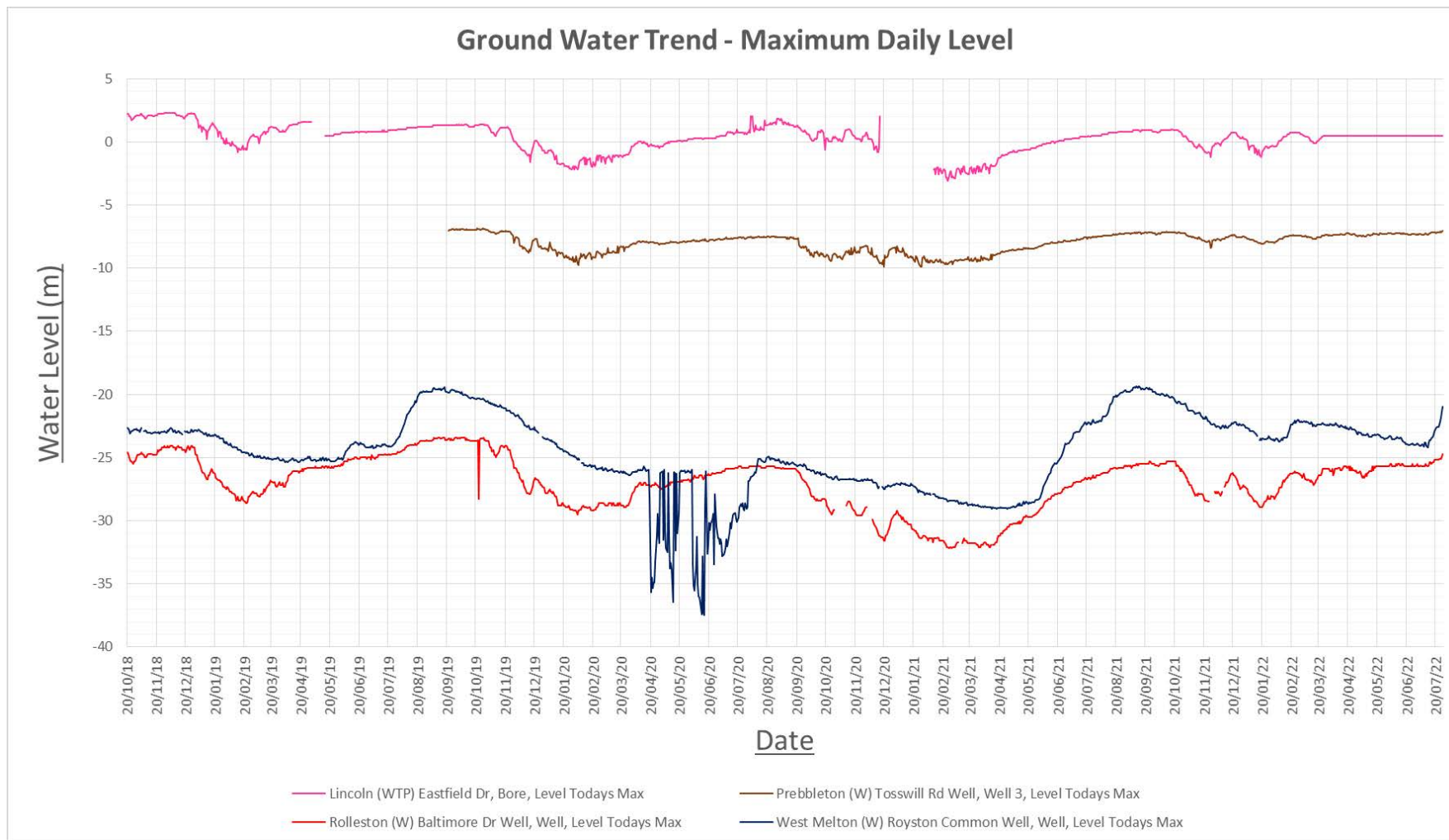
Samuel Broughton  
**Mayor of Selwyn District**

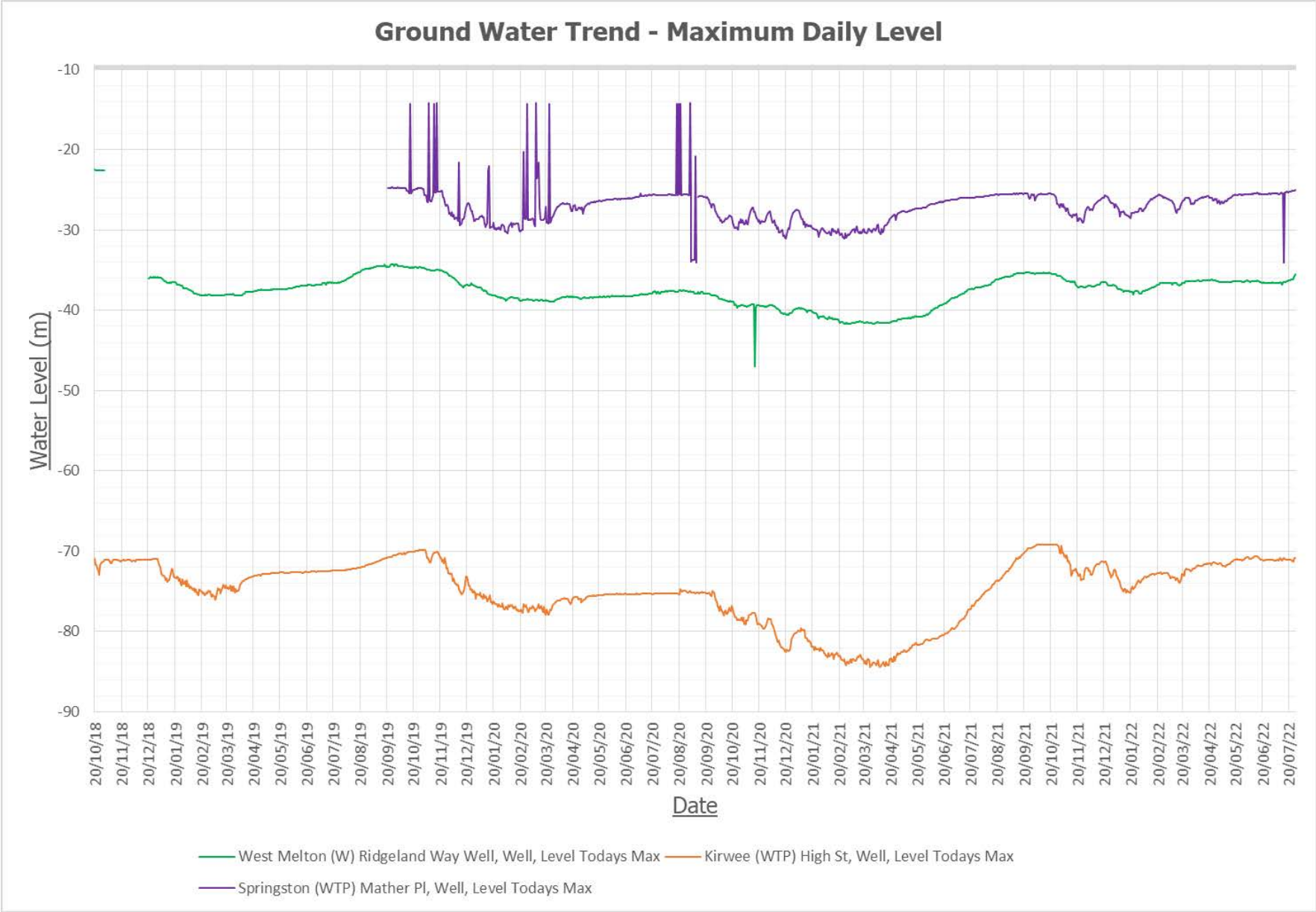
Attachment 1 –Soil Moisture Deficit

Soil moisture deficit (mm) at 9am on 28/07/2022



**Attachment 2 – Ground water levels**





## REPORT

**TO:** Chief Executive Officer

**FOR:** Council Meeting – 10 August 2022

**FROM:** George Sariak, Policy Analyst

**DATE:** 20 July 2022

**SUBJECT:** **COUNCIL SUBMISSION ON PROPOSED AMENDMENTS TO THE WETLAND PROVISIONS OF THE NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT AND NATIONAL ENVIRONMENTAL STANDARDS FOR FRESHWATER**

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## RECOMMENDATION

*That Council:*

- (a) *Receives the report;*
- (b) *Retrospectively endorses the attached submission on the proposed amendments to the wetland provisions of the National Policy Statement for Freshwater Management and the National Environmental Standards for Freshwater'*

### 1. PURPOSE

The purpose of this report is to seek approval of the attached (Attachment A) submission provided to the Ministry for the Environment on proposed amendments to the wetland provisions of the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F).

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The decisions and matters of this report are assessed to be of low significance, in accordance with the Council's Significance and Engagement Policy. The level of significance has been considered low as the report relates to Council feedback on a Central Government process.

### 3. HISTORY/BACKGROUND

The Essential Freshwater regulatory package introduced national direction that provided greater protection for natural wetlands to halt further loss and degradation. The NPS-FM and NES-F were gazetted in August 2020 as part of the Essential Freshwater regulatory package. The NPS-FM and NES-F are the main national direction instruments that set out how wetland ecosystems should be managed.

Following gazettal of the regulations, issues were raised by councils and sector groups on wetlands regulations which guidance alone could not resolve. The Government agreed to consult on amendments to the regulations in August 2021, with public consultation occurring between the 1<sup>st</sup> September and the 27<sup>th</sup> October 2021. Matters raised during the consultation went beyond the initial scope of the 2021 discussion document and required further consideration.

The Government has since put forward proposed amendments to the wetland regulations in NPS-FM and NES-F for consultation. The consultation opened on the 31<sup>st</sup> May 2022 and closed on the 10<sup>th</sup> July 2022. Regional councils, unitary authorities, and territorial authorities have overlapping roles in supporting the integrated management of land and water. As the proposed amendments to the wetland regulations will have an impact on the wetland ecosystems of the Selwyn District a submission was made on the amendments and provided to the Ministry for the Environment.

As the timeframe was tight, the submission was drafted and submitted before it was endorsed at a Council Meeting.

#### 4. **PROPOSAL**

That the Council receives and retrospectively endorses the submission.

#### 5. **OPTIONS**

As the submission has already been made, the Council has the following options:

**Option 1 (recommended)**      receive and retrospectively endorse the submission.

**Option 2**                              do not retrospectively endorse the submission and immediately contact the Ministry for the Environment to withdraw the feedback.

**Option 1** is recommended as the proposed amendments to the wetland regulations will have an impact on the management of wetland ecosystems of the Selwyn District, including land use and subdivision activities that may affect wetland ecosystems. The RMA provides a single process for preparing national direction and affords Council an opportunity to make a submission on the subject matter of proposed national direction. Making a submission on the subject matter of proposed national direction provides for local voice in the development of national legislation and policy.

#### 6. **VIEWS OF THOSE AFFECTED / CONSULTATION**

##### **(a) Views of those affected and Consultation**

The consultation on the proposed amendments to the wetland regulations does not have implications on affected parties or require a Council consultative process. The consultation was in relation to a Central Government process and all those potentially or actually affected were afforded an equal opportunity to make a submission.

##### **(b) Māori and Treaty implications**

Council's submission on the proposed amendments to the wetland regulations does not have Māori and/or Treaty implications.

##### **(c) Climate Change considerations**



Council's submission on the proposed amendments to the wetland regulations has negligible climate change implications.

**7. FUNDING IMPLICATIONS**

There are no funding implications.



George Sariak  
**POLICY ANALYST**

***Endorsed For Agenda***



Tim Harris  
**GROUP MANAGER DEVELOPMENT AND GROWTH**



8<sup>th</sup> July 2022

Ministry for the Environment  
PO Box 10362  
Wellington 6143  
[WetlandsTeam@mfe.govt.nz](mailto:WetlandsTeam@mfe.govt.nz)

**Selwyn District Council feedback on *the exposure draft of proposed amendments to the wetland regulations in the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F)***

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**Introduction and Context**

1. Selwyn District Council ('the Council') welcomes the opportunity to provide feedback on the proposed amendments to the wetland regulations in the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F).
2. The Council broadly supports the policy intent of the Essential Freshwater policy and regulatory package to restore and protect the mauri of our waterways, returning freshwater and freshwater ecosystems to a healthy state within a generation.
3. The Council recognises the significant loss and degradation of wetland ecosystems in Aotearoa New Zealand since human settlement began and strongly supports the protection of wetlands in both their extent and ecological values.
4. The Council further recognises that upon gazettal there were a number of issues in respect of the wetlands regulations that warranted review.
5. The Council commends the Ministry for the Environment (the Ministry) for undertaking a review of the wetlands regulations in response to feedback received on implementation challenges.
6. The Council acknowledges that the policy intent for amending the wetland regulations is to provide strong protection for wetlands, while acknowledging that activities for certain purposes may need to continue within wetland environments.
7. The Council considers the proposed amendments to the wetlands regulations provide greater clarity, are practicable and will sustain the strong protection for our natural wetland environments that is necessary to stop further loss and degradation.
8. The Council has focused feedback on the thirteen proposed amendments to the wetland regulations. This includes whether the drafting is clear, there is a perceived likelihood for unintended consequences and overall attainment of the policy intent.

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### **Amendment 1**

9. The Council acknowledges that the current definition of a 'natural wetland' has suffered from inconsistent application and led to areas being captured that were not intended to be captured. The Council supports the intention of amending the definition of a 'natural wetland' to improve clarity.
10. The Council recognises that the term 'improved pasture' has also suffered from inconsistencies and interpretational issues, particularly the ambiguity as to what constitutes 'improved'. The Council considers this to be unresolved in relation to proposed National Policy Statement for Indigenous Biodiversity (NPS-IB) but will reserve comment for the appropriated channel.
11. The Council would suggest that the Ministry's development of a methodology for assessing the pasture exclusion should extend to the 'improved pasture' for the purpose of informing the implementation of the NPS-IB. The Council would like to direct the Ministry to the definition included in the Proposed Selwyn District Plan which has undergone a robust process.
12. The Council considers the replacement of 'improved pasture' with 'pasture', the 50% exotic pasture species groundcover exemption threshold and the introduction of the accompanying National List of Exotic Pasture Species will provide much needed clarity to the definition.
13. The Council supports the inclusion of induced wetlands as a natural wetland, and the exemption for deliberately constructed wetlands (other than wetlands provided for offsetting) to ensure that the construction of artificial wetlands are not discouraged by regulation.
14. The Council strongly supports the proposed inclusion of the 'threatened species' protection where a natural wetland is able to satisfy the pasture exclusion test. The Council considers that the status of 'at-risk (declining)' species should be elevated alongside 'threatened species' for disapplying part (c) of the definition of a natural wetland. This recognises the propensity for at-risk species to become threatened species.

### **Amendment 2**

15. The Council acknowledges the 'national and/or regional benefit' and 'functional need' gateway tests have been having the desired effect of a strong protection framework for natural wetlands.
16. The Council considers that the 'national and/or regional benefit' and 'functional need' gateway tests are critical to managing land use, subdivision and development activity in respect of the preservation of the natural character and protection of wetlands.
17. The Council recognises that quarries, fills (cleanfill, landfill and managed fills) and mining are important economic activities that contribute (in-part) to our collective holistic wellbeing. The Council supports the proposed amendment to expand the 'national and/or regional benefit' gateway test to quarries, fills (cleanfill, landfill) and mining.
18. The Council acknowledges that landfills, cleanfills and urban development would be unable to satisfy the 'functional need' gateway test. The proposed 'no practicable alternative location' gateway test for these activities is presented as a robust test for the listed activities that are not locationally constrained to the extent of a quarry or mine.

19. The Council considers that it will be the responsibility of consent authorities to outline the information requirements for applicants to sufficiently evidence that a proposed activity meets the 'no practicable alternative location' gateway test when undertaking an alternatives assessment.

#### **Amendment 3**

20. The Council recognises that aggregate is locationally constrained and will be essential urban development and infrastructure.
21. The Council recognises the need to provide a discretionary consent pathway for quarrying, so as long there are appropriate gateways tests and the application of the effects management hierarchy.

#### **Amendment 4**

22. The Council recognises that cleanfills, landfills and managed fills are often sited within areas where there are natural wetlands.
23. The Council recognises the need to provide a discretionary consent pathway for activities associated with the operation of landfills, cleanfills and managed fills, so as long there are appropriate gateways tests and the application of the effects management hierarchy.

#### **Amendment 5**

24. The Council recognises that minerals are locationally constrained and certain minerals are essential for our development of infrastructure, technology, innovation as well as the transition to a low-emissions future.
25. The Council recognises the need to provide a discretionary consent pathway for mining, so as long there are appropriate gateways tests and the application of the effects management hierarchy.
26. The Council considers it is generally inappropriate to apply controls to the minerals that can be mined in wetland areas in the wetland regulations. The Council considers that the effects of mining activities on natural wetlands should be the key consideration of the wetland regulations.
27. The Council supports the transition from fossil fuels to clean energy from renewable sources. The Council acknowledges that the continuation of the mining of fossil fuels is inconsistent with the transition to a low-emissions future to meet both international climate change obligations and domestic targets set under the Zero Carbon framework.
28. The Council considers that there is a void in the national direction framework in respect of climate change and greenhouse gases. The Council would urge the Ministry to progress the development of national direction instruments on climate change and the discharge of greenhouse gases with an expanded scope than previously consulted on.
29. In the absence of national direction on climate change and greenhouse gases the Council supports the proposed restrictions to the consent pathway for thermal and coking coal mining.

**Amendment 6**

- 30. The Council supports the proposed inclusion of a restricted discretionary consent pathway for urban development listed in a district plan.
- 31. The Council supports the 'restricted discretionary' activity status so as to allow the areas to count towards development capacity. The matters to which discretion is restricted as set-out by regulation 56 of the NES-F are appropriate to balance development that contributes to well-functioning urban environments and the protection of natural wetlands.
- 32. As previously stated, the Council considers the proposed 'no practicable alternative location' gateway test for urban development is a rigorous and appropriate gateway test.

**Amendment 7**

- 33. The Council supports the inclusion of water storage in the definition of 'specified infrastructure'.
- 34. The availability and supply of water is a key risk identified in the Canterbury Climate Change Risk Assessment and increased water storage infrastructure will be a key adaptation response. Water storage fulfils many other essential needs that provide for the holistic wellbeing of people and communities.
- 35. The Council recognises the provision of water storage will need to satisfy the 'national and/or regional benefit' and 'functional need' gateway tests as well as the effects management hierarchy.

**Amendment 8**

- 36. The Council supports the inclusion of the proposed aquatic offsetting and compensation principles in the NPS-FM
- 37. The Council considers that the Ministry needed to undertake further work and guidance to support effective biodiversity offsetting.

**Amendment 9**

- 38. The Council agrees with feedback provided that wetland regulations have been far too constraining in respect of maintenance works and restoration activities essential for the protection and restoration of natural wetlands. The Council considers that this does not align with the policy intent of the Essential Freshwater policy and regulatory package.
- 39. The Council supports the proposed definitions for 'wetland maintenance' and 'biosecurity' in the NPS-FM and the inclusion of these activities alongside the restoration consent pathway provided for by the NES-F.
- 40. The Councils broadly supports the amendments proposed which are more practicable for conservation work.

**Amendment 10**

41. The Council considers the proposed amendment to remove 'discharge' from regulations 52 and 53 NES-F is appropriate considering the unlikelihood of a discharge of water into or near a natural wetland resulting in the drainage of a natural wetland.
42. The Council supports the proposed amendment to regulation 54 of the NES-F to ensure that the regulation applies to discharges of water only, and that the regulation does not capture the discharge of contaminants to a natural wetland. The Council considers the proposed drafting of regulation 54 of the NES-F is clear in that regard.

**Amendment 11**

43. The Council supports the proposed amendment to regulation 46 of the NES-F which allows for increases to the size of the specified infrastructure or other infrastructure where that increase is to provide for fish passage. The Council considers the proposed drafting of regulation 46 of the NES-F is clear in that regard.

**Amendment 12**

44. The Council supports the proposed amendment to regulation 46 of the NES-F to provide exemption provided for flood management and drainage works. The Council recognises that expediency is needed for these necessary works which may affect a natural wetland. The Council considers the proposed amendments to the NES-F are clear.

**Amendment 13**

45. The Council considers that the proposed amendment to refuelling machinery, vehicles and equipment with containers of 20 litres or less within a natural wetland for the purpose of harvesting sphagnum moss is much more practicable than the previous 10-metre setback requirement.

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Thank you for the opportunity to provide this submission. For any clarification or discussion on points within this submission please contact Selwyn District Council's Policy Analyst – George Sariaik ([George.Sariaik@selwyn.govt.nz](mailto:George.Sariaik@selwyn.govt.nz))

## REPORT

**TO:** Chief Executive Officer

**FOR:** Council Meeting – 10 August 2022

**FROM:** George Sariak, Policy Analyst

**DATE:** 21 July 2022

**SUBJECT:** **COUNCIL SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY 2022**

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## RECOMMENDATION

*‘That Council:*

- (a) Receives the report;*
- (b) Retrospectively endorses the attached submission on the proposed National Policy Statement for Indigenous Biodiversity 2022’*

### 1. PURPOSE

The purpose of this report is to seek approval of the attached (Attachment A) submission provided to the Ministry for the Environment on the proposed National Policy Statement for Indigenous Biodiversity 2022 (NPS-IB).

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The decisions and matters of this report are assessed to be of low significance, in accordance with the Council's Significance and Engagement Policy. The level of significance has been considered low as the report relates to a Council submission on a Central Government process.

### 3. HISTORY/BACKGROUND

Aotearoa New Zealand is facing a biodiversity crisis, with around 4000 species threatened or at risk of extinction. Despite progress in conservation management over the past few decades, Aotearoa New Zealand has suffered significant decline in its indigenous biodiversity and continued degradation of its natural ecosystems.

The Resource Management Act 1991 (RMA) provides the main framework for maintaining and protecting indigenous biodiversity from adverse environmental effects through sections 5, 6, 7, 30 and 31. These sections of the RMA are insufficiently clear and lack the necessary detail to guide consistent interpretation and application. Under the RMA indigenous biodiversity has been inconsistently managed and consistently undervalued. National direction supports local decision-making under the RMA with national policy statements setting objectives and policies on matters of national significance.

The need for a NPS-IB has been recognised as early as 2000. An attempt to create a National Policy Statement was undertaken in 2011. Council prepared a submission on

the 2011 draft of the NPS-IB. The submission was dated the 20<sup>th</sup> May 2011 and was retrospectively endorsed at a Council Meeting on the 25<sup>th</sup> May 2011. The 2011 draft of the NPS-IB was not progressed due to a lack of stakeholder agreement.

The desire to develop a NPS-IB was reinvigorated in 2017 with the development of a new draft of a NPS-IB by the Biodiversity Collaborative Group. A draft was developed between March 2017 and October 2018 initially by the Biodiversity Collaborative Group. This was further developed by Ministry for the Environment and the Department of Conservation between October 2018 and November 2019 before subsequently being presented for public consultation in November 2019. Consultation was held on the first draft of the NPS-IB between November 2019 and March 2020, this included two series of nationwide hui. During the consultation period, over 7000 submissions were received. Council prepared its own submission dated the 13<sup>th</sup> March 2020, which was endorsed at a Council Meeting on the 11<sup>th</sup> March 2020.

In response to public consultation, hui and submissions a series of changes have been made to the NPS-IB. These changes are presented in the most recent iteration of the NPS-IB which was released for public consultation on the 9<sup>th</sup> June 2022. The consultation period closed on the 21<sup>st</sup> July 2022. The most recent iteration of the NPS-IB is not a great departure from its predecessor, meaning that many of Council's previous submission points are still valid.

The NPS-IB will provide a consistent approach to the management of indigenous biodiversity across Aotearoa New Zealand for all land tenures. Application of the NPS-IB will not extend to the coastal marine area and to aquatic indigenous biodiversity, therefore the scope is largely the terrestrial environment. The NPS-IB sits in the wider context of the vision and goals for biodiversity set out in Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020. Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 provides the overarching direction for biodiversity, while the NPS-IB will be one of its regulatory tools. Gazettal of the NPS-IB is anticipated for December 2022 with many parts having immediate effect.

The objective of the NPS-IB is to protect, maintain and restore indigenous biodiversity in a way that:

- a) recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and
- b) provides for the social, economic and cultural wellbeing of people and communities, now and into the future.

Three fundamental concepts, Te Rito o te Harakeke, the maintenance of indigenous biodiversity and the effects management hierarchy will guide implementation of the NPS-IB. There will be significant implementation requirements and associated costs for Council to give effect to the NPS-IB. Council has already had considerable involvement in the development of the NPS-IB through engagement and prior submissions. Given the significance of the implications of the NPS-IB and Council's prior engagement, a further submission on the NPS-IB was prepared.

As the timeframe was tight, the submission was drafted and submitted before it was endorsed at a Council Meeting.



4. **PROPOSAL**

That Council receives and retrospectively endorses the submission.

5. **OPTIONS**

As the submission has already been made, Council has the following options:

**Option 1 (recommended)** receive and retrospectively endorse the submission.

**Option 2** do not retrospectively endorse the submission and immediately contact the Ministry for the Environment to withdraw the submission.

**Option 1** is recommended as the proposed NPS-IB will have considerable impact on the management of indigenous biodiversity in the Selwyn District including direct implementation requirements for Council. The RMA affords Council an opportunity to make a submission on the subject matter of proposed national direction. Council has previously engaged with consultative materials on the NPS-IB and submitted on earlier drafts of the NPS-IB. The submission would supplement Council's previous submission on the NPS-IB, reinforcing previously held submission points and provide for continued local voice in the development of national legislation and policy.

6. **VIEWS OF THOSE AFFECTED / CONSULTATION**

**(a) Views of those affected and Consultation**

Council's submission on the proposed NPS-IB does not have implications on affected parties or require a Council consultative process. The submission has been made in relation to a Central Government process and all those potentially or actually affected by the proposed NPS-IB are afforded an opportunity to make a submission.

**(b) Māori and Treaty implications**

The proposed NPS-IB recognises the role of tangata whenua as kaitiaki and requires councils to involve tangata whenua in the management of and decision-making for indigenous biodiversity. Council will be required to investigate the use of RMA mechanisms such as transfers or delegations of powers, joint management agreements and Mana Whakahono ā Rohe arrangements to involve tangata whenua in the management of, and decision-making about, indigenous biodiversity. The proposed NPS-IB applies a te ao Māori perspective to the management of indigenous biodiversity, recognising both whakapapa and tikanga Māori as well as incorporating mātauranga Māori alongside Western science. The proposed NPS-IB enables hapū and iwi to proactively identify their kaitiaki responsibility to taonga species and ecosystems. The proposed NPS-IB provides specific management requirements for the management of indigenous biodiversity on Māori lands, which includes treaty settlement land.

The Government previously undertook nationwide hui on the NPS-IB and by way of this consultation, Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu are afforded the opportunity to make a submission. Council's submission on the proposed NPS-IB does not in and of itself have Māori and/or Treaty implications.

**(c) Climate Change considerations**

Council's submission on the proposed NPS-IB has negligible climate change implications.

**7. FUNDING IMPLICATIONS**

There are no funding implications.



George Saria  
**POLICY ANALYST**

***Endorsed For Agenda***



Tim Harris  
**GROUP MANAGER DEVELOPMENT AND GROWTH**

**ATTACHMENT A**



21<sup>st</sup> July 2022

Ministry for the Environment  
PO Box 10362  
Wellington 6143  
[indigenousbiodiversity@mfe.govt.nz](mailto:indigenousbiodiversity@mfe.govt.nz)

**Selwyn District Council feedback on *the Draft National Policy Statement for Indigenous Biodiversity — Exposure Draft***

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**Introduction and Context**

1. Selwyn District Council (Council) welcomes the opportunity to provide a submission on the Draft National Policy Statement for Indigenous Biodiversity - Exposure Draft (NPS-IB).
2. Council commends the Ministry for the Environment (the Ministry) for providing an additional targeted consultation period on the NPS-IB to ensure that the national policy statement is clear and practical to implement for resource management system partners.
3. Council recognises the continuing global biodiversity crisis, including the continued decline of indigenous biodiversity in Aotearoa New Zealand. Council is committed to protecting and restoring indigenous biodiversity in partnership with landowners, our community, Papatipu Rūnanga, businesses, industry, non-government organisations, local government and central government.
4. Council considers the biodiversity crisis inseparable from the climate crisis, both of which represent an existential threat to the collective and holistic wellbeing of current and future generations.
5. Council recognises the need for a national policy statement under the Resource Management Act 1991 (RMA) to provide consistency and certainty for the protection and management of indigenous biodiversity. Council supports the policy intent of the NPS-IB as providing for the protection, maintenance and restoration of indigenous biodiversity in Aotearoa New Zealand.
6. Council considers gazettal of the NPS-IB by late 2022 is imperative due to the urgency of the biodiversity crisis and the considerable delays in the delivery of the NPS-IB.
7. Council continues to emphasise the importance of both regulatory and non-regulatory tools as well as strong and effective partnerships for the protection, maintenance and restoration of indigenous biodiversity.
8. This submission supplements Council's previous submission to the Ministry on the NPS-IB dated 13th March 2020 and it is recommended that this submission be read in conjunction with Council's previous submission.
9. Council endorses the submission made by the Canterbury Mayoral Forum on the NPS-IB and makes this submission to elaborate the particular views held by Council on the NPS-IB. However, Council does not support amending the timeframes included under Part: 4 Timing of the NPS-IB.
10. Overall, Council considers the proposed NPS-IB is an improvement on the previous draft of the NPS-IB developed by the Biodiversity Collaborative Group. Council commends the Ministry for

development of the NPS-IB and the consideration given to the submissions received, including the previous submission made by Council.

### **Part 1: Preliminary provisions**

11. Council supports the inclusion of Te Rito o te Harakeke as one of three fundamental concepts that inform the approach for giving effect to the NPS-IB.
12. Embedding te ao Māori in the resource management system, including the NPS-IB, better reflects the special relationship between Māori and te taiao as well as fostering the partnership approach required of resource management system partners for an effective resource management system.
13. Council considers that for an effective resource management system, tangata whenua must be provided with the support and resources to undertake a more effective and proactive role.
14. Council considers the list of the six essential elements that comprise Te Rito o te Harakeke to guide tangata whenua and local authorities to give effect to Te Rito o te Harakeke provides much needed clarity when compared to the previous draft of the NPS-IB. Council seeks that the Ministry provide specific guidance on Te Rito o te Harakeke as with Te Mana o te Wai.
15. Council supports the elevated status of mātauranga Māori alongside Western science for a partnership-based approach to the management of indigenous biodiversity that recognises and values different knowledge systems.
16. Council acknowledges that Te Rito o te Harakeke is consistent with Te Mana o te Wai, but seeks that better integration be established between Te Rito o te Harakeke with the framework for Te Mana o te Taiao | The Aotearoa New Zealand Biodiversity Strategy 2020, including the vision statement - 'Te Mauri Hikahika o te Taiao'.
17. Council supports the fundamental concept of the 'maintenance of indigenous biodiversity' and the proposed description.
18. Council supports the fundamental concept of the 'effects management hierarchy' and the proposed description.

### **Part 2: Objective and Policies**

19. Council considers that the proposed objective is clear and concise, improving on the objectives proposed by the 2019 draft of the NPS-IB.
20. Council would however make comment that the proposed objective applies a seemingly 'anthropocentric lens' to the values derived from the protection, maintenance and restoration of indigenous biodiversity. Council considers that 'intrinsic values', that being the value placed on something for what it is rather than what it can provide, should be recognised and provided for in the objective of the NPS-IB. Council acknowledges that Te Rito o te Harakeke recognises the intrinsic value and mauri of indigenous biodiversity. Council would suggest that the definition of 'intrinsic values' be derived from the guiding principles of the Te Mana o te Taiao | The Aotearoa New Zealand Biodiversity Strategy 2020 and integrated within the objective.

21. Council supports proposed Policy 1 of the NPS-IB requiring that Te Rito o te Harakeke be given effect to. Council seeks that the Ministry provides guidance and implementation support to assist local authorities in giving effect to Te Rito o te Harakeke which will require a significant engagement undertaking.
22. Council supports proposed Policy 2 of the NPS-IB recognising tangata whenua as kaitiaki, and enabling tangata whenua to exercise kaitiakitanga.
23. Council supports the application of the precautionary approach as provided for by proposed Policy 3 of the NPS-IB. The precautionary approach is an internationally accepted tenet of Ecological Sustainable Development and is strongly supported by Council.
24. Council supports the policy intent of proposed Policy 4 of the NPS-IB on the resilience of indigenous biodiversity to the effects of climate. However, Council considers that drafting of the policy reads more as an objective or outcome than an actual policy.
25. Furthermore, Arotakenga Tūraru mō te Huringa Āhuarangi o Āotearoa | National Climate Change Risk Assessment for New Zealand considers that “due to their variety and complexity, very few of Aotearoa New Zealand’s ecosystems are well enough understood to reliably predict how climate change will affect them” and “it is likely that many of New Zealand’s ecosystems and species will be highly vulnerable to the projected changes in climate, due to their limited ability to adapt (sensitivity) to changing environmental conditions”.<sup>1</sup>
26. Council considers that proposed Policy 4 of the NPS-IB should reflect that certain ecosystems and species have limited adaptive capacity. It is recommended that proposed policy 4 of the NPS-IB be redrafted to recognise the limitations of the adaptation options available to indigenous biodiversity under future emissions pathways.
27. Council seeks that proposed Policy 4 of the NPS-IB be redrafted to: ‘resilience of indigenous biodiversity to the effects of climate change is promoted’ or similar wording. Any redrafting of proposed policy 4 of the NPS-IB should seek integration with Part 3: Implementation, Subpart 1, clause 3.6.
28. Council supports proposed Policy 5 of the NPS-IB on the integrated management of indigenous biodiversity within and across administrative boundaries as well as the inclusion of ki uta ki ta as the concept for informing this holistic and interconnected approach.
29. Council supports proposed Policy 6 of the NPS-IB on a consistent approach for identifying areas of significant indigenous vegetation and significant habitats of indigenous fauna as significant natural areas (SNAs).
30. Council supports proposed Policy 7 of the NPS-IB to protect and avoid SNAs from adverse environmental effects.

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<sup>1</sup> Ministry for the Environment (2020) Arotakenga Tūraru mō te Huringa Āhuarangi o Āotearoa: Pūrongo Whaihanga | National Climate Change Risk Assessment for Aotearoa New Zealand: Technical Report. (pg.37).

31. Council supports proposed Policy 8 of the NPS-IB that recognises and provides for the importance of maintaining indigenous biodiversity outside of SNAs.
32. Council supports proposed Policy 9 of the NPS-IB that certain existing activities are provided for within and outside SNAs.
33. Council supports proposed Policy 10 of the NPS-IB that activities that contribute to New Zealand's social, economic, cultural, and environmental well-being are recognised and provided for.
34. Council supports proposed Policy 12 of the NPS-IB that recognises a distinct management approach for the management of indigenous biodiversity within plantation forestry.
35. Council supports proposed Policy 13 of the NPS-IB that recognises and provides for the restoration of indigenous biodiversity.
36. Council supports proposed Policy 14 of the NPS-IB that promotes the increase of indigenous vegetation cover in both urban and non-urban environments.
37. Council supports proposed Policy 15 of the NPS-IB that recognises the need to for a specific management approach for the habitats of highly mobile fauna outside of SNAs.
38. Council supports proposed Policy 16 of the NPS-IB requiring the development and subsequent implementation of Regional Biodiversity Strategies.
39. Council supports proposed Policy 17 of the NPS-IB for improved information and regular monitoring of indigenous biodiversity.

**Part 3: Implementation - Subpart 1: Approaches to implementing this National Policy Statement**

40. Council supports engagement with communities and tangata whenua to determine how to give effect to Te Rito o te Harakeke at the district level. Council supports a 'local approach' for giving effect to Te Rito o te Harakeke recognising that whanau, hapū and communities are integral to the management of indigenous biodiversity in their role as kaitiaki and stewards.
41. Council considers that synergies can be derived from the local approach to inform the Regional Biodiversity Strategy, but a bottom-up approach will ensure that the protection, maintenance and restoration of indigenous biodiversity is connected to, and engaged with, at the local level.
42. Council supports the recognition of tangata whenua as kaitiaki of indigenous biodiversity, enabling tangata whenua to exercise kaitiakitanga. Council supports the requirement to actively involve tangata whenua (to the extent they wish to be involved) in the management of indigenous biodiversity.
43. Council supports the integrated approach, ki uta ki tai, to the management of indigenous biodiversity.

44. Council supports the requirement for local authorities to promote the resilience of indigenous biodiversity to climate change. As previously stated in point 27, Council considers that proposed policy 4 of the NPS-IB should be amended.
45. Council supports the requirement for local authorities to adopt a precautionary approach toward proposed activities where there is uncertainty of the effects on indigenous biodiversity and those effects are potentially significantly adverse. Council considers clause 3.7 should be at-least extended to decision-makers. In principle, Council considers a precautionary approach should be observed more widely than that of local authorities.

### **Part 3: Implementation - Subpart 2: Significant Natural Areas**

46. Council recognises the value of Significant Natural Areas (SNAs) as a management tool for indigenous biodiversity. Furthermore, Council recognises the need for national direction on the ecological criteria for identifying SNAs to ensure there is both certainty and consistency.
47. Although Council recognises value of SNAs, Council continues to strongly support non-regulatory methods and the use of incentives for positive indigenous biodiversity outcomes.
48. The Proposed Selwyn District Plan contains provisions on SNAs with Council previously applying a voluntary approach to the listing of SNAs with willing landholders in the District. Council considers compulsory listing of SNAs will be problematic and will undermine the partnership principle of the NPS-IB. Building and maintaining relationships with landowners as co-stewards of indigenous biodiversity will be critical to the success of SNA management.
49. Council considers the district-wide assessment of SNAs will be a considerable undertaking for most local authorities. Under the proposed SNA assessment criteria it has been estimated that there is in excess of six-hundred potential SNAs within the Selwyn District. Many local authorities are already facing significant capacity and resourcing issues exacerbated by new and/or strengthened resource management requirements as well as the broader Government reform programme.
50. Council considers that Central Government should increase funding for the implementation of the NPS-IB. The protection, maintenance and restoration of indigenous biodiversity benefits an immediate locality but also results in national-level benefit spillovers. Smaller local authorities with a smaller rating base that have large tracts of indigenous vegetation exemplify these national-level benefit spillovers and the need for greater Central Government support. Council considers support and funding could be targeted to those smaller local authorities with smaller rating bases.
51. Council continues to advocate for a risk-based approach to the district-wide assessment of SNAs. With formal agreement from the Minister, this would enable local authorities to prioritise 'at-risk' SNAs or indigenous biodiversity habitats within the five-year timeframe allowing for a mutually agreed grace period for the mapping of SNAs on protected areas and public conservation land where the risks facing indigenous biodiversity are lower.
52. Council considers its proposed risk-based approach to the district-wide assessment of SNAs will alleviate some of the pressure on the capacity of territorial authorities.



53. Council supports the proposed SNA assessment criteria contained in Appendix 1 as well as the proposed principles for the assessment of SNAs.
54. Council supports the ability for territorial authorities to enlist the assistance of a regional council in the undertaking of the district-wide assessment of SNAs. Council considers that it is not presently clear in the NPS-IB as to how this arrangement would unfold should a territorial authority seek the assistance of a regional council. Council would recommend that the NPS-IB be amended so that there is greater clarity for all local authorities when implementing this clause.
55. Council supports the identified 'avoid effects' of clause 3.10 and the application of the effects management hierarchy for effects not listed under clause 3.10.
56. Council considers the exemptions to clause 3.10 provided for specific infrastructure, mineral extraction and aggregate extraction that provide significant national or regional public benefit are supportable due to the robustness of the functional or operational need and no practicable alternative locations gateway tests as well as the required application of the effects management hierarchy.
57. Council seeks that the no practicable alternative location test be expanded, so as to provide for a robust alternatives assessment. Council considers the no practicable alternative location test be expanded to the following: "there is either no practicable alternative location, or every other practicable alternative location would have equal or greater adverse effects on a Significant Natural Area".
58. Council supports the exemption of clause 3.11(4)(a)) on activities that are for the purpose of maintaining or restoring an SNA.
59. Council supports the intention of 3.11(4)(b)) for exempting areas of indigenous vegetation or habitat of indigenous fauna that have been established and are managed primarily for a purpose other than the maintenance or restoration of indigenous biodiversity. Council recognises that is important that the establishment of indigenous vegetation is not disincentivised by the requirements of the NPS-IB.
60. Council supports an individualised management approach for SNAs within a plantation forest. Council recognises that plantation forests accommodate indigenous biodiversity as well as a sequestering carbon alongside its primary productive purpose of providing a regenerative resource. Council considers that the amendments between the previous draft of the NPS-IB and the proposed draft of the NPS-IB on the management approach for SNAs within a plantation forest have improved.
61. Council supports clause 3.16 which applies to the maintenance of indigenous biodiversity outside SNAs on all areas other than Māori lands. Council considers that the maintenance indigenous biodiversity outside of SNAs is critical to the conservation of indigenous biodiversity. This is particularly important given the lag-time between gazettal, the district wide assessment of SNAs and the date for notification of the associated plan change. Council supports the discretion imparted on local authorities to determine appropriate controls to manage adverse effects on indigenous biodiversity allowing for consideration of the local context.

62. Council remains concerned with the practicality of clause 3.17 on the maintenance of improved pasture and considers the proposed definition of 'improved pasture' to be problematic. Council considers that agreement on what constitutes 'improved' in relation to pasture has been subject to much challenge. Council requests that the Ministry considers the definition of 'improved pasture' in the Proposed Selwyn District Plan which includes a requirement for exotic species to dominate an area.<sup>2</sup> It is important to note that huge swathes of land have had 'exotic pasture species deliberately sown or maintained' over the last 100 years therefore this definition is not helpful in terms of being suitably prescriptive or reductive. Council considers that extending the national list of exotic pasture species to the NPS-IB and applying a species coverage threshold could provide much needed clarity to the term improved pasture to ensure consistent application.

### **Part 3: Implementation - Subpart 3: Specific Requirements**

63. Council supports the partnership approach and specific management provisions of clause 3.18 to protect, maintain and restore indigenous biodiversity, including SNAs and identified taonga on Māori lands.

64. Council supports enabling tangata whenua to proactively identify indigenous species, populations, and ecosystems that are taonga to be protected under RMA plans as either acknowledged or identified taonga. Council further supports the partnership approach for the management of acknowledged and identified taonga that will involve tangata whenua (to the extent that they wish to be involved).

65. Council supports the inclusion of a list of Threatened or At Risk species of highly mobile fauna as proposed and the refinement of the implementation requirements on areas that support highly mobile fauna being limited to specified highly mobile fauna.

66. Council supports the promotion of the restoration of indigenous biodiversity, including through reconstruction of areas. Council considers that it is important to promote an approach that prioritises the protection of what remains first and the restoration of what was lost second in the management of indigenous biodiversity. Council recognises that protection and restoration can however occur concurrently, however the NPS-IB should firstly promote protection and maintenance.

67. Council supports the policy intent to increase the percentage of indigenous vegetation cover in both urban environments and non-urban environments. Council is concerned with the proposed terminology of 'urban environments' and 'non-urban environments'. Where it may be appropriate to apply the inverse of clause 1.4 of the National Policy Statement on Urban Development 2020 to derive what constitutes a 'non-urban environment', a lack of a definition may lead to inconsistent interpretation and application.

68. Council considers what would likely constitute the 'non-urban environment' in the Selwyn District would be an expansive and ecologically diverse area. Applying a target of at least 10% indigenous

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<sup>2</sup> **Proposed NPS-IB definition of 'improved pasture'**: an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing

**Proposed Selwyn District Plan definition of 'improved pasture'**: an area of pasture where exotic pasture species have been deliberately introduced, where those exotic pasture species dominate in cover and composition, and where the naturally occurring indigenous species are largely absent from that area

vegetation cover for this area would not fully capture the distributional aspects of indigenous vegetation across such a diverse area. The likely 'non-urban environment' of the Selwyn District would be comprised of highly-modified areas of exotic pasture below the 10% indigenous vegetation cover target (such as the Canterbury Plains) as well as protected areas of the high country that would exceed the 10% indigenous vegetation cover. Council would prefer that any changes to clause 3.22 or the definition for a 'non-urban environment' grant local authorities and tangata whenua the autonomy to delineate management areas of a non-urban environment for the purpose of indigenous vegetation cover targets with the ability to set differential targets where appropriate.

69. Council supports the proposed target of at least 10% indigenous vegetation cover in both urban environments and non-urban environments and the opportunity to set more ambitious targets. Council would prefer that clause 3.22(3) of the NPS-IB clearly states that more ambitious targets may be set in consultation with territorial authorities and tangata whenua.
70. Council supports the preparation and implementation of a regional biodiversity strategy to promote the landscape-scale restoration of a region's indigenous biodiversity. Council considers that there should be better integration between regional biodiversity strategies and Te Mana o te Taiao | The Aotearoa New Zealand Biodiversity Strategy 2020. The Ministry should also consider how regional biodiversity strategies will integrate with the reform of the resource management system and proposed regional spatial strategies under the proposed Strategic Planning Act.
71. Council also seeks that the Ministry establish better integration between regional biodiversity strategies and sub-national climate change plans for both emissions reduction and adaptation. Council considers that the interrelationship between climate change and indigenous biodiversity is not fully developed in the NPS-IB.
72. Council is supportive of the proposed information requirements for a resource consent application in relation to an indigenous biodiversity matter.
73. Council acknowledges that biodiversity monitoring needs to be improved and is supportive of a regional monitoring plan for indigenous biodiversity. Council is supportive of the inherent flexibility offered by clause 3.25 to local authorities, relevant agencies and tangata whenua on the methods and timeframes for monitoring.

#### **Part 4: Timeframes**

74. Council is acutely aware of the ongoing biodiversity crisis and is supportive of strong and expedient action to halt further decline and promote protection and restoration.
75. Council considers that the timings included in the NPS-IB are ambitious but necessary in the face of an ongoing and escalating biodiversity crisis. Council continues to recommend that the Ministry consider propositions to alleviate capacity and implementation challenges facing local authorities and increases the funding and support for local authorities, landowners and tangata whenua in the implementation of the NPS-IB. Where necessary this funding should be targeted to those organisations with the greatest need.

### **Proposed Biodiversity Incentive Pilots and Draft Implementation Plan**

76. Council commends the Ministry for responding to previous submissions on the need for incentives to support positive biodiversity outcomes and the trialling of three biodiversity incentive pilots.
77. Council considers the Ministry must progress a significant programme to support effective biodiversity offsetting. Where the NPS-IB provides principles for biodiversity offsetting, this must be supported by implementation guidance and examples of best practice. Council considers that the Ministry should consider further work to support effective biodiversity offsetting to supplement the NPS-IB. A biobanking scheme could enable landowners to earn credits for the SNAs on the land as well as support restoration efforts.
78. Council seeks that the Ministry provides increased transparency and guidance on the reform of the resource management system including transitional arrangements. Council looks forward to receiving particular details on the status of current national direction and the proposed National Planning Framework, the position of a Regional Biodiversity Strategy in respect of Regional Spatial Strategies and Natural and Built Environment Plans, the roles and responsibilities of local authorities under the NPS-IB once joint committees have been established.
79. Council acknowledges that the Draft Implementation Plan for the NPS-IB may not be the appropriate channel for this level of detail. Council requests that the Ministry provide a high-level and provisional outline of a transition plan for where resource management system changes will interface with implementation of the NPS-IB. This could be extended to other national direction instruments too.
80. Council considers that a high-level and provisional outline of a transition plan would provide greater clarity and certainty for local authorities even if the Ministry has not yet fully developed the details of the transitional arrangements of resource management system reform.
81. Council further commends the Ministry for acknowledging implementation support is critical to the success of the NPS-IB. Council considers that the \$19 million Biodiversity Protections and Incentives investment from Budget 2022 is insufficient to support effective and widespread implementation. It was estimated in 2020 that for the Selwyn District alone to undertake a district wide assessment of SNAs the cost will be in excess of \$3 million.
82. The implementation plan is not clear on the allocation procedures for the \$19 million Biodiversity Protections and Incentives investment from Budget 2022. Council requests that the Ministry provides greater clarity on how any funding is to be allocated.
- 

Thank you for the opportunity to provide this submission. For any clarification or discussion on points within this submission please contact Selwyn District Council's Policy Analyst – George Sariak (George.Sariak@selwyn.govt.nz)

## REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Group Manager – Community Services and Facilities

**DATE:** 1 August

**SUBJECT:** **COMMUNITY SERVICES AND FACILITIES GROUP UPDATE**

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## RECOMMENDATION

*'That the Council receives the Report "Community Services and Facilities Group Update" for information.'*

### 1. PURPOSE

Contributing to Council Outcomes for Community of:

- Social and Cultural wellbeing - To build community connectedness, inclusivity & safety by providing opportunities & resources for volunteers & communities
- Economic wellbeing - To promote economic development by collaboration, networking, information sharing & encouraging visitors.

This Report aims to inform Council on matters of interest in the context of the community service activity.

The information included in this Report generally relates to the period 1 May up until 30 June 2022

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

As this Report is for information only, it is not considered to be significant in the context of the Council's Significance Policy.

### 3. NATIONAL AWARDS APPLICATIONS IN 2022/ 23

Award	Category	Applications Due Date	CSF Project
NZ Recreation Aotearoa (NZRA)	Special Project	6 April 2022 at p.m. Awarded <b>Merit</b>	Selwyn Sports Centre
LGFA Taituarā Local Government Funders Excellence Awards (Formerly SOLGM)	The Martin Jenkins Award for Collaborative Government Action	<b>(Submitted)</b>	Employment; Trailblazers, LG Careers online, Employment Expo, Mayors Taskforce etc
Local Government New Zealand (LGNZ)	Excellence For Cultural Wellbeing	<b>(Submitted)</b> SDC won the LGNZ Cultural Wellbeing award for Te Ara Ātea.	Te Ara Ātea
Local Government New Zealand (LGNZ)	Excellence For Social Wellbeing	<b>(Submitted)</b> Was a finalist	Welcoming Community, Accessibility Charter, Faces of Selwyn (including Plains FM Podcasts) , Putting Down Roots
Local Government New Zealand (LGNZ)	Excellence For Economic Wellbeing	<b>(Submitted)</b> won a highly commended	Employment; Trailblazers Internship, LG Careers online, Employment Expo, Mayors Taskforce etc
Tourism Industry of NZ	Industry Collaboration Awards	<b>(Submitted)</b>	Community and Economic Development
WAVES Conference Awards	Aquatic Innovation Awards	<b>(Submitted)</b>	Selwyn Aquatic Centre

#### 4. ACTIVE SELWYN (including Selwyn Aquatics Centre, Selwyn Sports Centre and fitness programme delivery)

Community Services and Facilities Group - Population 01 July 2021 71,500 (Stats NZ) <b>Note:</b> In YTD column if the figure is higher than YTD of previous year it is shown in <b>bold</b> . In Month column if the figure is higher than month of previous year it is shown in <b>bold</b> . May 2021 in <b>Black</b> . June 2021 in <b>Blue</b> YTD to 30 June in <b>Black</b>	MONTH 2021/22		YTD 21/22
	May	June	
ACTIVE SELWYN - AQUATICS			
<b>Events:</b> Active Selwyn Events – <u>Contributes to Target of 100.</u> Reported in C&ED.	2	3	40
<b>Programmes:</b> (Participants enrol and attend for a term) <b>Aqua</b> <b>Fitness programmes</b> MONTH	829	975	8,274
<b>Learn to Swim</b> <b>Term 3 Enrolments</b>	3,022	3,078	33,711
<b>Community Pools:</b> Season Nov - March. Pools <b>have now closed.</b>	Closed for season YTD – 22,123		
Darfield			
Southbridge			
Sheffield			
<b>Total</b>			
<b>Visits to Pools:</b> <u>Annual Target: 300,000 visits.</u>	39,334	36,220	346,276
<b>Swims per capita:</b> <u>Annual Target: 4.5.</u>	5.15		
<b>Annual User Survey:</b> The % satisfaction with SAC. <u>Target: ≥ 90%.</u>	SAC 90% very satisfied or satisfied with their experience at SAC in past 12 months. As per Customer Experience Survey – Appendix Two		
<b>Recreation Aotearoa Pool Safe Accreditation:</b> SAC achieves 100% compliance. <u>Target: ≥ 100%.</u>	Achieved 100% accreditation		
<b>Recreation Aotearoa Pool Safe Accreditation:</b> Darfield Pool achieves 100% compliance. <u>Target: ≥ 100%.</u>	Achieved 100% accreditation		
<b>Recreation Aotearoa Pool Safe Accreditation:</b> Southbridge achieves 100% compliance. <u>Target: ≥ 100%.</u>	Achieved 100% accreditation		
<b>Revenue:</b> The percentage of Council owned swimming pools generating revenue meeting or exceeding 20% of operating costs (excluding capital projects) <u>Target: 75%.</u>	60%		
ACTIVE SELWYN - COMMUNITY SPORT AND RECREATION			
<b>SSC Door Count.</b> <u>Target: 250,000.</u>	27,056	22,808	214,149
<b>SSC &amp; Community Centre Recreation Attendees to programmes delivered:</b> District Wide Annual <u>Target: 60,000.</u>	6,406	5,457	64,466
<b>SSC Participants</b> <u>Annual Target: 36,000.</u>	3,897	3,365	40,261
<b>LEC Participants</b> <u>Annual Target: 16,000.</u>	1,416	1,434	15,336
<b>WMCRC Participants</b> <u>Annual Target: 8,000.</u>	800	658	7,330
<b>User Satisfaction Survey:</b> <u>Annual Target: 90% at each centre.</u>	90% As per Customer Experience Survey – Appendix Two		

#### **4.1 Events and Holiday Programme Delivery**

Selwyn Aquatic Centre has had a busy month of Aqua Fitness with over 900 participants, Additional Aqua-fit for Parents' classes added due to popularity and the need to vary times based on family routines.

Another record term of Learn to Swim with 3,078 participants, up 743 students (or 30%) from the commencement of the financial year.

Kite Day at Foster Park as part of Matariki was successful with over 900 participants over the day.

Uptake in outreach active recreation events at outlying townships has been great with all events being sold out or close to sold out.

#### **4.2 Awards**

Selwyn Sports Centre winner of Merit Award in Recreation Aotearoa's "Project of the Year" category.

Award nomination for "Innovation of the Year Award" (Recreation Aotearoa, Aquatics Award) has been submitted for Aquafit for Parent's classes.

#### **4.3 Operations Summary**

All sites are starting to return to Pre Covid operations.

Winter sports are all running as normal at Selwyn Sports Centre with no issues. Turf operations are now fully bedded in.

Recruitment is remaining challenging in the current market. No service level impacts have resulted but unprecedented difficulty in recruiting is occurring especially with intermediary roles



## 5. ARTS, CULTURE AND LIFELONG LEARNING

Community Services and Facilities Group - Population 01 July 2021 71,500 (Stats NZ) <b>Note:</b> In YTD column if the figure is higher than YTD of previous year it is shown in <b>bold</b> . In Month column if the figure is higher than month of previous year it is shown in <b>bold</b> . May 2022 in Black. June 2022 in Blue YTD to 31 June in Black	MONTH 2021/22		YTD 21/22
	May	June	
ACLL			
Library users (defined as visitors to the library) is <u>not less than 75% of population</u> (71,500). <u>Target 53,625</u> . (door count + website usage data)	66,189	54,761	657,128
Membership			
Active members	26,568	26,907	Monthly Data Only
Members added	538	525	5,846
Door Count: <u>Target: 280K</u> . Physical Visits by site:			289,781
Lincoln	8,418	8,521	
Te Ara Ātea	15,171	14,353	
Leeston	3,115	3,110	
Darfield	3,654	2,943	
Total	30,358	28,927	
Av visits by population: <u>Target: ≥8.38</u> . The average number of physical (and digital) visits per annum to Selwyn libraries required to meet or exceeds national average per capital; dividing total visits by population (71,500)	12.71		
Service Centres: <u>Target: 20%</u> . The % of overall rates / water and dog registration payments made at Library / Council Service Centres / Face to Face annually.	9,422 / 21.22%	12,404 / 21.22%	51%
Library / SC	5,561 / 52%	6,342 / 51%	
HQ	5,106 / 47%	6,062 / 49%	
Digital Visits: <u>Target: 300,000</u> . The number of “digital” visits per annum to Selwyn libraries *(either logged into library website, using library computer or using WiFi and own device).	61,530	87,478	619,196
APNK	25,689	22,173	
Website	35,841	35,482	
Loans/Items Issued: <u>Target: 435,000 2021-28</u> . Number of loans of physical and/or digital resources per annum across Selwyn Libraries.	51,904	51,703	562,340
Print	43,676	43,304	
Non-Book	1,773	1,876	
eBook	3,281	3,217	
eAudio	2,667	2,739	
eMag	507	567	
Programming: <u>Target: 15,000 per annum</u> . Participants at programmed classes and activities.	3,994	2,761	23,465
Programming: <u>Target: 1,500 per annum</u> . Events/sessions/programmes delivered by Libraries and/or Library staff.) <i>number of events / number of participants</i>	207	163	1921/ 23,465
Literacy Programmes	67 / 1020	60 / 883	
Digital Literacy programmes	35 / 183	27 / 115	
Lifelong Learning – Adult programmes	77 / 637	51 / 472	
Lifelong Learning – Youth programmes	28 / 129	25 / 129	
Lifelong Learning – Family / Children programmes	99 / 1,451	56 / 545	

<b>Group</b>	<b>4 / 102</b>	<b>7 / 302</b>	
<b>Outreach</b>	<b>35 / 472</b>	<b>15 / 315</b>	
<b>Arts, Culture and Heritage:</b> Target: $\geq 20$ per annum. A range of arts, culture and heritage initiatives to take place annually. Counted in Events Total C&ED sheet. Entered here for information only.	6	3	28
<b>Satisfaction Survey:</b> Target: 90%. Arts Culture Heritage and Local History Programme Participants are satisfied / very satisfied (participant surveys)	55 forms have been submitted for the annual reporting <b>100%</b> of those surveyed have said they are Very Satisfied/ Satisfied		

**Programme Delivery (May):**

<b>Name</b>	<b>Location</b>	<b>Partner</b>	<b>Attendance</b>
<b>New Zealand Music Month</b>			
Selwyn Ukulele Groups	Te Ara Ātea, Darfield Library	Darfield and Rolleston Ukulele Groups	65 total
Unplugged Live Music	Te Ara Ātea, Lincoln Library, Darfield Library, Leeston Library	Ministry of the Mind	
Guitar Lessons	Te Ara Ātea, Lincoln Library, Leeston Library		48 total
4-Part Music Creation Workshops	Te Ara Ātea	Ryan Chin	32 total
Selwyn Community Choir and Rolleston Brass	Te Ara Ātea	Selwyn Community Choir & Rolleston Brass	70
Port Hillbillies Concert	Te Ara Ātea		90
Southern Celtic Fiddle Orchestra	Leeston Library, Te Ara Ātea	Southern Celtic Fiddle Orchestra	89
Framed Basket Workshop	Darfield Library	Rekindle	3
The Art of Bonsai: Beginners	Tai Tapu Community Centre	Christchurch Bonsai Society	8
Your Place: Family History Workshop Series	Te Ara Ātea	Fiona Brooker	14
Selwyn Libraries Mega Book Sale	Te Ara Ātea		350+
Kokedama Workshops	Glenroy Hall, Hororata Hall	Moss and Me	25 total
Sewing Lunch Bags	Darfield Library, Leeston Library, Lincoln Library	The Stitchery	13 total
Stone-hammering Jewellery Workshops	Te Ara Ātea	Artist Areta Wilkinson	43 total
Women's Networking Group (new)	Te Ara Ātea		12

Monthly Genealogy Group (new)	Te Ara Ātea	Selwyn Central Local History and Genealogy Society	10
Procreate Digital Art Workshops	Te Ara Ātea		41 total

<b>School Visits</b>			
Southbridge School	Te Ara Ātea		49
Burnham School	Te Ara Ātea		19
University of Canterbury	Te Ara Ātea		25

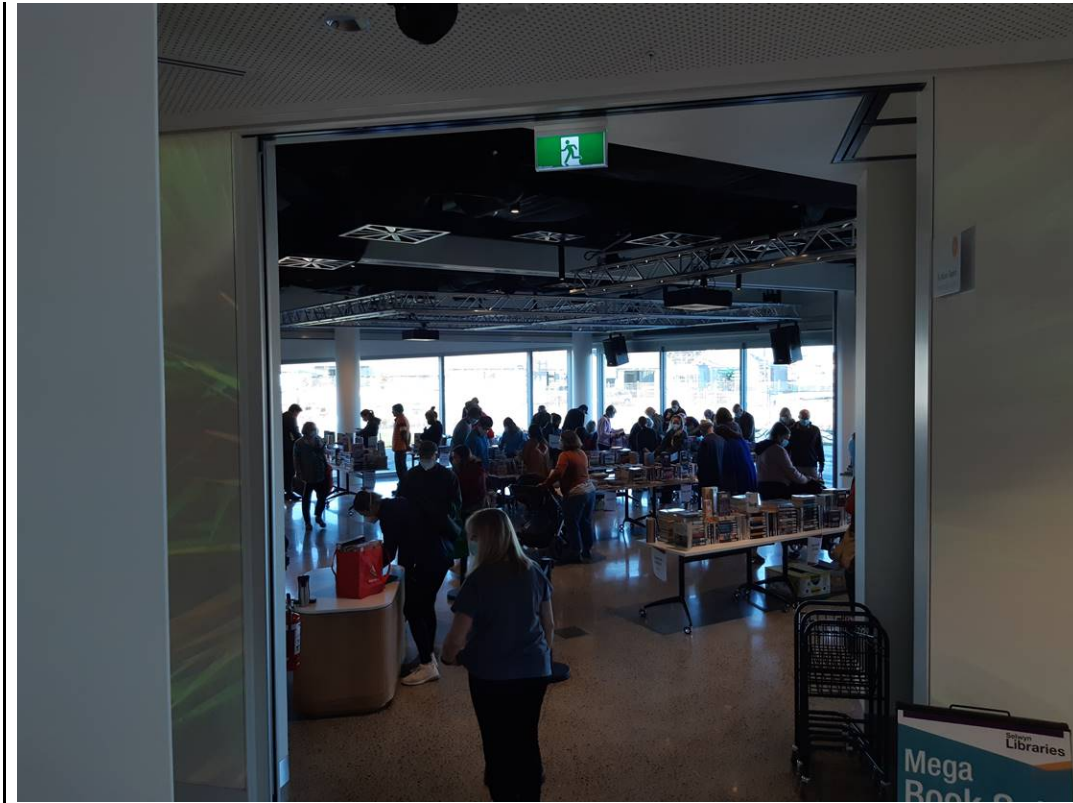
May was a busy month for ACLL programmes across the district. New Zealand Music Month was a focus. Local Selwyn talent filled the libraries and Te Ara Ātea with live “unplugged” music each Saturday. Local community music groups including ukulele groups, the Selwyn Community Choir, Rolleston Brass, and the Southern Celtic Fiddle Orchestra also performed to enthusiastic audiences.

In May, ACLL and Active arranged for some of Selwyn's most outlying schools to travel into Rolleston for a morning at Te Ara Ātea, and an afternoon at the Selwyn Sport Centre. With the official opening celebrations for Te Ara Ātea so heavily impacted by COVID, a portion of the budget allocated to the opening is now being used to pay for a 50 seat return bus trip for each of these outlying schools. Many of these children had not had the chance to visit either of these facilities before, and some of our first visitors from Southbridge School had never ridden a bus before! Te Ara Ātea and the Selwyn Sport Centre will be welcoming Sheffield, Springfield, Windwhistle, Greendale, and other schools throughout June and July.

The below image shows the outcomes of the Stone-hammering Jewellery Workshops with Ngāi Tahu artist Areta Wilkinson. Areta's work features upstairs in Te Ara Ātea inside the two cases near the elevators, and hosting programmes and workshops that enrich the displays and exhibitions at Te Ara Ātea has been a whole new lifelong learning opportunity afforded by Te Ara Ātea. Using copper pieces and river stones participants worked with Areta to create pieces of jewellery in a similar method to the way Areta creates her adornments currently on display.



*Stone-hammering Jewellery Workshop Outcomes*



Mega Book Sale

#### Programme Delivery (June):

Name	Location	Partner	Attendance
<b>Matariki</b>			
Whakaata Mai te Kūkūwai: Reflections from the Wetlands Exhibition	Te Ara Ātea	Ngāi Tahu Archives and Christchurch City Libraries	
Te Waihora Art Workshops	Te Ara Ātea, Lincoln Library, Darfield Community Centre, Leeston Library		32 total
Under the Stars Storytime	Te Ara Ātea		69
Rama Tuna Paper Sculpture Workshop	Te Ara Ātea, Leeston Library	Piri Cowie	17 total
Whakaora Te Ahuriri, A Wetland for Te Waihora Documentary Screening and Q&A	Te Ara Ātea	Environment Canterbury	20
Waterways Workshop	Lincoln Library	Environment Canterbury	21
<b>General</b>			

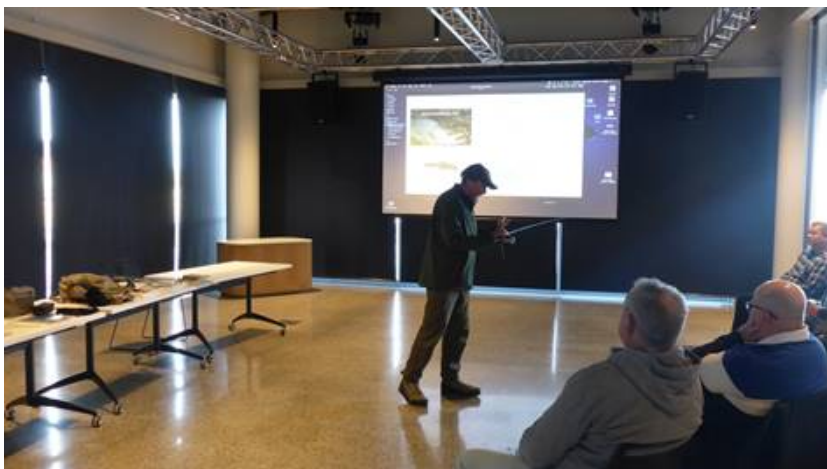
Fly Fishing	Te Ara Ātea, Lincoln Library, Darfield Library, Leeston Library	Martin Langlands	48 total
A Forager's Pantry	Lincoln Library, Darfield Library	Wild Cuisine	31 total
Composting with Lincoln Envirotown	Te Ara Ātea, Lincoln Library	Lincoln Envirotown	30
Upholstery for Beginners	Te Ara Ātea x 2	McDonald and Hartshorne Upholstery	13 total
Kokedama Workshops	Darfield Library	Moss and Me	8
Painting in Neon	Te Ara Ātea	Paint n' Sip	33
Women's Networking Group	Te Ara Ātea		12
Children's University Day	ECV @ Lincoln University	Lincoln University	112
Darfield Library Refurbishment	ECV @ Darfield Community Centre		112 total over 5 visits
<b>School Visits</b>			
Sheffield School	Te Ara Ātea		77
Southbridge School	Te Ara Atea		33
Windwhistle School	Te Ara Ātea		23
Rolleston College Art Class	Te Ara Ātea		27
Rolleston College Art Class	Te Ara Ātea		42
Te Rōhutu Whio	Te Ara Ātea		110
<p>The major events topic for June was Matariki. A range of programmes and events took place in libraries / service centres. Te Ara Ātea welcomed a temporary exhibition titled <i>Whakaata Mai te Kūkūwai: Reflections from the Wetlands</i> which was developed by Ngāi Tahu Archives and Christchurch City Libraries and was previously on display at Tūranga in Christchurch. The exhibition illustrates the ability of Te Ara Ātea to welcome small temporary and traveling exhibitions in a highly professional setting, and features photographs, taonga on loan from Canterbury Museum, and video content from Ngāi Tahu Archives. The exhibition continues to be on display until the end of July.</p> <p>Community Services and Facilities also collaborated with ECan on a documentary screening and lagoon walks with Environment Canterbury Councillor Craig Pauling and Project Manager David Murphy which gave community members a chance to connect with ECan in person and learn about the Whakaora Te Ahuriri reconstructed wetland.</p> <p>The initiative to bring outlying Selwyn schools into Rolleston to visit Te Ara Ātea and the Selwyn Sport Centre continued with visits from Sheffield, Southbridge, and Windwhistle Schools. Te Ara Ātea is also gaining increasing interest from local Rolleston schools and has hosted Year 11 art classes from Rolleston College, students from Te Rōhutu Whio, and scheduling is underway for visits in Term 3 from more outlying schools as well as Clearview School and more visits from Rolleston School.</p>			

With the two week closure for refurbishment of the Darfield Library during June, the Edge Connector Vehicle delivered a pop-up experience at the Darfield Community Centre, including programmes and lending, which was popular for those community members who were missing their regular library visits.

Two highlights from June were the Painting in Neon and Fly-Fishing workshops. Both workshops were well attended by diverse audiences who may not be regular library audiences and delivered by knowledgeable and passionate local presenters who provided extremely high quality and accessible experiences and information for our attendees.

*"Painting in neon was so much fun! Really appreciated the step by step instruction! Price point was great."*

*"An absolutely outstanding presentation Martin Langlands. This would have been the best info I have seen in 20 years at fly fishing."*



*Fly Fishing Workshop*





Painting in Neon

### 5.1. Public Arts Update

SDC have been working with Chorus to identify two appropriate cabinets to participate in the “Cabinet Art” initiative. The two cabinets for this year are 173 Rolleston Drive, and the corner of Jones Rd and Dawsons Rd. Local Selwyn artists will have the opportunity to make submissions for a design on these cabinets in August, and then work to complete the design by March 2023. The Chorus Cabinet Art initiative gives the opportunities for local artists to paint their communities beautiful. Chorus funds the painting of the cabinets, and since initiating the programme in 2010 they have seen a significant decrease in the frequency of tagging on cabinets where artwork is present.

### 5.2. Service Centre Activity (ACLL Delivered Face to Face)

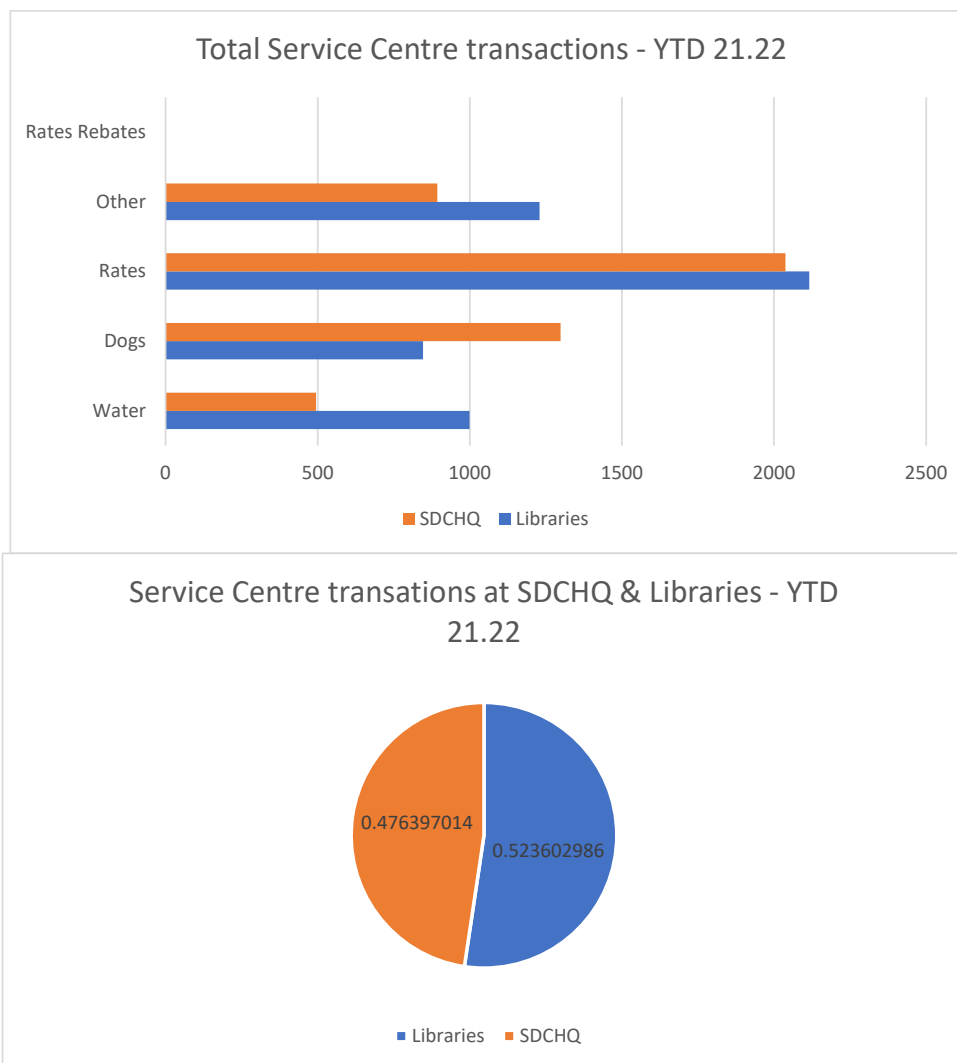
#### YTD 25 May 2022

Service Centre transactions at SDCHQ & Libraries - YTD 21.22

Libraries 5191 52%

SDCHQ 4723 48%

KPI >= 20%

**YTD 30 June 2022****Service Centre transactions at SDCHQ & Libraries - YTD 21.22%**

<b>Libraries</b>	6342 51%
<b>SDCHQ</b>	6062 49 %
<b>KPI &gt;=</b>	20%

**5.3. Operations Summary**

On Saturday the 7<sup>th</sup> May Te Ara Ātea recorded its busiest hour since opening, with live music, the Mega Book sale, digital technology sessions, and a visit from students at the University of Canterbury along with the usual Saturday crowd, Te Ara Ātea had 191 visitors between 10–11 am. The Book Sale brought in over 350 people over the first two days and resulted in \$5861.00 worth of deaccessioned books being sold. All sites are starting to return to Pre Covid operations.

Leeston and Darfield - The weekday opening hours at Leeston, and Darfield Library Service Centre's were temporarily changed in February whilst we remained at the red traffic light COVID-19 setting. Since February both libraries have been closing at 5.00 p.m. on



weekdays, one hour earlier than normal opening hours. This arrangement has continued through the orange traffic light setting and has contributed to our success of maintaining uninterrupted services at each library/service centre, being able to deliver all planned programmes, and continuing to take the Edge Connector (ECV) services out to the rural outlying communities. Under this arrangement staff cover for unwell or isolating team members. We will continue these hours at Darfield and Leeston Library/Service Centre's through until 30 June 2023, at which time we will review the situation. Saturday opening hours (10.00 a.m. to 4.00 p.m.) remain unchanged as do the opening hours at Lincoln Library/Service Centre and Te Ara Ātea. Adjusting opening hours is one way we are able to continue to operate in the current environment.

Darfield Library and Service Centre reopened on 4 July after a two-week closure period. Visitor numbers were immediately strong, particularly over the first week. Despite some poor weather, we ended up with almost 900 visits in the first week. Feedback was incredibly positive overall, with many people mentioning the improved flow, ease of access, furniture, and improved communal areas. As part of the renovation a new Xbox console has been added, which is proving popular with children and youth. Further design work is continuing for the tamariki area, an entry foyer photographic feature, and the tourist wall map feature. These will be underway in the coming weeks. A permanent 'seed library' is also being constructed in partnership with Darfield's Nourish gardening group for the purpose of sharing/exchanging vegetable seed.

Some notable pieces of feedback gathered during the first week of reopening include:

- 'Fantastic to see so many front facing books'
- 'Have you got more windows? It looks so spacious'
- 'There is so much room'
- 'Wow, look at the plants'
- 'Love the new carpet'
- 'New children's area is great'
- 'Great colours on the new furniture'
- 'Space looks wonderful - you must all love coming to work in such a great space'

A presentation on Skinny Jump Modems will be part of the CSF Report tabling at Council's August 7<sup>th</sup> meeting.

## 2. COMMUNITY AND ECONOMIC DEVELOPMENT

Community Services and Facilities Group Population 01 July 2021 71,500 (Stats NZ) <b>Note:</b> In YTD column, if the figure is higher than the YTD of the previous year it is shown in <b>bold</b> . In the Month column, if the figure is higher than a month of the previous year it is shown in <b>bold</b> . May 2022 in Black. June 2022 in Blue YTD to 30 June 2022 in Black	MONTH 2021/22		YTD 21/22
	May	June	
COMMUNITY & ECONOMIC DEVELOPMENT			
Community Capacity Building			
Community Capacity Building <b>initiatives</b> : <u>Target: ≥500 participants per annum.</u> Capacity Building initiatives are facilitated/funded/delivered to more than 500 representatives of community clubs/groups/committees per annum.	139	80	851
<b>Participant Survey</b> <u>Target: ≥90%.</u> Community Capacity Building participants are satisfied/very satisfied with programmes/services delivered. 27 surveys	0%	0%	97%
<b>Contestable Funding:</b>  <b>Selwyn Community Fund</b> : <u>Target: 40 per annum.</u> Community Grant Funding enables Community-based Initiatives	0	18	62
Tourism & Visitor Promotion			
Visitor promotion <b>initiatives</b> : <u>Target: ≥12 initiatives.</u> To take place annually. (which include promotion initiatives within them)	4	2	15
Visitor promotion <b>campaigns</b> : <u>Target: ≥1 campaign.</u> To take place with business and community partners. 1 Campaign ongoing with ChristchurchNZ	3		
Produce and distribute a range of <b>promotional materials</b> . <u>Target: Production: 1, Distribution: 3 per annum.</u> (e.g., Visitor Guide, Special Interest Guide) Meet us in the Country	0	0	3
<b>From the Land Website</b> usage. <u>Target: ≥10%.</u> Baseline: 63,669 21/22 Baseline for 2022/23 is 70,000	10%	9%	17% increase from baseline (63,669)
<b>Social Media:</b>			
Users	6556	6506	Total YTD (74,364)
FB New Likes:	139	68	
Facebook New Followers:	Facebook has stopped reporting on New Followers		
Instagram New Followers:	11	10	
Community Development - Neighbourliness			
Initiatives that <b>foster neighbourliness</b> take place: <u>Target ≥ 12 initiatives.</u>	0	0	12
Community Development - Newcomers & Migrants			
Initiatives targeting <b>newcomers</b> take place. <u>Target: ≥12 events.</u>	0	1	21
Business & Economic Development			
<b>Business excellence</b> in Selwyn District celebrated through biannual event <u>Target: One event held biannually.</u> (Selwyn Awards 31 July 2021).	No Awards Ceremony this financial year.		
Initiatives to promote <b>economic development/local business</b> and/or celebrate business excellence are delivered, resourced, or facilitated annually. <u>Target: 6</u>	2	0	7
Community Events			
<b>Community/Wellbeing Events Delivered</b> : <u>Target: 100.</u> Ensure a range of sport, recreation and wellbeing events that contribute towards the	6	9	101

Performance Indicator of not less than 100 community events annually targeting newcomers, families with children, young people as well as older people. Active Selwyn, Community and Economic Development and ACLL all contribute to the total.			
<b>Events:</b> Target: 10,000 attend events.	283	1,308	10,081
<b>Participants</b> in 25 community events are satisfied/very satisfied with event delivered. Target: ≥90%. 26 events surveyed: 98%	0%	0%	98%
<b>Selwyn Youth Council</b>			
<b>Youth Consultation/Advocacy</b> Activities take place annually. Target: 6 per annum.	0	3	6

## 6.1 Capacity Building

### Wellbeing Forum

The Wellbeing Forum took place with 42 attendees. The new Volunteer Canterbury co-ordinator for Selwyn (partly funded by SDC) presented on planned work particularly finding groups and workplaces looking for volunteers and finding ways to connect different generations through volunteering. Christchurch NZ and Connected presented on a new “Women on Work” project that Christchurch NZ is embarking on. Due to support from Selwyn District Council in the space of employment, they will be putting efforts into piloting this programme in the Selwyn District. Connected has run several programmes in collaboration with Selwyn District Council already.

### Going out to more remote communities

Representation from Community and Economic Development Team have been accompanying the Edge Connector on visits to more remote communities in Selwyn. There is a community demand for other service providers to visit these communities and Council will be encouraging these visits and suggesting visits and travel via ECV timetable.

### Meeting with local Business Network

Following requests, presentations from Community and Economic Development Team have taken place at two “Rolleston Networkers” business network with approx. 21 people at each meeting. Further presentations have been requested for Lincoln meeting in June.

### Kia Rite Hoha – Training offered to community for planning and delivering their own events.

In May, a Kia Rite Hoha workshop (previously named Get Set Go!) was held at West Melton. Kia Rite Hoha is a workshop for the community, giving practical advice on how to put their recreation, arts, programmes and event ideas into action. The Kia Rite Hoha resource is produced by Recreation Aotearoa, Christchurch City Council, Skills Active and Aktive Auckland. 9 community members attended the Selwyn workshop. There was a great variety of ideas at the workshop and attendees were interested in organising programmes and events related to arts, sustainability, community and for the disability sector.

### Grant Seekers Workshop

In May, a Grant Seekers workshop was held online. Facilitated by “Strategic Grants”, the workshop covered what funders are looking for from grant applications, best practice for groups and organisations when applying for funding and examples of what makes a successful application. 33 community members attended the online workshop and feedback was 100% positive. Attendees included Selwyn Netball, Special Olympics, Enabling Good Lives and Dementia Canterbury.

### **Funding Forum.**

In May, two Funding Forum sessions were held at Te Ara Ātea. At the Funding Forum, the Rātā Foundation, Department of Internal Affairs, and the Council presented about their funding opportunities and criteria to the community. Afterwards, the community were able to have one-on-one time with each of the funders and ask specific questions about their projects and funding requests. 45 community members attended across the two sessions, including Rolleston Brass, Te Ara Kakariki, Canterbury Gliding Club and CentreStage Rolleston.

## **6.2 Nutrition and Mental Health**

In May, Council and MHERC (Mental Health Resources and Information Centre) co delivered a very popular seminar where Dr Julia Rucklidge spoke on this topic, which challenged the 'nutrition' approach of the food labels to inform participants of research which supports the importance of a balanced nutritious diet and the need for macro-nutrients in high stress events. This was delivered as a hybrid event, with in-person delivery at Dunsandel Community Centre as well as attendance via Zoom; 25 people attended in person and 15 via zoom.

## **6.3 Events**

In June, CSF celebrated Matariki with a series of events from 18 June – 3 July. Each year, Selwyn District Council Matariki events will focus on a different star from the Matariki cluster. This year, events were focussed on the star, Waitī. Waitī relates to all freshwater bodies and the food sources sustained by those waters. Waitī watches over freshwater environments such as awa (rivers), roto (lakes), kūkūwai (wetlands), and waipuna (springs). It is a great opportunity to showcase Selwyn's wetlands.

CSF team in conjunction with the Biodiversity Team, ran two walks at the Liffey Domain and Lincoln Wetlands. Information was provided to attendees about the flora and fauna in the area and the work Council has previously completed and continues to develop in these areas. In early July, as the Matariki series continues, walks will also take place at the Ahuriri Lagoon with the Biodiversity Team and their colleagues from Environment Canterbury.

## **6.4 Newcomers and Accessibility (including Older Adults)**

### **Starting a Business Later in Life.**

In May we successfully saw 12 students complete the formal course and mentoring component of the Starting a Business Later in Life Programme. The students met Mondays for 4 weeks for ½ a day. All participants started with an idea which was curated and mentored during the 4 weeks via the programme and coaching in between these formal sessions. This course was also supported by visits from SideKick Accounting, CECC, ChristchurchNZ, MSD Hornby and Connected.

The culmination of the course has seen the following business ideas developed: Making fully customised camping van living space, Plant propagation and sales of carnivorous plants, Customised picture framing for photos, prints, Tidy spaces and decluttering of living spaces, Relaxation, anxiety, injury, health improvement massage, Authentic Mexican food restaurant and / or Fruit Bucket displays, Conference facilities in Historic Homestead, Bed and Breakfast, Lawn and Turf management, Art Therapy, Body Therapy, and HR management and training.

A Business later in Life event was also held at Te Ara Ātea on the 26th of May with 35 attendees. Deputy Mayor Malcom Lyall welcomed Hon Minister Dr Ayesha Verall the Minister for Seniors to speak at the event. Dr Verall's speech included the commitment from the Office for Seniors to "Better Later Life – Employment Strategy", of which enterprise opportunities was an important aspect. 35 applications were received by over 50 year olds wanting to start a business in Selwyn District.

A graduation ceremony was held in June. Mayor Sam Broughton shared the importance of small business and the opportunities in the rapidly growing Selwyn District.

#### **Newcomers - Dinners of Selwyn Sheffield**

The community in Sheffield invited newcomers to a Dinners of Selwyn which was themed as a traditional mid-winter feast. 40 local people attended this event which was held in June it included an array of traditional and cultural meals to celebrate mid-winter.

### **6.5 Youth**

#### **Selwyn Youth Council**

The second formal hui for the Youth Council was held in May.

The series of youth consultations was also launched in May and the Youth Council are asking for young people's feedback on i) heritage, ii) events/community spaces and iii) libraries in Selwyn. The results will help shape future opportunities including how our history might be documented or showcased, what type of youth events are delivered and how our libraries could become more appealing to young people living in Selwyn. Youth Councillors delivered three youth consultations on Selwyn libraries, heritage, and events across May/June. 166 submissions were received through the online surveys. There was a diverse range of respondents aged 12-24 including those who were working, at tertiary studies, secondary school, and primary school. The Youth Council trialled the use of Instagram stories and posted 22 polls up which asked informal questions as a different way to capture young people's feedback. Each poll had 20 respondents on average and was a successful engagement tool. The Youth Councillors are writing up a Report on the key findings; this will be presented to Council at a future meeting and shared with Council staff.

### **6.4 Community Grants**

Selwyn Community Fund				
Funding Round	Amount Funded (\$)	No. Community Groups Funded	Average Amount Funded	Close Date
Round 1	\$46,712.00	18	\$2,595.11	31-Jul 21
Round 2	\$33,650.80	12	\$2,804.23	31-Oct 21
Round 3	\$21,646.52	14	\$1,665.12	31-Jan 22
Round 4	\$38,585.56	18	\$2,143.64	30-APR 22
<b>Total YTD</b>	<b>\$102,009.32</b>			

### **6.5 Economic Development**

#### **TRENZ Hui 2022**

Attended the annual TRENZ event on the 25th and 26th of May which was held online due to Covid this year. This hui focussed on the restart of tourism, provided content and inspiration to enable tourism businesses to get ready for international visitors again, reconnected the industry to the 'Destination New Zealand' being marketed offshore and provided ways for individuals to reconnect.

### **Opportunities in Farmers' Markets**

An "Opportunities in Farmers' Markets" workshop was delivered in June at Te Ara Ātea in partnership with Lincoln University (LU). The findings from the farmers' market survey completed in March 2022 were presented by LU which helped to build understanding and knowledge on what consumers at farmers' markets are looking for. The Lyttleton Farmers' Market and Project Lyttleton presented and spoke about their experience. 60 attendees came on the night with over 70 registered and 15 on the waitlist: suggesting a strong level of interest in farmers markets. It was great to see Selwyn market organisers attend as well as the Little River Farmers' Market, Opawa Market and Amberley. Staff will consider next steps with a potential stakeholder group emerging designed to build connection and capability for the markets across Selwyn.

### **Business After 5 Event**

The Selwyn 'Business After Five' event was held in June at Te Ara Ātea with 35 people attending. Guest speakers were Loudon Keir from Hapai Access Card, introducing people to the business benefits of registering with the Hapai card and Kelly Gough from Evolve People who spoke about resilience and wellbeing in the workplace.

### **Schools**

Council presented to Lincoln High School students about Council economic development projects to inspire them for their entry in a pitch competition. The Economics students and teachers fed back that they became finalist in the competition and that the students were very inspired by our example.

## **6.6 Visitor Promotion**

### **Taste Selwyn**

The annual celebration of the best food grown and produced in Selwyn was delivered across the month of May. 19 eateries participated and 5 community events were delivered. The 5 events sold out and several had a long waitlist which indicates the level of interest in producer workshops. The campaign launched on the 22nd of April and attracted 9,200 visits to the tourism website over the four week period with 37,188 page views. On Facebook alone posts reached a total of 294,819 accounts with 31,201 engagements. Eateries and producers are currently being surveyed to understand the impact and level of satisfaction from participants. A full Report on the results of this initiative will be prepared and tabled in a future Report.

The "Winter" and "Ski" campaign were launched in June with a focus on the adventure ski market and winter activities for non-skiers. This included ice skating, snow-play in the mountains and weekend getaways.

## **6.7 Volunteering**

A summary of results up until June 30, 2022:

For the first time 4 Selwyn based organisations have been nominated for the Volunteering Canterbury Award. Volunteering Canterbury organised with Council for drop in clinics throughout the Selwyn libraries. As at 30 June 2022 33 organisations have been in contact with the Selwyn Outreach Coordinator, and registered volunteering opportunities for Selwyn and 20 people have been placed with Selwyn volunteering opportunities. There has been a 63% increase of Selwyn based organisations registering roles on the Volunteering Canterbury website.

The Volunteering Week Social Media Campaign reached 5654 impressions of various Selwyn Volunteering organisations. Simultaneously a Selwyn Times Volunteering Week promotion was held to Thank Selwyn Volunteers, including many of the finalist organisations from the Selwyn Awards 2021, who were nominated for Volunteering.

During National Volunteering week, Council staff supported the promotion of volunteering opportunities at the NZ Food Network in Rolleston by volunteering for a morning with packing food items. This collection point receives perishable items direct from producers to then be distributed to people in need within Canterbury; rescuing good food that would otherwise be destined for landfill. Volunteering opportunities with this operation were promoted at the 'Business After Five' to encourage local people to consider volunteering their time.

### 3. COMMUNITY SPACES (including updates related to Council's increased role in operational planning and activity related to community centres, halls, pools and reserves previously operationally managed by Community Committees)

Community Services and Facilities Group - Population 01 July 2021 71,500 (Stats NZ) <b>Note:</b> In the YTD column if the figure is higher than the YTD of the previous year it is shown in <b>bold</b> . In Month column if the figure is higher than month of previous year it is shown in <b>bold</b> . <b>May 2022 in Black</b> . <b>June 2022 in Blue</b> YTD to 30 June 2022 in Black	MONTH 2021/22		YTD 21/22
	MAY	June	
COMMUNITY SPACES			
<b>Bookings:</b> <u>Target: 5% Increase per annum on baseline.</u> The total bookings (Community, Corporate and Private) of Council community Centres and Halls. For “by Ward Breakdown” Refer Appendix One	940	1,009	7,431
Community	626	671	
Corporate	89	50	
Rec Classes	225	288	
<b>Revenue:</b> <u>Target: 75%.</u> The percentage of Council owned community centres/halls, by Ward, continue to generate revenue meeting or exceeding 20% of operating costs (excluding capital project costs) per annum <sup>1</sup> .	43%	34%	34%
YTD Revenue	60,205	63,239	55,498
Expenditure	139,802	188,110	55,498
<b>Door count:</b> Community Centres: <u>Target: 150,000 visits per annum</u>	19,920	19,200	154,924
Target 60,000 pa LEC	11,435	11,092	
Target 30,000 pa RCC	1,515	1,892	
Target 30,000 pa WMCRC	5,020	5,253	
Duns CC	600	463	
Tai Tapu CC	1,350	500	
<b>Survey:</b> <u>Target: ≥ 90%.</u> The % satisfaction from user surveys for Lincoln Events Centre (LEC), Rolleston Community Centre (RCC) and West Melton Community Centre (WMCC).	100% As per Customer Experience Survey – Appendix Two		
<b>Revenue:</b> The percentage of Council owned community centres/halls, by Ward, continue to generate revenue meeting or exceeding 20% of operating costs (excluding capital project costs) per annum. <u>Target: 75%.</u>	67%		

#### 7.1 Community Centres / Halls

Centre and Hall bookings are continuing to pick up momentum, with June achieving the highest number of hires in the past 12 months.

#### 7.2 Community Committees of Council

From the 1st of July Council will be operationally managing all community halls and centres that are open to the public for hire. Preparation for Killenby and Doyleston Halls to transition to Council operational management has been taking place in preparation for 1 July.

<sup>1</sup> Provisional summary provided as Appendix to this Report



11 of the 24 Township Committees have confirmed their intention to become Residents' Groups, while only 4 have confirmed they wish to remain a Committee of Council. Council will be in active communication with the remaining 9 Committees in July.

**8. UPDATE ON ANNUAL CUSTOMER EXPERIENCE SURVEY**

In May 2022, 942 people submitted to the annual Customer Experience Survey answering questions about the Council's community facilities and services. Total of responses had a 53% increase on 2021 when 618 surveys were submitted.

**(Appendix 2)**

**9. DARFIELD POOL REPORT**

Please refer to companion report.

A handwritten signature in black ink, appearing to read 'DKidd', with a large, stylized initial 'D'.

Denise Kidd

**GROUP MANAGER – COMMUNITY SERVICE AND FACILITIES**

***Endorsed For Agenda***

## APPENDIX 1

**Provisional Summary of Community Centre and Hall Expenditure to Revenue –  
Operational (excluding Selwyn Sports Centre)  
March / April 2022**

Hires May Corp	Hires May Comm	SDC Classes/ Hires	May Rev	May Op exp (to be updated 21/5)	KPI Revenue exceed 20% of opex at 75% of halls	Hires increase 5% per annum	Hires June Corp	Hires June Comm	SDC Classes/ Hires	June Rev	June Op exp (to be updated 21/5)	KPI Revenue exceed 20% of opex at 75% of halls
1	172	3	\$ 8,842.00	\$ 29,752.00	29.72%		0	169	26	\$ 8,354.50	\$ 42,485.00	19.66%
3	68	59	\$ 8,506.00	\$ 23,715.00	35.87%		1	74	48	\$ 9,338.00	\$ 28,947.00	32.26%
0	16	0	\$ 848.00	\$ 3,184.00	26.63%		0	20	1	\$ 1,309.00	\$ 2,215.00	59.10%
7	17		\$ 2,458.00				1	26	20	\$ 1,590.50		
0	0	1	\$ -	\$ 2,493.00	0.00%		0	4	0	\$ -	\$ 14,764.00	0.00%
5	4	1	\$ 2,377.00	\$ 3,993.00	59.53%		1	1	0	\$ 4,965.00	\$ 4,790.00	103.65%
11	4	2	\$ 4,956.00	\$ 3,261.00	151.98%		8	5	3	\$ 4,036.00	\$ 5,011.00	80.54%
1	32	3	\$ 1,300.00	\$ 8,554.00	15.20%		3	34	7	\$ 1,989.00	\$ 8,834.00	22.52%
0	2	0	\$ 52.00	\$ 544.00	9.56%		0	1	1	\$ 39.00	\$ 146.00	26.71%
0	20	0	\$ 135.00	\$ 431.00	31.32%		0	17	2	\$ 400.00	\$ 1,743.00	22.95%
0	18	0	\$ 200.00	\$ 1,454.00	13.76%		0	17	2	\$ 696.00	\$ 707.00	98.44%
0	1	1	\$ 70.00	\$ 261.00	26.82%		0	12	1	\$ -	\$ 289.00	0.00%
0	5	1	\$ 140.00	\$ 940.00	14.89%		0	4	2	\$ 380.00	\$ 1,120.00	33.93%
0	1	0	\$ -	\$ 640.00	0.00%		0	1	0	\$ -39.00	\$ 207.00	-18.84%
0	6	0	\$ 42.00	\$ 6,731.00	0.62%		0	11	0	\$ -11.00	\$ 255.00	-4.31%
34	157	142	\$ 26,151.00	\$ 41,482.00	63.04%		17	156	171	\$ 24,239.00	\$ 64,903.00	37.35%
5	14	4	\$ 1,709.00	\$ 5,037.00	33.93%		6	14	0	\$ 3,285.00	\$ 4,526.00	72.58%
1	0	0	\$ 341.00	\$ 2,844.00	11.99%		0	12	0	\$ 157.00	\$ 1,510.00	10.40%
17	4	0	\$ 669.00	\$ 277.00	241.52%		4	19	0	\$ 1,013.00	\$ 202.00	501.49%
4	21	0	\$ 249.00	\$ 1,656.00	15.04%		9	4	0	\$ 303.00	\$ 1,066.00	28.42%
0	55	8	\$ 945.00	\$ 1,012.00	93.38%		0	64	0	\$ 888.00	\$ 2,726.00	32.58%
0	9	0	\$ 215.00	\$ 1,541.00	13.95%		0	6	4	\$ 307.00	\$ 1,664.00	18.45%
89	626	225	\$ 60,205.00	\$ 139,802.00	43.06%		50	671	288	\$ 63,239.00	\$ 188,110.00	33.62%

## Appendix 2

### 2022 CUSTOMER EXPERIENCE SURVEY FOR SELWYN DISTRICT COUNCIL COMMUNITY FACILITIES

#### 1. Overview

In May 2022, 942 people submitted to the Customer Experience Survey answering questions about the Council's community facilities and services. This was a 53% increase on the 2021 annual survey with 618 surveys submitted.

In 2022 most customers told us they

- Were satisfied with their experience at Council facilities in the past 12 months (94%)
- Agreed that visiting the facilities benefited their wellbeing (96%) and the wellbeing of their community (97%)
- Felt that the facilities and programmes provided value for money (between 70%-98%)
- Were satisfied with the facilities' suitability, presentation, cleanliness, booking processes, and equipment (between 84%-100%)
- Would recommend the facilities to others (96%) and use the facilities again themselves (over 99%)
- Agreed that staff were welcoming (93%), proactively sought to help (89%), responded promptly (97%), and helped with a query professionally (97%)
- Agreed that the hygiene measures used to minimize the spread of Covid helped them feel safe visiting Council venues (88%)
- Heard about our programmes and activities via the Council and library websites, term brochure, Facebook, and the flyer included with the rates invoice.

This report provides an overview of the survey results. Community Services and Facilities Managers will use the detailed survey data to inform plans to improve community facilities and services.

#### 2. About the survey and the survey participants

There were five different facility surveys covering the libraries, community centres, pools, Selwyn Sports Centre, and people who have not used Council facilities in the past 12 months. The four facility surveys included some questions that were the same and some questions that were specific to that facility, for example, the libraries survey asked people to comment on access to the digital library.



The surveys were open for two weeks from 2 - 15 May 2022 with respondents able to complete an online survey or a paper form (which was then transferred to an online form for

data analysis). The survey was publicized on social media, the Council website, and via staff and posters at community facilities.

942 surveys were received with 796 (85%) submitted via the online form and 146 (15%) submitted on the paper form. Libraries received 82% of the responses with community centres getting 3%, Selwyn Sports Centre 7%, and pools 8%. Less than one percent of people completed the survey about not visiting Selwyn community facilities in the last 12 months.

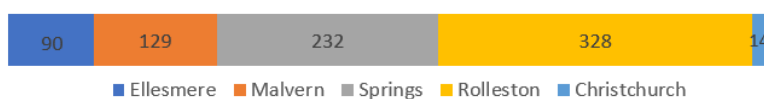
The timing of the survey for pools was not ideal because the summer pools were closed. This resulted in 70 responses for the Selwyn Aquatic Centre and two responses for other pools. Only 27 community centre surveys were received. This might be because the staff member assigned to visit the Lincoln Event Centre, to encourage and support people to participate, was unavailable at the last minute due to COVID.

At the end of the survey period, unused paper forms and the collection boxes containing completed forms were collected from all venues except the Selwyn Sports Centre. This oversight meant that the paper forms were available at this location until the 15 June. Data from these forms was included in the analysis.

### 3. About the survey participants

793 people told us which township they lived in with 84% of those living in either Rolleston, Lincoln, Leeston, West Melton, Prebbleton, or Darfield. Smaller towns with more than 10 surveys each were Southbridge (17 responses), Kirwee and Springston (15 each), Dunsandel (14) and Tai Tapu (11).

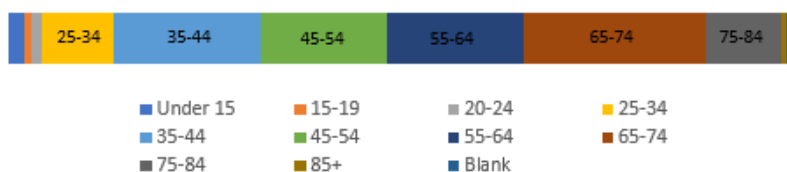
Survey responses by ward/district (n=793)



Much of the township data was too small to provide useful information. The graph above shows the spread of respondents by the four Selwyn wards and Christchurch.

Of the 942 respondents, 928 answered the question about age. Of those, 61% were aged between 25-64, 33% were over 65, and 4% were under 25.

Age-range of survey respondents (n=942)



#### 4. Most customers are satisfied with their experience at Council facilities

891 people answered the question about satisfaction with their experience at Council facilities over the past 12 months. 94% reported being very satisfied or satisfied (48% and 46% respectively) while 6% reported being dissatisfied (3%) or very dissatisfied (3%).

Customer satisfaction with their experience at Council facilities in the past 12 months (n=891)



#### 5. Most customers agreed that visiting Council facilities benefited the wellbeing of themselves and their community

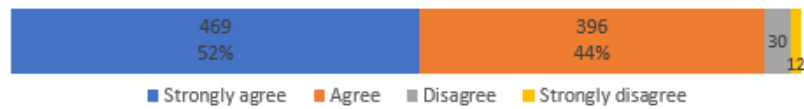
Council monitors the impact of facilities on community wellbeing by measuring actions that improve personal wellbeing. The wellbeing actions are from the [Five Ways to Wellbeing Framework](#) and include connect, be active, take notice, keep learning, and give. If these actions are practiced regularly, they can make people feel better and lift their wellbeing. The Council has translated these actions into feelings, activities, and experiences that people may experience at any of our Council facilities during their visit. The questions that we incorporated into the survey were in the style of 'in the last 12 months at our [facility] have you ... (choose all that apply)'.

Table 1: Five wellbeing actions and the sub-actions that were used in the survey

Connect	Be Active	Take Notice	Keep Learning	Give
Met someone new	Taken part in activity	Taken time to relax	Learned something new	Volunteered your time
Visited with family	Walked or biked to get here	Engaged in a good conversation	Tried something different	
Came along with friends			Improved performance in a skill	
Caught up with someone				
Felt welcome				

907 people shared the extent they agreed with the statement 'visiting this facility benefits my wellbeing' and 911 people responded to the statement 'this facility benefits the wellbeing of my community'. 96% of people strongly agreed or agreed that visiting this Council facility had benefited their wellbeing, and 97% strongly agreed or agreed it benefited the wellbeing of their community.

## Visiting this facility benefits my wellbeing (n=907)

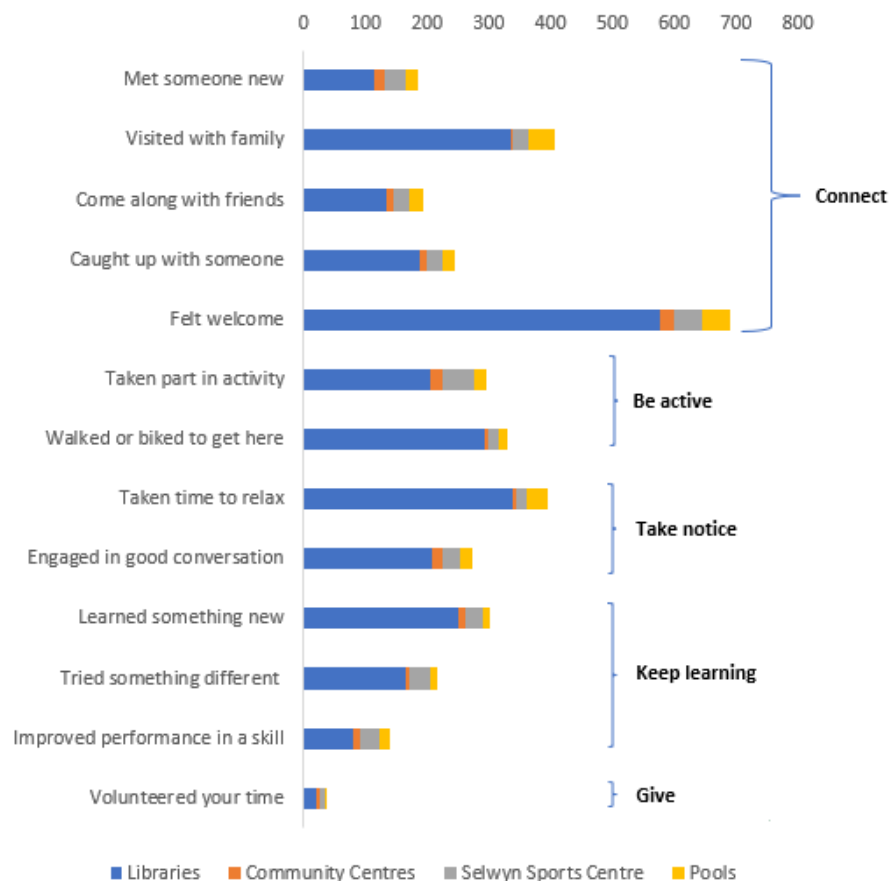


## This facility benefits the wellbeing of my community (n=911)



Felt welcome, a sub-action for *Connect*, was rated consistently high in all four facility surveys with 20% of library respondents, 15% of pool respondents, 14% of community centre respondents and 13% of Selwyn Sports Centre respondents reporting this benefit.

## Wellbeing actions by facility type (n=3704)



Other high rating wellbeing actions across all the facilities included 'visited with family' (11%), 'taken time to relax' (11%), 'biked or walked to the facility' (9%), 'taken part in activity' (8%), and 'learned something new' (8%).

The three wellbeing actions reported less often were 'volunteered your time' (1%), 'improved performance in a skill' (4%), and 'met someone new' (5%).

### **5.1. The four highest and three lowest rated wellbeing actions by facility**

The reporting of wellbeing actions varied by facility. Catching up with someone was the only wellbeing action that was not rated in either the top four or bottom three for any facility. There were some actions, such as 'tried something different' which was rated in the top four for Selwyn Sports Centre but rated in the bottom three for community centres and pools.

Some wellbeing ratings reflected the type of activities and programmes a facility runs, for example it is more likely that people visited a pool or library with a family member than a community centre. This was reflected in high and low ratings for this wellbeing action.

*Libraries:* highest rated wellbeing actions - felt welcome (20%), visited with family (12%), taken time to relax (12%), walked or biked to the library (10%); lowest rated wellbeing actions – volunteered your time (less than 1%), improved performance in a skill (3%), and met someone new (4%).

*Community Centres:* highest rated wellbeing actions - felt welcome (14%), taken part in an activity (13%), engaged in good conversation (12%), and met someone new (11%); lowest rated wellbeing actions – visited with family (3%), tried something different (4%), and volunteered your time and walked or biked to the community centre (5% each).

*Selwyn Sports Centre:* highest rated wellbeing actions - taken part in an activity (14%), felt welcome (13%), tried something different (9%) and met someone new (9%); volunteered your time (2%), taken time to relax and walked or biked to the centre (5% each).

*Pools:* highest rated wellbeing actions - felt welcome (15%), visited with family (15%), taken time to relax (12%), and came along with friends (9%); volunteered your time (less than 1%), tried something different (4%) and learned something new (4%).

## **6. Most customers felt that the facilities and programmes provided value for money**

Several different questions were asked about pricing and value for money.

A general question in all the facility surveys asked respondents if they felt that Council's community facilities and programmes provide value for money. 888 people who use Council facilities responded with 70% of them saying that the facilities and programmes provide value for money, 6% saying they did not, and 24% did not know. The 'yes' responses varied across the different facilities with 92% for the Selwyn Sports Centre, 85% for pools, 84% for community centres, and 66% for libraries.

There were 7 people who completed the 'I have not visited a Council facility in the last 12 months' survey; of those, 5 respondents strongly agreed or agreed that facilities were affordable, 1 disagreed, and 1 did not know.

251 people who had participated in an activity or programme in the past 12 months, answered a question about whether it was good value for money. 98% were very satisfied or satisfied (75% were very satisfied) and 2% dissatisfied or very dissatisfied with the value for money.

## 7. Most customers had a positive impression of Te Ara Ātea, our newest facility

469 people answered the question “If you’ve visited Te Ara Ātea, what is your impression and experience of our newest library?” Around 80% of the comments were positive and 20% were negative and/or proposed improvements. Some comments included both positive and negative elements, for example one respondent said they enjoyed the architecture but felt the building lacked natural light.

Other than comments about the building itself, the positive comments fitted within nine themes - the staff, café, spaces for meetings/study/reading, the book collection, children’s area, displays of heritage and art, the outdoor areas including the sensory garden, the technology available (e.g. charging stations, printer), and the activities provided. The negative comments fitted within six themes – most comments were about there not being enough books, the name Te Ara Ātea, and COVID mandates. A smaller number were about having difficulty with finding things, carparking, the café, and safety e.g. toys on the floor being a hazard, the automatic doors allowing little children to escape, and some of the features like the stair rails being a little disorienting for older people.

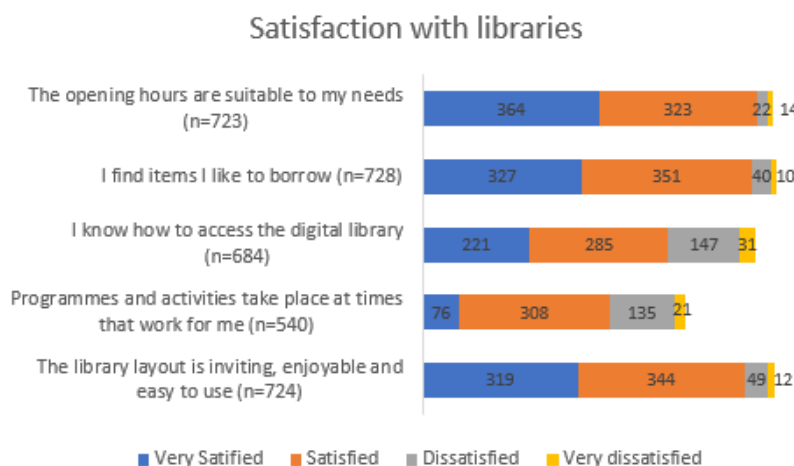
Eight people did not appear to know what Te Ara Ātea was. Given that the survey is district wide, this result is remarkable in that so many people do know about this new facility.

## 8. Most customers were satisfied with various aspects of the facilities

The surveys asked a range of questions to understand customer satisfaction with the community facilities. Satisfaction ratings ranged from 84-100% for aspects such as venue suitability, presentation and cleanliness, equipment, booking processes, and library offerings.

### 8.1. Responses to the libraries survey

The libraries survey asked customers about opening hours, items to borrow, access to the digital library, programmes and activities, and the library layout. The graph below shows that customers are largely very satisfied or satisfied with these areas. The lowest satisfaction ratings were in relation to the timing of activities and programmes with 71% very satisfied or satisfied (n=540) and knowing how to access to the digital library with 74% very satisfied or satisfied (n=684).

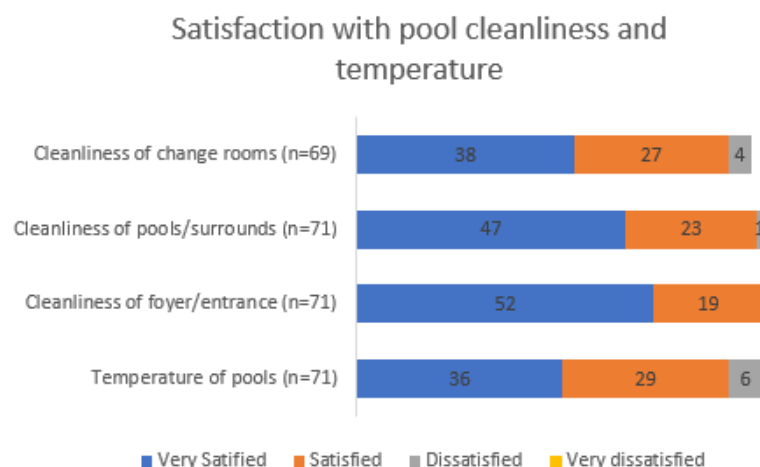




## 8.2. Responses to the pools survey

Customers were generally very satisfied or satisfied with the cleanliness of the pool entrance, pool and surrounds, and changing rooms. They were also satisfied with the pool temperature. The graph below provides more detail on these.

There was one comment about the Southbridge summer pool which asked for longer hours and an extended swimming season. The remaining 36 comments were about the Selwyn Aquatic Centre and included suggestions such as the need for a café, tog dryer, sauna and gum, more cleaning of change rooms, more preschool activities, bigger areas and more toys for kids, a hydro slide, up-to-date information on lane availability, earlier opening hours, more classes, more family changing rooms, and better control of poor behaviour.



## 8.3. Responses to the community centres and Selwyn Sports Centre surveys

*Venue suitability:* 100% of the 62 respondents for the Selwyn Sports Centre were very satisfied or satisfied with venue suitability. 89% of the 27 respondents were very satisfied or satisfied with community centre venues.

*Venue presentation:* 95% very satisfied or satisfied with Selwyn Sports Centre presentation with several comments about dead flies on the indoor walking track (n=61<sup>2</sup>). 89% very satisfied or satisfied with community centre presentation (n=27).

*Booking process:* Lower ratings were given for booking processes with very satisfied or satisfied ratings of 89% for the Selwyn Sports Centre (n=57) and 84% for community centres (n=26).

*Equipment:* 98% of respondents were very satisfied or satisfied with the equipment at the Selwyn Sports Centre (n=61); this rating was 85% for the community centres (n=27).

## 9. Most customers would recommend the facilities to others and intended using them again themselves

Overall, 96% of the 907 respondents strongly agreed (70%) or agreed (26%) that they would recommend the Council facilities to others. 3% disagreed and 1% strongly disagreed. The

<sup>2</sup> Throughout this report *n*= is used to represent the number of individuals who answered a particular question in the survey, for example, *n*=61 means that 61 people answered this question in the survey.

strongly agreed/agreed rate was 93% for pools, 96% for libraries and community centres, and 100% for the Selwyn Sports Centre.

Three of the facility surveys (excluding libraries) asked if respondents intended using the facility again. 100% of community centre and Selwyn Sports Centre users said they would and all but one person in the pools survey would return. There were 156 responses to this question.

#### 10. What did people who did not visit the facilities tell us?

Seven people answered the 'I have not visited a facility in the past 12 months' survey. Two people mentioned COVID restrictions as a barrier for visiting while there was one mention each for distance to travel to the facility, no pool in Lincoln, and the cost of swimming passes. Two people said there was no barrier to them visiting.

71% of respondents strongly agreed or agreed that Council facilities are affordable, and 57% strongly agreed/agreed that they are welcoming and inclusive (the remaining 43% did not know). Three people agreed, three disagreed and one did not know if facilities were accessible, opening hours suitable or activities affordable.

Respondents were also asked what opportunities they were interested in. Most expressed interest in sports and recreation and/or an interesting range of activities and services. 57% disagreed or strongly disagreed that they wanted opportunities to connect with others. All but one person knew that there were no fines on library books.

#### 11. Customer satisfaction with facilities staff was high and instructors/facilitators were effective at delivering activities with interesting and appropriate content

Customer satisfaction with staff at Council facilities was generally high with satisfaction ratings for welcoming, responsiveness, professionalism, and being proactive. The community centre results were slightly lower (around 80% for each rating) whereas the libraries, pools and Selwyn Sports Centre were in the mid to high 90% range.



Respondents who had participated in an activity in the past 12 months, were asked about their satisfaction with the effectiveness of the instructors/facilitators delivering the activity. Only one respondent out of 273 was dissatisfied or very dissatisfied. The libraries and pools survey asked participants in activities to rate the content for interest and appropriateness. 98% of 222 respondents were very satisfied (60%) or satisfied (38%) with this aspect.

## **12. Customer feedback and suggestions for improvement**

Respondents were invited to give feedback on staff and suggest opportunities for improving customer experience at the different facilities. Feedback was largely positive in all the surveys but there was also some negative feedback and some suggestions for improvements.

### **12.1. Libraries survey**

Comments were overwhelmingly positive from the 443 people who gave feedback. Of the 35 negative comments, 15 were about the COVID mandates implemented by Council and administered by staff. The other comments included issues with technology, staff attitudes/availability to help/non-responsiveness/ability to complete tasks without assistance from another staff member, inclusion of te reo Māori without English translation, and noisy children.

There were 19 suggestions for improvement such as more information/courses, greeting people on arrival, access to books, improving the range of magazines, organising the kids' books differently, background noise, more knowledge about local facilities, and having enough staff to respond. Comments included:

*"The staff members are so warm hearted, welcoming and go over and beyond to help the visitors in the library. The service is outstanding."*

*"I personally don't need to be greeted every time or have them approach me as long as staff are available to answer any questions, I am happy."*

*"Eye contact. Smile. Greet. It's not rocket science."*

### **12.2. Community centres survey**

15 respondents chose to comment, all were complimentary. There was one request for dimmable lighting in the yoga class.

*"Quick and friendly response to emails, easy bookings, good class and good instructor (pilates) thanks!"*

### **12.3. Pools**

There were 17 complimentary comments and one suggestion for a steam room and sauna and place for older youth.

*"Good access for disabled."*

*"Lifeguards are fantastic and are a real credit to the council. I am so impressed at the professionalism the young staff show and it really is a fantastic place to go."*

### **12.4. Selwyn Sports Centre**

30 respondents chose to comment, with 16 positive comments, and 8 negative comments in relation to issues with the booking system, greeting/politeness of staff, and the size of the upstairs room. There were a few suggestions for improvements with several people asking for a café/access to coffee, more classes for beginners and baby friendly activities, and a Facebook page.

*"The staff at [Selwyn] sports centre are amazing from all of the instructors to the front of building staff. They are the reason I come back. First class service."*

*"Smile and Say Hello when I arrive and tell me the room we are in without having to be asked every week."*

### 13. Most customers agreed that the hygiene measures used to minimize the spread of Covid helped them feel safe visiting Council venues

896 people shared their views on whether the hygiene measures used to minimise the spread of COVID helped them feel safe during their visit. Hygiene measures included wearing face masks, providing hand sanitiser, and practising safe distancing.

Do the hygiene measures for COVID make you feel safe during your visit to this facility? (n=896)



88% of people said the hygiene measures helped them feel safer, 4% said they did not help them feel safer, and 8% did not know. 49 comments were received for this question, these ranged from feeling discriminated against by the COVID measures and being unable to visit facilities or participate in activities to gratefulness to staff for administering the measures so they could safely visit the facilities. Some people expressed being tired of COVID measures and looking forward to these being removed in time.

### 14. How did customers hear about our activities and how would they like to hear in future?

Respondents were invited to select all the ways they hear about community activities from a list that included 6 common methods across the four facilities: Council website, Flyer with rates, Facebook, talking to staff, term brochure, and posters/screen at facility.

In addition to these methods, people could select 'other' and specify a method or tell us they were unaware of activities. One additional method was added by libraries (emailed to library members), community centres (newspapers), and the Selwyn Sports Centre (newspapers). These methods were not in the top four chosen by respondents although 11% of library respondents included 'email to library members' in their selection.

There were 2131 options ticked by respondents with 70% of those responses for four methods: the term brochure, Facebook, Council websites and the flyer with the rates.

In addition to the above methods, email and the libraries website were popular ways library respondents found out about activities. Poster/screen at facilities was popular with pool and library users. Talking with staff was a consistent method across all facilities but more popular with community centre respondents.

### 15. How else would people like to hear in future?

Suggestions primarily included methods already in use – Facebook, website, and term brochure. Quite a number of respondents proposed email notifications and/or local media, in particular the Selwyn Times. 96 library respondents said they would like to be informed via email.

## REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Sandrine Carrara – Project Manager  
James Richmond – Manager - Active Selwyn

**DATE:** 28 July 2022

**SUBJECT:** **DARFIELD POOL REDEVELOPMENT BUDGET**

---

### RECOMMENDATIONS

*'That the Council:*

- a. Approves the increase of the Darfield Pool redevelopment works budget from \$1,774,984.00 to \$1,996,561.00 due to supply chain and market increases.*
- b. Approves the inclusion of additional build items to further enhance the aquatics offering in the Malvern Ward by increasing the total build budget to \$2,391,651.00.'*

### 1. PURPOSE

This report aims to provide Council with an update on the costs associated with the Darfield Pool refurbishment project and the associated costs. It seeks that Council approves an increase in budget to cover the basic refurbishment items approved in the last Long-Term Plan.

It further seeks a decision from Council that additional budget be added so that value-add items such as a small hydro slide, wet play area and covered bleacher seating be added to the scope of works.

Additionally, this report outlines the rates impact of these changes.

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The recommendation that is the subject of this report has been assessed against the Significance and Engagement Policy.

Consideration of the criteria in Council's Policy has been made, particularly in respect to:

- the potential effects on delivery of the Council's policy and strategies,
- the degree to which the decision or proposal contributes to promoting and achieving particular community outcomes,
- the level of community interest in the proposal, decision or issue,

- the values and interests of Ngāi Tahu whānau, hapū and rūnanga, as mana whenua for the region.

The level of significance in respect to the issue is considered to be moderate due to the expected financial impact this project will have on Council and the Darfield Pool facility being considered a strategic asset.

The initial project budget was formed during the last LTP and which was consulted on. Not approving an increase to the base build budget (recommendation (a)) could have an impact on Council's strategic assets as the Darfield Pool Redevelopment will be unable to be completed to the intended performance level without incurring additional expenditure.

### **3. HISTORY/BACKGROUND**

The total budget of \$1,774,984.00 was approved to enhance the Darfield Pool site with a focus on replacing ageing pool mechanical plant with the aim of keeping the pool water consistently warm and clean so that additional programmes can be offered and the provision of picnic areas and general beautification so that families and other pool users can spend longer times recreating at the pool. This also aids the engagement of users in programmes and activities across a wide range of ages and stages. Furthermore, enhancement of the site helps inform future and further investment in aquatic facilities in the Malvern Ward by removing barriers (such as cold pools and lack of fringe recreation opportunities) so true demand can be better understood.

Already, Learn to Swim and Aqua-fit has begun at this site with four blocks of learn to swim lessons running in the 21/22 season with between 40 and 70 students in each block and two aqua fit classes per week running with approximately ten participants per session. This is a nice start pre-development and provides a nice platform to launch from once the development is completed.

### **4. PROPOSAL**

Staff seek that the Council consider and approve the recommendations set out above.

## 5. CONSIDERATIONS

The current budgets are summarised in the table below:

GL	Detail	2022/2023
2315 900 49	Darfield Pool Build	\$1,500,000*
2315 900 17-27	Pool Water Systems – Misc.	\$25,372
2315 900 31-32	Asphalt/Fences	\$12,787
2315 900 42	Pool Tank Lining	\$71,960
2315 900 00	Replace Pool Filter	\$125,297
2315 000-21	Misc. Maintenance (Operational Projects)	\$39,568
<b>Total Project Budget</b>		<b>\$1,774,984</b>

\* \$125,000 has been spent to date

Costs to date include consultant fees and construction costs, relating to new flooring, painting, new plumbing items and partitions for the changing rooms which has been completed in the 2021/2022 financial year.

The design team which consisted of Architecture HDT and Powell Fenwick Consultants undertook a conceptual design based on the design brief developed by Pool Operational staff and Property staff. All items as part of this concept design package were costed, and the AECOM were engaged to undertake a cost estimate for this work.

The cost estimate identified that this full scope of works was assessed at \$2,596,000 and is attached in Appendix 01. Due to the budget restraints, the project team undertook value engineering and prioritised the scope of works which is identified as the Base Build and is shown in Appendix 02. The Base Build is estimated at **\$1,996,561**.

The proposed construction is to be staged to minimise any impact to operations and work has been scheduled in two stages for pre and post season, noting that the pool is open for the summer swim season which commences in November 2022 through to March 2023.

- Stage one, which is underway now involves amenities improvements including; change room fit-out (floors, paint, new plumbing fittings, new partitions), paint to the exterior of the building, paint to the covered pools, structural improvements and entry landscaping works.
- Stage two is a more complex stage to be completed at the end of next summer and at the moment includes a new entry and shade structure, lining the main pool, internal landscaping, pool plant enhancement including filtration, heating, and chemical dosing.

The table below identifies the additional funds required for the Base Build which amount to \$238,528.

GL Budget	Base Build Budget	Additional Funding Requested
\$1,774,984	\$1,996,561	\$221,577

\* costs include construction, professional fees, P&G, margin and 10 % contingency

The design team considered cost reductions in particular to canopy and entrance structure which are reflected in the Base Build.

Further items include:

As part of the concept design stage further items were identified that will aid engagement in the site. These items are outside of the current scope and would be the additional items as part of recommendation (b) *'That Council: Approves the inclusion of additional build items to further enhance the aquatics offering in the Malvern Ward by increasing the total build budget to \$2,391,651.00.'*

Item	Reasoning for Addition Items	Cost*
Hydro slide (3m high to drop into main pool) Refer to Appendix 3 - Fig. 01	Provides an engaging and fun activity for older children 6-12 years olds and aids families spending longer at the site	\$215,000
Toddlers Wet Deck/Play Area (indoors, adjacent to Toddlers pool) Refer to Appendix 3 -Fig. 02	A space for young children to gain water confidence and truly covers off this site for children of under 5s.	\$105,000
Bleachers Refer to Appendix 3 - Fig. 03	Provides sun shelter and wind buffer to the site, allows spectators to watch in a more sheltered environment	\$45,000
Artwork Refer to Appendix 3 - Fig. 04	Adds vitality to the site and starts to tie it in with other facilities (such as the library) in the area.	\$30,000
<b>Total</b>		<b>\$395,000</b>

\* Costs include construction, professional fees, P&G, margin and 10 % contingency

It should be noted that these items are not essential to the operation to the site over the next 10 years. It should be further noted that all the above items can be added at a future date, in isolation of the project but will likely significantly increase in cost to do so. I.e. There are efficiencies in doing all the work at once. Council will also not realise the full impact of these additional items if they are implemented at a later date.

### Sheffield Pool

Sheffield Pool currently operates seasonally from mid-November to mid-March and is staffed with two lifeguards during opening hours due to its depth profile and activities such as springboard diving occurring. Visitor rates to this facility are low relative to other sites with approximately 1,500 public visits annually (compared to approximately 10,000 visits at each of Southbridge and Darfield annually).



The pool tub on this site is approximately 70 years old, is in a poor state of repair and is now undergoing structural assessment with Powell Fenwick Consultants. Recent rain events have accelerated the erosion of the soils and supporting structures around this pool and a full report on the remedial action and high-level cost report will be presented to Council in the coming weeks. Council will be asked for direction on the future of this site as part of presenting costs and options. These options will include repair, closure, and divestment.

## **Growth**

The current redevelopment of Darfield Pool provides an opportunity to establish a high-quality summer pool for the next 10 years with a range of recreation opportunities that cater for the whole community.

Following the work completed by RSL and Mark Rykers on the Selwyn District Council Sport, Recreation and Play, Places and Spaces Plan the Aquatics Facilities Strategic Plan is requiring further review. This work has yet to be completed however anecdotally some significant changes have occurred across the district.

While Darfield and Malvern will continue to grow the population growth both as a percentage and total number of residents is significantly less than Selwyn Central and Springs. Impacts such as Plan Change #69 should not be ignored. While the Places and Spaces plan makes reference to other CCC facilities coming online on Hornby and Central Christchurch and waiting to see the impact of such facilities it would seem important to look at the recreation infrastructure in Springs both in terms of Aquatics and indoor court space as part of the next Long Term Plan. Furthermore, Covid has paused overall visitor number increases at the Selwyn Aquatic Centre but other key growth indicators such as learn to swim enrolments (increased from 2335 in June 2021 to 3078 June 2022, a 32% increase in 12 months) and Aqua-fitness programme attendance (average 599 per month 20/21 FY, to 689 per month 21/22 FY, a 15% increase in 12 months) additionally casual visitor numbers have quickly rebounded back to (or exceeded) pre-covid levels in the last quarter of the 21/22 financial year.

Discussions have occurred in previous Council meetings on the provision of an indoor aquatic facility in the Malvern Ward in the next 10 years with further feasibility work to be done to inform this work later in the current Long-Term Plan cycle. Council will have to carefully consider the location of future recreation facilities and an indoor aquatic facility in Malvern may be deemed low priority across the district with the consideration of continuing growth pressures in both Springs and Selwyn Central that exceed Malvern in both percentage and total resident population increase.

## **6. FUNDING IMPLICATIONS**

The following four options have been considered as part of the financial considerations.

Considerations relating to recommendation (a) (*That Council approves the increase of the Darfield Pool redevelopment works budget from \$1,774,984.00 to \$1,996,561.00 due to supply chain and market increases*).

1. The rates increase associated with a total capital budget increase of \$222k at Darfield.

2. The rates increase associated with a total capital budget increase of \$222k at Darfield, but Sheffield Pool being closed from the 2023/2024 season onwards and having no ongoing capital or operational expenditure.

**Option 1** above will trigger a 1% aquatic rate increase which is equivalent to a \$2 increase in Zone 1, \$1 increase in Zone 2 and no increase in Zone 3.

**Option 2** above will not have any impact on the aquatic rate.

Considerations related to recommendation (b) (*That Council approves the inclusion of additional build items to further enhance the aquatics offering in the Malvern Ward by increasing the total build budget to \$2,391,651.00*).

3. The rates increase associated with a total capital budget increase of \$616k at Darfield.
4. The rates increase associated with a total capital budget increase of \$616k at Darfield, but Sheffield Pool being closed from the 2023/2024 season onwards and having no Capital or operational expenditure.

**Option 3** above will trigger a 2.5% aquatic rate increase which is equivalent to a \$4 increase in Zone 1, \$3 increase in Zone 2 and a \$1 increase in Zone 3.

**Option 4** is very close to being able to be absorbed into the current rate with a 0.5% aquatic rate increase required which is equivalent to a \$1 increase in Zone 1 and 2 and no change to zone 3.

It should be noted that all rates impact calculations have been completed from implementation in the 2023/24 financial year and only relate to this project.

## 7. OPTIONS

### 1. Approve recommendations (a) and (b)

Throughout the concept design process a number of additional items have been identified as adding significant value to the site and it is the view of the staff involved in this project that the additional funding required to complete these additional items is warranted to provide a high quality aquatics offering in the Malvern Ward.

### 2. Approve recommendation (a) and decline option (b)

This allows the key deliverables agreed as part of the Long-Term Plan to be delivered to the community. While some additional items are not part of the project the key objectives of keeping the pool warm, well filtered, and providing a great base offering to drive programming remains.

### 3. Decline recommendation (a) and (b)

This option does not allow for the basic key deliverables agreed as part of the Long-Term Plan to be realised and significant value engineering would need to

occur. It is likely that key items such as an entry structure would need to be removed from the project scope.

**4. Recommended option:**

That Council approves recommendation (a) and (b). This provides the best level of service to the Darfield and wider Malvern community and allow future decisions about longer term facilities in the ward to be informed by best case Summer usage.



**Sandrine Carrara – PROJECT MANAGER**



**James Richmond – MANAGER – ACTIVE SELWYN**

***Endorsed For Agenda***



Murray Washington  
**GROUP MANAGER INFRASTRUCTURE & PROPERTY**

**Appendix 1**

Prepared for  
Selwyn District Council Co  
No.: N/A

# Darfield Pool Upgrade

CONCEPT DESIGN COST ESTIMATE

31 May 2022

AECOM

Darfield Pool Upgrade

## Darfield Pool Upgrade

Concept Design Cost Estimate

Client: Selwyn District Council

Co No.: N/A

Prepared by

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31-May-2022

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## Darfield Pool Upgrade

## Quality Information

Document Darfield Pool Upgrade

Ref 60680630

Date 31-May-2022

Prepared by Rory Cargill

Reviewed by David Frusher

## Revision History

Rev	Revision Date	Details	Authorised	
			Name/Position	Signature
2	31-May-2022	Senior Quantity Surveyor	David Frusher	

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Darfield Pool Upgrade

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## 1.1 BASIS OF COST PLAN

This Cost Plan has been compiled by measuring and pricing approximate elemental quantities, and is based on information provided by the consultant team as follows:-

- HDT Architecture Draft Concept Design Report
- HDT Architecture Concept Design drawings dated 19 April 2022
- PFC Structural Concept drawings dated 4 May 2022
- PFC Pool Water Concept drawings dated 6 May 2022
- Form Garden Architecture Landscape Concept drawings dated 12 May 2022
- Draft Scope of Works Revision C dated 12 April 2022
- Client supplied supplier quotes (multiple suppliers and dates)

## 2.1 Cost Plan

Our preliminary assessment of likely cost is \$2,596,000 (Two million, five hundred and ninety six thousand dollars) broken down as follows:-

Building Works	\$1,956,000
Siteworks & Landscaping	<u>\$231,000</u>
	\$2,187,000
Construction Contingency	<u>\$219,000</u>
	\$2,406,000
Building Consent	<u>\$10,000</u>
	\$2,416,000
Consultant Fees	<u>\$180,000</u>
	<b>\$2,596,000</b>

Refer to Appendix A for full Elemental Cost Plan.

The expected cost estimate for the works based on the level of information provided is in the order of +/- 20%. The upper and lower bounds of outturn project cost are therefore as follows:-

- Maximum expected cost \$3,115,000
- Minimum expected cost \$2,078,000

## 3.0 EXCLUSIONS

The items specifically **excluded** from this Cost Plan are:

1. Identification and Disposal of Hazardous Materials (Asbestos)
2. Work Completed to Date
3. Escalation Provision beyond the Date of this Estimate
4. GST

## 4.0 TENDERING AND MARKET ASSUMPTIONS

The Cost Plan is based on traditional lump sum procurement, via a fully documented design based on specification and drawings.

## 5.0 BUDGET

The Project Budget is \$1,800,000 incorporating all project costs. This cost estimate demonstrates a potential cost overrun of approximately \$796,000 (44%). To bring the project back into budget, areas of scope reduction will need to be considered.

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Prepared for – Selwyn District Council – Co No.: N/A

## 6.1 VALUE MANAGEMENT

The following areas have been identified as possible options for scope reduction and potential cost savings:-

- Reduce the size of the new entrance canopy and replace the roof covering on the west end with shade sail.
- Simplification of poolside bleacher seat structure
- Scaling down of water slide specification
- Blast and re-paint rather than re-lining of existing pools
- Review / rationalisation of Services
- Review / rationalisation of Siteworks and Landscaping to car park area



Project : Darfield Pool



Cost Plan : Concept Design R2 Rev: 2

**BUILDING WORKS**

No.	Description	Quantity	Unit	Rate	Amount
1	ENTRANCE CANOPY		Sum		141,717
2	MAIN POOL AND CONCOURSE		Sum		519,671
3	LEARN TO SWIM POOL		Sum		142,176
4	ADMIN & CHANGE ROOMS		Sum		99,955
5	SERVICES		Sum		<u>607,600</u>
	<b><i>SUB-TOTAL</i></b>				<b><i>1,511,120</i></b>
6	DESIGN DEVELOPMENT CONTINGENCY (8%)		Sum		120,890
7	PRELIMINARY & GENERAL (12%)		Sum		195,841
8	MARGIN (7%)		Sum		<u>127,950</u>
	<b><i>SUB-TOTAL</i></b>				<b><i>444,680</i></b>
	<b>Total</b>				<b>\$1,956,000</b>

Project : Darfield Pool



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## BUILDING WORKS

No.	Description	Quantity	Unit	Rate	Amount
<b>ENTRANCE CANOPY</b>					
<u>SUBSTRUCTURE</u>					
1	300x300 concrete ground beam, reinforced (50kg/m <sup>2</sup> ) including formwork, excavation and disposal	52	m	135	7,020
2	400x400 concrete ground beam, reinforced (50kg/m <sup>2</sup> ) including formwork, excavation and disposal	24	m	190	4,560
3	500x500 concrete ground beam, reinforced (50kg/m <sup>2</sup> ) including formwork, excavation and disposal	63	m	250	15,750
<u>FRAME</u>					
4	200x100RHS6 portal frame (26.2kg/m)	3,005	kg	9	25,543
5	100x50x6 RHS to knee (12.7kg/m) (option 1)	788	kg	9	6,698
6	100x50x6 RHS (12.7kg/m) (architectural)	396	kg	9	3,366
7	Plates, cleats and connections (15%)		Sum		5,341
8	Bottom plates to RHS including setting, bolts and fixings	18	No	350	6,300
9	DHS purlins to canopy including fixings	149	m <sup>2</sup>	30	4,470
10	Lumberlock multi brace multibrace including fixings	98	m	10	980
11	Paint to steelwork		Sum		5,000
<u>ROOF</u>					
<u>Canopy Roofing</u>					
12	Metalcraft colourcoat sheet metal roof including flashings	149	m <sup>2</sup>	65	9,685
13	Translucent sheet roof covering including timber purlins	22	m <sup>2</sup>	165	3,630
14	190x70 macrocarpa louvres	43	m <sup>2</sup>	210	9,030
15	9 fibre cement sheet soffit including paint finish to underside of canopy roof	149	m <sup>2</sup>	105	15,645
<u>Rainwater System Spouting</u>					
16	including fascia Downpipes	63	m	80	5,040
17	including bends	4	No	165	660
<u>DRAINAGE</u>					
18	Stormwater drainage to canopy roof including connection to existing		Sum		5,000
<u>OTHER ITEMS</u>					
19	Timber double vehicle access gate including steel frame and all associated hardware	1	No	6,000	6,000
20	Timber single pedestrian gate including frame, hinges and associated hardware	1	No	2,000	2,000
	<b>Total</b>				<b>141,717</b>
<b>MAIN POOL AND CONCOURSE</b>					
<u>SITE PREPARATION</u>					
21	Remove existing concrete ground slab and dispose offsite	412	m <sup>2</sup>	35	14,420
22	Remove timber and corrugated metal boundary fences and dispose off site	89	m	15	1,335
23	Remove bleacher seats including shade structure and dispose off site	19	m	60	1,140
24	Remove existing entrance canopy and shade sails and dispose off site		Sum		2,000
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<b>Project : Darfield Pool</b>		<b>AECOM</b>			
<b>Cost Plan : Concept Design R2 Rev: 2</b>		<b>BUILDING WORKS</b>			
<b>No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Amount</b>
	<u><b>SUBSTRUCTURE &amp; GROUNDWORKS</b></u>				
	<u>Concourse</u>				
25	100 thick exposed aggregate concrete slab with SE62 mesh, including formwork, re-grading of and minor addition to existing hardfill	412	m <sup>2</sup>	195	80,340
26	Extra value for forming slopes	76	m <sup>2</sup>	10	760
27	Extra value for forming concrete steps including formwork, excavation and disposal	2	No	1,000	2,000
	190 concrete masonry wall (assume 800 high) including reinforcing and blockfill	11		280	3,080
	<u>Poolside Bleachers and Canopy</u>				
28	200 thick concrete slab including 2 layers of SE62 mesh, formwork, hardfill, excavation and disposal	52	m <sup>2</sup>	300	15,600
29	600 dia post hole 1.8m deep including excavation, disposal and setting of steel posts.	10	No	430	4,300
30	Form 200 high concrete nib including formwork, excavation	36	m	105	3,780
	<u>Water Slide</u>				
31	Reinforced concrete foundation to new water slide and ladder including concrete, reinforcing, formwork, casting in of anchors, excavation and disposal		Sum		12,000
	<u>General Items</u>				
32	Chase out and make good concrete slab / walls to allow earthing of existing fixtures		Sum		1,500
33	Control joints, saw cuts		Sum		2,000
	<u>POOLSIDE BLEACHERS AND CANOPY</u>				
	<u>Frame</u>				
34	125x75x6 RHS posts cast into postholes (16.7)	797	kg	9	6,775
35	125x75x6 RHS trimmers (16.7)	987	kg	9	8,390
36	50x50x6 EA seat brackets	27	kg	9	230
37	Plates, cleats and connections (15%)		Sum		1,051
38	H3.1 treated 140 x 45 timber framing including blocking	408	m	20	8,160
39	H3.1 treated 90x45 timber joists	232	m	20	4,640
40	Paint to steelwork		Sum		2,000
	<u>Roof</u>				
41	Metalcraft colourcoat sheet metal roof	52	m <sup>2</sup>	55	2,860
42	Timber roof framing over bleacher seating	43	m <sup>2</sup>	90	3,870
	<u>Cladding</u>				
43	9 Fibre cement sheet to wall behind poolside bleacher including timber framing	62	m <sup>2</sup>	135	8,370
44	9 Fibre cement to soffit (confirmed not required - cost omitted)	45	m <sup>2</sup>	135	
45	2 thick aluminium trim	41	m	65	2,665
	<u>Decking and Seating</u>				
46	Timber decking to poolside canopy and bleachers including subfloor framing	44	m <sup>2</sup>	350	15,400
47	Wall mounted bleacher seating including support brackets under poolside canopy	27	m	245	6,615
48	Bleacher seating direct fixed onto deck under poolside canopy	29	m	180	5,220
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## BUILDING WORKS

No.	Description	Quantity	Unit	Rate	Amount
	<u>POOL WORKS</u>				
	<u>Pool Linings</u>				
	<i>As per Bermuda pool linings quote dated 29/04</i>				
49	Fibreglass (FRP) lining to swimming pool including coloured flocoat surface and lane markings		Sum		126,000
	<u>Pool Fixtures</u>				
50	Removable stainless pool ramp including non slip polymer floor, handrail and earthing.		Sum		10,000
51	Pool ladders (installation only, client supplied)		Sum	800	
52	Starter blocks (installation only, client supplied)	4	No		1,200
53	Pool anchors		Sum		2,500
	<u>Water Slide</u>				
54	Feature water slide including installation and earthing		Sum		100,000
	<u>PAINTING</u>				
	<i>As per Carus quote Q5668 dated 5/05</i>				
55	Repaint outdoor main pool (not required with Bermuda Pool Liner)		Sum		
56	Repaint trellis and pergola		Sum		4,927
57	Stain outdoor deck area		Sum		1,430
58	Artwork to bleacher wall		Sum		15,000
	<u>OTHER ITEMS</u>				
	<u>External Fittings and Fixtures</u>				
59	Client supplied fittings and fixtures FF&E		Sum		10,000
60	Picnic tables for BBQ area (Client FF&E)		incl		
61	Outdoor cubbies, open locker mobile unit (Client FF&E)		incl		
62	Hand rails to steps	5	No	720	3,600
63	New macrocarpa bench on HDG brackets (South end of pool)	1	No	1,200	1,200
	<u>Boundary Fence</u>				
64	Timber fence to Greendale Road	55	m	185	10,175
65	Timber fence to North boundary	34	m	185	6,290
66	Extra value for acoustic treatment of a section of North boundary	9	m	250	2,250
	<u>Screen Walls</u>				
67	Macrocarpa screen wall to main pool plant compound and S.W. storage area	15	m²	220	3,300
68	Louvred door to S.W. storage area	1	No	500	500
	<b>Total</b>				<b>519,671</b>
	<b>LEARN TO SWIM POOL</b>				
	<u>SITE PREPARATION</u>				
69	Remove concrete ground slab and dispose offsite	15	m²	35	525
70	Remove concrete nib and scabble floor of toddlers pool		Sum		1,500
71	Remove timber deck including structure, stairs, decking, handrails and metal indicator and dispose off site (LTS pool)		Sum		2,000
72	Remove internal walls and dispose off site (Plant Room) Remove		Sum	500	
73	existing doors and sliding windows and dispose off site	5	No	50	250
	<u>SUBSTRUCTURE</u>				

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## BUILDING WORKS

No.	Description	Quantity	Unit	Rate	Amount
74	100 thick concrete slab including reinforcing hardfill and connection to existing floor slab	15	m²	190	2,850
75	Form fall to new wet deck and beach area		Sum		2,500
	<u>FRAME</u>				
	<u>Truss Strengthening</u>				
76	H3.1 treated 90 x 45 timber blocking to existing timber frame trusses including fixings	6	No	650	3,900
77	15 thick structural plywood bracing to new truss including ventilation holes @ 100 centres and paint finish	96	m²	185	17,760
78	Custom stainless steel bracket including fixing to new knee braces to ends of existing timber frame trusses	12	No	650	7,800
	<u>EXTERIOR WALLS</u>				
79	Extend window opening down to form opening for new double doors including making good of existing and new flashings as required	3	No	800	2,400
80	Partially infill existing door opening to form bay window	1	No	1,000	1,000
81	Form an opening in the exterior wall for a single door including making good of existing and new flashings as required (Plant room to exterior plant compound)	1	No	800	800
	<u>WINDOWS AND DOORS</u>				
	<u>External doors</u>				
82	Pair of glazed aluminium external doors including flashings, hardware and associated fittings	3	No	1,500	4,500
83	Single solid core external door including flashings, hardware and surface finish	1	No	1,100	1,100
	<u>External windows</u>				
84	New feature bay window including timber seat	1	No	1,500	1,500
	<u>Interior Doors</u>				
85	Single solid core paint grade door including frame, hardware and finish	1	No	1,100	1,100
	<u>INTERIOR WALLS</u>				
86	90 x 45 timber wall framing	13	m²	120	1,560
87	13 Aqualine GIB including level 4 plaster finish	26	m²	65	1,690
	<u>FLOOR FINISHES</u>				
88	Replace timber decking to South side of pool	31	m²	210	6,510
89	Replace 50% of timber subframe to decking (nominal allowance)	16	m²	160	2,560
	<u>PAINTING</u>				
	<i>As per Carus quote Q5668 dated 5/05</i>				
90	Repaint indoor main pool		Sum		26,173
91	Repaint indoor toddler pool (scope amended to pool liner for toddlers pool)		Sum		
92	Repaint learner pool block roof		Sum		16,648
93	Repaint Indoor pool block exterior		Sum		7,500
	<u>POOL WORKS</u>				
94	New PVC lining to toddler pool including wet deck area	27	m²	300	8,100
95	Raised bund to wet area surround		Sum		800
96	New hand rail to learn to swim pool	3	m	450	1,350

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**AECOM**

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**BUILDING WORKS**

No.	Description	Quantity	Unit	Rate	Amount
	<u>Play Equipment</u>				
97	WF1	1	No	7,000	7,000
98	WF2	1	No	7,000	7,000
	<u>DRAINAGE</u>				
99	Threshold drain including stormwater connection (to new double doors)	6	m	550	3,300
	<b>Total</b>				<b>142,176</b>
	<b>ADMIN &amp; CHANGE ROOMS</b>				
	<u>SITE PREPARATION</u>				
100	Remove internal walls and compact laminate partitions	60	m²	15	900
101	Remove changing room bench joinery including and dispose off site	5	No	150	750
102	Remove fixtures, fittings and joinery, allow for 50% retain and store for future use, 50% disposal		Sum		1,000
	<u>FRAME</u>				
103	Bracket support to ridge beams (as described in PFC DSA Report dated 29 March 2022)		Sum		5,000
	<u>WINDOWS AND DOORS</u>				
104	Change locks and selected hardware to existing doors		Sum		2,500
	<u>INTERIOR WALLS</u>				
	<u>Changing rooms</u>				
	<i>As per Freeform Quote CQ-0952</i>				
105	Internal partitions framed flush mounted 13mm compact grade laminate including all doors, hardware vanities etc - excludes vanity bowls		Sum		15,221
	<u>Administration</u>				
106	Floor mounted perforated aluminium screen wall including powdercoated finish		Sum		4,000
	<u>FLOOR FINISHES</u>				
	<u>Existing Change Rooms</u>				
	<i>As per The Flooring Hub quote no 754</i>				
107	Mapeflake flooring including removal of existing floor toppings, mapei primer system		Sum		18,702
	<u>PAINTING</u>				
	<i>As per Carus quote Q5668 dated 5/05</i>				
108	Repaint office & changing block roof		Sum		9,759
109	Repaint office & changing block exterior		Sum		8,115
110	Repaint office, changing and toilet block interior		Sum		13,227
111	Paint ply ceilings & interior beams		Sum		6,890
112	Floor of changing rooms & entry (assume only 50% required due to new traxite flooring in change rooms)		Sum		3,459
	<u>FITTINGS AND FIXTURES</u>				
113	New benches to changing rooms		Sum		8,433
114	New accessible hoist		Sum		2,000
	<b>Total</b>				<b>99,955</b>

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<b>Project : Darfield Pool</b>		<b>AECOM</b>			
<b>Cost Plan : Concept Design R2 Rev: 2</b>		<b>BUILDING WORKS</b>			
<b>No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Amount</b>
<b>SERVICES</b>					
<u>SITE PREPARATION</u>					
115	Isolate and make safe electrical services		Sum		1,000
116	Isolate sanitary plumbing services		Sum	500	
117	Isolate and remove existing HVAC services		Sum		7,500
118	Isolate and remove existing pool water services		Sum	10,000	
119	Remove overhead pipe services		Sum		1,000
<u>ELECTRICAL WORK</u>					
120	Related Electrical Work for the upgrade of pumps, relocate existing heat pumps, new heat pumps and the like		Sum		5,000
121	Earthing of existing and new pool equipment including chasing into concrete and making good		Sum		5,000
<u>POOL WATER SERVICES</u>					
<u>Main Pool</u>					
Intake and Outake Pipes					
122	65 diameter FWS pipe	15	m	140	2,100
123	80 diameter FWS pipe	43	m	150	6,400
124	100 diameter FWS pipe	66	m	190	12,500
125	150 diameter FWS pipe	26	m	250	6,500
126	150 diameter PWR pipe	54	m	250	13,500
Bends and Fittings					
127	65 diameter x 90 degrees PVC Bend	4	No	150	600
128	80 diameter x 90 degrees PVC Bend	3	No	170	500
129	100 diameter x 90 degrees PVC Bend	3	No	220	700
130	150 diameter x 90 degrees PVC Bend	33	No	280	9,200
131	150 x 150 Mechanical PVC Tee	17	No	410	7,000
132	150 x 100 Mechanical PVC Reducer	3	No	380	1,100
133	80 diameter Ball Valve	7	No	200	1,400
134	80 diameter Check Valve	4	No	320	1,300
135	80 diameter Foot Valve	2	No	390	800
136	80 diameter Pressure Reducing Valve (PRV)	2	No	570	1,100
137	80 diameter Safety Valve (SV)	2	No	270	500
138	80 diameter Test Point (TP)	2	No	500	1,000
139	80 diameter Floor Switch (F)	1	No	150	200
140	80 Flexible connection	2	No	370	700
141	150 diameter Butterfly Valve	13	No	550	7,200
142	150 diameter Check Valve	4	No	530	2,100
143	150 diameter Test Point (TP)	6	No	800	4,800
144	150 diameter Lint Pot (LP1)	1	No	400	400
145	150 diameter Flow Meter (FM1)	1	No	2,000	2,000
146	150 diameter Site Glass (SG)	1	No	500	500
147	150 diameter Foot Valve	1	No	700	700
148	150 diameter Diaphragm valve pneumatic actuator	1	No	1,000	1,000
149	150 diameter Control Valve	1	No	800	800
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<b>Project : Darfield Pool</b>					<b>AECOM</b>
<b>Cost Plan : Concept Design R2 Rev: 2</b>					<b>BUILDING WORKS</b>
<b>No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Rate</b>	<b>Amount</b>
	<u>Learners Pool</u>				
	Intake and Outake Pipes				
150	40 diameter FWS pipe	12	m	115	1,400
151	50 diameter FWS pipe	49	m	135	6,600
152	80 diameter FWS pipe	34	m	150	5,100
153	80 diameter PWR pipe	74	m	150	11,100
	Bends and Fittings				
154	40 diameter x 90 degrees Mechanical Flange Bend	5	No	120	600
155	80 diameter x 90 degrees Mechanical Flange Bend	16	No	170	2,700
156	80 x 80 PVC Tee	8	No	260	2,100
157	80 x 40 PVC Reducer	5	No	240	1,200
158	80 PVC Plug	1	No	220	200
159	50 diameter Ball Valve 50	5	No	160	800
160	diameter Check Valve 50	4	No	230	900
161	diameter Foot Valve	2	No	270	500
162	50 diameter Pressure Reducing Valve (PRV)	2	No	400	800
163	50 diameter Safety Valve (SV)	2	No	200	400
164	50 diameter Test Point (TP)	2	No	300	600
165	50 diameter Floor Switch (F)	1	No	100	100
166	50 Flexible connection	2	No	300	600
167	80 diameter Butterfly Valve	15	No	350	5,200
168	80 diameter Check Valve 80	1	No	320	300
169	diameter Test Point (TP) 80	6	No	400	2,400
170	diameter Lint Pot (LP2)	1	No	200	200
171	80 diameter Flow Meter (FM2)	1	No	1,500	1,500
172	80 diameter Site Glass (SG)	1	No	400	400
	<u>Toddlers Pool</u>				
	Intake and Outake Pipes				
173	50 diameter FWS pipe	64	m	135	8,600
174	65 diameter FWS pipe	26	m	140	3,600
175	65 diameter PWR pipe	66	m	140	9,200
	Bends and Fittings				
176	65 diameter x 90 degrees PVC Bend	19	No	150	2,800
177	65 x 65 PVC Tee	8	No	220	1,800
178	65 x 50 PVC Reducer	3	No	210	600
179	50 diameter Ball Valve	7	No	160	1,100
180	50 diameter Check Valve	4	No	230	900
181	50 diameter Diaphragm valve manual operation	2	No	350	700
182	50 diameter Foot Valve	1	No	270	300
183	50 diameter Pressure Reducing Valve (PRV)	2	No	400	800
184	50 diameter Safety Valve (SV)	2	No	200	400
185	50 diameter Test Point (TP)	2	No	300	600
186	50 diameter Floor Switch (F)	1	No	100	100
187	50 Flexible connection	2	No	300	600
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<b>Project : Darfield Pool</b>		<b>AECOM</b>			
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No.	Description	Quantity	Unit	Rate	Amount
188	65 diameter Butterfly Valve	13	No	300	3,900
189	65 diameter Check Valve	1	No	280	300
190	65 diameter Test Point (TP)	6	No	400	2,400
191	65 diameter Lint Pot (LP3)	1	No	200	200
192	65 diameter Flow Meter (FM2)	1	No	1,200	1,200
193	65 diameter Site Glass (SG)	1	No	400	400
194	65 diameter Diaphragm valve pneumatic actuator	1	No	400	400
195	65 diameter Control Valve	1	No	300	300
196	65 diameter Foot Valve	1	No	350	400
	<u>Mechanical Equipment</u>				
	<u>Filters</u>				
197	F1A Main Pool (Waterco) SMD1600 Filter (Quote received 17/05/22)	1	No	25,100	25,100
198	F1B Main Pool (Waterco) SMD1600 Filter (Quote received 17/05/22)	1	No	25,100	25,100
199	F2A Learners Pool (Waterco) SMD1050 Filter (Quote received 17/05/22)	1	No	14,100	14,100
200	F2B LearnersPool (Waterco) SMD1050 Filter (Quote received 17/05/22)	1	No	14,100	14,100
201	F3A Toddlers Pool (Waterco) S702 Filter (Quote received 17/05/22)	1	No	3,500	3,500
202	F3B Toddlers Pool (Waterco) S702 Filter (Quote received 17/05/22)	1	No	3,500	3,500
	<u>Pumps</u>				
203	PWP1 Main Pool (Waterco) Hydrostar Plus 11 kW with 37 l/s flow rate and 180 kPa (Quote received 17/05/22)	1	No	9,300	9,300
204	PWP2 Learners Pool (Waterco) Hydrostorm MkIV 550, 5 kW with 13 l/s flow rate and 180 kPa (Quote received 17/05/22)	1	No	4,300	4,300
205	PWP3 Toddlers Pool (Waterco) Hydrostorm MkIV 400, 3.4 kW with 13 l/s flow rate and 180 kPa (Quote received 17/05/22)	1	No	4,000	4,000
	<u>Heat Pumps</u>				
206	HEPH30 30kW vertical discharge swimming pool heat pump (Main Pool)	7	No	15,000	105,000
207	HEPH21 21kW vertical discharge swimming pool heat pump (Learners and Toddlers Pools)	3	No	14,000	42,000
	<u>Pool Chemical Dosing Station</u>				
208	SS1 Main Pool Sampling Station	1	No	9,000	9,000
209	SS2 Learners Pool Sampling Station	1	No	6,000	6,000
210	SS3 Toddlers Pool Sampling Station	1	No	5,000	5,000
	<u>Chemical Dosing Pumps</u>				
211	CDP1A Main Pool Chemical Dosing Pump	1	No	2,800	2,800
212	CDP1B Main Pool Chemical Dosing Pump	1	No	2,800	2,800
213	CDP2A Learners Pool Chemical Dosing Pump	1	No	2,800	2,800
214	CDP2B Learners Pool Chemical Dosing Pump	1	No	2,800	2,800
215	CDP3A Toddlers Pool Chemical Dosing Pump	1	No	2,800	2,800
216	CDP3B Toddlers Pool Chemical Dosing Pump	1	No	2,800	2,800
	Controls and other features				
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**BUILDING WORKS**

No.	Description	Quantity	Unit	Rate	Amount
217	Controls and non standard feature (Provisional Sum) <u>Sundries</u>		Sum		40,000
218	Existing Chlorine Tank to be relocated to new plant room including caged restraint system		Sum		15,000
219	Fiberglass lining to existing tank		Sum		20,000
220	Thrust block		Sum		10,000
221	Testing and Commission		Sum		20,000
222	Builders works in connection with Pool Work		% 2		11,900
		<b>Total</b>			<b>607,600</b>

Project : Darfield Pool



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**EXTERNAL WORKS**

No.	Description	Quantity	Unit	Rate	Amount
1	SITE WORKS	1,532	m²	120	<u>183,480</u>
	<b><i>SUB-TOTAL</i></b>				<b>183,480</b>
2	DESIGN DEVELOPMENT CONTINGENCY (5%)		Sum		9,174
3	PRELIMINARY & GENERAL (12%)		Sum		23,118
4	MARGIN (7%)		Sum		<u>15,104</u>
	<b><i>SUB-TOTAL</i></b>				<b>47,397</b>
	<b>Total</b>				<b>\$231,000</b>

Project : Darfield Pool



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## EXTERNAL WORKS

No.	Description	Quantity	Unit	Rate	Amount
<b>SITE WORKS</b>					
<u>Site Preparation</u>					
1	Remove existing hardpaving, sub-base and dispose off site	347	m <sup>2</sup>	25	8,675
2	Excavate existing grassed areas to reduced levels and dispose off site	50	m <sup>2</sup>	10	500
3	Remove existing chipseal (allow 50% of existing area)	428	m <sup>2</sup>	20	8,560
<u>Roading</u>					
4	Asphalt infill on subgrade	10	m <sup>2</sup>	115	1,150
5	Chip seal on basecourse (allow 50% of existing area)	428	m <sup>2</sup>	45	19,260
6	150 x 100 concrete nib kerb	190	m	75	14,250
7	Wheel stop to carpark space	2	No	350	700
8	750 high removable / folding steel bollard	4	No	1,200	4,800
9	Painted lines to carparks including wheel chair symbol	14	No	50	700
<u>Paving</u>					
10	Concrete pavers including hardfill and excavation (Firth Holland)	190	m <sup>2</sup>	170	32,300
11	Reinforced concrete paving including hardfill and excavation <u>Hard</u>	7	m <sup>2</sup>	205	1,435
<u>Landscaping</u>					
12	Macrocarpa screen wall to LTS pool plant compound and transformer	18	m <sup>2</sup>	220	3,960
13	Gates to macrocarpa screen walls	2	No	650	1,300
14	Stainless steel cycle stand	5	No	1,500	7,500
15	2000 long x 1200 wide outdoor seating	1	No	2,200	2,200
16	Planter boxes including soil / compost and plants	8	No	1,000	8,000
<u>Soft Landscaping</u>					
17	Evergreen hedge	48	m	100	4,800
18	Low planting including topsoil and mulch	274	m <sup>2</sup>	100	27,400
19	Grassing including topsoil	72	m <sup>2</sup>	20	1,440
20	Tree (2-3m high)	7	No	450	3,150
21	600 dia tree pit	7	No	1,200	8,400
<u>Signage</u>					
22	Entry and directional signage (floor mounted) including concrete base		Sum		15,000
23	Wall mounted signage to building		Sum		8,000
<b>Total</b>					<b>183,480</b>

**About AECOM**

AECOM is built to deliver a better world. We design, build, finance and operate infrastructure assets for governments, businesses and organizations in more than 150 countries. As a fully integrated firm, we connect knowledge and experience across our global network of experts to help clients solve their most complex challenges. From high-performance buildings and infrastructure,

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## Appendix 2

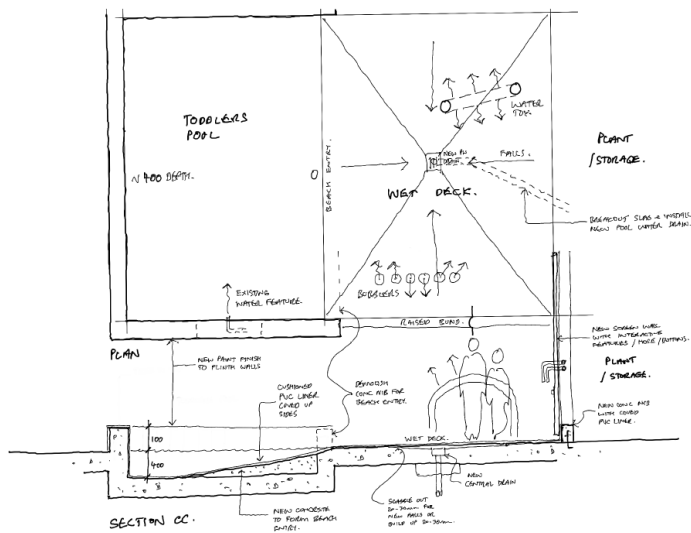
Location	Scope Summary	Renewal Works	Enhancement Works	Priority	Cost Estimate
External Works	The addition of a new entry structure to provide shelter and privacy from the car park and rationalise the arrival and entry process. To include new timber screen gates / entry walls and potentially radiant heaters.		Yes	High	\$ 100,000
External Works	Simple bleacher seating				
External Works	Removal of old and installation of new timber fencing along Greendale road and northern boundary	Yes		High	\$ 17,800
External Works	New services including heat pump(s), filters, as required (scope by PFC), to include the removal of overhead pipes above entry. To include a review of servicing access to the key plant areas (by PFC).	Yes		High	\$ 607,600
External Works	2m acoustic fencing required around plant equip.	Yes		High	\$ 15,000
External Works	Reform external levels around south side of existing pool, including new retaining wall, including new sponge or exposed agg finish concrete (coloured). Tie into existing concrete concourse around east and west sides.	Yes		High	\$ 109,400
External Works	New main entry signage on east side 'DARFIELD COMMUNITY POOL'		Yes	High	\$ 4,000
External Works	Signage, entry and directional signage etc.	Yes		High	\$ 4,000
External Works	New cycle parking spaces outside the entry		Yes	High	
Existing Outdoor Pool	Drop in stainless steel ramp to provide level access		Yes	High	\$ 10,000
Existing Outdoor Pool	Re-line / fibreglass pool tank	Yes		High	\$ 126,000
Existing Outdoor Pool	Check of earthing of existing metal items (handrails)	Yes		High	\$ 10,000
Existing Outdoor Pool	Installation of new lane rope anchors to divide the pool into 2.5m wide lanes		Yes	High	\$ 3,175
Existing Outdoor Pool	Removal of the internal handrail at each end, add ladders and starter blocks		Yes	High	
Existing LTS/Toddlers Building	Structural upgrade works as per PFC Structure DSA	Yes		High	\$ 33,660
Existing LTS/Toddlers Building	Reconfiguration of two indoor pool plant rooms, with servicing access configured from east end of building. (PFC Services)	Yes		High	\$ 5,650
Existing LTS/Toddlers Building	Repaint indoor LTS building roof and exterior	Yes		High	\$ 24,148
Existing LTS/Toddlers Building	Repaint indoor LTS pool				\$ 26,173
Existing LTS/Toddlers Building	Repaint indoor toddler pool				\$ 4,374
Existing Admin & Change Rooms	Changing room block roof and exterior				\$ 17,874
Existing Admin & Change Rooms	Changing Rooms Paint/Partitions/Flooring	Yes			\$ 50,000
External Works	Repaint trellis, pergola, stain outdoor deck?				\$ 6,357
Existing Admin & Change Rooms	Structural upgrade works as per PFC Structure DSA	Yes		High	\$ 6,350
Existing LTS/Toddlers Building	Removal of deck on the north of LTS indoor pool				\$ 5,000
	Fire upgrades required (Design TBA)				\$ 15,000
				<b>Subtotal</b>	<b>\$ 1,201,561</b>
	P&G				\$ 220,000
	Landscaping				\$ 150,000
	Contingency				\$ 190,000
	Consenting				\$ 10,000
	FF&E				\$ 50,000
	Professional fees				\$ 175,000
					<b>\$ 1,996,561</b>

### Appendix 3

Fig. 01 : Hydro slide – 3m High



Fig. 02 : Toddlers Wet Deck/Play Area





**Fig. 03 : Bleachers**



## Fig. 04 : Art Work

### 1. ARTWORK INTEGRATION

The back wall of the spectator seating stand creates a new fence and offers a blank canvas to a school group or artist to develop a mural to enliven the space and tie the colour scheme together.

POTENTIAL ARTWORK-TO REAR WALL  
IMAGE from 'ARTBYJANE', a local Darfield artist.



## REPORT

**TO:** Chief Executive Officer

**FOR:** Council Meeting – 10 August 2022

**FROM:** Jessica Tuilaepa, Senior Strategy and Policy Planner

**DATE:** 29 July 2022

**SUBJECT:** **PRIVATE PLAN CHANGE 68 – REZONING OF LAND IN PREBBLETON**

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## RECOMMENDATION

*‘That the Council:*

- a. receives the report and recommendation of independent Commissioner Tony Hughes-Johnson dated 23 June 2022 on Private Plan Change 68 from Urban Holdings Limited, Suburban Estates Limited, and Cairnbrae Developments Limited to rezone land in Prebbleton;*
- b. adopt the recommendation of the Commissioner and, pursuant to Clause 29(4) of the First Schedule of the Resource Management Act 1991, approves Private Plan Change 68 for the reasons given in the Commissioner’s recommendation;*
- c. approves the public notification of Council’s decision in accordance with Clause 11 of the Resource Management Act;*
- d. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to recommendations (b), and (c) above.*
- e. delegates to the Team Leader Strategy and Policy to take any steps necessary, following the notification of the Council’s Variation to Plan Change 68, to give effect to making Plan Change 68 operative at the conclusion of the appeal period where no appeals are filed.’*

### 1. PURPOSE

The purpose of this report is to present the Commissioner’s recommendation (**Attachment 1**) on Private Plan Change 68 (PC68). It seeks that Council adopts the recommendation of the Commissioner as its decision on PC68.

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

Council’s Significance and Engagement Policy states that:

*“even if a decision is clearly a significant one within the meaning of the Local Government Act 2002, where the procedures for decision-making are set out in other legislation, those procedures will be used instead of those contained in this ... Policy. This ... Policy will not be used in making decisions taken under the RMA ... on ... decisions required when following the procedures set out in Schedule 1 of the RMA ...”.*

Schedule 1 of the Act sets out the procedures for the preparation, change and review of plans. Clause 29 sets out the procedures under this section when considering a plan change request by someone other than Council i.e., a private plan change request.



After considering the plan change request, pursuant to Clause 29(4) of Schedule 1, a local authority may decline, approve, or approve with modifications the plan change and must give reasons for its decision.

In accordance with delegation RS-201, Council delegates to an external, accredited hearing commissioner the power to *hear* and *consider* submissions on the requested change and to *recommend* decisions to Council pursuant to Clause 29(4). However, the final procedural decision on the plan change request remains the responsibility of the Council.

### 3. HISTORY/BACKGROUND

PC68 is a privately initiated plan change by Urban Holdings Limited, Suburban Estates Limited, and Cairnbrae Developments Limited to rezone approximately 67.5047 hectares of Rural (Inner Plains) zoned land to Living Z zone, to enable residential development on the south-western edge of Prebbleton with frontage to Trents Road, Shands Road, Hamptons Road, and the Sterling Park subdivision in Prebbleton, as shown in Figure 1.



**Figure 1 – Aerial photograph of PC68 area (outlined in orange)**  
(Source: PC68 Application)

The following is the general timeline of the plan change's progress to date through the statutory process:

- Formally received by Council on 25 February 2021.
- Accepted by Council for public notification on 28 July 2021.
- Publicly notified on 15 September 2021.
- Hearing held on Monday 21 March, Tuesday 22 March, and Monday 28 March 2022.
- Hearing Commissioner's recommendation provided on 23 June 2022.

Through the notification processes, the private plan change request attracted 38 submissions and 4 further submissions.

The hearing ran over three days in March 2022, with the Commissioner hearing evidence heard from 25 parties on behalf of either the Council, submitters, or the proponent.

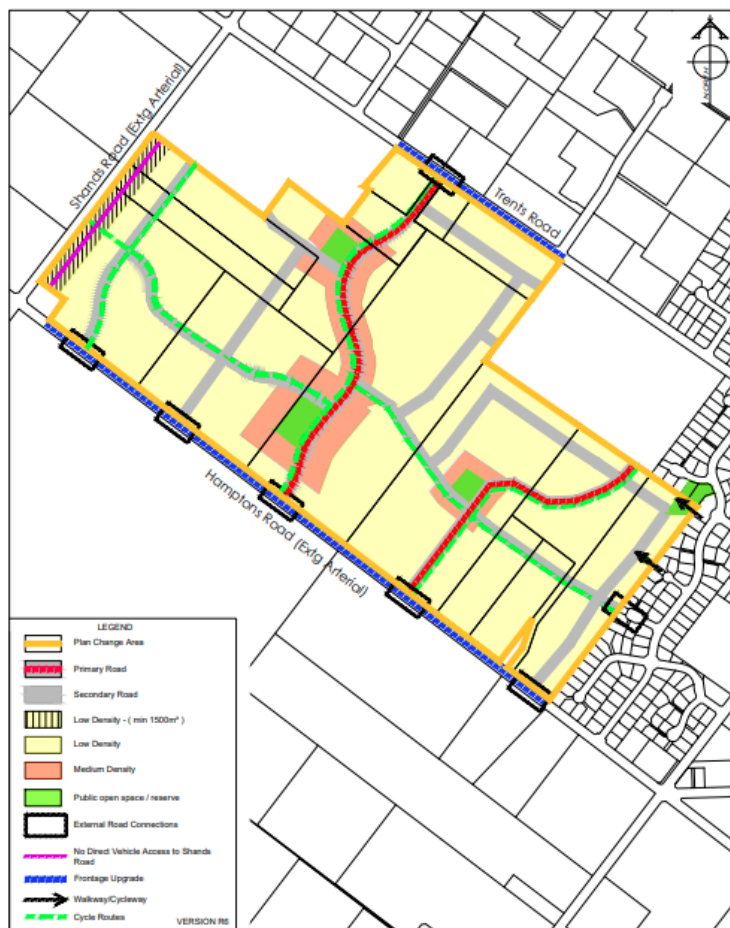
#### **4. PROPOSAL**

The re-zoning will provide an opportunity to develop residential allotments with a density of 12 households per hectare. The majority of the ODP area is allocated for low density (average of 650 m<sup>2</sup>, minimum allotment size of 550 m<sup>2</sup>) residential sections. Medium-density residential development areas are identified in proximity to reserve areas. The estimated yield from the area the subject of the plan change is 820 lots based on the Living Z density rules and the roading and servicing layout specified in the ODP for this land.

Through the course of the plan change process several amendments were proposed to the initial plan change request in response to the section 42A report and submitter concerns. In summary these included:

- Amendments to Policy B4.3.67 to include reference to the PC68 ODP; and
- Amendments to Subdivision Rule 12.1.3 requiring the Shands Road/Trents Road intersection roundabout upgrade to be completed prior to residential development occurring.

The final version of the Outline Development Plan was provided along with the Applicant's expert evidence on 2 March 2022.



**Figure 2 – Proposed Outline Development Plan for PC68**

For the reasons set out in his recommendation, the Commissioner has recommended that PC68 be approved and that the matters raised in submissions are accepted, accepted in part, or rejected.

The recommended amendments to the Operative District Plan are included in **Attachment 1**.

## 5. OPTIONS

As set out above, Council delegates to an external accredited hearing commissioner the function to hear, consider and recommend decisions to the Council under Clause 29(4) of the First Schedule of the Act, but as Council cannot delegate its decision making function in relation to Proposed Plans (section 34A) it retains the power and duty to make the final decision.

It is considered that two options are available to Council:

### a. **Make a decision in accordance with Clause 29(4) of the First Schedule of the Act**

In accordance with Clause 29(4) of the First Schedule of the Act, Council may decline, approve, or approve with modifications, the plan change.



**i. Approve**

Through the statutory process set out in the Act, the Commissioner has considered that PC68, as modified in response to the section 42A report and submitter concerns and has concluded that the objective of the plan change achieves the purpose of the Act, the objectives of the Selwyn District Plan, and the purpose of the proposal, which in turn will give effect to the objectives and policies of the relevant statutory documents, including the NPS-UD and the CRPS.

**ii. Approve with modifications**

The Commissioner considered that the plan change will implement the policies, and is appropriate in achieving objectives, of the Selwyn District Plan. As such, it would be inappropriate for the Council to amend any of the findings contained in the Commissioner's recommendation in the absence of hearing the submissions and considering the substantive material that formed part of the plan change request and subsequent hearing process.

**iii. Decline**

It is considered that it would be inappropriate for the Council to decline the plan change, as this would be contrary to the recommendation of the independent Commissioner who has determined, through the statutory processes, that the plan change is appropriate. Making a decision to decline, contrary to the recommendation of the Commissioner would be a breach of natural justice, particularly as the Council decision makers were not present at the original hearing of the matter.

**iv. Decline to make a decision**

If the Council was not of a mind to accept the recommendation of the Commissioner, it could refer the plan change back to the Commissioner with a direction that he reconsiders his recommendation or appoint another commissioner to consider the plan change request from the beginning.

It is considered that there are issues with natural justice with both above options and, if the Council were to consider either option, it must be satisfied that there is sufficient ground for doing so. As addressed above, it is considered that the Commissioner thoroughly canvassed the key issues raised in the submissions or required to be addressed to ensure that the Council's statutory functions and responsibilities are fulfilled.

It is also considered inappropriate to delay making a decision on the plan change while other processes, such as the spatial planning work being carried out at a regional level, or the impending variation to the Proposed District Plan to give effect to the RMA-EHS, both of which are over a year away of being finalised. This would likely result in legal challenge due the obligation on Council under Section 21 of the Act to avoid unreasonable delay, along with the requirement under Clause 10(4)(a) to give its decision no later than two years after notifying the plan change.

If the Council were not to accept the Commissioner's recommendation, this could expose the Council to legal challenge, such as a judicial review, the outcome of which could be damaging to Council in terms of its reputation and may result in a loss of trust

and confidence that future decisions would be rational and based on a fair process. Council would also likely face significant legal costs, defending any action that may arise from declining to make a decision.

### Recommended Option:

It is recommended that Council accepts the Commissioner's recommendation and approve PC68.

If the Council accepts the Commissioner's recommendation and approves PC68, then PC68 will continue along the statutory RMA process, with the decision being publicly advertised and notice being served on all submitters. A 30-day appeal period is provided to lodge an appeal against the decision to the Environment Court.

## 6. VIEWS OF THOSE AFFECTED / CONSULTATION

**(a) Views of those affected and Consultation**

These matters are addressed in the recommendation of the Commissioner, with the mandatory public notification, serving of the notice of the request on potentially affected parties and submissions processes required under the Act having provided appropriate opportunity for interested parties, including the wider public, to participate in the private plan change process.

### **(b) Māori and Treaty implications**

It is considered that overall, the proposal will not have an adverse impact on the cultural values of iwi as set out within IMP. No wāhi tapu or wāhi taonga sites of cultural significance are identified within the plan change area. The management of waterways within the plan change area, appropriate stormwater management, landscaping provision that includes indigenous planting, and the adoption of an Accidental Discovery Protocol and sediment control measures at the time of site development would be imposed at the time of subdivision consent under the existing matters of control within the District Plan.

### (c) Climate Change considerations

Climate change considerations were considered through the statutory processes, as required by section 7(i) of the Act and Policy 1 of the NPS-UD. This was explored in the context of flooding, greenhouse gas emissions, compact urban form, and provision of a range of transport options, including pedestrian and cycling connections to the existing urban area.

## 7. FUNDING IMPLICATIONS

The funding implications are limited to any appeal proceedings. All costs incurred in notifying the decision are on-charged to the private plan change proponent.

Жулаева

Jessica Tuilaepa  
**SENIOR STRATEGY AND POLICY PLANNER**

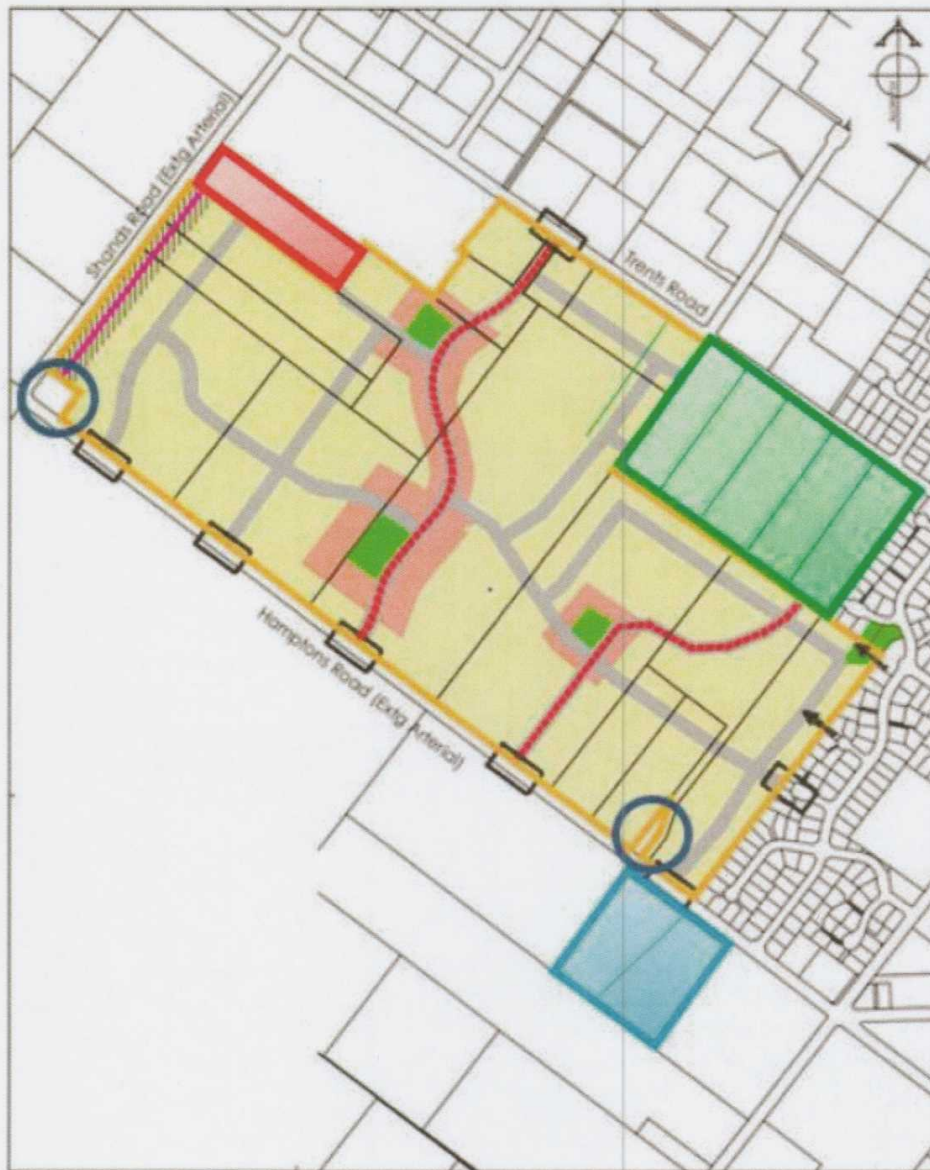
***Endorsed For Agenda***

A handwritten signature in black ink, appearing to read 'Tim Harris', with a stylized, jagged line extending from the end.

Tim Harris  
**GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES**

Attachment 1: Commissioner's Recommendation Report [212 pages] and Plan Amendments  
Appendices A-F [30 pages]

**Figure 4. Submissions seeking a change in zoning**



## APPENDIX A

Submitter ID	Submitter Name	Point #	Position	Summary	Decision Requested	Commissioner Recommendations
PC68-0001	Amelia Bunting	001	Support	Supports Plan Change	Approve Plan Change	Accept.
PC68-0002	Donovan Taynton	001	Oppose	Infrastructure - Prebleton does not have the adequate infrastructure to accommodate more housing yet such as school, roads, shopping.	Decline the Plan Change	Decline. Expert evidence establishes that infrastructure needs can be accommodated. See recommendations.
PC68-0003	Tayla Wright	001	Neither Support Nor Oppose	Empty - no reasons given	Not Specified	No recommendations.
PC68-0004	Stephanie Broomhall	001	Oppose	Village character - The proposed development through plan change will adversely impact the rural lifestyle. It will add more traffic to the current roads. The current infrastructure do not capacity to approve these small sections and high density development.	Decline the Plan Change	Decline. The evidence establishes that whilst the village character will change, the changes are acceptable. The evidence establishes that transportation matters are able to be dealt with satisfactorily as is the provision of the necessary infrastructure for the relevant development.
PC68-0005	Carolina Ceron Miranda	001	Oppose	Village character - Effects on clearly defined urban limits. Effects on the rural amenity, outlook, and environment.	Decline the Plan Change	Decline. Whilst the village character will change and there will be effects on the amenities of the area in question, the changes are acceptable and do not justify declining the plan change.
PC68-0006	Xaojiang Chen	001	Oppose	Neighbour consultation - Formal consultation with the owner (the submitter) of the property 330 Trents Road, has never happened for the Plan Change 68. However, the Plan Change Request (P68) report states that the owner has "chosen not to be part of the request for rezoning."	Assessment against Policy B4.3.3 and confirmation of geographic boundaries must be provided, as requested in the council's RFI (Item 1, 2 & 3). Signed consent forms from all neighbouring property owners must be required as a part of the plan change application.	Decline. The consultation criticisms have been taken into account and do not justify declining the plan change.
PC68-0006	Xaojiang Chen	002	Oppose	Neighbour consultation - The two blocks include several other property owners, not just the two businesses mentioned in the report.	Signed consent forms from all neighbouring property owners must be required as a part of the plan change application.	Decline. For the reasons expressed in relation to Point 1.



PC68-0006	Xaojiang Chen	003	Oppose	<p>Urban form and density - It is inappropriate to develop low density or medium density lots between the rural residential style development area and the rural area at the south of Hamptons Road. The majority of the land opposite the site north of Trents Road is dominated by rural-style residential development with lots size varying between 5000 m2 and 1.2 ha. This area contains the Kingcraft Drive "Existing Development Area" (EDA).</p>	<p>Assessment against Policy B4.3.3 and confirmation of geographic boundaries must be provided, as requested in the council's RFI (Item 1, 2 &amp; 3).</p> <p>As requested in the council's RFI (Item 11), the urban environment is considered to encompass all of Greater Christchurch. Therefore, it must be provided an assessment of how the request would contribute to the function of the wider urban environments of Prebbleton township, the surrounding district, and the Greater Christchurch area.</p>	<p>Decline</p> <p>A full assessment has been made of urban form and density which has resulted in the finding that this was acceptable and supportive of PC68.</p>
PC68-0006	Xaojiang Chen	004	Oppose	<p>Infrastructure - It states that "Primary stormwater from the site will be discharged to ground via soak holes on individual sites. Secondary flow will run through the site via swales along the road and reserve networks and discharged to soak holes within the site."</p> <p>There are privately owned drink water supply bores near the site, for example, the drink water supply bore of my property located within 5 meters of the development site boundary. The effects to these bore's water quality from the stormwater discharge must be assessed and relevant rules from the council and Environment Canterbury be applied.</p>	<p>The assessment of environmental effects must include the effects to the privately owned drink water supply bores.</p>	<p>Decline.</p> <p>The expert evidence in relation to drink water supply bores establishes that PC68 would have no effect on these bores.</p>

PC68-0006	Xaojiang Chen	005	Oppose	Neighbour consultation - It states that "The applicants have also undertaken consultation with the neighbouring landowners. Generally the neighbours are either supportive or ambivalent about the plan change." I have lived in the property of 330 Trents Road for five years and have never been formally consulted on the proposed plan change.	Signed consent forms from all neighbouring property owners must be required as a part of the plan change application.	Decline. See the response to Point 1.
PC68-0006	Xaojiang Chen	006	Oppose	Urban form and density - The plan change has not considered the direct impacts on 330 Trents Road that have 2 ha of grazing paddocks and other rural-style residential properties and businesses. The proposed ODP in the plan change application includes medium density residential lots against boundary of 330 Trents Road Property and a nearby collector road.	Decline the plan change. The council should assess the plan change application against the Policy B4.3.3 and other regional and local plans. More consideration should be given to the impact of the plan change on the properties in the surrounding area.	Decline. Consideration has been given to the direct impacts on 330 Trents Road. It is concluded that PC68 is unlikely to affect the ability to carry on activities on adjacent properties in the surrounding area and in particular 330 Trents Road.
PC68-0006	Xaojiang Chen	007	Oppose	Urban form and density - The area (Penberley Road & Haughty Place) on the other side of Trents Road has been subdivided into residential lots with an average lot size of 5000 square meters. Kingcraft Drive EDA has an average lot size of 10000 square meters. Development of large-lot residential properties in the Subject Area will preserve most of the existing site features and trees, and will enhance amenity value of this area.	Decline the plan change. The area between Trents Road and Hamplons Rd, between Shands Road and Springs Road, excluding existing urban development areas, should be specified as a Specific Control Area, with an average lot size of 2000 - 5000 square meters.	Decline. Expert evidence has established me that the lot sizes which have been specified for PC68 are appropriate, having regard to the expert evidence led in relation to that matter. It follows that establishing a Specific Control Area with average lot sizes off 2000 m² to 5000 m² is inappropriate.
PC68-0007	Mark Larson	001	Support	The submitter fully Supports the plan change	Approve Plan Change	Accept - for the several reasons set out in the recommendations.



PC68-0008	Jonelle Bowman	001	Oppose	Traffic safety - The proposed plan change increases the traffic onto already dangerous roads which includes Shands Rd, Hamplons Road, Trents Road and Springs Road. Springs Road is more dangerous because it goes through Prebbleton township.	Provide additional evidence that traffic flow through Prebbleton can be managed safely.	Decline. Traffic flow through Prebbleton can be safely managed on the basis of the evidence led at the hearing.
PC68-0008	Jonelle Bowman	002	Oppose	Infrastructure - The submitter is concerned that the Prebbleton Primary School, other primary school and Lincoln High School may not have adequate capacity to accommodate the increasing number of children.	Consultation with Ministry of Education & local schools for advice	Decline. Future consultation with Ministry of Education and local schools is referred to in the recommendations.
PC68-0008	Jonelle Bowman	003	Oppose In Part	Urban form - There would be an isolated block of 5 properties on Trents Road that will remain Rural Inner Plains Zone, surrounded on three sides by potentially Living Z zoned land. The blocks have businesses and rural lifestyle blocks with livestock, machinery, tractors, industrial hedge trimming & fires that are immediately surrounded by residential homes.	Amend to include the 5 blocks into the zoning request to keep residential environment consistent with immediate neighbouring properties.	Decline. The proposal to include the five blocks into the zoning request is unable to be accepted because of the jurisdictional issues which have been ruled upon in the recommendations.
PC68-0008	Jonelle Bowman	004	Oppose In Part	Urban form and density - The submitter is concerned that the volume of proposed sections are too high for land that are adjacent to Rural Inner Plains land.	Amend to Living 3 Zone	Decline. The volume of the proposed sections is appropriate for the reasons which are set out in the recommendations.
PC68-0008	Jonelle Bowman	005	Oppose In Part	Traffic - The submitter is concerned for the unsafe pedestrian access along Trents road to the new proposed road access into the subdivision.	Amend to include footpaths continually along Trents road to the access road.	Accept. The Outline Development Plan has been amended to include footpaths continuing on Trents Road to the access road.
PC68-0008	Jonelle Bowman	006	Oppose In Part	Neighbour consultation - There was lack of consultation by developers with all the owners to include the five two-hectare blocks on Trents Road into overall zoning change.	Amend to include the five blocks into zoning change.	Decline. See response to Point 3.
PC68-0009	Richard Bowman	001	Oppose In Part	Neighbour consultation - there was inadequate consultation with neighbours regarding inclusion within the plan change	Amend the plan change to include the 10 ha block.	Decline. The proposal to include the five blocks into the zoning request is unable to be accepted because of the jurisdictional issues which have been ruled upon in the recommendations..
PC68-0009	Richard Bowman	002	Oppose In Part	Reverse sensitivity - having residential neighbours will limit the ability to undertake productive rural activities.	Amend the plan change to include the 10 ha block.	Decline. Reverse sensitivity considerations do not justify amending the plan change to include the 10 ha block. There is a jurisdictional bar to considering the amendment to the plan change for the reasons particularised in the recommendations..
PC68-0009	Richard Bowman	003	Oppose In Part	Urban form - Include the 10ha rural block to create a more integrated area with roading connections	Amend the plan change to include the 10 ha block.	Decline. There is a jurisdictional bar to contemplating the amendment of the plan change to include the 10 ha block as is discussed in the recommendations.



PC68-0010	Mark Rhodes	001	Support	Housing supply - The plan change would create space for people to buy houses and be part of the community. The rezoning would benefit the community through more parks, footpaths, wider roads with reduced speed limits down Trent's and Hamptons Road.	Approve the Plan Change	Accept For the reasons set out in full in the recommendations.
PC68-0012	David Somerfield	001	Oppose	Neighbour consultation - The applicant has not made any contact with the submitter who is an adjoining landowner.	Plan Change to be declined. If Plan Change is to be approved, rules and ODP amendments would be needed. a. Minimum lot size for any allotments created adjoining submitter's property at 382 Trents Road and other properties zoned Inner Plains/General Rural be a minimum of 5000m2 b. Lots adjoining our property must have a buffer zone (no build zone/building restriction in accordance with the New Zealand Standard 8409:1999: Code of practice for the management of agricultural chemicals. August 1999. This standard recommends for sensitive areas (i.e. Residential areas) that a buffer zone of more than 100 metres is imposed to ensure the risk to human	Decline. The concerns regarding reverse sensitivity are justified and commented upon in the recommendations. However the question of whether there needs to be a buffer created by minimum lot sizes adjacent to the Somerfield property or a buffer zone are matters to be considered at the time of subdivision and not at this time, in accordance with the findings made in the recommendations.
PC68-0012	David Somerfield	002	Oppose	Reverse sensitivity - The submitter operates a long-established plant nursery adjacent to the site. The normal activities includes, noise, dust, odour, sprays, and truck movements that are appropriate in a rural environment but that may generate complaints from new residential neighbours.	Decline the Plan Change	Decline. The concerns regarding reverse sensitivity are justified and commented upon in the recommendations. However the question of whether there needs to be a buffer created by minimum lot sizes adjacent to the Somerfield property or a buffer zone are matters to be considered at the time of subdivision and not at this time, in accordance with the findings made in the recommendations.

PC68-0012	David Somerfield	003	Oppose	Infrastructure - The submitter's nursery business uses an onsite bore that is 18 metres deep. Over the 2 to 3 years, there has been a decline in available water volume at times. Drawing more water to service the proposed residential development could have a significant effect on the water available for our house and business.	Decline the Plan Change	Decline. On the basis of the evidence of Mr Hall, any issues with the supply of water are covered by the strategy of SDC for the supply of potable water and should a new well be required then it is expected that that can be accommodated. Accordingly water supply does not inhibit the potentiality of the land to be developed.
PC68-0012	David Somerfield	004	Oppose	Urban form and density - The proposal will have negative impact as higher urban form will establish adjacent to lands currently zoned as Inner Plains/General Rural Zoning. The proposed rezoning will result in loss of rural character and rural visual amenity and loss of productive lands.	Decline the Plan Change	Decline. The issues of negative impact on adjacent lands, loss of rural character, rural visual amenity and loss of productive lands have all been considered and found not to justify the declination of the approval of PC68.
PC68-0013	Andrew Dollimore	001	Oppose	Urban form - This land is outside the residential areas in the GCUDS and the SDP. Furthermore, this land is inner plains, which the SDP protects. Accordingly, this proposal is inconsistent with all the medium term and long planning collateral for this area. If SDC planning collateral is going to have any credibility this application must be declined.	Decline the Plan Change	Decline. Consideration has been given to the status of the land the subject of PC68 in the context of the instruments mentioned by Mr Dollimore. For the reasons traversed in the recommendations, the matters raised by Mr Dollimore do not justify declining PC68.
PC68-0013	Andrew Dollimore	002	Oppose	Village Character - This plan change would add 820 houses to Prebbleton. Such increase in housing units would significantly change the nature of Prebbleton.	Decline the Plan Change	Decline. Whilst the nature of Prebbleton will change, for the reasons expressed in the recommendations, the changes do not justify refusing consent to PC68.
PC68-0013	Andrew Dollimore	003	Oppose	Infrastructure - The development arising from the plan change would add significant demand on Prebbleton's three waters. Ratepayers should not have to incur any costs in this regard.	Decline the Plan Change	Decline. Full consideration has been given to the issue of the provision of infrastructure and the costs associated with new infrastructure. For the reasons expressed in the recommendations, the matters raised by Mr Dollimore do not justify refusing consent to PC68.
PC68-0013	Andrew Dollimore	004	Oppose	Transport - The combined effects of all Prebbleton and Lincoln Plan Change needs to be considered. Springs Road is already operating near capacity at certain times. The proposed development to add 820 houses arising from this plan change, is likely to add thousands of daily vehicle movements to the local roads which may not be feasible.	Decline the Plan Change	Decline. The effects of PC68 on the transport network have been fully considered in the recommendations. The transportation network is able to handle the additional traffic generated by PC68 and accordingly the matters raised by Mr Dollimore do not justify refusal of consent to PC68.
PC68-0013	Andrew Dollimore	005	Oppose	Urban form - The four plan change requests for Prebbleton and Lincoln will have combined negative impact on schooling, roading, the environment, the GCUDS and the SDP. There is a need to assess all Prebbleton plan changes in a combined manner.	Decline the Plan Change	Decline. Full consideration has been given to the question of urban form including the impact on schooling, roading and the environment. It is not possible to assess all Prebbleton plan changes in a combined manner for the reasons set out in the recommendations. Accordingly the matters raised by Mr Dollimore do not justify refusal of consent to PC68.



PC68-0017	S J Shamy	001	Oppose	Urban form - Plan Change would erode the amenity values of the currently existing rural property because few blocks of the land remains rural while other area become rezoned to intensive development.	Decline the Plan Change (preferred decision. If the plan change is approved then also include 701 Shands Road to be rezoned for residential development in same intensity as PC68	Decline. The issue of urban form has been fully considered in the recommendations. The change in amenity values referred to do not justify refusal of consent to PC68. As to the request to include 701 Shands Road in PC68, there is a jurisdictional bar to this inclusion which is fully traversed in the recommendations.
PC68-0018	Waka Kotahi NZ Transport	001	Neither Support Nor Oppose	Urban form and density - If approved, increase the density to a minimum of 15 households per hectare.	Amend the plan change to provide a minimum of 15 households per hectare	Decline. Full consideration was given to the question of amending the plan change to provide for a minimum of 15 households per hectare, rather than 12 households per hectare. For the reasons set out in the recommendations, the preferred option of 12 households per hectare has been adopted.
PC68-0018	Waka Kotahi NZ Transport	002	Neither Support Nor Oppose	Transport - Provision for multi-modal transport particularly walking and cycling is important. Therefore need to include facilities where the people will be able to travel to other destination such as retail stores, restaurants or reserves without using private vehicle.	Amend the plan change to better provide for multi-modal transport through and adjoining sites and any other options needs to be incorporated into the plan change	Accept in part. Amendments have been made to the Outline Development Plan to provide for cycling and pedestrian movements. Beyond this, there is no need for further amendments.
PC68-0018	Waka Kotahi NZ Transport	003	Neither Support Nor Oppose	Urban form - The Plan Change should be assessed against objectives and policies of the NPS-UD to reduce carbon emissions. The plan change would have transport associated carbon emissions due to reliance on private vehicles to commute to city as there is limited job opportunities and local amenities within the Prebbleton township.	Assess the plan change against objectives and policies of the NPS-UD to reduce contribution of carbon emissions.	Accept. PC68 has been assessed against the objectives and policies of the NPS-UD in relation to the contribution of carbon emissions. See the recommendations.
PC68-0019	Chris & Carol White, Adam	001	Support In Part	Urban form - Extending PC68 to the Lots 1 and 2 DP 7939 would be a better use of land because it would connect naturally to residential environment on the north side of the Hamptons Road. Therefore, it would create a more coherent residential environment.	Amend the plan change to include Lots 1 and 2 DP79319	Decline. Consideration was given amending the plan change to include the lots in question. However, for the reasons fully set out in the recommendations, there is no jurisdiction to include these lots.
PC68-0019	Chris & Carol White, Adam	002	Support In Part	Transport - If the zoning be approved, the traffic environment will need to be suitable for increased pedestrian and cyclists. Therefore, Hamptons road should be changed to an urban road with a 50km speed limit with pedestrian footpaths and cycle paths.	Amend the plan change to reduce the speed limit along Hamptons Rd to 50kph and reform the road to include kerb and channel (on both sides of the road), pedestrian footpaths, and cycleways.	Decline. Any amendments to the speed limit will be a matter to be considered by the Council at a later date.

C68-0020	Peter Hunter	001	Oppose	Transport - PC68 will exacerbate the growing transportation conflicts at the Springs Road-Trentis Road intersection and Springs Road - Hamplons Road intersection.	Decline the Plan Change, unless traffic issues are resolved.	Decline. Transportation matters have been fully considered in the recommendations. For the reasons set out in the recommendations transport matters can be accommodated and do not dictate that there should be a refusal of consent to PC68.
PC68-0021	Murray and Julie Fletcher	001	Oppose	Transport - The background information and traffic projection used and concluded in the Traffic reports is flawed where planned development would put more pressure than expected. The Plan Change is private motor vehicle based. It does not consider the use of walking, cycling and public transport, other than some cursory comments. There should be planning to show how the public transport system can be extended to accommodate the development and the effect that this will have on reducing vehicle numbers and carbon use.	Decline the Plan Change	Decline. Full consideration has been given to the matters raised by Mr and Mrs Fletcher in relation to transportation matters. For the reasons set out in the recommendations transport matters can be accommodated and do not dictate that there should be a refusal of consent to PC68.
PC68-0021	Murray and Julie Fletcher	002	Oppose	Urban form - The PC needs to consider carbon reduction and combined effects of other developments in the Selwyn District.	Decline the Plan Change	Decline. Proper consideration has been given to carbon reduction and the combined effects of other developments in the Selwyn District, to the extent that that has been possible. These matters do not justify refusal of consent to PC68.
PC68-0021	Murray and Julie Fletcher	003	Oppose	Infrastructure - More information is required to demonstrate how current infrastructure can cater for the development.	Decline the Plan Change	Decline. Extensive evidence has been heard in relation to the provision of infrastructure which is referred to in the recommendations. For the reasons set out in the recommendations there is satisfaction that proper provision is able to be made for infrastructure and accordingly the matters raised do not justify refusal of consent to PC68.
PC68-0022	Tania Hefer	001	Oppose	Urban Form - There are multiple plan change request for Prebbleton, Rolleston and Lincoln. These plan change request needs to be assessed collectively to consider the impacts as a whole instead of each township.	Decline the Plan Change	Decline. Consideration has been given to the fact that there are multiple plan change requests as noted. It has not been possible to make a full collective assessment of these changes for the reasons fully traversed in the recommendations. These matters do not justify refusal of approval to PC68.
PC68-0022	Tania Hefer	002	Oppose	Transport - This development will add traffic for an additional 820 household on existing infrastructure, especially given wider growth Lincoln, Prebbleton and Rolleston.	Decline the Plan Change	Decline. Transportation matters have been fully considered in the recommendations. For the reasons set out in the recommendations transport matters can be accommodated and do not dictate that there should be a refusal of consent to PC68.
PC68-0022	Tania Hefer	003	Oppose	Village character - Prebbleton and Lincoln are semi-rural townships and are not intended to be the focus of development in Selwyn. This proposed plan change, together with the other two plan changes specifically in relation to Prebbleton will dramatically impact on the character of Prebbleton and of the Prebbleton/Lincoln area.	Decline the Plan Change	Decline. The impact of PC68 on the character of Prebbleton and the Prebbleton/Lincoln area has been properly considered in the recommendations. For the reasons set out in the recommendations this objection does not justify refusal of consent to PC68.



PC68-0022	Tania Hefer	004	Oppose	Infrastructure - The growth proposed by this plan, especially when taken together with the other proposed plan changes currently before Council, will put pressure on Prebbleton schools (and consequently Lincoln schools as many high schoolers from Prebbleton attend Lincoln High), Prebbleton medical facilities, and Council	Decline the Plan Change	Decline. The issue of the impact on schooling has been addressed in the recommendations. The matters raised by Ms Hefer do not justify refusal of consent to PC68.
PC68-0023	Gary Burgess	001	Neither Support Nor Oppose	Urban form - The plan change needs to be considered with other rezoning requests for Prebbleton so that environment effects can be comprehensively considered which includes traffic, amenity of Prebbleton township, site interfaces and capacity of Council reticulated services.	Council to defer consideration of this private plan change and consider site rezoning comprehensively as part of the Proposed Selwyn District Plan Review.	Decline. For the reasons set out in the recommendations, it is not possible for the plan change to be deferred for the reasons raised by Mr Burgess. To the extent which has been possible consideration has been given to the impact of other zoning requests for Prebbleton.
PC68-0024	Lyn & Malcolm Lee	001	Oppose In Part	Urban form and density - change in character with section sizes small as 200m2.	Amend the plan change to have minimum 5000m2 lots.	Decline. Full consideration has been given to the question of the appropriate size for the allotments which are intended to be the subject of PC68. For the reasons set out in the recommendations, it is not appropriate to amend the plan change to have minimum 5000 m <sup>2</sup> lots.
PC68-0025	Greg & Jenny Tod	001	Oppose	Traffic - Strongly oppose the location of the egress for the PC68 onto Trents Road. The submitter's plant nursery business frequently has large trucks and trailer vehicles that need to park on the road/grass verge to be unloaded right opposite to where the new road is proposed. Therefore, this would restrict the intersection and unsafe for motorists. Please see the original submission for full detail.	Decline the Plan Change. If the plan change is accepted then amend the plan change to: a. Section sizes are greater than 5000m2 b. The spine road dwellings do not egress onto Trents Road c. Keep the rural feel of Trents Road by a 20m mass planting along Trents Road as a visual barrier.	Decline. The matter of section sizes has been considered. As recorded in the recommendations, the suggestion that section sizes be greater than 5000 m <sup>2</sup> has not been accepted. As to the suggestion that the spine road dwellings do not egress onto Trents Road, expert evidence in relation to this matter suggests that there will not be a problem with this. As to the matter of keeping a rural feel of Trents Road by mass planting along Trents Road, this is a matter which has been dealt with in the ODP where there is provision for a frontage upgrade.

PC68-0025	Greg & Jenny Tod	002	Oppose		Reverse sensitivity, it would have adverse impact on the visual amenity, lifestyle, environment, safety, privacy, well-being and submitter's business.	Decline the Plan Change, if the plan change is accepted then amend the plan change to: a. Section sizes are greater than 5000m <sup>2</sup> b. The spine road dwellings do not egress onto Trents Road c. Keep the rural feel of Trents Road by a 20m mass planting along Trents Road as a visual barrier.	Decline the Plan Change, if the plan change is accepted then amend the plan change to: a. Section sizes are greater than 5000m <sup>2</sup> b. The spine road dwellings do not egress onto Trents Road c. Keep the rural feel of Trents Road by a 20m mass planting along Trents Road as a visual barrier.	Decline. See Point 1 above.
PC68-0026	Christchurch City Council	001	Oppose		Urban form - The plan change is not in a location anticipated by the CRPS and potentially slows the development of other areas that are better served by infrastructure and public transport.	Decline the Plan Change	Decline. The reasons for the plan change not being in a location anticipated by CRPS is fully traversed in the recommendations as is the issue of service by infrastructure and public transport.	Decline. The reasons for the plan change not being in a location anticipated by CRPS is fully traversed in the recommendations as is the issue of service by infrastructure and public transport.
PC68-0026	Christchurch City Council	002	Oppose		Transport - The plan change will result in increase in commuter traffic into Christchurch City thus the results in increased emission, congestion and longer journey times and is not well served by public transport.	Decline the Plan Change	Decline. The increase in commuter traffic into Christchurch, increased emissions, congestion and longer journey times and service by public transport are all matters which have been fully considered in the recommendations and do not justify rejection of PC68.	Decline. The increase in commuter traffic into Christchurch, increased emissions, congestion and longer journey times and service by public transport are all matters which have been fully considered in the recommendations and do not justify rejection of PC68.
PC68-0026	Christchurch City Council	003	Oppose		Density - Increased densities would better achieve efficiencies in coordinating land use and infrastructure, support mixed land use activities, support multi-modal transport systems and protect the productive rural land resource.	Decline the Plan Change, if approved, then amend the plan change to require a minimum of 15 households per hectare.	Decline. Consideration has been given to amending the plan change to require a minimum of 15 households per hectare but on the basis of the evidence, the increase in density sought is not appropriate and a minimum of 12 households per hectare is a more appropriate measure.	Decline. Consideration has been given to amending the plan change to require a minimum of 15 households per hectare but on the basis of the evidence, the increase in density sought is not appropriate and a minimum of 12 households per hectare is a more appropriate measure.
PC68-0026	Christchurch City Council	004	Oppose		Affordable housing - The Greater Christchurch Partnership are working together on developing Social and Affordable Housing Action Plan. The Christchurch City Council request that the relevant recommendations of Social and Affordable Housing Action Plan be incorporated in the Plan Change.	Decline the Plan Change, if approved then incorporate the recommendations of the Social and Affordable Housing Action Plan.	Decline. Given the temporal restraints imposed by the NPS-UD, it is inappropriate to await the recommendations of the Social and Affordable Housing Action Plan and accordingly this does not justify rejection of PC68.	Decline. Given the temporal restraints imposed by the NPS-UD, it is inappropriate to await the recommendations of the Social and Affordable Housing Action Plan and accordingly this does not justify rejection of PC68.



PC68-0027	Ministry of Education	001	Oppose	<p>Infrastructure - The applicant has not consulted with the Ministry of Education, has not shown any site for a school in the ODP, and has not assessed if a new school is required. The proposal will increase the traffic congestion on the main arterial road (Springs Road) and the ITA has not considered the traffic safety effects on Prebbleton School during peak pick-up and drop-off times.</p>	<p>Decline the Plan Change. If approved, then consult with the Ministry regarding provision for a new school within the ODP and undertake an assessment of traffic effects on school traffic at the Springs Road/Blakes Road Roundabouts outside Prebbleton School</p>	<p>Accept in part. A letter from the Ministry of Education dated 15 March 2022 confirms that the Ministry had met with the consultant of the applicant to address submission points and was satisfied with the educational facilities and safe transport routes indicated on the revised Outline Development Plan. The Ministry requested that if PC68 was approved, the proposed enabling additions regarding educational facilities and pedestrian/cycle routes shown in the revised ODP are included. This has been attended to.</p>
PC68-0028	Laura Chisholm	001	Oppose	<p>Infrastructure - This land is only partially represented within the Rural Residential Strategy and Prebbleton Structure Plan. The existing infrastructure and community facilities cannot service this rezoning.</p>	<p>Decline the Plan Change</p>	<p>Decline. The fact that the land is only partially represented within the Rural Residential Strategy and Prebbleton Structure Plan has been considered in the recommendations, as have all issues relating to infrastructure. Neither of these matters justify rejection of PC68.</p>
PC68-0028	Laura Chisholm	002	Oppose In Part	<p>Urban form and density - Rezone existing urban zones before expanding township to rural zone.</p>	<p>Amend the Plan Change to rezone the existing developed Conifer Grove from Living 3 to Living Z, or similar density, to avoid sprawl and increase housing density within the existing township limits, and to coincide with this plan change request. Decline the Plan Change. Amend – rezone other existing lower density, developed Prebbleton township zones to higher density zones i.e. Trices Rd (between Shards/Springs), Aberdeen, and such like, to avoid sprawl and increase housing density within the existing township limits.</p>	<p>Decline. It is inappropriate to consider the rezoning of existing urban zones before expanding the township as contemplated by PC68. This does not represent a proper basis for rejecting PC68. In any event it is clear that there are jurisdictional barriers to proceeding in the manner suggested in this submission.</p>

PC68-0028	Laura Chisholm	003	Oppose	Village character - There is no distinction between the township and rural areas.	Amend the Plan Change so that a clear distinction needs to be made at the boundary, which includes: larger lots on the boundary (5000m2 minimum), openscape fencing, retain large shelter belts and tree lines	Decline. Appropriate consideration has been given to the form of PC68. It is noted that this includes low density lots adjacent to Shands Road. Otherwise for the reasons set out in the recommendations the development reflected in the ODP and narrative justifies approval of PC68 without further amendments.
PC68-0028	Laura Chisholm	004	Oppose In Part	Infrastructure - the existing underground or above ground infrastructure may not be able to service this rezoning.	Decline the Plan Change. If approved, amend to provide restricted water supply, pressure sewer systems, dedicated green space and reserve for stormwater management etc.	Decline. The issues of water supply and stormwater have been fully considered and the proposals set out in the recommendations are satisfactory and justify approval being granted to PC68.
PC68-0028	Laura Chisholm	005	Oppose	Transport - There could be problems by increasing the traffic volume on the existing Hampton-Springs Road intersection, Trents-Springs Road intersection, Hampton - Shands Road intersection and Trents-Shands Road intersection. And consequently Birchs-Springs Rd intersection and Prebbleton Township. This rezoning would increase the demand on these roads and intersections and pedestrians, cyclist and primary and intermediate school aged children wouldn't be safe without appropriate management or connectivity to the existing pedestrian and cycle network. The site is not well serviced by public transport	Decline the Plan Change	Decline. The relevant transportation matters have been considered in the recommendations and the transportation proposals found to be satisfactory for the reasons which are expressed in the recommendations.
PC68-0028	Laura Chisholm	006	Oppose	Village character - There could be negative visual impacts of the rezoning by stripping off the well-established vegetation to make bare lands which also impacts how Prebbleton will be perceived. Furthermore, the outlook along Trents and Hampton Roads will be negatively impacted by removing existing well-established rural shelter belts/trees/hedging/plantation removed.	Decline the Plan Change	Decline. Whilst there will be a change in visual impacts associated with the rezoning including the removal of well-established vegetation, the proposed development of the area the subject of PC68, reflected in the ODP and narrative, will not result in negative visual impacts which justify rejection of PC68.
PC68-0029	Angus Chisholm	001	Oppose	Infrastructure - This land is only partially represented within the Rural Residential Strategy and Prebbleton Structure Plan. The existing infrastructure and community facilities cannot service this rezoning.	Decline the Plan Change	Decline. Whilst it is correct that the land is only partially represented within the Rural Residential Strategy and Prebbleton Structure Plan, the evidence establishes that the infrastructure and community facilities are able to service the rezoning and that the matters raised do not justify rejection of PC68.



PC68-0029	Angus Chisholm	002	Oppose In Part	Urban form and density - Rezone existing urban zones before expanding township to rural zone.	Decline the Plan Change	Decline. There is no jurisdiction to rezone the existing urban zones in the context of PC68 and this matter does not justify rejection of approval of PC68.
PC68-0029	Angus Chisholm	003	Oppose	Village character - There is no distinction between the township and rural areas.	Decline the Plan Change	Decline. Matters of village character have been properly taken into account in the recommendations and this matter does not justify rejection of PC68.
PC68-0029	Angus Chisholm	004	Oppose In Part	Infrastructure - the existing underground or above ground infrastructure may not be able to service this rezoning.	Decline the Plan Change. If approved, amend to provide restricted water supply, pressure sewer systems, dedicated green space and reserve for stormwater management etc.	Decline. The issues of water supply and stormwater have been fully considered and the proposals set out in the recommendations are satisfactory and justify approval being granted to PC68.
PC68-0029	Angus Chisholm	005	Oppose	Transport - There could be problems by increasing the traffic volume on the existing Hampton-Springs Road intersection, Trents-Springs Road intersection, Hampton- Shands Road intersection and Trents-Shands Road intersection. And consequently Birchs-Springs Rd intersection and Prebleton Township. This rezoning would increase the demand on these roads and intersections and pedestrians, cyclist and primary and intermediate school aged children wouldn't be safe without appropriate management or connectivity to existing pedestrian and cycle network. The site is not well serviced by public transport	Decline the Plan Change	Decline. The relevant transportation matters have been considered in the recommendations and the transportation proposals found to be satisfactory for the reasons which are expressed in the recommendations.
PC68-0029	Angus Chisholm	006	Oppose	Village character - There could be negative visual impacts of the rezoning by stripping off the well-established vegetation to make bare lands which also impacts how Prebleton will be perceived. Furthermore, the outlook along Trents and Hampton Roads will be negatively impacted by removing existing well-established rural shelter belts/trees/hedging/plantation removed.	Decline the Plan Change	Decline. Whilst there will be a change in visual impacts associated with the rezoning including the removal of well-established vegetation, the proposed development of the area the subject of PC68, reflected in the ODP and narrative, would not result in negative visual impacts which justify rejection of PC68.

PC68-0030	Adam & Sarah Pollard	001	Oppose In Part	<p>Village character - The Plan Change provides high density development in a rural setting that does not match with the rural area and will negatively impact rural amenity and outlook, with a loss of arable land.</p>	<p>Decline the Plan Change.</p> <p>If it is approved then the following amendments are sought:</p> <ul style="list-style-type: none"> <li>-Sections size to increase to 700m2 at the Sterling park ends and minimum of 5000m2 as the development proceeds North towards Shands Road.</li> <li>-No development zones around existing properties</li> <li>-No complaint covenant against existing landowners and businesses.</li> <li>-Properties facing Trents and Hamptons Road to have a set back and planted boundary to retain rural feel of Trents and Hamptons Road</li> <li>-No direct entry to sections off Trents and Hamptons Road</li> <li>-Prior to any final designs for residential</li> </ul>	<p>Decline.</p> <p>Proper consideration has been given to increasing section sizes. Large section sizes are which are desired are inappropriate for the reasons set out in the recommendations.</p> <p>Consideration has been given to reverse sensitivity matters. The suggestion that there be no development zones around existing properties is not appropriate and does not justify rejection of PC68. Further, there is no need for a no complaint covenant against existing landowners and businesses at this stage. As is recorded in the recommendations, consideration to reverse sensitivity matters will be able to be addressed at the subdivision stage.</p> <p>As to the suggestion of setback, the development contemplated by the Outline Development Plan and narrative is appropriate. The suggestion of the lack of a setback and planted boundary is not a matter which justifies rejection of PC68.</p> <p>As to the direct entry matter, the access and egress provisions which are the subject of the ODP and narrative, as supported by the expert transport evidence, are appropriate.</p>	<p>Decline.</p> <p>Impacts on Prebbleton School have been considered. The expert evidence establishes that there will not be any adverse impact on water quality to wells due to the discharge of stormwater.</p> <p>Decline.</p> <p>Cumulative traffic effects and public transport links have been fully considered in the recommendations and have been found to justify approval to PC68.</p> <p>Decline.</p> <p>Whilst concerns regarding reverse sensitivity are justified, as is reflected in the recommendations, this matter can be appropriately dealt with at a later stage, namely at the time of subdivision processes.</p> <p>Decline.</p> <p>There is no jurisdiction to deal with this matter having regard to full discussion of this matter in the recommendations.</p>
PC68-0030	Adam & Sarah Pollard	002	Oppose In Part	<p>Infrastructure - The Plan Change will result in impacts on Prebbleton School Capacity, impact on water quality from the submitter's well due to discharge of storm water to soak pits.</p>	<p>Decline the Plan Change</p>	<p>Decline.</p>	<p>Decline.</p> <p>Impacts on Prebbleton School have been considered. The expert evidence establishes that there will not be any adverse impact on water quality to wells due to the discharge of stormwater.</p>
PC68-0030	Adam & Sarah Pollard	003	Oppose In Part	<p>Transport - The Plan Change will result in cumulative traffic pressure, and no public transport links.</p>	<p>Decline the Plan Change</p>	<p>Decline.</p>	<p>Decline.</p> <p>Cumulative traffic effects and public transport links have been fully considered in the recommendations and have been found to justify approval to PC68.</p>
PC68-0030	Adam & Sarah Pollard	004	Oppose In Part	<p>Reverse sensitivity - having residential neighbours will limit the ability to undertake productive rural activities.</p>	<p>Decline the Plan Change</p>	<p>Decline.</p>	<p>Decline.</p> <p>Whilst concerns regarding reverse sensitivity are justified, as is reflected in the recommendations, this matter can be appropriately dealt with at a later stage, namely at the time of subdivision processes.</p>
PC68-0031	Mark & Joanne Hamlyn	001	Support In Part	<p>Urban form - The property 386 and 398 Trents Road will be isolated by PC68 therefore it will be unlikely to continue activities intended under Rural Inner Plains i.e. run livestock, use farm machinery, burnoffs. Therefore, the properties should be included and considered for re-zoning approval as well.</p>	<p>Amend the Plan Change to include the 386 and 398 Trents Road</p>	<p>Decline.</p>	<p>Decline.</p> <p>There is no jurisdiction to deal with this matter having regard to full discussion of this matter in the recommendations.</p>



PC68-0031	Mark & Joanne Hamlyn	002	Support In Part	Infrastructure - Council needs to meet the water needs for future subdivision and home owners and protect is quality, quantity and use.	Amend the Plan Change to implement 'Grey Water' requirement for all building consents in the Selwyn District.	Decline. Full consideration has been given to the issue of the provision of water in relation to quality, quantity and use and the conclusion is that the water needs in question will be able to be addressed in the context of PC68 and accordingly this matter does not justify rejection of PC68.
usifyPC68-0032	Kate Mayne & Trevor Holder	001	Oppose In Part	Village Character - The proposed plan change will negatively impact the rural character, rural amenity and visual outlook and change it to residential character. Furthermore, there would be accumulative effects on the traffic pressure. Please see the original submission for full detail.	Decline the Plan Change. If it is approved by the Council, the following amendments are sought: -Sections size to increase to 700m2 at the Sterling park ends and minimum of 5000m2 as the development proceeds North towards Shands Road. -No development zones around existing properties -No complaint covenant against existing landowners and businesses. -Properties facing Trents and Hamptons Road to have a set back and planted boundary to retain rural feel of Trents and Hamptons Road -No direct entry to sections off Trents and Hamptons Road	Decline. There will be a change in rural character, rural amenity and visual outlook, this does not justify rejection of PC68 having regard to the expert evidence in relation to these matters recorded in the recommendations.  The question of increasing section sizes has been fully considered in the recommendations and found not to be justified.  Proper consideration has been given to increasing section sizes. Large section sizes are which are desired are inappropriate for the reasons set out in the recommendations. Consideration has been given to reverse sensitivity matters. The suggestion that there be no development zones around existing properties is not appropriate and does not justify rejection of PC68. Further, there is no need for a no complaint covenant against existing landowners and businesses at this stage. As is recorded in the recommendations, consideration to reverse sensitivity matters will be able to be addressed at the subdivision stage.  As to the suggestion of setback, the development contemplated by the Outline Development Plan and narrative is appropriate. The suggestion of the lack of a setback and planted boundary is not a matter which justifies rejection of PC68.  As to the direct entry matter, the access and egress provisions which are the subject of the ODP and narrative, as supported by the speed of access, are appropriate.
PC68-0032	Kate Mayne & Trevor Holder	002	Oppose	Transport - Cumulative traffic pressure and a lack of public transport	Decline the Plan Change	Decline. Cumulative traffic effects and public transport links have been fully considered in the recommendations and have been found to justify approval to PC68.

PC68-0033	Warren Ladbroke	001	Oppose In Part	<p>Transport - The proposed plan creates an adverse impact on the traffic within Prebbleton. Springs-Trent Road intersection is a dangerous for both pedestrians and cyclists to cross. It is highly likely that the additional traffic would impact the intersections with Springs Road.</p>	<p>Decline the Plan Change. If it is approved by the Council the following amendments are sought:</p> <ol style="list-style-type: none"> <li>1. The development should be directed to Hamptons Rd since Hamptons Rd is an arterial route with a proposed round about scheduled for access to Springs and Shands Rd.</li> <li>2. Reduce speed on Trents Rd, and the construction of traffic calming measures on Trents Rd.</li> <li>3. Require construction of pedestrian (and cycle) safety refuges for crossing Springs Rd and Birches Rd at Trents Rd, prior to development.</li> <li>4. Require a slower speed and traffic calming measures on Springs Rd to mitigate against adverse impacts of</li> </ol>	<p>Decline.</p> <p>As to transportation matters, full consideration has been given to the impact of traffic generated by PC68 and the expert evidence the subject of PC68 established that the additional traffic can be properly accommodated. See the recommendations for a discussion of this matter.</p> <p>As to the direction of the development, it is inappropriate to direct the development to Hamptons Road. The design of the development reflected in the ODP and associated narrative is appropriate and has justified approval of PC68.</p> <p>As to the reduction of speed on Trents Road, this is a matter to be addressed by the Council independently of the consideration of PC68.</p> <p>As to the construction of pedestrian (and cycle) safety refuges, it is noted that the Outline Development Plan contains cycle pathways. The matter of construction of pedestrian (and cycle) safety refuges is a matter which can be dealt with by the Council at a later time, it being inappropriate for this matter to be dealt with at this time. The same comment applies to the imposition of slower speed and traffic calming measures.</p>	<p>Decline.</p> <p>AS to urban form and density, proper consideration has been given to the effect of the instruments referred to in this submission. For the reasons which are fully traversed in the recommendations, these matters have not been found to justify rejection of PC68.</p>	<p>Decline.</p> <p>Proper consideration has been given to the status of the Pines Wastewater Treatment Plant. It is able to be upgraded. Reference is made to the recommendations where this matter is fully considered.</p>
PC68-0034	Canterbury Regional Council	001	Oppose	<p>Urban form and density - The proposed plan change 68 does not give effect to NPS-UD objectives and policies (Objective 6(a) - (b) and Objective 8(a) and Policy 6). Furthermore, further development capacity in Prebbleton is not required at this time to meet the medium and long term housing targets identified Our Space 2018-2048 and expressed in CRPS. Oversupply of land in Prebbleton could equally undermine urban form objectives, delay development in growth and urban regeneration in areas already identified through the CRPS. Please see the original submission for full detail.</p>	<p>Decline the Plan Change</p>	<p>Decline.</p> <p>AS to urban form and density, proper consideration has been given to the effect of the instruments referred to in this submission. For the reasons which are fully traversed in the recommendations, these matters have not been found to justify rejection of PC68.</p>		
PC68-0034	Canterbury Regional Council	002	Oppose	<p>Infrastructure - The PC application maybe inconsistent with Policy 6.3.5(2) because the Pines Waste Water Treatment Plant (WWTP) is currently almost at full capacity and the plan change may exacerbate the capacity even further. Please see the original submission for full detail.</p>	<p>Decline the Plan Change</p>	<p>Decline.</p> <p>Proper consideration has been given to the status of the Pines Wastewater Treatment Plant. It is able to be upgraded. Reference is made to the recommendations where this matter is fully considered.</p>		



PC68-0034	Canterbury Regional Council	003	Oppose	<p>Transport - The proposed plan change site will be heavily dependent on private motor vehicles. The site is not within a walkable catchment of the current public transport service for Prebbleton and significant portion of the commuter traffic is from Prebbleton to Christchurch City. Therefore the plan change does not meet wider transport network and land use integration outcomes sought by Objective 6.2.4 and Policies 6.3.4 and 6.3.5. Please see the original submission for full detail.</p>	Decline the Plan Change	<p>Decline.</p> <p>The transportation matters which are referred to in this part of the submission have been fully considered. The impact on the wider transport network has been properly considered and found to justify approval to PC68. Reference is made in the recommendations.</p>
PC68-0034	Canterbury Regional Council	004	Oppose	<p>Urban form and density - The plan change site is identified on Canterbury Maps as comprising Land Use Capability Classes 2, 3, and 4 using New Zealand Resource Inventory data set from Manaaki Whenua Landcare Research. The site is likely to conflict with the Selwyn District Plan Township Volume Policy B1.1.8 and proposed Selwyn District Plan Policy UG-P9. In addition, this would not comply with CRPS Policy 5.3.12 and Objective 3 of the proposed NPS-HPL. Please see the original submission for full detail.</p>	Decline the Plan Change	<p>Decline.</p> <p>The issue of versatile and other soils has been fully considered in the recommendations. The expert evidence has established that the impact on the soil resource does not justify rejection of PC68 and in particular the effect of PC68 on district and regional agricultural productivity potential is insignificant and the soils on the site are not capable of sustaining fully productive agricultural uses.</p>
PC68-0034	Canterbury Regional Council	005	Oppose	<p>Urban form and density - Further development capacity in Prebbleton is not required to meet the medium and long term housing targets identified in Our Space 2018-2048 and expressed in CRPS. Environment Canterbury does not consider that any localised capacity shortfalls must be addressed at an individual town level. Please see the original submission for full detail.</p>	Decline the plan change. Reassessment regarding the desirability of additional growth at Prebbleton is therefore best considered as part of a future spatial planning exercise rather than ad-hoc and individual assessments prompted by private plan change request	<p>Decline.</p> <p>The need to make provision for further growth in and adjacent to Prebbleton has been clearly established by expert evidence, this matter has been fully traversed in the recommendations. There is a requirement for the provision of further capacity which has justified recommending approval to PC68.</p>

PC68-0035	David & Fiona Lees	001	Oppose	Urban form and density - High density of proposed housing will not fit in with rural environment it would impact the quality of life, rural character and amenity.	Decline the Plan Change. If it is approved then the following amendments are sought: Lower density with larger sections with larger sections of the rural edge; investigate effects on ground water and flood hazard; neighbours be notified of the final subdivision design.	Decline. Proper consideration has been given to the question of whether the proposed development will fit in the existing environment and this is found to be so. Whilst there will be an impact on rural amenities, these do not justify the rejection of PC68. The suggestion that lower density with larger sections on the rural edge has been considered and the development proposed in the Outline Development Plan and narrative has found to be appropriate and satisfactory. As to groundwater and flood hazard, these matters have been fully considered and the concerns have been found not to justify rejection of PC68. Reference is made to the recommendations in this regard. As to being notified to the final subdivision design, this will be a matter to be addressed at subdivision stage and is not appropriate.
PC68-0035	David & Fiona Lees	002	Oppose	Transport - Cumulative traffic effects from the proposed development the proposed changes and other subdivisions which would cause safety issues with pedestrians, cyclists and children.	Decline the Plan Change	Decline. The traffic effects, including cumulative traffic effects have been fully considered in the recommendations. This records that transportation matters have been properly dealt with and justify PC68 being approved.
PC68-0035	David & Fiona Lees	003	Oppose	Infrastructure - water capacity and quality maybe impacted.	Decline the Plan Change	Decline. Proper consideration has been given to the issue of water capacity and quality associated with the development of the site the subject of PC68. The expert evidence establishes that there are no concerns in this regard.
PC68-0036	Marilyn and Stuart Thorne	001	Oppose	Transport - will increase traffic volume on already congested areas and Trent-Hamptons Roads.	Decline the Plan Change	Decline. The transportation matters have been fully considered in the recommendations and have been found to justify approval to PC68. This includes consideration of increased traffic volume associated with the development of PC68.
PC68-0036	Marilyn and Stuart Thorne	002	Oppose	Village Character - The high density housing will have negative impact on the rural amenity and environment that the current property owners of the area enjoy.	Decline the Plan Change	Decline. Whilst the development the subject of PC68 will undoubtedly affect the rural amenity and environment, proper consideration has been given to this aspect of matters in the recommendations and this has not been found to justify declining consent to PC68.
PC68-0037	Bernard and Andrea Parsonage	001	Oppose	Urban form- density The submitter resides directly opposite this proposal and have received no notification from the developers or council regarding the PC68 whatsoever. It has been brought to submitter's attention via Facebook and our concerned neighbours, there are many flaws in the documents and inaccurate information.	Decline the Plan Change	Decline. It is noted that Mr and Mrs Parsonage lodged a document recording their evidence in relation to outstanding matters and accordingly have allowed themselves an opportunity to comment on the matters the subject of PC68. In these circumstances the matter of notification does not justify rejection of approval to PC68.



PC68-0037	Bernard and Andrea Parsonage	002	Oppose	Transport - Shands road is zoned a "High Crash area". Additional 820 homes to an already high risk intersection is not appropriate. There is already very limited visibility at the Trents/Shands corner even without adding more traffic from a densely populated subdivision. Trents Rd is also a narrow rural Rd with no curbing or footpaths etc.	Decline the Plan Change	Decline. Transportation matters have been fully considered and expert evidence given in relation to relevant transportation matters. That evidence has established that transportation matters do not operate to justify rejection of approval to PC68.
PC68-0037	Bernard and Andrea Parsonage	003	Oppose	Urban form and density - The section size should be at a minimum of 5000sqm section sizes, as this is a rural area and would be in keeping with all the surrounding properties. Having 65% of the sections being 600-250sqm is not appropriate	Decline the Plan Change	Decline. The matter of increasing section sizes has been considered in the recommendations and attention is drawn to the relevant part of the recommendations. This matter does not justify rejection of approval of PC68.
PC68-0037	Bernard and Andrea Parson	004	Oppose	Infrastructure - Prebbleton School and Lincoln High are already at full capacity. Therefore, this area cannot sustain another 820 families without a new school	Decline the Plan Change	Decline. Consultations have taken place with the Ministry of Education which, as are noted in the recommendations, have resulted in the Ministry being satisfied with the proposals associated with PC68.
PC68-0038	Karen & Shayne Richardson	001	Oppose	Village character - The plan change will negatively impact the area by light, noise, dust pollution to the existing residents thus reducing rural character and amenity.	Decision not included.	Decline (on the assumption that declination of the plan change is sought). Whilst the development the subject of PC68 will impact on the area in relation to light, noise, dust and dust pollution and that rural character and amenity will change, these matters do not justify rejection of PC68. Attention is drawn to the relevant parts of the recommendations in relation to this matter.
PC68-0038	Karen & Shayne Richardson	002	Oppose	Traffic - There will be additional traffic congestion	Decision not included.	Decline (on the assumption that declination of the plan change is sought). Full consideration has been given to transportation matters. See the recommendations for a discussion of all relevant matters which justify the granting of approval to PC68. See Point No.1 above.
PC68-0038	Karen & Shayne Richardson	003	Oppose	Neighbourhood consultation - there was lack of consultation, lack of green belts around existing residents.	Decision not included.	Decline (on the assumption that declination of the plan change is sought). Whilst the lack of consultation has been noted there has been an opportunity for all relevant matters to be addressed at the hearing and in the context of the submissions lodged. Accordingly these matters do not justify refusal of consent to PC68.
PC68-0038	Karen & Shayne Richardson	004	Oppose	Infrastructure - There will be lack of community facility (which includes school that is in full capacity, medical facilities, fire, ambulances and police stations). Stormwater from the proposed development could impact the drinking water quality and quantity. Please see the original submission for full detail.	Decision not included.	Decline (on the assumption that declination of the plan change is sought). As to community facilities, these could be expected to develop alongside the development of the site the subject of PC68. In particular reference is made to the response of the Ministry of Education in relation to the issue of schools. See the recommendations.

PC68-0039	Chris White	001	Support	Transport - Traffic report is not accurate and more recent data is needed. The Hampton - Spring Road intersection is very dangerous and the traffic report does not show clear picture.	Decline the Plan Change If the council approves the PC68, the lot size should be limited to 5000m2 at minimum. No egress onto Trents Road from any developments of roads and houses No log burners	Decline. A wide body of expert evidence was led at the hearing which established that the impact of the development of the site the subject of PC68 could be accommodated within the network, subject to the conditions regarding intersection development which had been imposed in the recommendations. In summary transportation matters do not justify refusal of consent to PC68..
PC68-0040	Netties Lamont	001	Oppose	Reverse sensitivity - The PC68 will have negative impact on the existing rural living as the land would be rezoned for higher density residential activities which creates a disjointed and fragmented environment. The effects of reverse sensitivities would restrict horticultural business operation due to noise, sprays, logistics, machinery, transport noise, odours and dust. Please see the original submission for full detail.	Decline the Plan Change If the council approves the PC68, the lot size should be limited to 5000m2 at minimum. No egress onto Trents Road from any developments of roads and houses No log burners	Decline. Proper consideration has been given to the reverse sensitivity matters reverted to by Ms Lamont. In this regard reference is made to the recommendations. Further, the issue of increased lot sizes has also been fully considered and rejected. See the recommendations. As to egress on to Trents Road, the expert evidence indicates that the development as proposed in the Outline Development Plan and narrative is appropriate from a transportation perspective. As to the matter of log burners, that is a matter for the Council to deal with outside the consideration plan change.
PC68-0040	Netties Lamont	002	Oppose	Traffic - The plan changes will bring 1000 extra vehicles to the Prebleton to get to shopping and commercial areas. The current roading structure cannot cope with additional load as it is already in full capacity.	Decline the Plan Change If the council approves the PC68, the lot size should be limited to 5000m2 at minimum. No egress onto Trents Road from any developments of roads and houses No log burners	Decline. To the extent that this part of the submission refers to the impact of additional vehicles into the Prebleton area, reference is made to the recommendations where the impact of additional traffic generated by PC68 is fully considered. This does not justify refusal of consent to PC68.
PC68-0040	Netties Lamont	003	Oppose	Infrastructure - Quality and quantity of water maybe affected by the proposed development.	Decline the Plan Change If the council approves the PC68, the lot size should be limited to 5000m2 at minimum. No egress onto Trents Road from any developments of roads and houses No log burners	Decline. All infrastructure matters have been considered. In particular PC68 is not expected to impact upon the quantity and quality of water available as is noted in the recommendations.
PC68-0041	Helen & Roger Urquhart	001	Oppose	Neighbour consultation - Many residents were not notified properly on this plan change.	Decline preferably. Start the notification process again or provide further opportunity for submitters to participate	Decline. Consideration has been given to the allegation that residents were not notified of the plan change. It is noted that the request was the subject of public notification in terms of the requirements of the Resource Management Act 1991. It is inappropriate to rule that the notification process should commence again given the pathway that the hearing has taken to give submitters an appropriate input into the process.



PC68-0041	Helen & Roger Urquhart	002	Oppose	Contamination - HAIL activities occurred on site and has been contaminated which is not suitable for residential use. A remediation plan should be provided	Decline the Plan Change. A remediation plan should be provided.	Decline. The issue of contaminated soil has been properly considered in the recommendations. Appropriate measures will be taken at subdivision stage to ensure contaminated soils are dealt with appropriately. This matter does not justify a refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	003	Oppose	Infrastructure - Many residents have wells to supply drinking water therefore there can be water quality and quantity problems. Please see the original submission for full detail.	Decline the Plan Change	Decline. The issue of the availability and quality of the supply of drinking water was considered in the recommendations. The expert evidence establishes that there are no concerns in this regard. Accordingly this is not a matter which justifies declining consent to PC68.
PC68-0041	Helen & Roger Urquhart	004	Oppose	Urban form and density - Prebbleton already has undergone growth with multiple subdivision	Decline the Plan Change	Decline. For the reasons expressed in the recommendations, the significant and unsatisfied demand for housing in Prebbleton requires remediation and justifies the granting of approval to PC68.
PC68-0041	Helen & Roger Urquhart	005	Oppose	Infrastructure - There may not be sufficient infrastructure and the maintenance issues may occur which is a responsibility of the Council.	Decline the Plan Change	Decline. The recommendations traverse the availability and adequacy of infrastructure both now and in the future and concludes that infrastructure matters should not serve to justify refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	006	Oppose	Housing supply - Affordability of house is not predictable as it is dictated by the Market.	Decline the Plan Change	Decline. PC68 makes available an opportunity for new housing which is justified by the evidence led at the hearing in relation to market supply and demand. This matter does not justify the declining of consent to PC68.
PC68-0041	Helen & Roger Urquhart	007	Oppose	There are too many inaccuracies within the reports. Please see the original submission for more detail.	Decline the Plan Change	Decline. During the course of the hearing and in considering submissions there has been an opportunity to address inaccuracies. This matter does not justify refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	008	Oppose	Density - The density of the housing per hectare or the lot size is not clear from the report.	Decline or amend so that section sizes are minimum of 5000 m2 or smaller sections have similar lot sizes to established residential sizes.	Decline. Consideration has been given to increasing section sizes as is noted in the full discussion in the recommendations. This is found to be not justified. This matter does not support refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	009	Oppose	Infrastructure - The Prebbleton School is already in full capacity. While there are new buildings to be erected, there should be bigger picture should be considered with other PC applications as well.	Decline the Plan Change	Decline. The Ministry of Education has been consulted in relation to school matters. See the discussion in the recommendations. This matter does not justify refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	010	Oppose	Reverse sensitivity - Pets such as dogs can pose risks to the stocks (such as sheep) which can negatively impact the existing residents.	Decline the Plan Change	Decline. The issue of pets posing risks to the stocks has been considered. It does not justify refusal of consent to PC68 or call for the imposition of conditions.
PC68-0041	Helen & Roger Urquhart	011	Oppose	Traffic safety - There is poor visibility at the various four main intersections boarding the proposed area. Vehicle drivers have limited views due to parked ute or SUV at an intersection.	Decline the Plan Change	Decline. The issue of poor visibility at the four main intersections is noted. A full transportation assessment has been made and based on the expert opinion, the transportation proposals have been found to be acceptable.



PC68-0041	Helen & Roger Urquhart	012	Oppose	Reverse sensitivity - Consider reverse sensitivity to the local residents who enjoy the rural character, amenity and environment.	Decline the Plan Change	Decline. The issue of reverse sensitivity is the subject of extensive consideration and findings in the recommendations. This issue does not justify refusal of consent to PC68.
PC68-0041	Helen & Roger Urquhart	013	Oppose	Village character - The PC68 will have light pollution created by 820 sections. Noise pollution will also occur when doing landworks and building works.	Decline the Plan Change	Decline. The issue of light pollution has been dealt with in the recommendations and suggestions made in that document as to how this matter should be dealt with at subdivision stage. The issues of noise pollution does not call for the imposition of conditions as a pre-requisite to
PC68-0041	Helen & Roger Urquhart	014	Oppose	Village character - The site area is rural and for rural lifestyle. This development encroaches upon existing lifestyle blocks which also results in loss of productive land.	Decline the Plan Change	Decline. The issues of encroachment on existing lifestyle blocks and loss of productive land have both been considered in the recommendations. These matters do not justify refusal of consent to PC68.
PC68-0042	Angela Phillips	001	Oppose In Part	Reverse sensitivity - Hamplons Road is not a sufficient buffer to avoid loss of amenity and reverse sensitivity. It will not provide adequate separation distance to mitigate potential reverse sensitivity effects from adjacent rural zoned properties as per the District Plan Objective B3.4 because the land does not provide visual, odour, noise or physical barrier.	Ensure covenants are in place to protect existing rural properties and activities. Restrict development low density residential along Hamplons Road with adequate setback to provider buffer and screening (minimum 2m in height and with evergreen hedging) along Hamplons Road. Restrict the number of entrances to the subdivision off Hamplons Road to one or two and no entrance to individual properties for Hamplons Road. Locate public, open space, reserve areas within the site to be well away from Hamplons Road.	Decline. The submission relates to the issue of reverse sensitivity. For reasons which are expressed in the recommendations, the matters of concern, whilst being understandable, are not appropriately dealt with by conditions imposed upon the approval of PC68. See discussion in the recommendations. In particular covenants are not necessary to protect existing rural properties and activities. As to the issue of low-density residential development along Hamplons Road, this is not considered to be justified. The development which will proceed in accordance with the Outline Development Plan and narrative is regarded as appropriate for the reasons traversed in the recommendations. The measures which are referred to in the subdivision to deal with reverse sensitivity issues are not regarded as necessary. Accordingly the matters raised do not justify refusal of consent to PC68.
PC68-0042	Angela Phillips	002	Oppose In Part	Infrastructure - The purpose of Canterbury Stock water race network is to provide water to livestock and is the only source of water for livestock. The water race have aesthetic value but it needs to be well maintained and regulated to function effectively to supply water to livestock.	Covenant to maintain stock water race in compliance with SDC water race policies.	Decline. The suggestion that there be a covenant to maintain the stock water race is not a matter which required to be dealt with in the context of consideration of PC68. It is a matter which the Council can be expected to deal with, should be necessary, having regard to its water race policies.

PC68-0042	Angela Phillips	003	Oppose In Part	<p>Village character - Changing landscape from "semi-open and agricultural character to one that is denser and more suburban in nature" is a significantly undesirable change. More details are required to understand how existing character and amenity elements can be integrated into the proposed residential development.</p>	<p>Maintain the visual amenity and rural aspect of Hamplons Road. Restrict development low density residential along Hamplons Road with adequate setback to provider buffer and screening (minimum 2m in height and with evergreen hedging) along Hamplons Road. Restrict the number of entrances to the subdivision off Hamplons Road to one or two and no entrance to individual properties for Hamplons Road. No additional street lighting along Hamplons Road.</p>	<p>Decline. The visual amenity and rural aspect of Hamplons Road has been considered. The suggestion that there be low density residential along Hamplons Road with setbacks and the other measures are not considered to be necessary. As to additional street lighting along Hamplons Road, that will be a matter for the Council to consider at subdivision stage.</p>	
PC68-0042	Angela Phillips	004	Oppose In Part	<p>Infrastructure - PPC68 proposed a significant reduction in the area available for stormwater absorption. Furthermore, if the PPC68 was to be approved, future stormwater would flow off roads/paving, vehicles, buildings and/or other structures giving rise to risk of contamination.</p>	<p>Water quantity must be maintained at pre-development rates and volumes. Covenant to contain all stormwater and contamination within the subdivision and not into groundwater or stock water race. A compliant Erosion and Sediment Control Plan (ESCP) should be implemented during the construction phase. Long term monitoring of water quantity should be included.</p>	<p>Decline. Consideration has been given to water quantity and quality and contamination by stormwater within the subdivision. See the discussion on these matters in the recommendations. As to a compliant Erosion and Settlement Control Plan, this is a matter for the Council to deal with at subdivision stage and not a matter to be dealt with at this stage..</p>	



PC68-0042	Angela Phillips	005	Oppose In Part	<p>Traffic - Figures presented by Abley in the ITA assessment (Appendix E) indicate that peak traffic volume will increase by 28%. The large increase of traffic will change the amenity of the area and will impact farm traffic and make roadside mowing more dangerous. These issues become more exacerbated when combined with the proposed widening of Hamplons Road.</p>	<p>Selwyn District Council to take on mowing of the berms on both sides of Hamplons Road along the application site.</p>	<p>Decline. This submission relates to roadside mowing. The position is noted. It is considered that this is a matter for the Council to deal with at the subdivision stage. This is not a matter which calls for the imposition of conditions at this stage in the context of the approval of PC68..</p>
PC68-0042	Angela Phillips	006	Oppose In Part	<p>Reverse sensitivity - increased number of dwellings and residents will likely to increase the anti-social behaviours which includes; stock disturbance, theft of livestock and crops, Ovis (sheep measles), trespassing, Golf driving and fly practice, model aeroplane flying, Boy racer joy-riding and fly tipping. Please see the original submission for full detail.</p>	<p>No footpaths along Hamplons Road to discourage pedestrians and dogwalkers. No additional street lighting along Hamplons Road. Make Hamplons Road a "No Stopping" zone to protect against anti-social behaviour.</p>	<p>Decline. The various matters which are raised in the context of reverse sensitivity issues are noted. It is not considered that there is justification for ruling that there should be no footpaths along Hamplons Road to discourage pedestrians and dog walkers. The matter of street lighting is a matter for the Council at a later time as is the issue of whether Hamplons Road should be a "no stopping zone" to protect against anti-social behaviour. These matters do not justify refusal of approval to PC68..</p>

**APPENDIX B****TABLE 1 – Parcels to be rezoned**

	Legal Description	Address	Title	Total Area (ha)
1.	Lot 2 DP 366875	174 Hamptons Road	277693	5.3446
2.	Lot 1 DP 404189	182 Hamptons Road	414491	4.3901
3.	Lot 2 DP 24822	190 Hamptons Road	CB6C/549	2.0234
4.	Lot 1 DP 24822	192 Hamptons Road	CB6C/548	2.0234
5.	Lot 1 DP 25129	200 Hamptons Road	CB7A/114	11.0226
6.	Lot 2 DP25129	232 Hamptons Road	CB22K/60	15.5576
7.	Pt RS 4495	374 Springs Road	CB394/266	2.0234
8.	Lot 2 DP 29158	250 Hamptons Road	CB11A/909	8.0937
9.	Lot 1 DP 70490	703 Shands Road	CB40D/1095	3.3340
10.	Lot 2 DP 42643	340 Trents Road	CB20K/399	2.4820
11.	Pt RS 4495	362 Trents Road	CB394/264	0.8093
12.	Lot 2 DP 70490	713 Shands Road	CB40D/1096	2.3120
13.	Lot 1 DP 29158	735 Shands Road	CB11A/908	8.0886
<b>TOTAL</b>				<b>67.5047</b>

# APPENDIX C

## Outline Development Plan - Prebbleton - South West





## **APPENDIX D**

### **OUTLINE DEVELOPMENT PLAN –PREBBLETON – SOUTH WEST**

#### **INTRODUCTION**

The Outline Development Plan (ODP) is for an area of land located in the southwestern corner of Prebbleton sitting with the block bounded by Trents Road, Shands Road, Hamptons Road and Springs Road. The eastern extent of the ODP area adjoins the Sovereign Palms subdivision which borders Springs Road. The ODP has road access onto Trents Road, Shands Road and Hamptons Road and into Sovereign Palms, however the ODP proposes no new accesses onto Shands Road.

The ODP uses urban design principles to set the general pattern of development over the area to guide future development and provide a degree of certainty for all parties in the establishment of land uses across the site. It provides a design rationale for the key structure elements namely the road network, cycle and pedestrian network and access to open space.

Consistent with the Greater Christchurch Urban Development Strategy and the Canterbury Regional Policy Statement the ODP provides an opportunity for density which meets the objectives of those planning documents as well as being generally in keeping with the strategy set out in the Prebbleton Structure Plan.

#### **URBAN DESIGN**

Design principles that underpin this ODP are in line with the New Zealand Urban Design Protocol and promote the following environmental outcomes:

- An urban form which encourages a community to develop
- A safe and healthy living environment
- Integration of the roads within the neighbourhood area with arterial roads and potential public transport routes
- Provision for a network of cycle and pedestrian routes
- Access to new reserves within this ODP and neighbouring ODP areas
- Opportunities for medium density residential development which relate well to each other and are strategically located in relation to open space.
- A development that meets the District Plan policies to achieve an overall increase in residential density, urban consolidation and compact urban form
- Trents Road and Hamptons Road frontage are to be upgraded to an urban standard in accordance with the Engineering Code of Practice. These frontages are to encourage properties to front these roads as well as providing for walking and cycling connections within Prebbleton and between Prebbleton and Lincoln and Rolleston.
- Educational Facilities: The provision of new educational facilities can be provided within the block or in the wider area albeit subject to a needs assessment.

#### **DENSITY**

The ODP area is to achieve a minimum of 12 households per hectare. It supports a variety of lot sizes within the Living Z framework to achieve this minimum density including medium density and comprehensive development.

The ODP area predominantly provides for lower density sections, with medium density along primary roads supported by adjoining reserves. Additional medium density and comprehensive developments may be provided through the subdivision consent process to provide choice and achieve this density. The criteria below should apply to consideration of the identified and any additional medium density and comprehensive development areas:

- Ability to access future public transport such as bus routes
- Access to community and neighbourhood facilities
- Proximity to neighbourhood parks and green spaces
- North west orientation where possible for outdoor areas
- Distribution within blocks to achieve a mix of section sizes and housing typologies

Lower density lots with a minimum site area of 1500m<sup>2</sup> are required along the Shands Road frontage due to safety and noise associated with high traffic volumes on Shands Road.

Existing dwellings and buildings will have to be taken into account when investigating subdivision layout and design.

#### **MOVEMENT NETWORK**

Access to the site is provided from the existing frontage roads of Trents and Hamptons. In addition, there is provision for connections to the neighbouring Sovereign Palms development.

A main primary road runs north-south from Trents Road through to Hamptons Road. Secondary roads running east-west will connect with this primary road and provide connections through to the east and Sovereign Palms where it is expected that public transports routes will deviate or extend to. An additional north-south primary road is proposed to provide an extension of Guilder Drive through to Hamptons Road. Three additional secondary north-south roads through to Hamptons Road are proposed to complete the network level movement within the ODP area.

Walking and cycling routes will generally be provided as part of the roading infrastructure. In addition, separate routes are provided to connect the western boundary of Sovereign Palms through land already vested and/or developed for this purpose from Peso Place and the reserve east of the Sterling Drive/Farthing Drive roundabout.

#### **GREEN NETWORK**

Four reserve areas are provided for in locations which provide good accessibility for residents. Medium density housing is to be located around three of these reserves to promote a high level of amenity for housing and compensate for any reduced private space available to individual properties.

#### **BLUE NETWORK**

The roading layout is largely based on lower lying areas which will then provide for secondary pathways for stormwater. Stormwater from roofs and hardstand areas will be directed to on-site soakholes meeting the required Canterbury Regional Council standards.



## **APPENDIX E**

Add the following to Selwyn District Plan Policy B4.3.77

**"Outline Development Plan Area [xx] (Trents, Shands and Hamptons Road)**

- *Outline Development Plan Area [xx] to align with Outline Development Plan Area 3*
- *Provision for larger lots along the Shands Road frontage and a requirement ensuring there is no direct vehicle access to Shands Road;*
- *Provision of two medium density areas focussed on the two primary road running the development*
- *Provision of pedestrian and cycle links within and through the ODP area to connect to adjoining urban areas;*
- *Provision of reticulated water supply and wastewater systems that have sufficient capacity for the ODP area;*
- *Provision of a comprehensive stormwater system that has sufficient capacity for the ODP area;*
- *Provision of (at least two) neighbourhood parks; and three green links through to Sterling Park;*
- *Provision of a minimum net density of 12 households per hectare averaged over the ODP Area;"*


## **APPENDIX F**

### **Part C**

#### **12 LIVING ZONE RULES – SUBDIVISION**

##### **12.1 SUBDIVISION – GENERAL**

###### **Prebbleton**

12.1.3.48A In respect of the Living  zoned land identified in Appendix [ ]

(a) No residential allotments may be created within ODP Area [ ] prior to completion of the upgrading of the Shands Road/Trents Road intersection involving a roundabout with two laning of Shands Road on both approaches and on the northern departure to the roundabout.

(b) No more than 120 residential allotments may be created within ODP Area [ ] prior to the completion of:

- (i) the upgrading of the Shands Road/Hamptons Road intersection to form a roundabout; and
- (ii) seal widening of Trents Road, between Springs Road and Shands Road; and
- (ii) seal widening of Hamptons Road, between Springs Road and Shands Road.

***IN THE MATTER OF            the Resource Management Act 1991***  
***A N D***

***IN THE MATTER OF            a request by Urban Holdings Limited,  
Suburban Estates Limited and Cairnbrae  
Developments Limited to change the  
Selwyn District Plan under Clause 21 of  
the First Schedule of the Resource  
Management Act 1991 (Proposed Plan  
Change 68)***

***REPORT AND RECOMMENDATIONS OF A C HUGHES-JOHNSON QC  
TO THE SELWYN DISTRICT COUNCIL***

***DATED 23 JUNE 2022***

**ABBREVIATIONS TABLE**

<b>CCC</b>	Christchurch City Council
<b>CRC</b>	Canterbury Regional Council / Environment Canterbury
<b>CRPS</b>	Canterbury Regional Policy Statement
<b>The DISTRICT</b>	Selwyn District
<b>FDA</b>	Future Urban Development Area
<b>GCP</b>	Greater Christchurch Partnership
<b>HBA</b>	Housing and Business Development Capacity Assessment
<b>HCA 2021</b>	Greater Christchurch Housing Development Capacity Assessment 30 July 2021
<b>IMP</b>	Mahaanui Iwi Management Plan
<b>ITA</b>	Prebbleton Private Plan Change (Integrated Transportation Assessment)
<b>LUC</b>	Land Use Capability
<b>LTP</b>	Long term plan – 2021-2031
<b>MfE</b>	Ministry for the Environment
<b>NPS-UDC</b>	National Policy Statement on Urban Development Capacity 2015
<b>NPS-UD</b>	National Policy Statement on Urban Development 2020
<b>ODP</b>	Outline Development Plan
<b>Our Space</b>	Our Space 2018-2048: Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrapa Nohanga
<b>PC (No)</b>	Private Plan Change (No)
<b>Proposed SDP</b>	Proposed Selwyn District Plan
<b>PIB</b>	Projected Infrastructure Boundary
<b>Pines WWTP</b>	Pines Wastewater Treatment Plant
<b>Proposed NPS-HPL</b>	Proposed National Statement for Highly Productive Land
<b>RMA</b>	Resource Management Act 1991
<b>Enabling Act</b>	Resource Management (Enabling Housing Supply and Other Matters) Enabling Act 2021
<b>RRS 2014</b>	Rural Residential Strategy 2014
<b>SDC</b>	Selwyn District Council
<b>SDP</b>	Operative Selwyn District Plan
<b>2010 Structure Plan</b>	Structure Plan / Prebbleton Structure Plan (The Future of Prebbleton) February 2010
<b>UDS</b>	Urban Development Strategy
<b>Waka Kotahi</b>	Waka Kotahi NZ Transport Agency

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1. ***INTRODUCTION***

***My appointment***

- 1.1 In December 2021 I was appointed by the Selwyn District Council (“the Council”) as a commissioner to hear evidence and submissions and to make a recommendation to the Council in relation to a request by Urban Holdings Limited, Suburban Estates Limited and Cairnbrae Developments Limited (“the applicant”) (“the Request”) to change the Selwyn District Plan under Clause 21 of the First Schedule of the Resource Management Act 1991 (“the RMA”) (“PC68” variously “PC68” or “the proposed change”).

***Proposed Plan Change 68***

- 1.2 PC68 seeks to amend the operative Selwyn District Plan (“SDP”) by re-zoning certain land lying between Trents Road, Shands Road, Hamptons Road and the Sterling Park subdivision in Prebbleton from Inner Plains to Living Z.
- 1.3 The Request relating to PC68 seeks to insert a new Outline Development Plan (“ODP”) in Appendix 19 of Volume 1 *Townships* relating to the land which is sought to be re-zoned.
- 1.4 The ODP identifies primary and secondary roads, low and medium density areas, public space, external road connections and cycle/pedestrian routes.
- 1.5 The land to be re-zoned contains 13 separate properties with a combined site area of 67.5047 ha. This land occupies approximately two thirds of the block bounded by Trents Road, Shands Road and Hamptons Road. The block extends from the western edge of the Sterling Park subdivision on Springs Road through to Shands Road. Two blocks of land have not been included because the owners of the individual properties within these blocks have chosen not to be part of the request for re-zoning. One of these blocks is on the north-west corner of Shands Road and Trents Road and has a combined area of 9.5 ha. The second block is a series of five identical properties

fronting onto Trents Road and adjoining Sterling Park. The combined area of this second block is 10.1 ha <sup>1</sup>.

***The setting of PC68***

- 1.6 Prebbleton Township is located to the northeast of the site. The land opposite to the site north of Trents Road is dominated by rural residential style development with many lots having an area ranging between 5000 m<sup>2</sup> and 1.2 ha. This area contains the Kingcraft Drive “Existing Development Area” (“EDA”) which has 40 properties all of which have substantial dwellings and curtilage. Access to the EDA is via Trents Road and Blakes Road but there is no connection through the block <sup>2</sup>.
- 1.7 The eastern end of the land on the north side of Trents Road is fully developed for residential purposes including the Cairnbrae and Waratah Park subdivisions. These developments extend north through to, and over, Blakes Road. Immediately adjoining the eastern edge of the site is the Sterling Park residential development which has approximately 215 allotments, the majority of which are built on. This development, which has Living Z zoning, is accessed from Hamptons, Springs and Trents Roads and is set around the Prebbleton Nature Park developed from a former quarry. To the south and west across Hamptons and Shands Roads are larger farming blocks with scattered houses <sup>3</sup>.

***The ODP***

- 1.8 In the Request it is noted that the re-zoning will provide an opportunity to develop residential allotments with a density of 12 per hectare access from Trents and Hamptons Roads. The ODP text commits to achieving a minimum of 12 households per hectare. It also commits to additional medium density development to be provided for through the subdivision consent processes.
- 1.9 The majority of the ODP area is allocated for low density (average of 650 m<sup>2</sup>, minimum allotment size of 550 m<sup>2</sup>) residential sections. Medium-density residential development areas are identified in proximity to reserve areas. These can be achieved either as small lot

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<sup>1</sup> See paragraph 2.1 of the Request

<sup>2</sup> See paragraph 2.2 of the Request

<sup>3</sup> See paragraph 2.2 of the Request

developments (average lot of 500 m<sup>2</sup> and a minimum of 400 m<sup>2</sup>) or as a comprehensive medium development which involves a joint consent for buildings and subdivision <sup>4</sup>. The eastern portion of the site is anticipated to be developed first due to having to connect to the existing sewer main in this area.

- 1.10 The estimated yield from the area the subject of the plan change is 820 lots based on the Living Z density rules and the roading and servicing layout specified in the ODP for this land. If the properties which are not within the current plan change area are included (excluding larger lots fronting Shands Road) the area is estimated at 1040 lots <sup>5</sup>.

***PC68 acceptance, notification and submission process***

- 1.11 PC68 was accepted for public notification at the meeting of the Council held on 28 July 2021 (under Clause 25(2)(b)) of the First Schedule of the RMA). PC 68 was publicly notified on 15 September 2021. A total of 42 submissions were received which were then summarised and publicly notified for further submissions with the period for further submissions closing on 15 December 2021. Four further submissions were received by that date. No late submissions were received.
- 1.12 Three submissions were unambiguously in support. The balance of the submissions were either opposed to PC68 in its entirety, or willing to contemplate a change of zoning if the minimum lot sizes were significantly increased to Living 3/5000 m+ minimums <sup>6</sup>.

**2. *PROCEDURAL ASPECTS***

***First minute***

- 2.1 At the time of my appointment I gave careful consideration to the question of whether by reason of my association with any of the parties, I was precluded from acting as a commissioner by reason of the perception of an actual or potential conflict of interest. In my minute dated 25 February 2022 I commented upon this matter in

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<sup>4</sup> See paragraph 2.2 of the evidence of Patricia Harte

<sup>5</sup> See paragraph 3.1 of the Request

<sup>6</sup> See paragraph 39 et seq of the report of Johnathan Cleese under s42A of the Act

paragraph 3 of that minute. I refer to that minute but will not repeat what was said other than to note that at paragraph 3.4 I stated ...

*I do not regard my association with any of the submitters or officers of the applicants as giving rise to an actual or potential conflict of interest but it is proper that the parties interested in the request should be made aware of my position.*

- 2.2 The parties were given an opportunity to comment but no party did so. Accordingly I have proceeded to hear and determine this matter.
- 2.3 In the first minute I gave directions as to the expected course of the anticipated hearing, directed the circulation of the planning report on behalf of the Council and made other directions as to the lodging and circulation of evidence. In the event no issue arose in relation to the implementation of my directions.

#### ***Second minute***

- 2.4 On 2 March 2022 I issued a second minute, as the applicant had requested an extension of time to provide evidence having regard to an oversight in the attachment of appendices to the officer's report on behalf of the Council. I record that for reasons set out in the minute, I directed that there should be a brief extension of time for the applicants to provide evidence, having given the parties an opportunity to make submissions in relation to the intended amended direction. No submissions were received and accordingly the direction came into force and was implemented by the receipt and circulation of the relevant evidence.

#### ***The hearing***

- 2.5 I conducted a hearing of PC68 at the Tai Tapu Community Centre commencing on 21 March 2022 and the day following, 22 March 2022. Because certain witnesses were unavailable due to complications with Covid, the hearing was adjourned until 9am on 28 March 2022 with the hearing of submissions and evidence being completed by the end of that day.

#### ***Appearances***

- 2.6 I recorded the following appearances at the hearing: -

***Applicant***

- (i) Mr Gerard Cleary, counsel for the applicant;
- (ii) Mr Gary Russell Sellars, giving evidence as a registered valuer;
- (iii) Mr Fraser Colegrave, giving evidence in relation to economics;
- (iv) Mr Andy Hall, giving evidence in relation to infrastructure;
- (v) Mr Victor Mkurutsi Mthamo, giving evidence in relation to versatile soils;
- (vi) Mr David John Robert Smith, giving evidence in relation to traffic/transport matters;
- (vii) Mr David Compton-Moen, giving evidence in relation to urban design;
- (viii) Ms Patricia Harte, giving planning evidence

***Submitters***

- (i) Ms Alanya Limmer, counsel for Mr Shamy
- (ii) Mr Simon Shamy;
- (iii) Mr Frank Chen;
- (iv) Mr Xiaojiang Chen, the owner of the property at 330 Trents Road;
- (v) Murray Fletcher, the owner of the property at 9 Hida Place;
- (vi) Mr Nick Williamson (representing eight opposing submitters);
- (vii) Mr David Somerfield, who together with his wife is the owner of the property at 382 Trents Road;
- (viii) Mr Greg Tod, on behalf of himself and his wife being owners of a business which operates from a property at 349 Trents Road;
- (ix) Mr Adam Roger Pollard, on behalf of himself and his wife, being residents and the owners of a landscaping business at 681 Shands Road;
- (x) Mr David and Ms Fiona Lees, being the owners of a property at 374 Trents Road;
- (xi) Ms Nettles Lamont, being the co-owner of a property at 1/333 Trents Road;

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- (xii) Ms Helen Urquhart, speaking on her own behalf and that of her husband and being the owners of a property at 335 Trents Road.

***Christchurch City Council and Canterbury Regional Council***

- (i) Mr Mike Wakefield, counsel on behalf of both Councils;
- (ii) Mr Marcus Langman, who gave planning evidence on behalf of both Councils.

***Selwyn District Council***

- (i) Mr Murray Russell England, addressing water supply, wastewater system and stormwater network;
- (ii) Mr Mathew Ross Collins, giving evidence in relation to transport matters;
- (iii) Mr Johnathan Cleese, providing a report under s42A of the RMA and giving planning evidence.

***Third minute***

- 2.7 After the conclusion of the hearing, on 31 March 2022 I issued a further minute giving directions as to the making available to me of further information regarding the availability of wastewater facilities and the provision of a memorandum of Mr Paul Rogers, solicitor, addressing the issue of the relationship between the National Policy Statement – Urban Development and the Canterbury Regional Policy Statement.
- 2.8 In addition I directed that the evidence or submissions of a number of submitters who were scheduled to present evidence at the hearing but were unable to attend should be lodged with the Council.
- 2.9 In the event I received a written statement of evidence from Ms Helen Urquhart dated 28 March 2022. This had in fact been presented to me by a third party at the hearing on 28 March 2022.

***Site visit***

- 2.10 I conducted an initial site visit from the roads on the perimeter of the land the subject of the proposed change on Sunday 20 March 2022. A further more detailed site visit followed on 26 May 2022 involving an on-site inspection of the Chen property at 330 Trents Road, Prebbleton, the Pollard property at 601 Shands Road, Prebbleton, the

Somerfield property at 382a Trents Road, Prebbleton and the Lees property at 374 Trents Road, Prebbleton.

***Fourth minute***

- 2.11 After the final site inspection, I issued a minute on 30 May 2022 closing the hearing.

***The statutory framework***

- 2.12 It is appropriate that I should note that at a meeting of the Council on 27 July 2021, SDC resolved to accept the plan change request under Clause 25(2)(b) of the First Schedule of the RMA with the intention that PC68 would be the subject of public notification, submissions and the substantive merits of the proposal considered at a public hearing which has been completed.
- 2.13 It is noted that the Resource Management (Enabling Housing Supply and Other Matters) Enabling Act 2021 ("the Enabling Act") requires SDC to prepare and notify a variation to the SDP or proposed SDP on or before 20 August 2022. The Council has resolved that the variation which is to be promulgated is to include Prebbleton and any ...

*PPCs that have a decision recommending approval within ....  
Prebbleton.*

- 2.14 The report which accompanied the advice to the Council noted that the variation would be subject to a full public participatory process post notification, where all parties would have an opportunity to submit on the proposed variation. It appears to follow that should I recommend approval of PC68, that will then be incorporated in the variation to be promulgated, with the consequent ability of persons with an interest in PC68 to be involved further in the planning process.
- 2.15 At the hearing I sought assistance as to the implications of the resolution of the Council in-so-far as it affected my treatment of PC68. I made the comment that it appeared that submitters were likely to have "two bites at the cherry" because those involved in the present hearing process would have the ability to make further submissions when the variation was promulgated.



2.16 Mr Williamson, giving evidence on behalf of a number of submitters, commented that he found the plan change to be “highly irregular”. Mr Williamson was critical of the pathway that SDC had adopted in this case, querying why the applicant did not request the proposed rezoning through a submission to the proposed SDP and secondly why the Council did not modify and adopt the plan change request so that it could be properly considered within the more up-to-date policy setting. Helpfully, Mr Williamson acknowledged that I could only consider the matter before me on its merits and that decisions already made in the past were outside my control for the purposes of the current proceedings. He said that the purpose of his raising the matters was to illustrate what it meant for “local authority decisions” to be “responsive” (or not) for the purposes of the National Policy Statement on Urban Development 2020 (“NPS-UD”) <sup>7</sup>.

2.17 The view which I have formed, and which was communicated at the hearing, and which I now repeat, is that I should not concern myself with the implications of the Council’s resolution, in-so-far as it affects the resolution of the merits of PC68. My obligation, in terms of the statutory provisions of the RMA, is to consider the merits of PC68 and to make a recommendation to the Council on the question of whether PC68 should be adopted. This is the process which I have followed and will continue to follow. The fact that there may or may not be a further opportunity for involvement by interested parties is not a matter which is relevant to my consideration of PC68.

### 3. **STATUTORY FRAMEWORK**

#### ***The requirements for approval***

3.1 The requirements for a plan change are set out in ss73, 74 and 75 of the RMA. I refer to the relevant statutory provisions later in this recommendation.

3.2 The mandatory requirements which must be satisfied before a plan change can be approved are now well settled. I do not apprehend there to be any real dispute about the fundamental principles which govern the exercise of bringing about a change to a plan. A “relatively

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<sup>7</sup> *Summary statement of evidence of Nick Williamson / paragraphs 8 to 19 incl*

comprehensive summary of the mandatory requirements" for the Act in its form before the Resource Management Enabling Act 2005 came into force was contained in *Long Bay Okura Great Park Society Inc v North South City Council* <sup>8</sup>. Following the passing of the Resource Management Amendment Act 2005 and the Resource Management Amendment Act 2009, the Environment Court amended the list to reflect the legislative changes <sup>9</sup> with the consequence that the general requirements can now be recorded as follows: -

- (i) *a district plan (change) should be designed in accord with – and to assist the territorial authority to carry out – its functions so as to achieve the purpose of the Act* <sup>10</sup>;
- (ii) *when preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement* <sup>11</sup>;
- (iii) *when preparing its district plan (change) the territorial authority shall: -*
  - (a) *have regard to any proposed regional policy statement* <sup>12</sup>;
  - (b) *give effect to any operative regional policy statement* <sup>13</sup>.
- (iv) *in relation to regional plans: -*
  - (a) *the district plan (change) must not be inconsistent with an operative regional plan for any matter specified in s30(1) of the Act or a water conservation order* <sup>14</sup>;
  - (b) *must have regard to any proposed regional plan on any matter of regional significance etc* <sup>15</sup>.
- (v) *when preparing its district plan (change) the territorial authority must also: -*
  - (a) *have regard to any relevant management plans and strategies under other Acts* <sup>16</sup>;
  - (b) *take into account any relevant planning document recognised by an iwi authority* <sup>17</sup>.

<sup>8</sup> *Long Bay Okura Great Park Society Inc v North South City Council* / Decision A78/2008 at para [34]

<sup>9</sup> See *Colonial Vineyard Limited v Marlborough District Council* No [2014]NZ EnvC55 at paragraph [17]

<sup>10</sup> S74(1)(a) and (b) of the RMA

<sup>11</sup> S75(3)(2)(a) of the RMA

<sup>12</sup> S74(2a)(i) of the RMA

<sup>13</sup> S75(3)(c) of the RMA

<sup>14</sup> S75(4) of the RMA

<sup>15</sup> S74(2)(a)(ii) of the RMA

<sup>16</sup> S74(2)(c) of the RMA

<sup>17</sup> S74(2A) of the RMA

- (vi) *there is a formal requirement that a district plan (change) must also state its objectives, policies and the rules (if any) and may state other matters.*
- (vii) *there is then reference to the test under s32 of the Act for objectives being that each proposed objective in a district plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act <sup>18</sup>;*
- (viii) *the policies are to implement the objectives and the rules (if any) are to implement the policies <sup>19</sup>;*
- (ix) *each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account: -*
  - (a) *the benefits and costs of the proposed policies and methods (including rules) : and*
  - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods <sup>20</sup>.*

### ***The matter of applying the legal principles***

3.3 As will be seen later in this recommendation, there are significant difficulties associated with the application of a number of the *Colonial Vineyard Limited* requirements, in particular relating to the influence and effect of certain of the statutory instruments which are relevant in this case.

## **4. ASSESSMENT OF ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT**

### ***INTRODUCTORY COMMENTS***

4.1 During the course of the hearing, I heard evidence and submissions from a number of parties including counsel presenting submissions in relation to legal matters, expert witnesses giving evidence in relation to a range of matters and submitters who gave an account of particular concerns having regard to their assessment of the current environment and their perception of how this was likely to a change in an unacceptable way should PC68 proceed.

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<sup>18</sup> *S74(1) and s32(1)(a) of the RMA*

<sup>19</sup> *S75(1)(b) and (c) of the RMA (also s76(1))*

<sup>20</sup> *S32(2)(c) of the RMA*

4.2 The key issues relating to the effects on the environment which have been identified as having particular relevance in this case are: -

- (i) transportation / road and access issues;
- (ii) greenhouse gas emissions;
- (iii) infrastructure / servicing issues;
- (iv) versatile soil issues;
- (v) what could be broadly be termed urban form issues;
- (vi) reverse sensitivity issues;
- (vii) geotechnical issues associated with identifying the suitability of the subject land for development;
- (viii) night sky / darkness issues.

4.3 A number of expert witnesses gave evidence on behalf of the applicant in relation to technical issues associated with the implementation of the proposed change. Significant parts of that evidence touched upon the issue of the existing amenities of the area the subject of the proposed change and the surrounding area. Many residents expressed concerns that the essentially rural character of the surrounding environment would change to their detriment. They expressed a desire that Prebbleton should retain its existing structure involving retention of an essentially rural aspect on the periphery of existing development, including larger lifestyle properties.

4.4 Notwithstanding what may be noted as an absence of expert evidence supporting the expressed fears and concerns of the residents, their evidence of concern must be taken into account. This point was highlighted in *Harewood Gravels Company Limited v Christchurch City Council*<sup>21</sup> where, in discussing the evidence of landscape experts and the evidence of residents concerned about proposed quarrying activities, Davidson J stated ...

*[226] The criticism of the Court's approach to the evidence of the landscape expert is in my view entirely misplaced. The Court said that the experts did not (so far as it knew) engage with the residents' views that their amenity is adversely impacted by quarrying activity taking place in the locality. That is simply to point to the need for an understanding of the experience and concerns about amenity including rural character of those affected, and for those elements to be objectively brought into account, recognising their inherent subjectivity. What better evidence in the first place is there than that of those who experience and live with the effects, provided their evidence is*

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<sup>21</sup> CIV-2017-409-891  
[2018] NZHC 3118

*objectively assessed against the provisions of the District Plan and other expert evidence? The Court was not in error in observing the need for this fundamental step. A querulous and unreasonable stance taken by a resident will never prevail, but their living experience, not overstated, must be prime evidence. It is easy to dismiss or minimise the views of affected persons as subjective, yet theirs are the experiences of the very effects and amenity with which the Court is concerned.*

- 4.5 This case serves as a reminder of the need to give proper consideration to the expressed views of residents in relation to my assessment of environmental effects, in order to arrive at a just recommendation in this case.
- 4.6 What follows under this head is an extensive review of the evidence given by interested parties in relation to the important issue of the assessment of environmental effects. In order to do justice to the careful preparation and presentation of the evidence and submissions in relation to relevant issues, I have felt it necessary to make a more extensive record of the evidence and submissions than would perhaps otherwise be the case. There is of course, unavoidably, an element of overlap and I have attempted to restrict the commentary where overlap occurs.

## **TRANSPORTATION**

### **Introduction**

- 4.7 Clearly PC 68 will have a significant impact upon the Prebbleton and wider transportation network. The issues which call for examination in this context are whether PC 68 will properly integrate into the network, whether PC68 seeks to maximise connectivity and accessibility for all modes including walking and cycling and whether the land the subject of PC68 is located so that it may be appropriately serviced by and integrate well with the existing and future public transport network.

### **Transport / submissions**

- 4.8 A number of residents raised concerns regarding transport matters in their submissions. These were summarised in the evidence of Mr Smith, referred to hereafter. I have drawn upon his summary of the matters raised in submissions which record transport matters which are of concern to the submitters.

- 4.9 The following submitters (for convenience I have noted their submission numbers) made submissions raising concerns regarding the congestion on the road network and increased travel to and from Christchurch: -

*Submitter 4 / Stephanie Broomhall  
Submitter 12 / David and Julie Somerfield  
Submitter 25 / Greg and Jenny Tod  
Submitter 26 / Christchurch City Council  
Submitter 33 / Warren Ladbroke  
Submitter 34 / Canterbury Regional Council  
Submitter 36 / Marilyn and Stuart Thorne  
Submitter 40 / Nettles Lamont  
Submitter 41 / Helen and Roger Urquhart*

- 4.10 The following submitters made submissions in relation to existing congestion and the anticipated traffic generated from PC68 exacerbating existing congestion: -

*Submitter 4 / Stephanie Broomhall  
Submitter 40 / Nettles Lamont  
Submitter 41 / Helen and Roger Urquhart*

- 4.11 The following submitters raised concerns over the increased traffic in the plan change area and the capacity of the roads on the network: -

*Submitter 2 / Donovan Taynton  
Submitter 8 / Jonelle Bowman  
Submitter 28 / Laura Chisholm  
Submitter 29 / Angus Chisholm  
Submitter 38 / Shayne and Karen Richardson*

- 4.12 Other submitters have expressed concerns over the ability of Trents Road to handle more traffic being: -

*Submitter 12 / David and Julie Somerfield  
Submitter 25 / Greg and Jenny Tod  
Submitter 33 / Warren Ladbroke  
Submitter 36 / Marilyn and Stuart Thorne*

- 4.13 The following submitters considered that there had been no consideration of the wider effects on Christchurch City with the road network not being able to handle the expected growth being: -

*Submitter 28 / Laura Chisholm  
Submitter 34 / Canterbury Regional Council*

- 4.14 A number of submitters raised the cumulative effects that the plan change would have given other proposed development in the area being: -

*Submitter 13 / Andrew Dollimore*  
*Submitter 22 / Tania Hefer*  
*Submitter 23 / Gary Burgess*  
*Submitter 35 / David and Fiona Lees*  
*Submitter 41 / Helen and Roger Urquhart*

- 4.15 A number of submitters have highlighted concerns as to road, pedestrian and cycle safety and road safety in general as a result of increased traffic on the network being: -

*Submitter 8 / Jonelle Bowman*  
*Submitter 12 / David and Julie Somerfield*  
*Submitter 19 / Chris and Carol White; Adam Gard'ner and Lucy Gard'ner-Moore*  
*Submitter 20 / Prebbleton Community Association*  
*Submitter 25 / Greg and Jenny Tod*  
*Submitter 28 / Laura Chisholm*  
*Submitter 29 / Angus Chisholm*  
*Submitter 33 / Warren Ladbroke*  
*Submitter 37 / Bernard and Andrea Parsonage*  
*Submitter 38 / Shayne and Karen Richardson*  
*Submitter 41 / Helen and Roger Urquhart*

- 4.16 The following submitter raised the issue that an excessive amount of vehicle accesses can have safety implications being: -

*Submitter 29 / Angus Chisholm*

- 4.17 Other submitters have raised specific concerns regarding the safety of the upgraded intersections, regarding the potential conflict with vehicles and visibility at the intersections being: -

*Submitter 20 / Prebbleton Community Association*  
*Submitter 41 / Helen and Roger Urquhart*

- 4.18 Certain submitters expressed concerns over a lack of public transport connectivity to the proposed plan change area. These concerns address a lack of transport network or bus stops in the locality of the site of PC68 being: -

*Submitter 18 / Waka Kotahi NZ Transport Agency*  
*Submitter 21 / Murray and Julie Fletcher*  
*Submitter 25 / Greg and Jenny Tod*  
*Submitter 26 / Christchurch City Council*  
*Submitter 28 / Laura Chisholm*  
*Submitter 29 / Angus Chisholm*  
*Submitter 30 / Adam and Sarah Pollard*  
*Submitter 32 / Trevor Holder and Karlee Mayne*  
*Submitter 34 / Canterbury Regional Council*



- 4.19 The following submitters expressed concern over the sustainability of the proposed plan change relating to emissions and reliance on the private car being: -

*Submitter 18 / Waka Kotahi NZ Transport Agency  
Submitter 21 / Murray and Julie Fletcher  
Submitter 26 / Christchurch City Council  
Submitter 34 / Canterbury Regional Council  
Submitter 40 / Nettles Lamont*

- 4.20 The following submitters raised concerns over pedestrian and cycling infrastructure in the proposed area with certain of the submitters wanting more provision for walking and cycling being:

*Submitter 8 / Jonelle Bowman  
Submitter 19 / Chris and Carol White;  
Submitter 19 / Adam Gard'ner;  
Submitter 19 / Lucy Gard'ner-Moore  
Submitter 27 / Ministry of Education  
Submitter 29 / Angus Chisholm  
Submitter 33 / Warren Ladbrook*

- 4.21 Certain site-specific matters were raised by submitters expressing safety concerns relating to Prebbleton School because of the perceived absence of footpaths and cycle facilities on Trents Road and Hamptons Road being: -

*Submitter 27 / Ministry of Education  
Submitter 29 / Angus Chisholm*

- 4.22 Lastly, one submitter expressed concern over the safety of their mowing operations in relation to the increase in traffic and widening of Hamptons Road which was said to be likely to change amenity and make roadside mowing more dangerous being: -

*Submitter 42 / Angela Phillips*

***Transport / applicant's evidence***

***David John Robert Smith***

***The effect of PC68***

- 4.23 The applicant relied upon the expert evidence of Mr David John Robert Smith, a technical director of the company known as Transportation Planning at Abley Limited, a company specialising in transportation.

Mr Smith is undoubtedly well qualified to provide expert transport evidence having appropriate qualifications and extensive experience in transportation planning and engineering matters. Mr Smith, on behalf of Abley Limited, prepared a document headed *Prebbleton Private Plan Change (Integrated Transportation Assessment)* in October 2020, ("the Abley Report") which assessed the potential transportation related effects of the proposed re-zoning on the future transport network.

- 4.24 The overall conclusion in this summary statement presented at the hearing was that the site of PC68 integrates well with the Prebbleton and wider transportation network and seeks to maximise connectivity and accessibility for all modes including walking and cycling <sup>22</sup>. He also concluded that PC68 was well located to be directly serviced by public transport and had the potential to integrate well with the public transport network, maximising opportunities for uptake of sustainable transportation modes <sup>23</sup>.
- 4.25 Mr Smith went on to state that he had addressed questions raised in the report under s42A of the RMA relating to the staging of the development through an additional transportation modelling assessment. He recorded that he subsequently recommended that 120 lots could be established at the southern end of PC68 as an initial stage of development directly connecting to Guinea Drive and the southernmost Hamptons Road access shown on the ODP. He said that this initial stage could be supported following the construction of the Shands Road/Trents Road roundabout, with the remainder of the development to follow the completion of the Shands/Hamptons roundabout upgrade and Trents and Hampson Roads seal widening project <sup>24</sup>.
- 4.26 As a result of considering the transport report of Mr Mathew Ross Collins (referred to hereafter), a transportation planner and engineer, on behalf of the Council, he gave consideration to the issue of whether a second approach lane was required from the Shands Road northern approach at the Shands/Trents roundabout and also considered the question of the upgrading of Hamptons and Trents Road frontages to

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<sup>22</sup> Summary evidence of David John Robert Smith / paragraph 2.2

<sup>23</sup> Summary evidence of David John Robert Smith / paragraph 2.3

<sup>24</sup> Summary evidence David John Robert Smith / paragraph 2.6

include footpaths to connect with existing footpaths on Hamptons Road and Trents Road.

- 4.27 Mr Smith commented on the additional Shands/Trents Road roundabout modelling assessment <sup>25</sup>. He remained of the view that the original configuration involving a single lane roundabout provided a satisfactory level of service in the morning and evening peak periods, but agreed that improvements were appropriate acknowledging that the addition of PC68 traffic results in an increase in delays on the Shands Road southern approach in the morning peak from 7 seconds to 30 seconds. He considered that this increase could be offset by enhancements to the roundabout and concluded, after undertaking transportation modelling of the relevant intersection, that enhanced roundabout configuration, involving the addition of a second approach and circulating lane for the Shands Road southern approach and a second approach lane from the northern approach Shands Road roundabout was an approach which reduced morning peak delays on the Shands southern approach from 30 seconds to 8 seconds.

#### **Network effects assessment**

- 4.28 Mr Smith noted <sup>26</sup> that he had undertaken a capacity assessment ....

*".... by forecasting 2030 traffic volumes both with and without the development traffic. The forecasts have been based on 2.8% growth per annum on all corridors from 2020-2030. The 2.8% growth aligns with the Statistics New Zealand medium growth population forecast from 2018-2028 for Selwyn District and has been adopted as an indicator of likely traffic growth."*

- 4.29 Mr Smith concluded that both corridors being the Shands Road corridor and the Springs Road corridor, had sufficient capacity to accommodate the full development of the site in the vicinity of the plan change <sup>27</sup>. He went on to conclude that the changes in road and intersection performance in relation to the plan change were minimal and the effects were acceptable given the construction of the three roundabouts as intended by the SDC through the delivery of the LTP <sup>28</sup>.

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<sup>25</sup> Summary evidence of David John Robert Smith / paragraph 3.1 et seq

<sup>26</sup> Evidence of David John Robert Smith / paragraph 10.3

<sup>27</sup> Evidence David John Robert Smith / paragraph 10.4

<sup>28</sup> Evidence David John Robert Smith / paragraph 10.8

***Strategic planning framework***

4.30 Mr Smith then went on to deal with the strategic planning framework, making reference to the Canterbury Regional Land Transport Plan (2021-2031), Canterbury Regional Public Transport Plan (2018-2028), and the objectives and policies of the SDP, to the extent that these documents contain provisions in relation to transportation. He said that it was his view that the plan change was consistent with or not contrary to the provisions of these documents <sup>29</sup>.

4.31 Mr Smith referred to the Canterbury Regional Land Transportation Plan (2021-2031) and noted that the plan change was not inconsistent with the objectives of the plan as the site was within walking and cycling distance of Prebbleton Town Centre with good infrastructure provision for these modes and well located to support the provision of high-quality public transport which could be delivered along Springs Road or through the plan change site using the primary road <sup>30</sup>.

4.32 Mr Smith then went on to refer to the Canterbury Regional Public Transport Plan (2018-2028) which referred to service to and from satellite centres, including Prebbleton. He noted that four new high frequency routes were proposed. He said that the proposed bus route network showed a high frequency service between Prebbleton and Christchurch CBD and said that there was improved public transport accessibility between the site and the Christchurch CBD <sup>31</sup>.

4.33 Mr Smith then referred to the SDP stating that it was anticipated that at the resource consent stage of any development, the transport related rules of the SDP would form an appropriate bases for the design and layout of the internal site <sup>32</sup>.

***Cumulative effects***

4.34 Mr Smith referred to the inclusion of the 28% growth in traffic to replicate the cumulative effects of ten years of further development in the District based on future forecast population increases and said<sup>33</sup> ...

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<sup>29</sup> Evidence David John Robert Smith / paragraph 11.1

<sup>30</sup> Evidence David John Robert Smith / paragraph 11.2

<sup>31</sup> Evidence David John Robert Smith / paragraph 11.3

<sup>32</sup> Evidence David John Robert Smith / paragraph 11.4

<sup>33</sup> Evidence of David John Robert Smith / paragraph 12.9

*"This growth rate aligns well with the Selwyn District forecast included in Appendix 2 to the QTP report included with the S42A report for the Plan Change. The QTP report represents "Scenario 1" which is a forecast agreed by the Greater Christchurch Partnership Committee and included 34% growth in 2018-2028 and 53% growth 2018-2038. When rebased to 2021 (as is consistent with my modelling) this equates to 2.3% per annum out to 2038. As such I consider that my modelling provides a robust assessment of the likely future traffic demands in the vicinity of the Plan Change if Prebbleton, Rolleston and Lincoln continue to develop in line with Statistics New Zealand forecasts and the expectations of the Greater Christchurch Partnership Committee."*

4.35 Mr Smith then went on to note the commitment of SDC through the Selwyn District Long Term Plan (2021-2031) to upgrade transportation infrastructure to facilitate future urban growth as the Canterbury District continued to grow. He went on to state that whilst Shands Road and Springs Road had a finite capacity, the SDC had anticipated future growth and included upgrades in the vicinity of PC68 and further north along these corridors towards Christchurch. He said that the capacity of these corridors was anticipated to reduce over time and this would be a function of growth across the Selwyn District generally, rather than exclusively due to PC68 <sup>34</sup>.

4.36 Then Mr Smith referred to the SDC's Development Contributions Policy and said that this policy provided a means to levy developers to fund any network upgrades required because of cumulative effects. He said that the policy was currently regularly updated to align with infrastructure identified in the three yearly Long Term Plan ("LTP") cycle therefore it was possible to levy for additional infrastructure which may not already be identified in the current LTP <sup>35</sup>.

#### **Road safety**

4.37 Mr Smith dealt with the issue of road safety in a section of his evidence. He noted that a number of submitters had expressed concerns about safety as a result of increased traffic on the network including pedestrian and cyclists' safety. He considered that whilst there were no footpaths currently along the site frontage and on-street cycle lanes located on Springs Road, a future project that would be located along the Trents Road frontage was a cycleway between Templeton and Prebbleton which was in the draft LTP for 2023/24. He considered this project would increase cyclist's safety in proximity

<sup>34</sup> Evidence David John Robert Smith / paragraph 12.11

<sup>35</sup> Evidence David John Robert Smith / paragraph 12.12

to the site and was likely to be designed as a shared path to allow for pedestrian use <sup>36</sup>. Mr Smith expressed the view that as part of the SDP, speed environments and traffic volumes within local streets were low and best suited for walking and cycling between streets <sup>37</sup>.

4.38 Mr Smith then went on to refer to the issue of vehicle accesses. He said that the consideration of access design will be addressed if subdivision consenting stage and safety considerations will be addressed in detail as part of that and subsequent design stages <sup>38</sup>. He said that there were no underlying safety issues along any of the corridors in terms of crash history or underlying risk assessment of the road environment. He noted the intention of SDC to upgrade roads and to control vehicle movements through relevant intersections. He recommended that the speed environments on the adjoining corridors be evaluated should the plan change be approved to be consistent with an urban environment for all road users <sup>39</sup>.

4.39 Lastly, under this head, Mr Smith referred to concerns regarding the safety of upgraded intersections regarding the potential conflict with vehicles and visibility of the intersection. He said that safety audit processes would be required in the design process of the roundabouts as required by the SDC engineering code of practice <sup>40</sup>.

#### ***Public transport connectivity***

4.40 Mr Smith noted concerns had been expressed over lack of public transport connectivity to the proposed plan change area. He acknowledged that the existing level of public transport nearby was limited. However he noted that the Greater Christchurch Public Combined Business Case stated an intention to enhance connections between Lincoln and Prebbleton and the activity centre along Riccarton Road in the medium term. He said that as Prebbleton developed there were options available to re-direct services to better serve PC68 in the future including running public transport services along Springs Road past the plan change site. He said that public transport would be further supported by ensuring that there was a

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<sup>36</sup> Evidence David John Robert Smith / paragraph 12.14

<sup>37</sup> Evidence David John Robert Smith / paragraph 12.15

<sup>38</sup> Evidence David John Robert Smith / paragraph 12.16

<sup>39</sup> Evidence David John Robert Smith / paragraph 12.17

<sup>40</sup> Evidence David John Robert Smith / paragraph 12.18

high standard of access for walking within the plan change site to bus stops and that there needed to be sufficient residential catchment in the vicinity of the plan change site prior to a dedicated route being provided by the Canterbury Regional Council <sup>41</sup>.

### ***Pedestrian and cycling***

4.41 Mr Smith noted concerns which had been expressed over pedestrian and cycling infrastructure. He said that in the Abley Report he had highlighted the importance of the Templeton and Prebbleton link along Trents Road connecting Prebbleton to Christchurch City Council's cycling infrastructure and the Little River Rail Trail. He said that he understood this would be funded by SDC and established in 2023/24 as per the LTP <sup>42</sup>. He went on to state that no further pedestrian or cycling infrastructure was planned or to be developed on Shands Road or Hamptons Road but that pedestrian and cycling use would be limited as both Trents Road and Springs Road would offer more attractive pedestrian and cycling infrastructure. He considered Trents Road to be better located for the proposed pedestrian and cycle link as it was closer to the Prebbleton Town Centre and Springs Road had an existing pedestrian and cycling facility acting as a connection between Christchurch and Lincoln <sup>43</sup>.

4.42 As far as the wider pedestrian and cycling infrastructure was concerned, Mr Smith said that there were new pathways and connections provided for in the design of the CSM2 that linked Rolleston to the south of Templeton and that there was now an extension of the Rail Trail to the north of Prebbleton connecting to the Christchurch Southern Motorway separated shared path. He said that Springs Road offered road cycle lanes and footpaths connecting to the site to the separate and shared path to Lincoln that follows Birches Road ending with the town centre <sup>44</sup>.

### ***Site specific matters***

4.43 Mr Smith went on to deal with safety concerns which had arisen regarding travel to Prebbleton school. These concerns related to the

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<sup>41</sup> Evidence David John Robert Smith / paragraphs 12.19 to 12.22 incl

<sup>42</sup> Evidence David John Robert Smith / paragraph 12.27

<sup>43</sup> Evidence David John Robert Smith / paragraph 12.28

<sup>44</sup> Evidence David John Robert Smith / paragraph 12.29

absence of footpaths and cycle facilities on Trents Road and Hamptons Road. He considered that Hamptons Road did not need to be used for active modes to travel from the site to the school as the internal roading within the plan change site effectively connected pedestrians and cyclists to Trents Road <sup>45</sup>.

4.44 Mr Smith stated that where Trents Road was to be crossed in the vicinity of Farthing Drive, there was a low-speed environment and relatively low traffic volume <sup>46</sup>.

4.45 Mr Smith went on to state that Prebbleton School was within walking distance of the school and he considered there were safe options for both pedestrians and cyclists with Springs Road having a shared path with the local streets being designed for low-speed environment or traffic volumes. Furthermore he said that a cycle facility at (and likely shared path) would be installed by the Council on Trents Road to connect these routes <sup>47</sup>.

4.46 Lastly under this head, Mr Smith expressed the view that there were no particular concerns regarding the safety of mowing operations because a speed reduction along Hamptons Road would improve safety and that the process of setting appropriate speed limits was a matter for the Council not for the applicant <sup>48</sup>.

#### ***Comments on submissions***

4.47 Mr Smith reviewed the evidence of submitters in his evidence summary <sup>49</sup>. As to the concern expressed by Mr Langman about the current reliance of Prebbleton on Christchurch for employment, noting that no employment was included within PC68, Mr Smith stated that Prebbleton was located in close proximity to four Key Activity Centres identified under the Canterbury Land Use Recovery Plan (being Rolleston, Lincoln, Hornby and Halswell). He said that these centres all offered employment. He went on to state that he had been supplied with business demographic data from Mr Colegrave indicating a substantial increase in employment in the Hornby and Halswell areas in the past 10 years. He noted that there was a

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<sup>45</sup> Evidence David John Robert Smith / paragraph 12.30

<sup>46</sup> Evidence David John Robert Smith / paragraph 12.31

<sup>47</sup> Evidence David John Robert Smith / paragraph 12.32

<sup>48</sup> Evidence David John Robert Smith / paragraph 12.33

<sup>49</sup> Summary evidence David John Robert Smith / paragraph 4.1 et seq



significant and increasing quantity of employment within 7 km of the PC68 site.

- 4.48 Mr Smith went on to note that Mr Langman had raised concerns about cumulative downstream traffic effects in spite of the comprehensive modelling assessment undertaken by QTP and the conclusions of Mr Collins on behalf of SDC. He made reference to having reviewed the QTP modelling report, noting that the report included 10,049 households developed between 2018 and 2038 “which is consistent with the full development of the Plan Changes listed in Appendix A including PC68”. He stated that the network model testing was highly conservative and that it considered a scenario which was more than double the anticipated growth forecast to occur within the district <sup>50</sup>.
- 4.49 Mr Smith said that the allocation of households within the Canterbury Transport Model over the next 20 years to align with the medium-high growth scenarios was made up of a combination of greenfield and infill growth with both being included in the model. Because of this he said that there was already an allocation within the transportation modelling in the QTP report for infill development such as would be established by the Medium Density Residential Standards. He said that the Scenario 2 modelling assessment presented the cumulative effect of both greenfield and infill development to match a medium - high growth forecast as well as 14 private plan changes delivering 10,049 household. He said that an extremely conservative approach had been taken which provided confidence that Shands Road and Springs Road were expected to experience little change in forecast traffic growth when comparing a 2038 scenario with 10,000 additional dwellings than forecast.
- 4.50 Mr Smith went on to note that not all of the plan changes that had been heard to-date had been recommended to be granted so that the 10,000 households included in the assessment was an upper limit on the cumulative land use growth forecast and resulted in cumulative transportation network effects <sup>51</sup>.
- 4.51 Mr Smith then went on to refer to Mr Langman’s expressed concerns that the PC68 site was not currently serviced by public transport. He expressed the view that there were options to redirect existing public

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<sup>50</sup> Summary evidence David John Robert Smith / paragraphs 4.5 to 4.7

<sup>51</sup> Summary evidence David John Robert Smith / paragraph 4.10

transport services or to provide new public transport services through and adjacent to the site. He expected that the central primary school shown on the ODP would be designed in such a way as to be able to accommodate buses. He expected that concerns regarding the availability of public transport would be met by the use of mechanisms in place to regularly review bus services with the expectation that several new services would be established to integrate public transport with land use growth as it happened elsewhere <sup>52</sup>.

***The evidence of submitters in relation to transportation matters***

***Introduction***

4.52 As already noted earlier in this recommendation, a number of submitters who gave evidence at the hearing raised transportation concerns, many mirroring what had already been stated in their submissions. A summary of the principal matters raised follows.

***Murray Fletcher***

4.53 Mr Fletcher referred to the Integrated Transportation Assessment that had been prepared by Abley Consultants and reviewed by Flow Transportation Services and was critical of the conclusions arrived at stating that they were flawed. He said that the traffic counts used were from 2017/18 and 2019 and not current at the time of the writing of the report. He referred to the traffic counts for a number of roads and said that a more appropriate comparison to PC68 to be used for the effects on Springs Road was the village where the counts were more around to 12,000 to 13,000 vpd. He said that the assumption of the growth rate of 2.8% per annum was flawed as it did not consider residential growth already approved and underway for Lincoln and Rolleston and the plan changes to be considered for a further 5,700 new homes and seven developments in Rolleston which would put significantly more traffic onto Shands Road <sup>53</sup>.

4.54 Mr Fletcher criticised the views of Mr Collins to the effect that the effects of PC68 on the adjacent transport network would be acceptable when considered in isolation of the other privately initiated plan changes, stating that this was a weak conclusion because of flaws

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<sup>52</sup> Summary evidence David John Robert Smith / paragraph 4.11 to 4.13

<sup>53</sup> Evidence Murray Fletcher /paragraph 27

in the Abley Report, secondly because it was based on a first come first served basis and thirdly it was not included within the settlement areas, so that other private changes being considered by the SDC would not be factoring PC68 into any traffic calculations and traffic effects as a result <sup>54</sup>. Mr Fletcher was critical of the assertion that the traffic on Shands Road and Springs Road would experience little change in forecast growth when comparing a 2038 scenario with 10,000 additional dwellings more than forecast and found this hard to believe <sup>55</sup>.

4.55 Mr Fletcher said that the suggestion in the QTP modelling that additional traffic demand would result in movement shifts to less congested routes into Christchurch was flawed because there were four alternative routes and the model did not know the condition of these routes <sup>56</sup>.

4.56 Mr Fletcher was of the view that there needed to be a plan in place like the "Our Space" report to clearly set out where land should be developed so that there was more certainty for future infrastructure planning. He said that the reference in the s42A Report to other plan changes in Rolleston and Lincoln having yet to be released and thus assessment of traffic speculative at this time and if the changes were declined then there was limited cumulative effect, was an "odd statement" <sup>57</sup>.

4.57 Mr Fletcher commented that in the transport conclusions of Mr Cleese there was no reference to the Climate Change Response (Zero Carbon) Enabling Act 2019 and public transport <sup>58</sup>. Mr Fletcher was critical of what he termed inadequate consideration of the use of walking, cycling and public transport and that the comments made in the relevant reports were cursory. He said that public transport and climate change had not been adequately considered <sup>59</sup>. Mr Fletcher said that Hamptons Road was classified as an arterial road and protection should be in place to protect access to it and promote safety. In his view the effects on Trents and Hamptons Road needed

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<sup>54</sup> Evidence of Murray Fletcher / paragraph 28

<sup>55</sup> Evidence of Murray Fletcher / paragraph 29

<sup>56</sup> Evidence of Murray Fletcher / paragraph 30

<sup>57</sup> Evidence of Murray Fletcher / paragraph 31

<sup>58</sup> Evidence of Murray Fletcher / paragraph 33

<sup>59</sup> Evidence of Murray Fletcher / paragraph 34

to be considered as part of the PC68 application and inferred that they had not been adequately considered <sup>60</sup>.

**CCC/ CRC / Marcus Hayden Langman**

- 4.58 Mr Langman referred to a number of objectives and policies of the CRPS <sup>61</sup>. He referred to Objective 6.2.4 and Policies 6.3.3, 6.3.4 and 6.3.5 of the CRPS. He stated that CCC was specifically concerned that the Integrated Transport Assessment shows that the vast majority of residents commuted from Prebbleton to Christchurch for work (67%) and he said that no additional employment opportunities were provided for as part of PC68 and further said that there had been no demonstrations as to how the proposal would contribute to reduced greenhouse gas emissions <sup>62</sup>.
- 4.59 Mr Langman then went on to refer to the review by Mr Matt Collins on behalf of SDC where he recommended a number of changes to the ODP as well as traffic upgrades. However Mr Langman said that Mr Collins did not assess effects on the wider transport network but did state that PC68 was inconsistent with the Prebbleton Structure Plan and that it was outside the anticipated urban area and was concerned about the prospect of additional impact on the Greater Christchurch transport network as additional residents in Selwyn travelled to access services and employment. Mr Langman said that this was a key concern for CCC particularly when considered in combination with other private plan changes proposed that had not been planned for at a strategic level. He said that the combination could result in significant cumulative and unacceptable impacts on the transport network <sup>63</sup>.
- 4.60 Mr Langman went on to state that he considered that PC68 would contribute to cumulative downstream effects for Christchurch City where many of the ultimate destinations of Prebbleton residents lay, particularly for employment and retail where he said that levels of service in relation to traffic congestion were already poor. He went on to note that modelling indicated that average speeds in the morning peak period would fall substantially by 2048 especially for trips between Selwyn, Waimakariri and Christchurch because of the

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<sup>60</sup> Evidence of Murray Fletcher / paragraph 35

<sup>61</sup> Evidence of Marcus Hayman Langman / paragraph 134 et seq

<sup>62</sup> Evidence of Marcus Hayman Langman / paragraphs 135 and 136

<sup>63</sup> Evidence of Marcus Hayman Langman / paragraph 138 and 139

increased population associated with PC68 and other plan changes. Mr Langman went on to note that several strategic transport assessments undertaken for Our Space and the Future PT Business Case had already been undertaken suggesting that the location of land use growth could significantly impact the distribution of trips and the resulting level of congestion and traffic speeds <sup>64</sup>.

4.61 Mr Langman was of the view that unplanned or out of sequence development, particularly outside the PIB, could inhibit integrated and strategic approach to the delivery of efficient and effective public transport, this being reflected in the Regional Public Transport Plan which emphasised the need for integration of public transport and land use planning as being essential to managing growth <sup>65</sup>.

4.62 Mr Langman stated that development should be commensurate with the level of accessibility already existing or planned and not reliant on future level of public transport service which was unplanned, unfunded and ran counter to the stated policy directions of statutory documents. Mr Langman concluded that PC68 did not support the integration of land use and transport infrastructure and would impede the maintenance of an efficient and effective transport network. He found that PC68 was inconsistent with relevant policies in the CRPS <sup>66</sup>.

***Greg and Jenny Tod***

4.63 Mr and Mrs Tod expressed concern over the placement of the spine road running between Hamptons and Trents Road which egressed onto Trents Road directly opposite their business entrance and expressed concerns regarding the effect on business, lifestyle amenity, security and safety. They noted that in the Collins transport report it was stated that it may be an infringement of the district plan rules and it may be unsafe for large trucks to unload at the Tod gate/roadside and Mr Tod concluded that he would be amazed if concerns about the location of the intersection were not considered a problem <sup>67</sup>.

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<sup>64</sup> Evidence of Marcus Hayman Langman / paragraphs 140 and 141

<sup>65</sup> Evidence of Marcus Hayman Langman / paragraph 142

<sup>66</sup> Evidence of Marcus Hayman Langman / paragraphs 143 and 144

<sup>67</sup> Evidence of Greg Tod / paragraphs 1 and 2

4.64 Later in his evidence, Mr Todd stated that traffic was a nightmare in its present state and would only get worse and that new roundabouts would not alleviate traffic volumes and that was where the problem lay <sup>68</sup>.

***Adam Roger Pollard***

4.65 Mr Pollard referred to the accumulative effects of traffic pressure noting that Shands Road was already a very busy road. He said that adding traffic from Faringdon south west and Faringdon west with approximately 1000 sections and the possibility of approval of Plan Change 69 (at Lincoln) there would be another 2000 sections added from Lincoln which would increase the substantial amount of traffic <sup>69</sup>.

4.66 Mr Pollard referred to the new Trents Road roundabout proposed for 2022/2023 but said that he was yet to be informed by SDC as to the impact on their property <sup>70</sup>.

4.67 Mr Pollard went on to state that he agreed with Mr Fletcher's comments in relation to the age of data used for traffic movements noting that there had been a considerable increase in vehicle movements in the past three years. He said that he would have thought that the most up-to-date information would be used by consultants and that it should not be for submitters to have to provide that information <sup>71</sup>.

***David and Fiona Lees***

4.68 In their evidence, Mr and Mrs Lees referred to cumulative traffic effects resulting from the number and density of proposed change and subdivision compounding with multiple subdivisions elsewhere in the Selwyn District. Mr Lees referred to funnelling of traffic from newer subdivisions on top of growth in Lincoln, Rolleston, Springston, Selwyn and other parts of Prebbleton, increase in traffic, safety to pedestrians and cyclists, noise and difficulty in crossing roads.

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<sup>68</sup> Evidence of Greg Tod / paragraph 22  
<sup>69</sup> Evidence Adam Roger Pollard / paragraph 1  
<sup>70</sup> Evidence Adam Roger Pollard / paragraph 2  
<sup>71</sup> Evidence Adam Roger Pollard / paragraphs 3 and 4

***Nettles Lamont***

4.69 In her evidence, Ms Lamont said that the burgeoning effect of traffic with the PC68 would be “huge”. She said that there would be over 1000 extra vehicles expecting to utilise roads around Prebbleton to get to shopping and commercial areas further afield, that the current roading structure could not cope with the additional load as it is already overloaded. She said that a development such as that outlined would lead to further congestion and vehicle emissions, noise and pollution <sup>72</sup>.

***Helen Urquhart***

4.70 Ms Urquhart noted that the majority of people living in Prebbleton commuted to Christchurch for employment opportunities. She said that houses in Prebbleton were marketed with the proximity of the Southern Motorway as an advantage and she questioned how this development would be likely to be any different. She said that the Prebbleton commute would continue to grow, that slower speeds would be implemented and with the increase in traffic, travel times would increase and the pressure on bottlenecks would also increase. She referred to the cumulative effects of the multiple plan changes happening within Lincoln and Rolleston and the effect of those. She was sceptical of the utility of electric bikes and scooters and doubted whether many people would do their supermarket shopping using a bike. She said that people would still want to use their cars. She said that the traffic had not been normal for years in the area with continual residential and roadworks in the area so traffic counts were never going to be a true reflection of what was really happening <sup>73</sup>.

***S42A Report / transportation***

4.71 In the s42A Report, Mr Cleese noted the preparation of the Integrated Transport Assessment and commented on the location and status of roads in the vicinity of PC68. He said that in the event that the plan change was to be approved, it was anticipated that the speed limits on the three frontage roads would need to be reviewed. He noted the

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<sup>72</sup> Evidence Nettles Lamont / paragraph 18

<sup>73</sup> Evidence of Helen Urquhart / paragraph 5a

recommendation by Mr Collins that both Hamptons and Trents Roads were to be formed to urban standards <sup>74</sup>.

4.72 Mr Clease then dealt with the issue of intersection functionality <sup>75</sup>. He noted the provisions of the Abley Report which models the effects of the additional traffic generated by PC68 on the four relevant intersections. He noted that the modelling identified that the four intersections would continue to perform and adequately provide the upgrade works programmed by the Council are undertaken. He further noted that there was a potential timing issue and recorded the recommendation of Mr Collins that the applicant undertake further modelling of these intersections to better understand performance in the absence of upgrades and if not how long the timing issue will be between the subdivision buildout and the programmed upgrade.

4.73 Mr Clease then went on to note that there were three solutions to the problems associated with the four key intersections being: -

- (i) the applicant undertakes further sensitivity modelling with the timing of upgrades overlaid with the timing of likely buildout with the additional modelling demonstrating that the intersection will continue to perform adequately;
- (ii) if sensitivity modelling does show that there is a significant (of temporary issue) then a second option is that the applicant enters into an agreement with the Council to provide additional funding to enable the programme works to be advanced;
- (iii) the third option is to add a new rule to the district plan as a consequential amendment with the rule limiting the number of houses that be built and occupied prior to the upgrades being in place.

4.74 Mr Clease was of the view that all of the above options would provide an adequate solution to ensure that the four key intersections closer

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<sup>74</sup> S42A Report / paragraph 94

<sup>75</sup> S42A Report / paragraphs 95 to 100 incl



to the site will continue to operate safely and provide a reasonable level of service <sup>76</sup>.

- 4.75 Mr Clease went on to consider pedestrian and cycle connections associated with PC68 <sup>77</sup>. He noted the evidence of Mr Collins which I will not repeat at this point. Mr Clease agreed that the connections advocated for by Mr Collins will assist in providing future residents with alternative means of transport and noted that the final design of cycle facilities could be determined in discussion with the Council as part of the subdivision consent process.
- 4.76 Mr Clease then went on to discuss the issue of public transport saying public transport options were limited. He concluded that whilst the site is not currently well serviced by public transport the plan change and ODP do not preclude the provisions of such services in the future <sup>78</sup>.
- 4.77 Mr Clease went on to examine the issue of cumulative transport network effects <sup>79</sup>, referring to the evidence of Mr Collins, which I will not repeat, save to observe that the major concern of Mr Collins related not so much to the traffic generated by PC68 per se but rather the cumulative traffic effects that might be generated by the sweep of plan changes proposed in the wider area, including those in Rolleston and Lincoln.
- 4.78 Mr Clease stated that he understood from the feedback from Mr Andrew Mazey, SDCs roading asset manager, that the Greater Christchurch Partnership organisations are well aware of the potential changes to the commuter volumes arising from the plethora of recent plan change applications and are in the process of investigating how to support modal or shift towards public transport and the potential for commuter rail from Rolleston. In the meantime the Partner organisations are reviewing the function of the wider road network noting that such is an iterate process and is hoping to proceed in the context of considerable uncertainty generated by the multitude of plan changes in locations that have not been previously identified for growth <sup>80</sup>. Mr Clease said that tension was inevitable with the door opening created by the NPS-UD and stating that that document

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<sup>77</sup> S42A Report / paragraphs 101 to 104 incl

<sup>78</sup> S42A Report / paragraphs 105 and 106

<sup>79</sup> S42A Report / paragraphs 107 to 113 incl

<sup>80</sup> S42A Report / paragraph 112

created a process whereby the co-ordination of urban growth with transport infrastructure became a reactive and iterative, particularly where the effects derived from individual plan changes are found to be acceptable and any adverse effects were only felt cumulatively <sup>81</sup>.

- 4.79 In reaching his conclusions on transport, Mr Cleese noted the recommendations of Mr Collins relating to additional sensitivity modelling and amendments to the ODP plan and narrative. Mr Cleese noted, sensibly in my view, that because decisions on other plan changes in Rolleston and Lincoln were at that time yet to be released, the extent of any increase in traffic generated by them was simply speculative at the time of writing. He said that in the event that a number of plan changes were approved, the QTP modelling suggests that the additional traffic demand will result in movement shifts to alternative less congested routes into Christchurch but noted that there was a likelihood that there would be some increase in congestion in the short term <sup>82</sup>.

***Mr Smith / response to s42A Report***

- 4.80 Mr Smith commented upon the transportation evidence contained in the s42A Report in his evidence-in-chief which has already been recorded. This involved commenting on the report produced by Flow Transportation Specialists as Appendix B to the s42A Report.

***Mr Smith / cumulative and wider effects of plan changes***

- 4.81 As to the important issue of cumulative and wider effects of the plan changes in the Selwyn District, Mr Smith said that he had reviewed the QTP report and agreed with the conclusion of Mr Collins that regional modelling indicated that Shands Road and Springs Road were expected to experience little change in forecast traffic growth, when comparing the 2038 scenario with 10,000 additional dwellings more than forecast. He said that the calculation of Mr Collins as to the cumulative number of households included in the plan changes and his conclusions addressed the concerns raised by some submitters regarding the potential cumulative effects of the various plan changes which had been lodged across the District <sup>83</sup>.

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<sup>81</sup> S42A Report / paragraph 113

<sup>82</sup> S42A Report / paragraphs 114 to 116 incl

<sup>83</sup> Evidence of David John Robert Smith / paragraph 12.36

**Mr Smith / traffic modelling**

4.82 Mr Smith then went on to refer to traffic modelling in the Transportation Hearing Report <sup>84</sup>. Mr Smith referred to the capacity assessment presented in section 7.3 of the report where Mr Collins considered that 2,700 vehicles per hour per lane in the ITA overestimated capacities and offered a range of 2,070 to 2,530 vehicles per hour per lane. Mr Smith said he considered this assessment to represent a moot point as the modelled traffic volumes presented were less than the upper range quoted by Mr Collins, which essentially validated his own assessment <sup>85</sup>.

4.83 Mr Smith went on to refer to the evidence of Mr Collins relating to his recommendation that no dwellings be occupied until such time as the relevant intersection and carriageway upgrades are completed or under construction. Mr Smith said with construction of these projects to be completed on or before 2024/5 he considered it was very unlikely that all five projects would be in place prior to substantial development of the plan change sites. He went on to state that he had undertaken an assessment to determine the effects of modest extent of development prior to the completion of these projects <sup>86</sup>.

4.84 The conclusions which Mr Smith reached following an assessment by him were <sup>87</sup>: -

- (i) the Shands Road/Trents Road roundabout upgrade is required prior to any development occurring on the plan change site;
- (ii) when the Shands Road/Trents Road roundabout upgrade is complete there is likely to be a temporary shift of right turning traffic from the Shands Road/Hamptons Road priority control intersection. He has estimated that 120 lots would only generate only up to 30 movements in a peak hour through this intersection which is only one vehicle every two minutes and he considers that it is very unlikely that re-routing from Hamptons to Trents Roads would exceed this amount and on this basis the

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<sup>84</sup> Evidence of David John Robert Smith / paragraphs 12.37 to 12.54 incl

<sup>85</sup> Evidence of David John Robert Smith / paragraph 12.38

<sup>86</sup> Evidence of David John Robert Smith / paragraph 12.40

<sup>87</sup> Evidence of David John Robert Smith / paragraphs 12.42 and 12.43

Shands/Hamptons roundabout is not required prior to 120 lots being established on the site;

(iii) the Springs Road/Hamptons Road upgrade is not relied upon by the plan change as the intersection has sufficient capacity to accommodate the full PC68 traffic volumes in its current form.

(iv) the view of Mr Smith is that 120 lots of development at the southern end of the plan change site can occur once the Shands Road/Trents Road roundabout is operational.

4.85 Mr Smith accepts that the Shands Road/Hamptons Road roundabout should be installed prior to more intensive development of the site. However he notes that the modelling results to demonstrate that the development does not require the Springs Road/Hamptons Road intersection upgrade to be complete prior to full development of PC68 <sup>88</sup>.

4.86 Mr Smith goes on to state that the Trents and Hamptons Roads seal widening projects are timed in the LTP to be delivered at the same time as the intersection upgrades. He considers it will be beneficial for these to be in place prior to wider development of PC68.

4.87 Mr Smith goes on to note that Mr Collins was advised that SDC intended to construct a single lane roundabout at the Shands Road/Trents Road roundabout. Mr Smith has noted that modelling results demonstrate there is step change deterioration in performance of a roundabout if it were constructed as a single lane roundabout and goes on to consider an additional approach lane for left turning traffic being added to the Shands Road north approach.

4.88 Mr Smith proceeds to consider the 2030 modelling results with the addition of the left turn and considers that the proposed enhancement will maintain or improve the operational performance of the Shands Road corridor, will require less land taken be it at a lower cost compared to a full dual lane roundabout. He has therefore recommended to the applicant team that the addition of a second approach lane from the north along Shands Road will benefit road users within PC68 as well as other road users <sup>89</sup>.

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<sup>88</sup> Evidence of John Robert Smith / paragraph 12.44

<sup>89</sup> Evidence of John Robert Smith / paragraphs 12.45 to 12.52 incl

4.89 Mr Smith then refers to the proposed second approach lane from the Shands Road north approach, noting that land acquisition will be required. He considers that the size and location of the roundabout island and other geometric design features of the roundabout as proposed by SDC are suitable to accommodate the enhancement without requiring significant additional design work. He states that he has checked the future forecast traffic volumes on Shands Road for the forecast year of 2030 and confirms that the volumes reconcile with the QTP 2038 traffic volumes in the morning peak period which provides an additional validation check on the robustness and reliance which can be placed on Mr Smith's modelling assessment <sup>90</sup>.

***Mr Smith / frontage upgrades***

4.90 Mr Smith goes on to refer to frontage upgrades and supports the updating of the ODP to refer to the Trents Road and Hamptons Road frontages being upgraded. He also supports the inclusion of a pedestrian facility along Trents Road and that it is appropriate to provide a pedestrian footpath along the Hampson Road frontage as part of the plan change. However he notes that there is no adjacent development to the south/west of the site and there is excellent pedestrian connectivity within the site as no demand for a continuous footpath along Hamptons Road beyond the extent of the plan change site <sup>91</sup>.

***Mr Smith / provision for cycling***

4.91 Mr Smith then refers to agreement with the recommended cycle routes presented by Mr Collins in Figure 6 of his report as indicative routes for further assessment at the appropriate time, agreeing that indicative cycling routes could be added to the ODP and that these would be confirmed and assessed in further detail as part of any future subdivision consent application <sup>92</sup>.

***Mr Smith / Prebbleton Structure Plan***

4.92 Mr Smith agreed with the broad observation of Mr Collins that there will be an additional impact on the Greater Christchurch network if growth and residential activity within the Selwyn District is not

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<sup>90</sup> Evidence of David John Robert Smith / paragraphs 12.53 and 12.54

<sup>91</sup> Evidence of David John Robert Smith / paragraphs 12.55 and 12.56

<sup>92</sup> Evidence of David John Robert Smith / paragraph 12.57

accompanied by a corresponding increase in employment and services. He noted that the modelling assessment undertaken by QTP took into account consideration of future forecasts of employment etc which provided Mr Smith with confidence that the future effects of anticipated residential development on the wider transport network had been assessed in an appropriate manner <sup>93</sup>.

***Mr Smith / responses to submissions***

4.93 Mr Smith then went on to comment upon a number of matters raised in submissions as follows <sup>94</sup>: -

- (i) he agreed that the request for traffic calming on Springs Road, Trents Road, Hamptons Road was a matter for the Council;
- (ii) he said that the adjacent areas with respect to PC68, the roading network in the ODP anticipated these areas may become urbanised in the long term;
- (iii) Mr Smith said that he did not consider a modest increase in density would result in a step change in demand for transport services but agreed that in theory higher density supported public transport outcomes;
- (iv) as to truck access to 345 Trents Road, Mr Smith said that a design process for the new intersection would consider the needs of the submitter to ensure that truck movements were facilitated and that a safety audit would also be required to ensure safe design for all modes of transport;
- (v) Mr Smith agreed to the inclusion of adjacent areas in PC68 was unlikely to have a consequential effect to the conclusions of the ITA. He said that the ODP included transport links to the boundary of adjacent undeveloped areas which provided excellent collections for all road users should these areas develop in the future.

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<sup>93</sup> Evidence of David John Robert Smith / paragraph 12.58

<sup>94</sup> Evidence of David John Robert Smith / paragraph 12.59

**Mr Smith / conclusions**

- 4.94 Mr Smith concluded that the plan change could be supported in relation to transportation matters. He recommended that 120 lots could be established in PC68 following the construction of the Shands Road / Trents Road roundabout with the remainder requiring the Shands/Hamptons roundabout upgrade and Trents and Hamptons Roads seal widening projects to be built <sup>95</sup>.

**Mr Mathew Ross Collins (Selwyn District Council)****Mr Collins / review of reports and evidence**

- 4.95 Mr Collins has been engaged by SDC as a transport expert for PC68 since August 2021. I have already made reference to the evidence of Mr Collins when referring to the S42A Report prepared by Mr Cleese. Mr Collins has experience as a transportation planner and engineer in the public and private sector and outlined that experience. He had prepared the Transportation Hearing Report dated 13 December 2021 attached as Appendix B to the S42A report ("Transportation Hearing Report"). He had reviewed the evidence of Dave Smith and Patricia Harte and also the evidence of Nick Williamson and Marcus Langman. He had also reviewed a summary statement from Jonathan Cleese <sup>96</sup>.
- 4.96 Mr Collins assessed the modelling undertaken by Mr Smith relating to the Shands Road//Trents Road roundabout. Mr Collins concluded that a minor increase in traffic approaching the roundabout in a northerly direction would be likely to have a much greater effect on queuing and delays than had been assessed by Mr Smith who had stated that the modelling identified only minor delays of around 30 seconds on the Shands Road (south) approach during the morning period. This was because Mr Collins was concerned that the reported delays were highly sensitive to change in traffic volume as the Shands Road (south) approach was essentially at capacity. Mr Collins had discussed his concerns with Mr Smith and as a result said that he was comfortable with what was termed a second option involving the addition of a double approach land on Shands Road (south). Mr

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<sup>95</sup> Evidence of David John Robert Smith / paragraph 13.1 to 13.3 incl  
<sup>96</sup> Summary evidence Mathew Ross Collins / paragraphs 1.1 to 1,4 incl and 3.1 to 3.3 incl

Collins said that this upgrade was required as a direct consequence of the traffic effects of PC68 <sup>97</sup>.

4.97 Mr Collins went on to refer to the staging of development to align with the delivery infrastructure. He agreed with Mr Smith's assessment and conclusion which in summary was <sup>98</sup>: -

- (i) the Shands Road/Trents Road roundabout upgrade was required prior to any development occurring on PC68;
- (ii) the Shands Road/Hamptons Road roundabout was required prior to more than 120 lots gaining access to Hamptons Road;
- (iii) the Springs/Road Hamptons Road upgrade was not required prior to the full development within PC68.

4.98 Mr Collins then went on to adopt the recommendations of Mr Smith as to the timing of lots being made available to the public. Mr Collins went on to state that he shared the concerns of Mr Williamson about how staging would be achieved and considered that the staging which had been recommended by Ms Harte in her evidence should be identified in a district plan rule. He suggested a wording which regulated the release of allotments by reference to the upgrading of the relevant intersections and seal widening <sup>99</sup>.

4.99 Mr Collins then referred to the funding of transport infrastructure noting that Mr Williamson had raised concerns about that issue. Mr Collins considered that all required transport infrastructure needed to support PC68 was funded in the LTP of SDC other than the double lane Shands Road/Trents Road roundabout. Mr Collins said that the Council and Waka Kotahi currently had funding allocated to upgrade the intersection to a single lane roundabout whereas PC68 necessitated additional capacity upgrades on the Shands Road approaches and departures. Mr Collins went on to note the programme dates for the infrastructure and sounded the cautionary note that despite the high certainty of the funding and delivery of these improvements, there is always a possibility that Waka Kotahi

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<sup>97</sup> Summary evidence Mathew Ross Collins / paragraph 4.1 et seq

<sup>98</sup> Summary evidence Mathew Ross Collins / paragraph 5.1

<sup>99</sup> Summary evidence Mathew Ross Collins / paragraphs 5.4 to 5.7 incl



may choose to reallocate funding away from these projects. He said that in view of this possibility the matter was appropriately addressed through the inclusion of a rule as previously discussed <sup>100</sup>.

4.100 Mr Collins then discussed the requirement for a developer agreement with SDC which would rely on third party land acquisition. He went on to state that the success of developer agreements to address infrastructure upgrades required to support privately initiated plan changes depended upon the willingness of the plan change applicant and the number of parties that benefited from the infrastructure upgrade but said that he understood that the Council had a willingness to work with the applicants to secure the additional upgrade for the Shands Road/Trents Road intersection. He said the he recommended that a staging rule would act as a strong incentive for the applicant to enter into the developer agreement with the Council <sup>101</sup>.

4.101 Mr Collins then went on to discuss the provision of the continuous footpath on Hamptons Road and on Trents Road between PC68 and Farthing Drive. He noted his understanding that the applicant supported his recommendation for the footpath connection on Hamptons Road and had agreed to it being identified in the ODP <sup>102</sup>.

***Mr Collins / cumulative effects***

4.102 Mr Collins then referred to the important issue of the cumulative effects on the wider transport network <sup>103</sup>. He noted the concerns which had been expressed by Mr Langman in his evidence relating to the cumulative effect that PC68, and other plan changes within Selwyn District may have on the wider transport network. Mr Collins noted that SDC had engaged QTP to assess the transport effects of two future land use scenarios for Selwyn District: -

- (i) one scenario related to growth in Selwyn based on a forecast agreed by the Greater Christchurch Partnership Committee;

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<sup>100</sup> Summary evidence Mathew Ross Collins / paragraphs 6.1 to 6.4 incl

<sup>101</sup> Summary evidence Mathew Ross Collins / paragraphs 6.5 to 6.8 incl

<sup>102</sup> Summary evidence Mathew Ross Collins / paragraphs 7.1 to 7.4 incl

<sup>103</sup> Summary evidence Mathew Ross Collins / paragraphs 8.1 to 8.6 incl

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- (ii) the second scenario added an additional dwellings in the Selwyn District only, without any changes to employment or any changes to households in Christchurch or Waimakariri.

4.103 Mr Collins stated that if PC68 did not result in a corresponding increase in local employment and access to services, there could be expected to be an additional impact on the Greater Christchurch transport network. However he said that wider area effects and “out of sequence” plan change such as PC68 “may not be overly apparent in a macro scale regional traffic model”. Mr Collins was of the view that whilst PC68 would have effects on the wider transport beyond those assessed by Mr Smith in his Integrated Transport Assessment, those effects (including cumulative effects of other plan changes) were more appropriately addressed at a district and/or regional level. However In answer to a question from me, Mr Collins said that the cumulative effects had already been assessed, referring to the QTP Report dated October 2021 <sup>104</sup> to which I am about to make reference.

4.104 Lastly Mr Collins commented upon servicing PC68 with public transport, stating that whilst there was no guarantee that PC68 would be directly served by public transport in the future, he considered there were no fundamental reasons why this could not occur <sup>105</sup>.

#### ***The QTP report***

4.105 The QTP report was prepared for SDC by Flow Transportation Specialists Limited and is dated October 2021 entitled *Future Year Transport Model Outputs / Selwyn 2031 Update (Selwyn 2051)* (“QTP report”). As Mr Collins notes in the Transportation Hearing Report the engagement of QTP was to test the effects of greater residential growth in Selwyn on the Greater Christchurch transport network, as part of SDC’s “Selwyn 2051” plan. Mr Collins noted that the transport models outputs provided in the QTP report do not attempt to precisely predict future conditions, but rather provide a broad indication of likely outcomes of a certain set of assumptions

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<sup>104</sup> Summary evidence Mathew Ross Collins / paragraphs 8.4 to 8.6 incl

<sup>105</sup> Summary evidence Mathew Ross Collins / paragraphs 9.1 to 9.4 incl

come to pass and he noted that further model limitations were noted in the report itself <sup>106</sup>.

4.106 The QTP report assesses the difference between two potential scenarios in 2038 <sup>107</sup>: -

(i) **Scenario 1 (2038)**

Growth in Selwyn based on forecast agreed by Greater Christchurch Partnership Committee for households, population, and employment;

(ii) **Scenario 2 (2038)**

Scenario 1 plus an additional 10,000 dwellings (Selwyn District only), without any changes to employment, or any changes to households in Christchurch or Waimakariri. It was noted that these were slightly lower than the sum of the current privately initiated plan changes (10,900 dwellings) which Mr Collins had previously noted.

4.107 Mr Collins noted <sup>108</sup> that QTP found that:-

- (i) travel patterns in both scenarios were indicated to remain similar to 2021, but with an increased magnitude proportional to population increase (increase of around 32% peak hour trips);
- (ii) there is and will be a high demand between Selwyn and Christchurch with approximately 50% of Selwyn's peak hour trips starting or finishing in Christchurch with trips distributing across available corridors between the two districts;
- (iii) for both scenarios limited growth was indicated on some routes (such as Springs Road and Shands Road due to downstream constraints in Christchurch) resulting in other routes seeking a higher increase in traffic;

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<sup>106</sup> *Transportation Hearing Report / para 4*

<sup>107</sup> *Summary evidence Mathew Ross Collins / paragraph 8.3*

<sup>108</sup> *Transportation Hearing Report / page 7*

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- (iv) for both scenarios more than 90% of trips were indicated to be by private vehicle;
- (v) Scenario 2 is indicated to cause increasingly poor performance on several parts of the Prebbleton network when compared with Scenario 1 including at:-
  - (a) Springs Road/Marshes Road intersection;
  - (b) Shands Road/Marshes Road intersection.

4.108 Mr Collins summarised the findings of the QTP assessment and his view of “out of sequence” development in the following summary <sup>109</sup>: -

- (i) should PC68 affect the quantum of residential growth within Selwyn, without a corresponding increase in local employment and access to services, additional impact on the Greater Christchurch transport network could be expected as additional residents in Selwyn travel to access services and employment;
- (ii) however, the wider area effects of an “out of sequence” plan change such as PC68 may not be overly apparent in a macro scale regional traffic model. As the vehicle movements generated by a plan change distributed across the wider transport network, they have become a smaller proportion of the total trips on the network.

4.109 The limitations of the QTP model are set out in the QTP report <sup>110</sup>. Noting it is possible to make reasonable and useful predictions of potential outcomes in the future, the report highlights the difficulty in predicting future behaviour, noting that the transport models had been calibrated to reflect 2006 travel behaviour, within an inherent assumption that this would continue. The report states that while over the past few decades this has proven (empirically) to be a valid assumption, the recent (2021) government policy statements on land transport and housing and urban development suggest that

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<sup>109</sup> *Summary evidence Mathew Ross Collins / paragraph 8.4*

<sup>110</sup> *At paragraph 2.3 et seq*

significant intervention is needed in the near future to force travel behaviour change in order to address climate change, sustainability issues, urban design and to provide better long-term outcomes.

***Mr Collins / summary***

Mr Collins summarised his views in his evidence <sup>111</sup>. He recommended that subject to two matters, he considered that there were no transport impediments to the approval of PC68: -

- (i) that district plan activity(ies) and rule(s) be provided to require development within PC68 to be staged with nearby transport network upgrades as discussed in his evidence;
- (ii) that the ODP and narrative identify that footpaths are to be provided on Trents Road and Hamptons Road, between PC68 and the intersections with Farthing Drive as discussed in his evidence.

***Transport effects / my assessment and findings***

***Cumulative effects***

4.110 Because of the number of plan changes which are either in the process of consideration, or the subject of approval in the Selwyn District, there is considerable uncertainty as to the extent to which further development will be permitted and the consequences of such development as is permitted on the wider transportation network. The submitters in opposition have rightfully drawn attention to the difficulties of assessment which are imposed by this level of uncertainty. Whilst the statutory regime for privately initiated plan changes contemplates that requests for private changes will be dealt with on their merits and without delaying to await the outcome of other contemplated privately initiated requests for plan changes, that does not mean that such requests should be dealt with in a vacuum without attempting to assess the present transportation setting and also the likely future transportation setting. On the basis of the available evidence it is necessary to make the best possible assessment of the cumulative effects associated with other

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<sup>111</sup> *Summary evidence of Mathew Ross Collins / paragraph 10*

developments which are either in train or contemplated and which, on balance, are realistic possibilities.

- 4.111 In practical terms, the provision of adequate information to enable an assessment of cumulative effects to be made represents a difficult hurdle. There will always be a level of uncertainty as to the likely extent of future development which will hinge upon the treatment of plan changes which are in the course of evaluation as well as those which have been approved.
- 4.112 Notwithstanding the element of uncertainty regarding the extent of likely future development discussed above, there has been an assessment of transportation effects associated with future growth on the basis of the consideration of a number of development scenarios. Particular emphasis is placed on the Abley Report. Much of the report is concerned with the direct transportation effects of the implementation of PC68 <sup>112</sup>.
- 4.113 I have been particularly influenced by the conclusion of the network effects assessment contained in the Abley Report <sup>113</sup>.
- 4.114 Mr Collins rightfully highlighted that assessing the effects of out-of-sequence development, such as PC68, created complex challenges for councils and road controlling authorities <sup>114</sup>. He accepted, as I do, that PC68 would have effects on the wider transportation network which are likely to be beyond those assessed by Mr Smith in his Integrated Transport Assessment. However the QTP Report has provided a level of comfort in that whilst the purpose of the report was not to assess the cumulative of traffic effects of the multiple plan changes within Selwyn, it does provide insight into the potential quantum of effects, by comparing a standard population growth scenario (Scenario 1) with a high population growth scenario (Scenario 2). I note that the report provides a broad indication of likely outcomes if a certain set of assumptions come to pass.
- 4.115 I accept the statement of Mr Collins that without a corresponding increase in local employment and access to services, an additional impact on the Greater Christchurch transport network can be

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<sup>112</sup> *Abley Report / paragraph 7*

<sup>113</sup> *Abley Report / paragraph 9*

<sup>114</sup> *Summary evidence Mathew Ross Collins / paragraph 8.2*

expected as additional residents in Selwyn travel to access services and employment. However I do not regard this level of uncertainty as militating against approval of PC68, subject to the conditions which, it has been suggested, should be imposed should the plan change be approved.

- 4.116 I accept the statement in the Abley Report <sup>115</sup> that with 10 years of background traffic growth, both the Shands Road corridor and the Springs Road corridor have sufficient capacity to accommodate the full development of the site. However there is likely to be an additional impact on the Greater Christchurch Transport Network. I accept the statement by Mr Collins that the transport effects of PC68 on the adjacent transport network can be managed through projects in SDC's LTP and further assessments during the subdivision stage of development <sup>116</sup>. Accordingly I find that concerns regarding cumulative effects are insufficient to act as a barrier to the approval of PC68.

***Conditions of approval***

- 4.117 I accept and adopt the statement of Mr Collins that subject to implementation of his recommendations, there are no impediments to PC68 <sup>117</sup>. It follows from the extensive discussion of the evidence and reports in relation to transportation matters, that in order to manage the effects of the development of PC68 on the transportation network, it is necessary for there to be a number of conditions imposed upon the development of the land in question, in order to ensure that the effects on the transportation network are acceptable. I note as follows .....

- (i) The ODP has been amended to provide that the Trents Road and Hamptons Road frontages are to be upgraded to an urban standard in accordance with the Engineering Code of Practice. These frontages are to encourage properties to front these roads as well as providing for walking and cycling connections within Prebbleton and between Prebbleton, Lincoln and Rolleston;

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<sup>115</sup> *Abley Report / paragraph 7.9*

<sup>116</sup> *Transportation Hearing Report / paragraph 8*

<sup>117</sup> *Summary evidence of Mathew Ross Collins / paragraph 10.2*

- (ii) The staging rule suggested by Mr Collins is to be inserted in the SDP in the following form ....

**Part C**

**12 LIVING ZONE RULES – SUBDIVISION**

**12.1 SUBDIVISION – GENERAL**

**Prebbleton**

*12.1.3.48A In respect of the Living zoned land identified in Appendix [ ]*

*(a) No residential allotments may be created within ODP Area [ ] prior to completion of the upgrading of the Shands Road/Trents Road intersection involving a roundabout with two laning of Shands Road on both approaches and on the northern departure to the roundabout.*

*(b) No more than 120 residential allotments may be created within ODP Area [ ] prior to the completion of:*

- (i) the upgrading of the Shands Road/Hamptons Road intersection to form a roundabout; and*
- (ii) seal widening of Trents Road, between Springs Road and Shands Road; and*
- (iii) seal widening of Hamptons Road, between Springs Road and Shands Road.*

This provision reflects the requirement for intersection and upgrades and seal widening to occur prior to certain stages of development, reflecting the concerns expressed by (in particular) Mr Collins;

- (iii) It is noted that the latest version of the ODP (Version 6) and narrative identifies that footpaths are to be provided on Trents Road and Hamptons Road, between PC68 and the intersections with Farthing Drive, as recommended by Mr Collins;
- (iv) The imposition of speed limits is not a matter to concern me at this stage but observe that consideration may be given at some later time to the imposition of speed limits by SDC on roads where the further restrictions are seen as necessary.

4.118 A final comment under this head is appropriate. I observe that given the level of uncertainty regarding wider transportation effects which I have commented upon in this recommendation, ideally a full assessment of these effects would be made, with reference to information as to plan changes which were to become operative and other factors such as the impact that public transport initiatives in the



Canterbury Region to establish the likely effect upon the overall transportation network. As is discussed in detail later in this recommendation, the provisions of the NPS-UD, in terms of timing requirements, do not allow for the delays which would be inherent in such an analysis taking place. Accordingly it has been necessary to make an assessment on the basis that the information presently available in spite of any inadequacies in the information which is presently available.

### **GREENHOUSE GAS EMISSIONS**

#### ***Evidence on behalf of the applicant***

##### ***Evidence of David John Robert Smith***

4.119 Mr Smith (on behalf of the applicant) referred to the issue of vehicular travel and associated emissions in his evidence <sup>118</sup>. Mr Smith considered that Prebbleton was well located to restrict vehicular travel and associated emissions compared to other developing urban areas located further away. He then referred to the potential to improve public transport and new technologies including the continued uptake of electric and hybrid vehicles and buses which he said was likely to decrease vehicle related emissions across the fleet as signalled in Waka Kotahi's *Vehicle Emission Prediction Model*. This model estimates that by 2048 two-thirds of New Zealand's vehicle fleet will be electric or hybrid vehicles and the average carbon dioxide equivalent emissions per vehicle will reduce by as much as 60% in accordance with Figure 5 of his evidence.

##### ***Evidence of Ms Harte***

4.120 Ms Harte referred to the issue of greenhouse gas emissions in the summary of her evidence <sup>119</sup>. She referred to the evidence of Mr Smith which I have referred to in the preceding paragraph. She then went on to note that the comparison of PC68 with intensification of existing residential areas was not appropriate as the NPS-UD contemplated expansion as well as intensification and thus comparing the two forms of increasing capacity in the context of supporting reduction of greenhouse gas emissions was inappropriate. She went on to refer to

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<sup>118</sup> Evidence David John Robert Smith / paragraphs 12.23 to 12.25 incl

<sup>119</sup> Summary of evidence of Patricia Harte / paragraphs 11.1 to 11.4 incl

Objective 6.2.2 of the CRPS which supported consolidation of urban areas, one basis being that it was most likely to minimise the adverse effects for work, education, business and recreation. She said it was surprising that the latest and only amendment to that document was the addition of two FDAs at Rolleston which were a significant distance from central Christchurch as opposed to PC68. The inference was that the CRPS had not turned its back on development some distance from Christchurch, notwithstanding the implications in terms of the emission of greenhouse gases.

***Greenhouse gas emissions / evidence of submitters***

***Murray Fletcher***

- 4.121 Mr Fletcher noted that Mr Cleese had made no reference to the Climate Change Response (Zero Carbon) Enabling Act 2019 and public transport. He said that insufficient planning had been undertaken to establish the effect that accommodating the development would have on reducing vehicle numbers and carbon use. He was of the view that insufficient attention had been paid to the issue of climate change <sup>120</sup>.

***Marcus Hayden Langman***

- 4.122 When giving evidence, Mr Langman stated that there had been no demonstration as to how the proposal would contribute to reduced greenhouse gas emissions, which he said was a requirement for a well-functioning urban environment <sup>121</sup>. Mr Langman noted that in the section 42A Report, Mr Cleese agrees that PC68 may not support reduction in greenhouse gases, primarily due to a reliance on private vehicles but had caveated this with a view that the same situation arises currently in relation to existing zoned land or land identified for future development in the Selwyn District <sup>122</sup>. Mr Langman was of the view that it was not logical to draw this conclusion because PC68 was an addition, not in substitution, to other growth areas <sup>123</sup>.

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<sup>120</sup> Evidence Murray Fletcher/paragraphs 33 and 34

<sup>121</sup> Evidence of Marcus Hayden Langman / paragraph 136

<sup>122</sup> Evidence of Marcus Hayden Langman / paragraph 163

<sup>123</sup> Evidence of Marcus Hayden Langman / paragraph 164

- 4.123 Mr Langman went on to state that no aspect of the proposal looked to achieve the policy direction being to establish well-functioning environments which *at a minimum* support reductions in greenhouse gas emissions and said that there was no quantification of this nor any proposal to see how such reductions might be achieved<sup>124</sup>. Mr Langman said that whilst not all land within the existing GPAs and FDAs may deliver on every NPS-UD or CRPS policy now, it could be reasonably expected that this would occur as a result of the strategic planning and infrastructure that would “unlock” that land for development<sup>125</sup>. Mr Langman concluded by stating that land transport currently accounted for 41% of greenhouse gas emissions in Greater Christchurch, noting that plan prepared by Waka Kotahi<sup>126</sup>.

***Greg and Jenny Tod***

- 4.124 Mr and Ms Tod expressed concerns about the loss of vegetation and the increase in carbon emissions from cars and log burners. It was stated that the reverse sensitivity of what was termed this “urban heat island” may have a negative effect on the Tod nursery and that there had been no full report into this effect tabled. Mr Tod said that there were a number of ways that climate change effects could be mitigated and they should be considered. In answer to a question from me, Mr Tod stated that larger sections would be likely to mitigate pollution more than the size of sections the subject of PC68<sup>127</sup>.

***Nettles Lamont***

- 4.125 Ms Lamont referred to climate change, stating it was necessary to consider the negative aspect of zone change and the ensuing development on climate. She referred to the “urban heat island effect”. She said that the burgeoning effect of traffic with PC68 would be huge because over 1000 extra vehicles would be expecting to utilise the roads around Prebbleton to get to shopping and commercial areas further afield. She said that the development would lead to further congestion and vehicle emissions<sup>128</sup>.

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<sup>124</sup> Evidence of Marcus Hayden Langman / paragraph 165

<sup>125</sup> Evidence of Marcus Hayden Langman / paragraph 166

<sup>126</sup> Evidence of Marcus Hayden Langman / paragraph 167

<sup>127</sup> Evidence Greg and Jenny Todd/paragraphs 10 and 11

<sup>128</sup> Evidence of Nettles Lamont /paragraphs 17 and 18

***Helen Urquhart***

- 4.126 Ms Urquhart expressed concern regarding Co2 emissions. She said that if PC68 were to be approved, it could be used as an opportunity to make this a sustainable low carbon footprint using solar power and re-using great water <sup>129</sup>.

***Waka Kotahi***

- 4.127 Waka Kotahi NZ Transport Agency referred to the issue of carbon emissions in its submission. It referred to the fact that New Zealand had a target to achieve a net zero carbon target as mandated by the Climate Change Response Act 2002 by 2050 and went on to state that carbon emissions have been an increasingly important aspect for consideration when making planning decisions under the NPS-UD. The submission went on to state that the proposed plan change would likely further contribute to transport associated carbon emissions, noting that there was limited planning for the provision of improved public transport to support the future residents of the plan change area. The submission concluded by stating that specific consideration should be given to whether the plan change was consistent with the provisions of the NPS-UD and what improvements could be made to reduce the contribution of carbon emissions from the subject site <sup>130</sup>

***Section 42A Report***

- 4.128 Mr Cleese dealt with the issue of increased emissions in his report. He said that it was not an issue which was just specific to PC68 when compared with other growth areas within the Selwyn District, including for instance Rolleston, West Melton and Lincoln. He said that compared with other Inner Plains townships, Prebbleton was closer to Christchurch and therefore arguably growth in Prebbleton reduced the potential for greenhouse gas emissions relative to other growth options in Selwyn District <sup>131</sup>.

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<sup>129</sup> Evidence of Helen Urquhart/paragraph 5  
<sup>130</sup> Whaka Kotahi submissions / paragraphs 15-19 incl  
<sup>131</sup> S42A Report / paragraph 217

***Greenhouse gas emissions / my consideration and findings***

- 4.129 I note Mr Langman's evidence that the reduction in greenhouse gas emissions was one of the key objectives of the NPS-UD and a significant issue for all plan changes before SDC. Mr Langman is right to emphasise the importance of this criterion. Undoubtedly transport emissions are a significant ongoing element in the generation of greenhouse gas associated with the establishment of residential areas.
- 4.130 I agree with Ms Harte when she stated in evidence that comparing PC68 with intensification of existing residential areas needed to be considered against the fact that NPS-UD contemplates expansion as well as intensification. She said that it was not appropriate to compare the two forms of increasing capacity in the context of supporting a reduction in greenhouse gas emissions <sup>132</sup>. I observe that, taken to its logical conclusion, a strict and black letter application of the policy in the NPS-UD (referred to hereafter) relating to the supporting of reductions in greenhouse emissions, may well prevent any development outside established areas because such new development would be likely to have a material impact upon the extent of motor vehicle emissions associated with the need to travel for work opportunities and such like.
- 4.131 I have examined this issue alongside the relevant policy in the NPS-UD and have concluded that the relevant policy cannot be read narrowly. As Ms Harte has pointed out in her evidence <sup>133</sup> Objective 6.2.2 of the CRPS supports consolidation of urban areas. The explanation for this is that such development "is most likely to minimise the adverse effects for work, education, business and recreation". She states that it is perhaps surprising that the latest and only amendment to the CRPS was the addition of two FDAs at Rolleston which are 21.7 to 27.4 kilometres from Central Christchurch as are compared to PC68 which is 16 kilometres. Thus the CRPS has set its face against what could be termed a black letter application of the policy.

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<sup>132</sup> *Summary evidence of Patricia Harte / paragraph 11.3*

<sup>133</sup> *Summary evidence of Patricia Harte / paragraph 11.4*

- 4.132 Because Prebbleton is closer to Christchurch compared with other Inner Plains townships such as Rolleston, West Melton and Lincoln, and growth has been identified in these other areas, it is arguable that growth in Prebbleton reduces the potential of greenhouse gas emissions relative to the other growth options in the Selwyn District because of a closer proximity to Christchurch. This is certainly not a complete answer to the question of whether the proposal supports reductions in greenhouse gas emissions but goes some way towards this.
- 4.133 In summary I have concluded the issue of greenhouse gas emissions does not operate to prevent the development the subject of PC68. In my view the issue needs to be seen in the context of the fact that NPS-UD clearly contemplates the need for development in greenfield areas. Whilst there will be an increase in greenhouse gas emissions by reason of the development associated with PC68, I note that the relevant policy in the NPS-UD (Policy 1(e)) speaks of supporting the reduction of greenhouse gases. I agree with Mr Cleary when he stated in his submissions that greenhouse gas emissions are to be avoided <sup>134</sup> and that realistically, the use of private motor vehicles and attendant emissions must be contemplated.

***INFRASTRUCTURE SERVICING (WATER/WASTEWATER/  
STORMWATER)***

***The evidence for the applicant***

- 4.134 The application includes an infrastructure assessment prepared by Davie Lovell-Smith Limited which is appended as Appendix A to the application. The assessment includes not only the servicing necessary to support the PC68 site (and some 820 new dwellings) but also the servicing which would be necessary were all the land located within Shands, Trents and Hampton Roads ultimately be rezoned to Living Z (approximately 1040 dwellings).

***Andrew James Emil Hall***

- 4.135 Mr Hall gave evidence on behalf of the applicants. He is a Chartered Professional Engineer and a director of Davie Lovell-Smith Limited, an engineering firm based in Christchurch. He holds qualifications

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<sup>134</sup> Opening submissions on behalf of applicant / paragraph 8.9

both as a surveyor and professional engineer. He has significant experience in civil engineering related to the development of land which includes the provision of infrastructure.

- 4.136 Mr Hall was satisfied that there was adequate provision for the proper disposal of stormwater. Whilst there was no formal SDC stormwater reticulation in the area to service the site, geotechnical testing and investigations had been carried out in the area and these showed that the underlying soils were conducive to good soakage conditions. Mr Hall said that the PC68 area was underlaid with deep gravels and the ground water level was at a depth of approximately 5 to 10 metres and that it was intended that stormwater would be infiltrated to ground as is normal on the western side of Prebbleton <sup>135</sup>.
- 4.137 Mr Hall went on to state that a discharge consent would be required from Environment Canterbury and as part of this process conditions from Environment Canterbury would be agreed in a co-ordinated fashion with SDC <sup>136</sup>.
- 4.138 Mr Hall then referred to stormwater facilities which would be required and said that the stormwater design would comply with the requirements of SDC's relevant standards <sup>137</sup>. Mr Hall noted that a discharge consent was required from Environment Canterbury for the stormwater runoff during construction but did not express the view that this would cause any difficulties.
- 4.139 Mr Hall went on to deal with the disposal of wastewater. As it will be noted later in this recommendation, I have paid particular attention to this element of PC68. Mr Hall said that SDC was progressively working towards a single, integrated wastewater treatment plan. The existing plant receives wastewater from Lincoln, Prebbleton, Springston, West Melton and Rolleston and is currently called the Eastern Selwyn Sewage Scheme <sup>138</sup>. Mr Hall said that he had consulted with Mr Murray England of SDC as to the ability of the Pines to accommodate PC68. Current capacity exists and full capacity would certainly be available following the planned upgrade at the Pines Wastewater Treatment Plant ("Pines WWTP") <sup>139</sup>.

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<sup>135</sup> Evidence Andrew James Emil Hall /paragraph 3.11

<sup>136</sup> Evidence Andrew James Emil Hall /paragraph 3.12

<sup>137</sup> Evidence Andrew James Emil Hall /paragraph 3.17

<sup>138</sup> Evidence Andrew James Emil Hall /paragraph 3.20

<sup>139</sup> Summary evidence Andrew James Emil Hall /paragraph 8

4.140 Mr Hall said that a new pumping station would be installed on the lower end of the area of PC68 which would involve the installation of a new rising main from the pump station to the existing Prebbleton pump station as there was not currently capacity for the additional flows in the existing gravity network on Trents Road. Mr Hall noted the existing Prebbleton Pump Station had a limitation as to its capacity and explained why this was the case. Mr Hall noted that the proposed pump station could be provided with additional emergency storage to buffer peak flows or add additional catchment areas adjacent to the area of PC68. He stated that the PC68 site did not have a high groundwater level and as such there would be minimal egress of water into the system. He said that following implementation and some changes to the existing system, wastewater capacity should not inhibit the potential for this land to be developed <sup>140</sup>.

4.141 Finally Mr Hall noted that the applicants were willing to work with SDC to facilitate the construction of the key wastewater infrastructure upgrades by way of a private developer agreement or some other similar instrument <sup>141</sup>. He noted that this type of arrangement allowed the developer to progress works, but in a joint arrangement with the Council so that all of the Council's strategic requirements are met and that the wastewater catchment is fully serviced. The extra/over costs of the key wastewater infrastructure, above that required by the developer, would be paid back to the developer by SDC at the time of S224c certification. Alternatively, he noted that SDC may wish to construct the infrastructure upgrades, or portions of it, and recover the costs through development contributions which would require the particular works to be included in SDC's long term plan.

4.142 Mr Hall then went on to deal with the issue of water supply. He noted that the water supply in Prebbleton was provided by a network of bores and pump pipework network and that a high-quality potable water was provided. Should more water be required for an expanding population, Mr Hall noted that additional bores would be installed in locations and depths so as to not detrimentally affect

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<sup>140</sup> *Summary evidence Andrew James Emil Hall /paragraph 8*

<sup>141</sup> *Summary evidence Andrew James Emil Hall /paragraph 3.30*



existing bores in any way <sup>142</sup>. Mr Hall said that the Council had a water supply strategy for the provision of water to the PC68 area involving the installation of new pipework in the existing roads around the periphery <sup>143</sup>. SDC may require a bore to be installed on the site and the applicants were prepared to assist with this by way of providing land for a bore site and for facilitating the expansion of the pipe network strategy by way of a private developer agreement or another instrument. All future homes in the PC68 area will be serviced with a water supply connection to the boundary and in accordance with the standards of SDC. Mr Hall said that both SDC and the applicant were in full agreement as to the provision of water supply services to the PCV68 area <sup>144</sup>.

### ***The evidence of submitters***

#### ***Mr Langman***

4.143 A number of submitters raised concerns regarding the provision of infrastructure. Mr Langman, giving evidence on behalf of CRC and CCC, noted that Policy 6.3.5(2) of the CRPS sought to ensure that the nature, timing and sequencing of the new development was co-ordinated with the development, funding, implementation and operation of transport and other infrastructure. Policy 6.3.5(2)(e) stated that this was in order to ensure that new development did not occur until provision for appropriate infrastructure was in place <sup>145</sup>. Mr Langman sounded a cautionary note stating that he did not agree that evidence merely demonstrating that feasible servicing options existed were sufficient, or that site specific upgrades could be made, given the need to service a number of developments should further notified plan changes be approved, including Plan Change 72 in the south of Prebbleton <sup>146</sup>.

4.144 Mr Langman went on to comment upon wastewater and noted that the conveyance of wastewater to the Pines WWTP was feasible but subject to timing of infrastructure works. Mr Langman noted that Mr England had noted that while there was capacity within the Prebbleton Termial PS to accept flows from this plan change, that

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<sup>142</sup> Evidence Andrew James Emil Hall /paragraph 3.32

<sup>143</sup> Evidence Andrew James Emil Hall /paragraph 3.34

<sup>144</sup> Evidence Andrew James Emil Hall /paragraph 3.35 to 3.39 incl

<sup>145</sup> Evidence Marcus Hayden Langman /paragraph 123

<sup>146</sup> Evidence Marcus Hayden Langman /paragraph 128

there were other private plan changes lodged in addition to this and that capacity may not be available for all. No discussion was provided on whether allocation would take place on a first come first served basis. However Mr England advised this would be updated at the hearing <sup>147</sup>. I refer to the further information provided by Mr England later in this recommendation.

4.145 Mr Langman made similar comments in relation to wastewater treatment, noting that the Pines WWTP was currently at or near capacity with upgrade plans all budgeted for. The essence of Mr Langman's evidence was that there was no commentary on what the cumulative impact of development would have on capacity at the WWTP if all the changes were approved <sup>148</sup>.

4.146 Mr Langman acknowledged that Mr England was satisfied that feasible options were available in relation to the disposal of stormwater <sup>149</sup>. However Mr Langman said that approving PC68 could potentially undermine the timely delivery of other land identified for planned urban development within the PIB and the FDAs that would be reliant on the remaining infrastructure capacity at the Pines WWTP until such time as upgrades were completed. He said that a precautionary approach should be taken <sup>150</sup>.

4.147 Lastly Mr Langman said that a further complicating factor for infrastructure planning was the Enabling Act which would have a considerable impact on the demand for infrastructure capacity existing in new development areas within the Selwyn District and that no analysis appeared to have been done at this early stage of the Act coming into force <sup>151</sup>.

#### **Nick Williamson**

4.148 Mr Williamson said that the required infrastructure upgrades (and there were a few) would need to be undertaken (and funded) by the developer including the "proportional costs" of off-site or downstream effects where they were necessitated by growth beyond PC68. Mr Williamson inferred that he was critical of what he termed vague references to the

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<sup>147</sup> Evidence Marcus Hayden Langman /paragraph 129

<sup>148</sup> Evidence Marcus Hayden Langman /paragraph 130

<sup>149</sup> Evidence Marcus Hayden Langman /paragraph 131

<sup>150</sup> Evidence Marcus Hayden Langman /paragraph 132

<sup>151</sup> Evidence Marcus Hayden Langman /paragraph 133

proposals to implement funding, referring to vague references to “the subdivision state” “a Private Developer Agreement or some similar instrument” and “additional developer contributions” <sup>152</sup>.

4.149 Thereafter Mr Williamson, under the heading “The Ways it will not Work as Intended” stated that there were no details about when and how future development agreements and conditions on subsequent applications required to serve the development would be carried out. He noted that it was the view of the reporting officer that funding of any such infrastructure upgrades necessitated by the plan change was not an impediment to zoning and said that he completely disagreed. He said to not have this issue set out in greater detail before approving the plan change and the resulting expectation being set would be likely to give rise to exactly the issues which the submitters had raised <sup>153</sup>.

4.150 Mr Williamson went on to state that there did not appear to be any mechanisms put forward to determine the extent to which the developer would contribute to infrastructure planned and budgeted for, and questioned what triggers were in place to ensure that the developer did not proceed ahead of any required upgrading, particularly where there had been multiple or other significant proposal and plan changes being entertained by the Council <sup>154</sup>. Mr Williamson stated that he was concerned that owners would have no interest in participating in agreements to contribute towards the cost of shared assets and said that he had no confidence that a development agreement was either a practical or even viable option <sup>155</sup>. Mr Williamson went on to state that in the absence of such agreement, the mechanisms for infrastructure upgrades were limited and to the extent the infrastructure works were intended to be included in the SDC’s Long Term Plan which would give rise to the ability to charge development contributions, the process for doing this was not quick or simple <sup>156</sup>.

4.151 As a complicating factor, Mr Williamson referred to the Enabling Act that re-introduced the ability of the Council to charge financial contributions on permitted activities but said that SDC was yet to

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<sup>152</sup> Evidence of Nick Williamson / paragraph 36

<sup>153</sup> Evidence of Nick Williamson / paragraph 46

<sup>154</sup> Evidence of Nick Williamson / paragraph 47

<sup>155</sup> Evidence of Nick Williamson / paragraph 49

<sup>156</sup> Evidence of Nick Williamson / paragraph 50

fully consider the implications of the changes and a yet unknown influence on infrastructure funding where there was the 3 Waters Reform presently being advanced by the Government <sup>157</sup>. Mr Williamson said that if the applicant was serious about looking into the provision and funding of infrastructure they would have included financial contribution provisions in PC68 as described in ss 77E and 108 of the RMA <sup>158</sup>.

***Greg and Jenny Tod***

- 4.152 Mr and Ms Tod expressed concern about the potential for water pollution and said that a groundwater level of 5 metres was not deep enough to protect it from direct stormwater discharge to land, particularly when soil permeability was classed as slow to rapid in the area <sup>159</sup>. Later, Mr and Ms Tod referred to the view that community infrastructure was going to get stressed and overloaded as there was no commitment to improve it <sup>160</sup>.

***Ian and Fiona Lees***

- 4.153 Mr and Ms Lees expressed concerns about water quality and supply and in particular the possible effects on their bore water. They posed a number of questions in relation to capacity, the question of whether there had been study into pollutants from the new urban area percolating into the aquifers supplying existing domestic wells in and around the subdivision and that the planners did not indicate how the significant increase in stormwater runoff would be mitigated.

***Nettles Lamont***

- 4.154 Ms Lamont expressed concerns about the quality and quantity of water, noting that in common with her neighbours, she and her husband had noticed a decline in water availability and were concerned that the negative effect on the water supply of the proposed residential development. Further she expressed concerns on the potential effects of the development on nearby waterways, referring to concerns about contamination and the NPS for Fresh

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<sup>157</sup> Evidence of Nick Williamson / paragraph 51

<sup>158</sup> Evidence of Nick Williamson / paragraph 52

<sup>159</sup> Evidence Greg and Jenny Tod / paragraph 8

<sup>160</sup> Evidence Greg and Jenny Tod / paragraph 23

Water Management 2020 which provides for the Māori view that there is a need to consider the importance of the life supporting capacity of water from the mountains to the sea <sup>161</sup>. Ms Lamont went on to refer to the huge pressure on the local infrastructure which could only cope with existing demand <sup>162</sup>.

***Murray Russell England***

4.155 Mr England is the Asset Manager-Water Services for SDC. He has engineering qualifications and has responsibility for managing SDC's five waters including potable water, waste water, stormwater, land drainage and water races<sup>163</sup>.

4.156 Firstly Mr England commented upon the issue of the availability of an appropriate water supply. He said that the Prebbleton Water Supply provided untreated deep-ground water to the Prebbleton community. He went on to state that Prebbleton was expected to grow of the next 30 years and that capacity upgrades were proposed to meet this growth. He considered that additional capacity within the network to service PC68 could be made available with further capacity upgrades proposed and planned for and therefore future water demand from the proposed plan change could be met <sup>164</sup>. Mr England stated that the reticulated water supply for PC68 would need to be designed to meet firefighting standards when either subdivision and/or building consents were sought from the Council <sup>165</sup>.

4.157 Mr England dealt with the issue of disposal of stormwater. He said that it was anticipated that stormwater would be discharged to ground and stated that the proposed management of stormwater was appropriate for this area. He noted that a resource consent for stormwater discharge would be required from Environment Canterbury before any subdivision consent could be approved <sup>166</sup>.

4.158 Mr England dealt with the arrangements for the treatment and disposal of wastewater associated with PC68. Mr England noted that wastewater was treated and disposed of at the Pines WWTP in

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<sup>161</sup> Evidence of Nettles Lamont / paragraphs 14 and 15

<sup>162</sup> Evidence of Nettles Lamont / paragraph 21

<sup>163</sup> Evidence of Murray England / paragraphs 1-4 incl

<sup>164</sup> Evidence Murray England / paragraphs 6-13 incl

<sup>165</sup> Evidence Murray England / paragraphs 14-17 incl

<sup>166</sup> Evidence Murray England / paragraphs 40 and 41

Rolleston. The Pines WWTP was designed to be progressively upgraded to accommodate up to 60,000 persons equivalents of incoming flow, with plans to increase the treatment capacity up to 120,000 person equivalents being prepared. He noted the current connected catchment (2021) had a population equivalent to approximately 42,000 to 45,000. He said that there were plans to expand the irrigation area which equated to servicing for more than 120,000 person equivalents or more than 100,000 person equivalents if the largest irrigator was not in operation. Ultimately he said that additional areas within the 486 ha of land owned and consented could be developed for land-based disposal while remaining in compliance with existing resource consent conditions <sup>167</sup>.

- 4.159 As to wastewater conveyance, Mr England said the connection of the development's wastewater network to the Council's reticulated network (at the Prebbleton Terminal PS) was feasible. He said this would be the subject of an engineering approval process in the future <sup>168</sup>. I note that in his primary evidence, Mr England provided detailed evidence as to the proposed upgrading of return conveyancing capacity, that is to say the conveyance of wastewater from Prebbleton to the Pines WWTP. He also noted detailed evidence regarding the Pines WWTP. He noted that conveyance or wastewater from PC68 to the Pines WWTP was feasible and would be subject to the engineering approval process. He said that approving PC68 may limit options to rezone other areas in Prebbleton or may delay the development of existing zoned land until further upgrades were funded and constructed. Mr England went on to state that the current design wastewater treatment system which was being built in modular stages had an ultimate capacity of 60,000 person equivalents. The extension of the Pines WWTP to 120,000 person equivalents had been identified and funded in the SDC LTP with design and continuing works programme for the forthcoming years to allow for development in the district including that proposed in PC68. He noted that if PC68 were to be approved, development contributions were payable for additional lots <sup>169</sup>.

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<sup>167</sup> Summary statement Murray England / paragraphs 7-8 incl

<sup>168</sup> Summary statement Murray England / paragraph 9

<sup>169</sup> Evidence of Murray England / paragraphs 37-39 incl

- 4.160 Because of my concerns regarding the status of information available in relation to the availability of facilities for wastewater conveyance, I directed that Mr England was to provide further information ....

*..... regarding the availability for facilities for wastewater conveyance which I understand to involve upgraded pumps and pumping. If possible, details of the availability and timing of necessary upgrading steps should be provided. This information is relevant to the question of whether there would be adequate wastewater facilities to accommodate the housing the subject of the proposed change.*

- 4.161 Mr England responded with a memorandum dated 14 April 2022 which dealt with the matters the subject of my inquiry. The contents of this minute are important because they deal with concerns which I had about the availability of conveyancing capacity in the light of evidence which I had heard to that point regarding the need for upgrading and my concern regarding the question of whether the development associated with other plan changes in the proximity would affect the availability of adequate conveyancing capacity facilities.

- 4.162 As to treatment capacity, Mr England reiterated that the Pines WWTP had sufficient capacity to process wastewater generated by PC68, including the other private plan changes in Prebbleton (PC72 and PC79) if they were also approved and proceeded. Mr England was comfortable that there were no short, medium or long term capacity constraints in terms of wastewater treatment <sup>170</sup>.

- 4.163 Mr England then dealt with what I perceived to be the more unsettled issue of the conveyance system intended to accommodate projected flows between Prebbleton and the Pines WWTP. Mr England referred to Map A in the CRPS and stated that infrastructure had been planned, funded and was in place to accommodate the growth within the current urban extent as shown in Map A. As to anticipated areas outside Map A, Mr England said that infrastructure capacity was assessed and provided on a "first come – first served" basis. He went on to state that subject to localised upgrades which he had identified in this previous evidence, there was enough capacity in the conveyancing infrastructure to accommodate the wastewater

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<sup>170</sup> Response to minute Murray England / paragraph 3

generated by the two private plan changes that had been processed to a hearing, i.e. PC68 and PC72 <sup>171</sup> .

4.164 Mr England noted that a third plan change was under consideration (PC79). He went on to state that in the event that this plan change was approved, in company with the others referred to previously, and the balance of Prebbleton was developed with modest intensification, the combined population equivalent for Prebbleton was expected to be in the order of 10,800 person equivalents. He stated that there would be a shortage of capacity if one took into account PC72 (effectively given priority) and took into account the demands of the PC68 site. However he said that a number of modest upgrades were proposed to the local network and the Terminal Pump Station to enable the additional demand generated by PC68 to be accommodated <sup>172</sup>. He stated that the design and construction of the proposed conveyance upgrades would be completed ahead of or at the time of the proposed change area developments <sup>173</sup> .

4.165 Mr England then went on to discuss planned upgrades, noting schedule improvements as opposed to elements which would be incorporated by developers within each of the catchments. He said that developers of the proposed plan change areas would be required to provide a direct connection to the Prebbleton Terminal Pump Station or contribute towards the upgrade of the existing gravity reticulation network <sup>174</sup>. Mr England went on to refer what he termed "resilience and risk mitigation", noting that there were other wastewater connections available to Prebbleton, other than the current pipework between the Prebbleton Terminal Pump Station and the Pines WWTP <sup>175</sup>.

4.166 In summary Mr England said that in the event that density/yield of the private plan change areas increased further, or additional private plan changes were sought, then additional upgrades would be required. The cost and design of this infrastructure would be a matter to be explored at the point in the future when the location and yield of any further growth proposals were known <sup>176</sup>.

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<sup>171</sup> Response to minute Murray England / paragraphs 6-7 incl

<sup>172</sup> Response to minute Murray England / paragraphs 10-12 incl

<sup>173</sup> Response to minute Murray England / paragraph 14

<sup>174</sup> Response to minute Murray England / paragraphs 17-20 incl

<sup>175</sup> Response to minute Murray England / paragraphs 21 and 22

<sup>176</sup> Response to minute Murray England / paragraph 28



***Infrastructure / my consideration and findings******Stormwater***

- 4.167 Having regard to the evidence of Mr Hall, I am satisfied that there will be adequate provision for the proper disposal of stormwater. As is noted in Mr Hall's evidence, geotechnical testing and investigations have been carried out and these have shown that the underlying soils are conducive to good soakage conditions. If I am satisfied that the stormwater design complies with the requirements of SDC's relevant standards (and I am entitled to assume that there will be compliance), there will be no issues associated with the disposal of stormwater associated with the development the subject of PC68, and I so find.

***Wastewater***

- 4.168 The issue of the disposal of wastewater is not straightforward. This is because in order to accommodate the development the subject of PC68, there will need to be infrastructure upgrades.
- 4.169 Mr Hall said that the Pines WWTP is west of Rolleston. Whilst there is some surplus capacity, it is clear that the Pines WWTP is likely to have to be upgraded to accommodate general growth in the district and also including the development the subject of PC68. I noted from the evidence of Mr England that the Pines WWTP upgrading has been considered as part of the 2021/22 LTP. I note the reference in Mr England's evidence to the fact that allowing the plan change may limit options to rezone other areas in Prebbleton or may delay the development of existing zoned land until further upgrades are funded and constructed. I have concluded that upgrading can be expected to be carried out by SDC as part of the works funded in the LTP and, importantly, if this is not the case, the cost of development can be recovered from the developer by way of development contributions.
- 4.170 I have noted that the existing Prebbleton pump station has a limitation on its capacity and that it is likely that the pumps will need to be upgraded to accommodate wastewater from any development of the land the subject of PC68. This matter was dealt with in the evidence of Mr Hall where he noted the likely requirements for new

piping and upgrading of pumps. Mr Hall said that both the Council and the applicant were in agreement as to the provision of wastewater services and noted that the applicant was willing to work with STC to facilitate the construction of the key wastewater infrastructure upgrades by way of private development agreement or some other instrument.

- 4.171 Against the above background I have concluded that the disposal of wastewater generated by the development of the land the subject of PC68 will either be accommodated by works carried out and funded by the SDC as being funded in the relevant LTP, or, importantly, the cost will be able to be recovered by way of development contributions payable by the developer or by an appropriate agreement by the developer.

***Water supply***

- 4.172 I agree that no problems with water supply relating to PC68 will arise, for the reasons explained by Mr Hall, which I adopt.

***Infrastructure / my final comments***

- 4.173 I note that in the evidence of Mr Williamson, he was sharply critical of the feasibility of funding the work which needed to be carried out to service the development. In particular he took exception to the view of the reporting officer that funding of any infrastructure upgrades necessitated by the plan change was not an impediment to zoning and completely disagreed with this <sup>177</sup>. He went on to state that there did not appear to be any mechanisms put forward to determine the extent to which the developer would contribute and questioned the ability to recover development contributions under the Local Government Act 2002. Mr Williamson noted that this would require particular works being included in the Council's LTP and that this process was not quick or simple <sup>178</sup>.

- 4.174 The points made by Mr Williamson call into question the viability of PC68 and the question of whether I should recommend approval. I have concluded that there are sufficient mechanisms available,

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<sup>177</sup> Evidence of Nick Williamson / paragraph 46

<sup>178</sup> Evidence Nick Williamson / paragraph 50

including agreements with the developer which have worked in the past with SDC, to justify a finding that the funding of infrastructure will be possible and that I am entitled to proceed on the basis that the relevant infrastructure will be available at the appropriate time and that it will be able to be funded one way or another. I do not consider that I am required to have absolute certainty as to which method of funding is likely to be adopted. The fact is that the developer will have a strong incentive to ensure that infrastructure is funded one way or the other, in the absence of which the development will not be able to proceed.

### ***SOIL PRODUCTIVITY / VERSATILE SOILS***

#### ***Introduction***

4.175 A number of submitters have expressed concerns that the implementation of PC68 will result in the irreversible loss of productive land. The area of land which is to accommodate PC68 is significant in size and, should PC68 proceed, will inevitably result in the loss of productive soils.

4.176 The assessment of this important matter involves: -

- (i) making an assessment of the extent to which the subject land is presently utilised for productive rural activities;
- (ii) to assess whether the level of productivity is likely to change in the future;
- (iii) to attempt to measure the loss of the productive capacity of the land when measured against other land which is available in the overall bank of land available for productive purposes.

#### ***The evidence***

##### ***Evidence of Victor Mkurutsi Mthamo***

4.177 Mr Mthamo is a Principal Consultant for the environmental science, engineering and project management consultancy Reeftide Environmental and Projects Limited having been in this role for nine years. He has extensive experience in a number of matters which

qualify him as experienced to give expert evidence in relation to land/soil versatility and productivity potential <sup>179</sup>.

4.178 Mr Mthamo stated that the PC68 area included 36.13 ha of Land Use Capability ("LUC") Class 2 soils and 7.57 ha of LUC Class 3 soils. He reviewed site specific factors relevant to the productivity of soils on the subject site. The following matters were given particular emphasis <sup>180</sup>: -

- (i) because of moisture deficits, there is a need to establish irrigation to meet crop demand and a very significant amount would be required to buy and transfer consents for the PC68 area to irrigate for full productivity;
- (ii) the soils productivity potential is not realised because nutrient application rates will be limited by the limit set out in the Canterbury Land and Water Regional Plan;
- (iii) because of advances in technology and farming techniques over the years the loss of up to 43.7 ha of soil is unlikely to result in any significant loss of production as it can be made up elsewhere;
- (iv) the developable area in the context of total LUC2 and LUC3 soils in the district in the region is very small;
- (v) PC68 will not result in any significant cumulative loss of versatile soils at either a district or regional level;
- (vi) the site is bound by existing subdivisions and lifestyle blocks and Mr Mthamo expected that there would be significant resultant reverse sensitivity issues associated with intensifying agriculture production in such an area. Mr Mthamo referred to the judgment in *Canterbury Regional Council v Selwyn District Council* <sup>181</sup> where the court acknowledged that low productivity could arise because of reverse sensitivity effects from residential neighbours.

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<sup>179</sup> Evidence of Victor Mkurutsi Mthamo/paragraphs 1.1 to 1.5 incl  
<sup>180</sup> Summary of evidence of Victor Mkurutsi Mthamo/paragraph 4  
<sup>181</sup> *Canterbury Regional Council v Selwyn District Council* [1997] NZRMA 25

- 4.179 In addition if the additional blocks which are sought to be included within the plan change are included, there will be an increase in the removal of soils which is regarded as insignificant.
- 4.180 Mr Mthamo took issue with the contention of Mr Marcus Langman who asserted that Mr Mthamo had downplayed the importance of the soil resource. Mr Mthamo did not agree and emphasised the importance of site-specific assessments to be taken into consideration to remove the sole reliance on the defaults LUC Classes 1-3. Mr Mthamo said that Mr Langman did not acknowledge the requirement for site-specific soil assessments when he concluded that Mr Mthamo had downplayed the importance of productive soils <sup>182</sup>.
- 4.181 In summary Mr Mthamo did not consider that the soils on the site were capable of sustaining fully productive agriculture uses <sup>183</sup>.

***Evidence of Marcus Hayden Langman***

- 4.182 As noted above, Mr Langman took issue with the evidence of Mr Mthamo in relation to the loss of highly productive land. The essence of the evidence of Mr Langman was that Mr Mthamo had downplayed the importance of the soil resource. He acknowledged that the recent proposed National Policy Statement on Highly Productive Land ("proposed NPS-HPL") was in draft and was not required to be given effect to but maintained that the discussion document still contained relevant matters that could be considered in terms of planning practice. He referred to the cumulative and fact of loss of finite soils over time to urban development being potentially significant noting the extent to which land had been lost to urban expansion in Canterbury from 1990 to 2008 <sup>184</sup>.
- 4.183 Mr Langman considered that decisions regarding expansion onto high productive land should be made following a strategic review of development options across a district and some regional basis enabled through processes such as Our Space and the development of the Greater Christchurch spatial plan. He said that would ensure

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<sup>182</sup> *Summary of evidence of Victor Mkurutsi Mthamo/paragraph 7*

<sup>183</sup> *Summary of evidence of Victor Mkurutsi Mthamo/paragraph 8*

<sup>184</sup> *Evidence of Marcus Hayden Langman / paragraph 153 et seq*

that where greenfield expansion was to occur that urban growth was directed to areas that do not compromise the most valuable soil resources or that at least options were evaluated on a reasonably wide scale to determine the most appropriate location and development <sup>185</sup>.

***Other submitters' evidence***

- 4.184 Whilst no expert evidence was called by any submitters to contradict the evidence of Mr Mthamo, as noted above, a number of submitters expressed concerns about the loss of productive soils.
- 4.185 Greg Tod, giving evidence on his own behalf and on behalf of his wife Jenny, referred to concerns about the loss of productive land stating that the only reason that the land was not productive at present was because the landowners chose not to farm it. He referred to the potential for the land in question to be used for economically viable activities including growing salad crops in greenhouses, stating that from his experience there was no necessity to require greater than 50 ha as stated in the Versatile Soils Report to be productive <sup>186</sup>.

***Submissions***

- 4.186 A number of submissions addressed concerns regarding the loss of productive soils.
- 4.187 David and Julie Somerfield made reference to concerns about the loss of productive land. They maintained that PC68 would result in the loss of good productive land and appeared to be contrary to the intent of the draft NPS which (Objective 3) provided for the protection of productive land from an appropriate subdivision use and development. They made reference to PC68 resulting in uncoordinated urban expansion onto highly productive land and said that the land should be retained for rural purposes. Their primary concern was that whilst the area proposed to be re-zoned was not said by the applicant to be highly productive, the Somerfield land was highly productive and should be protected from having sensitive and incompatible activities adjacent to them.

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<sup>185</sup> Evidence Marcus Hayden Langman/paragraph 153 et seq

<sup>186</sup> Evidence Greg Tod/paragraphs 15 and 16

4.188 The Canterbury Regional Council addressed the issue of highly productive land and versatile soils in its submission. It was noted that the plan change site was identified on Canterbury Maps as comprising Land Use Capability Classes 2,3 and 4 using the New Zealand Land Resource Inventory data. It was submitted that the area would be likely impacted upon by the impending direction in the proposed NPS-HPL and conflicted with the Selwyn District Plan Township Volume Policy B1.1.8 relating to the avoiding of rezoning land which contained versatile soils. Similarly, it was said that a conflict arose with regard to the proposed Selwyn District Plan Policy UG-P9 which provided for the recognition and provision for the finite nature of the versatile soils resource when zoning land to extend township boundaries to establish new urban areas.

4.189 There was then reference to CRPS Policy 5.3.12 which seeks to maintain versatile soils that contribute to Canterbury's overall rural productive economy. It was said that whilst this policy related to development within the wider region (i.e. outside of greater Christchurch) Environment Canterbury wished to draw attention to the emerging national direction on this matter and the strengthening of measures to protect highly productive land from development. Reference was made to *West Coast Regional Council v The Friends of Shearer Swamp*<sup>187</sup> where the High Court held that regard may be had to non-binding national policy documents as relevant background material even though those documents do not have any status under the RMA.

4.190 Lastly it was submitted that there was a lack of compliance with Objective 3 of the proposed NPS-HPL which refers to highly productive soils being protected by avoiding "uncoordinated urban expansion of highly productive land that has not been the subject to a strategic planning process".

***Versatile soils/productive land issues/my consideration and findings***

4.191 Undoubtedly productive soil is a precious resource with finite characteristics. Mr Mthamo made reference to *Selwyn Regional Council v Selwyn District Council*<sup>188</sup> where the Environment Court,

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<sup>187</sup> [2012] NZRMA 45

<sup>188</sup> [1997] NZRMA 25

(with the experienced Judge Treadwell presiding), held that the term versatile soil/land should not be based just on the inherent properties of the soils in question (which is the LUC approach) but must be defined based on broader considerations than the land use capability. Mr Mthamo adopted the approach and noted that the assessment of versatile soil/land should take into account factors relevant to the overall success of a particular farming enterprise. In considering the evidence, I adopt this approach.

4.192 As far as the subject site is concerned, realities need to be confronted. I find, having regard to the constraints associated with the subject site, including water availability, the ability to apply nutrients and reverse sensitivity issues, the use of the subject land for intensive agriculture production is unlikely to occur at any time in the future. I do not overlook that land in the vicinity of the subject site is being used for highly productive purposes. Reference is made to the submission of David and Julie Somerfield, which is to this effect <sup>189</sup>. However the constraints to which I have just made reference and the setting of the subject site do not encourage the view that the land in its unaltered state will utilise the versatile soils in question for significant production purposes.

4.193 A further consideration is to have regard to the extent of what I will call the versatile soil land bank in the Selwyn District. The evidence of Mr Mthamo is to the effect that PC68 will have an insignificant effect on district and regional agricultural productivity potential having regard to the balance of the land in the Selwyn District containing versatile soils which remains available. I adopt this evidence.

4.194 The evidence of Mr Mthamo is notable for its thorough analysis of all relevant factors relating to the question of whether the loss of the soils which are versatile and productive dictates that PC68 should not proceed. I have carefully considered the opinions which have been expressed by submitters to the effect that loss is not acceptable. I have been particularly influenced by the statement by Mr Mthamo that the effect of PC68 on district and regional agricultural productivity potential is insignificant. I comment that the loss of productive/versatile soils is but one factor which requires

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<sup>189</sup> *Submission /paragraphs 23 to 27 incl*



consideration when examining whether there should be approval to PC68. I adopt the evidence of Mr Mthamo.

- 4.195 In summary I have determined that the loss of soils which will follow the development of PC68 cannot be the final determinate of the fate of PC68 and that I should not find that this factor should militate against approval of the plan change.

#### ***URBAN DESIGN AND LANDSCAPE***

##### ***Evidence for the applicant***

##### ***The evidence of David Compton-Moen***

- 4.196 Mr Compton-Moen gave evidence on behalf of the applicant. Mr Compton-Moen is a director at DCM Urban Design Limited, a private independent consultancy providing landscape and urban design services. Mr Compton-Moen outlined his qualifications and it being clear that he was well qualified and experienced in relation to the landscape assessment and design and urban design <sup>190</sup>.
- 4.197 At the commencement of his evidence, Mr Compton-Moen examined Prebbleton's form and growth, noting the growth of Prebbleton's population over the past 18 years. Reference was made to the *Prebbleton Structure Plan (The Future of Prebbleton)* ("the Structure Plan") adopted by SDC on 24 February 2010. This expected the village to grow by an additional 1,295 households by 2041 with a limited lot size in the L1 zone of 800 m<sup>2</sup>.
- 4.198 After referring to the Structure Plan, Mr Compton-Moen noted the areas which had been developed, stating that all of the zoned land had now been developed. Lot sizes had decreased in recent years from a typical minimum of 800 m<sup>2</sup> to just over 500 m<sup>2</sup> which was highlighted in the design of the final stages of Prevelles where most sections ranged from 500 to 700 m<sup>2</sup> in size <sup>191</sup>.
- 4.199 Mr Compton-Moen then went on to examine issues of connectivity and walkability. He said that overall PC68 was considered to meet the outcomes of Policy 4.2.10 of the SDP, being close to schools,

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<sup>190</sup> Evidence of David John Compton-Moen / paragraphs 1.1 to 1.4 incl

<sup>191</sup> Evidence of David John Compton-Moen / paragraph 5.10

shops (current and proposed) and recreational facilities. He noted that medical facilities were anticipated to be operating within the town centre in December 2022, approximately 1.2 km from the ODP area <sup>192</sup>.

4.200 Mr Compton-Moen then went on to examine density and landscape character noting that a key consideration of PC68 was how it integrated with existing residential development adjacent to the west, noting that lot sizes proposed for low density developments had decreased over recent years. Mr Compton-Moen considered that PC68 was consistent with current urban development practice in the inner areas of Selwyn District (close to Christchurch City) of creating densities of 12 hh/ha and greater. He was supportive of this approach in Selwyn. Mr Compton-Moen recommended that for the rural-residential interface along Trents and Hamptons Roads, these be treated as urban roads with dwellings addressing the street with direct pedestrian access where possible <sup>193</sup>. He went on to state that given the importance of Shands Road he considered the proposal to provide larger sections of 1500 m<sup>2</sup> (minimum) appropriate. He said that the installation of 1.8 high close board timber fences on any road frontage should be avoided where possible <sup>194</sup>.

4.201 As to visual amenity effects, Mr Compton-Moen noted that the proposal would result in an overall change in character from open and rural residential to one that is more dense and suburban in nature. He said that the management of bulk and location of the belt would also help create a sense of openness through the centralisation of denser development. He said that the highest likely effects after mitigation would be experienced by those existing in rural and residential properties closest to the proposal of Trents and Hamptons Road. He stated that the scale and bulk and location of the proposal would allow for periods of natural extension of existing development within Prebbleton with a very low magnitude of change anticipated <sup>195</sup>.

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<sup>192</sup> Evidence of David John Compton-Moen / paragraph 6.5

<sup>193</sup> Evidence of David John Compton-Moen / paragraph 7.3

<sup>194</sup> Evidence of David John Compton-Moen / paragraph 7.4

<sup>195</sup> Evidence of David John Compton-Moen / paragraphs 9.1 and 10

4.202 Lastly Mr Compton-Moen dealt with mitigation measures in relation to design aspects <sup>196</sup>. Mr Compton-Moen stated that a series of mitigation measures or design aspects were proposed to either avoid remedy or mitigate potential adverse effects on urban design, landscape character, landscape values or visual amenity. He considered them important to ensure well-functioning urban design to ensure a well-functioning urban environment could be developed. I summarise them as follows: -

- (i) *MM1* - to provide a diversity of house size and lot size to provide choice with higher density development located close to high amenity and business areas;
- (ii) *MM2* - to create streets which had a high level of amenity provided for different mode or allocation and allowed for efficient use of land by having a street hierarchy with different road reserve widths. To encourage the use of low impact design techniques including grass swales;
- (iii) *MM3* – to create a well-connected walking and cycling network which combines with a green/blue network and existing facilities connected to key destinations;
- (iv) *MM4* - avoid direct vehicle access onto Shands Road for individual properties to allow for a high quality landscape treatment along this corridor and minimise potential effects on this arterial road;
- (v) *MM5* – provide a quality of green space and facilities appropriate in accordance with SDC policy for the future population with green links extending through the plan change area and connecting with adjoining residential and rural areas;
- (vi) *MM6* – solid fencing should be restricted to rear and side yards to retain character.

4.203 Mr Compton-Moen then went on to review the SDC's report under s42A of the RMA prepared by Mr Cleese <sup>197</sup>. He found himself in agreement with his conclusions and he highlighted a number of aspects. In summary: -

- (i) the growth areas identified in the Structure Plan had been developed to their full potential;
- (ii) he agreed that it was not appropriate to retain rural outlook along Trents or Hamptons Roads and that properties along those roads should positively address these roads;

<sup>196</sup> Evidence of David John Compton-Moen / paragraphs 11.1 to 11.7 incl

<sup>197</sup> Evidence of David John Compton-Moen / paragraphs 12.1 to 12.6 incl

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- (iii) the benefit and scale of the ODP is that it allows for a more comprehensive approach to development providing a high level of connectivity and are considered a placement/inclusion of open space;
- (iv) he agreed that 12 hh/ha is an appropriate minimum density stating that the increased density was consistent with other residential developments in Prebbleton and Rolleston to provide greater development capacity. It was considered appropriate for Prebbleton to meet the outcomes desired by the NPS : UD (2020);
- (v) he agreed with Mr Clease that the properties on the Trents Road gap, the Shamy property and the two small lots in Hamptons Road should be included in the plan change area so that Shands Road becomes a logical edge for urban growth at this point in time.

4.204 Mr Compton-Moen then went on to comment on a number of submissions <sup>198</sup>. He stated: -

- (i) that the provision of infrastructure, medical rooms and community facilities such as a school were typically not identified at the ODP stage but appeared during the subdivision stage or at a later date as the demand dictated. He said that for the provision of schools this was a matter for the Ministry of Education to establish;
- (ii) road upgrades for greater levels of traffic were outlined in the evidence of Mr Smith. He said that the proposed ODP provided a high level of connectivity, hierarchy of street types and the provision of shared paths;
- (iii) in terms of shops the Prebbleton Commercial area is anticipated to continue growing and he stated that in his experience commercial development followed residential as opposed to the other way around;
- (iv) as to the retention of village character, rural amenity outlook and interface with rural amenity, he stated that all the aspects which provided Prebbleton with a village like character to the town centre would be unaffected by PC68. He said that Prebbleton already

<sup>198</sup>

*Evidence of David John Compton-Moen / paragraphs 13.1 to 13.7 incl*

had a suburban feel in many locations as opposed to a semi-rural town character but with high amenity and high walkability.

4.205 Mr Compton-Moen commented on the provisions of the CRPS in-so-far as they related to development form and urban design, referring to Policy 6.3.2.<sup>199</sup> This policy provides that (relevantly) residential development is to give effect to the principles of good urban design and those of the *NZ Urban Design Protocol 2005* to the extent appropriate to the context. The policy identifies the importance of the following matters: -

- (i) Tūrangawaewae – the sense of place and belonging;
- (ii) the need for the well-integrated places, infrastructure, movement routes and networks, spaces, land uses and the natural inbuilt environment;
- (iii) the necessity for connectivity, that is to say the provision of efficient and safe high quality, barrier free, multi mobile connections within a development;
- (iv) safety, including the recognition and incorporation of *Crime Prevention Through Environmental Design* principles;
- (v) choice and diversity;
- (vi) environmental sustainable design;
- (vii) creativity and innovation.

4.206 Mr Compton-Moen observed that the explanation to the policy noted that urban design input could take place with the development of outline development plans, creation of development controls for the zones or define a growing level through the resource consent process. In his opinion the ODP, as amended, satisfies the requirements set out in Policy 6.3.2. In particular he said that there were no features of particular heritage or landmark value that were compromised by the development of PC68. In addition normal development as laid out in the ODP met the requirements of connectivity and integration with existing proposed urban development<sup>200</sup>.

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<sup>199</sup> Evidence of David John Compton-Moen / paragraphs 14.1 to 14.3 incl  
<sup>200</sup> Evidence of David John Compton-Moen / paragraph 14.2 and 14.3

***Evidence of Patricia Harte***

4.207 As to the views of many submitters that it was inappropriate to extend the Prebbleton township to include the PC68 block, Ms Harte commented that there was an inevitability that townships and cities would expand to accommodate population growth <sup>201</sup>. Ms Harte noted that the opportunities for developing the subject land, which she said was a logical extension of the existing township, were limited and difficult. She said that the growth of Prebbleton to the southwest inevitably involved “leapfrogging” over existing large lot lifestyle development, given the constraints associated with acquiring and developing two residential densities for lifestyle properties in question <sup>202</sup>. Ms Harte was of the view that the extension of Prebbleton to the southwest was a logical one for a number of reasons which may be summarised as follows <sup>203</sup>:-

- (i) the development prevented any further extension of the town south along Springs Road and in that way retained a compact character;
- (ii) the block was well served by the road network but locally in relation to travel to other destinations;
- (iii) the Council had planned upgrades of relevant intersections;
- (iv) the proposal ensured that there would be no additional access onto Shands Road thereby creating an effective boundary and limiting road safety impacts on what was perceived as a busy road;
- (v) the applicants had adopted a collaborative approach resulting in a block of land enabling a comprehensive residential development connecting to Sterling Park which was well established in this block.

4.208 Then Ms Harte dealt with the issue of density. She said that whilst a minimum density required 12 households per hectare was not required by the current District Plan, it had been part of the Greater Christchurch approach to new development and had been adopted by SDC in the urban growth policies in the PDP.

4.209 Ms Harte went on to comment that Environment Canterbury in its submission to PC68 had noted a continuing trend towards smaller

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<sup>201</sup> *Evidence of Patricia Harte / paragraph 11.1*

<sup>202</sup> *Evidence of Patricia Harte / paragraph 11.3*

<sup>203</sup> *Evidence of Patricia Harte / paragraph 11.4*

household size and further constraints that many households will face accessing housing. She stated that the densities report concluded that on a case-by-case basis 15 households per hectare was both desirable and feasible as the minimum net density in new greenfield areas <sup>204</sup>. CCC simply stated in its submission that there should be a minimum density requirement of 15 hh/ha which is consistent with the greater Christchurch's report on density <sup>205</sup>.

- 4.210 Ms Harte commented that the applicants had no issue with providing densities which were higher than 12 hh/ha and there was nothing to prevent higher densities occurring. She said that the only real limitation was with the provisions of the SDP which provided for more intensive development through a consenting process with an increasing number of developments having multi-unit and small lot developments in response to demand <sup>206</sup>. Further Ms Harte said that her understanding of a recent density study undertaken by Harrison Grierson for the Greater Christchurch Partnership was that setting a density of 15 hh/ha would not necessarily achieve the desired outcomes sought for new urban areas. Ms Harte thought that these matters may well be addressed as part of SDC's response to the Enabling Act <sup>207</sup>. Ms Harte said that applying minimum densities over a full plan change area was a coarse control and that more sophisticated tools and incentives were required to achieve good housing and community outcome. She considered it was sufficient that the minimum density of 12 hh/ha be retained for this plan change <sup>208</sup>.

### ***Urban design and landscape / the evidence of submitters***

- 4.211 Mr Fletcher emphasised the report by Mr Compton-Moen and stated it was unhelpful because it did not show before and after visuals. He provided these in his evidence <sup>209</sup>. Mr Fletcher commented upon the tree-lined character of Trents Road for most of its length and the contribution of this to a pleasant and calming outlook and carbon sinking. He questioned whether Mr Compton-Moen had grossly underestimated the visual effect and loss of amenity value that

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<sup>204</sup> Evidence of Patricia Harte / paragraph 12.3

<sup>205</sup> Evidence of Patricia Harte / paragraph 12.4

<sup>206</sup> Evidence of Patricia Harte / paragraph 12.5

<sup>207</sup> Evidence of Patricia Harte / paragraph 12.6

<sup>208</sup> Evidence of Patricia Harte / paragraph 12.7

<sup>209</sup> Evidence Murray Fletcher / paragraphs 16 to 25 incl

would be associated with removing trees in Trents Road. He went on to refer to Hamptons Road, agreeing that the visual effects would be lower in this case but he said that he could not agree that the magnitude of change for Trents Road was like Hamptons Road.

4.212 Mr Fletcher questioned whether, looking at the comparison photographs that he provided, Mr Clease still agreed with his statement that there would be a high level of amenity albeit a different amenity in landscape character relevant to rural areas. He expressed concern about providing frontage road upgrades to urban standards and associated provision of integrated footpath network and improved cycle routes and questioned whether there was a desire to change the character of Trents Road in a manner depicted in the contrasting photographs.

4.213 David and Fiona Lees expressed concern about the changes which PC68 would bring about, stating that people chose to live in Prebbleton and the area because of the rural nature and aspect. They noted the country aspects that would be adversely impacted by the extent and density of the subdivision proposed noting that the quality of life was affected at present by the rural character where peace and quiet was appreciated, there was a lack of traffic, the vegetation provided a softening and country feel and there was an element of privacy because of distance from neighbours.

4.214 Nettles Lamont carried on the theme of others, namely that she had chosen to bring her family to live in a rural village environment and that this would unacceptably change if PC68 went ahead. She referred to Prebbleton being "under serious threat". Ms Lamont referred to the rural outlook and country feel in her home in Trents Road stating that she valued the spacious natural character low density residential allotments and the rural amenity values and peacefulness/quietness of the area <sup>210</sup>.

4.215 Ms Lamont went on to state that she took comfort from the fact that the rural zoning gave some protection from development that would inevitably impact on quality of life <sup>211</sup>. Ms Lamont stressed that loss

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<sup>210</sup> Evidence Nettles Lamont / paragraph 7

<sup>211</sup> Evidence Nettles Lamont / paragraph 8



of rural character and amenity “just like smoke in a box” can never be recovered once development changes the landscape forever <sup>212</sup>.

4.216 Helen Urquhart echoed the concerns of others <sup>213</sup>. She said that the rural urban boundary had been treated harshly by the developer involved in PC68 in the past referring to the existing boundary between Sterling Park and the adjoining lifestyle block at 414 Trents Road. She was critical of this interface and also said that there was a further example of poor rural urban planning on Hamptons Road illustrated by photographs which she produced where a boundary fence had been built parallel to the road and that the land was neglected. She said that the photographs depicted a harsh transition one side of the road residential, one side a row of paddocks.

4.217 Ms Urquhart was critical of a report which suggested the changes in visual experience of residents would be considered low given the character of existing views and existing boundary treatments on their properties with PC68 viewed as a natural extension of existing residential areas. Ms Urquhart said that collectively shelter belts, which were common in the area, provided what she termed “rural sense” and added a “greenness” to the area. She said that there was more to it than that because when Ms Urquhart stepped out of her gate “it feels like peace, we are back in the country or so it feels”. She said that the visual amenity that was being lost simply was not just shelter belts. Ms Urquhart referred to the evidence of Ms Harte when referring to the purpose of *Selwyn 2031 : District Development Strategy (Selwyn 2031)* which made reference to the protection of existing character and retaining the district sense of rural identity by adopting a consolidated approach to urban growth. She inferred that this would be infringed. She questioned whether trees would remain on Trents Road and said that whilst they may not have value individually, collectively they did.

#### ***Section 42A report of Jonathan Clease***

4.218 Mr Clease had prepared a report under s42A of the RMA dated 25 February 2022. He presented a summary of the report at the hearing on 23 March 2022.

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<sup>212</sup> Evidence Nettles Lamont / paragraph 20

<sup>213</sup> Evidence Helen Urquhart / paragraph 2

4.219 Mr Clease noted that Prebbleton had undergone a rapid change in growth over the last decade or so and that the existing urban form and mix of densities reflected this. He noted that the Structure Plan was now over a decade old and that whilst the plan provided some broad guidance regarding the preferred direction of growth, namely that a clear separation should be maintained between Prebbleton and the urban edge of Christchurch to the north, and secondly that growth should occur to the east and west in preference to ribbon development extending along Shands Road, he regarded the Structure Plan as dated in terms of usefully informing how best to manage ongoing growth pressures.<sup>214</sup>

4.220 Mr Clease referred to my discussion with Mr Compton-Moen at the hearing regarding the planning philosophy of arranging rural townships with a density transition from suburban character in the centre through to large lots on the periphery and then rural farm land beyond. Mr Clease said that in his experience such an arrangement could work well in low growth environments where the density transition essentially formed an “end state” to the township in question. However he said that where the township was subject to high rates of growth, such an arrangement became problematic with large lots in effect acting as a “moat” around the town neither limiting growth with consequent implications for housing supply and affordability or force growth to leapfrog therefore leaving a strip of larger lots in what ultimately became more central location. He referred to the development in Kingcraft Drive comprising of approximately 1 ha blocks, limiting high yielding suburban growth to the northwest of Prebbleton.

4.221 Mr Clease went on to refer to the potential for large lot development to preclude further growth options, including township growth was readily acknowledged in the *Rural Residential Strategy 2014* (“RRS 2014”). Because of concerns about frustration of development, Area 7 in the middle of the PC68 site was not identified in RRS 2014 as notified because of the potential to frustrate or preclude township growth. However as a result of submissions it was concluded that the inclusion of Area 7 was appropriate. Mr Clease said that the RRS 2014 recognised that the logical future growth path for Prebbleton

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<sup>214</sup> Section 42A Report / paragraph 128

was out to Shands Road with Hamptons Road forming the southern border <sup>215</sup>.

4.222 Mr Clease then went on to refer to the shape of the area planned for PC68 as being not ideal because of several gaps all relatively small rural areas that would be largely bounded by suburban activities <sup>216</sup>. However he said that this did not present a hurdle or effect that was so adverse that the plan change should be declined. Mr Clease went on to refer to a number of submitters seeking their land be included if the plan change was approved, noting that such submissions raised issues of both scope and merit <sup>217</sup>.

4.223 Mr Clease went on to comment on the merits of the requests for inclusion, opining that the majority of submitters on the corner of Trents and Shands Roads did not request that their land be included. Mr Clease concluded that there was simply no scope to consider their inclusion, the exception being 701 Shands Road, Prebbleton, owned by Mr Shamy. However he agreed, that in terms of merit, there did not appear to be any insurmountable servicing issues with inclusion and that ultimately the inclusion of all of the land out to the Trents/Shands/Hampton Roads edges had merit in terms of urban form.

4.224 As to the small land holdings on the northern side of Hamptons Road, he thought that they should be included as consequential amendments. Mr Clease went on to state that he considered that the inclusion of the land holdings at 169 and 171 Hamptons Road (see the submission of Chris and Carol White and Adam and Lucy Gard'ner-Moore) should not be included due to the poor resultant urban form that would result in isolated suburban enclave extending out to an otherwise intact rural environment.

### ***Urban design and landscape / my conclusions and findings***

4.225 I accept that there is no compelling planning philosophy for supporting the arranging of rural townships with a density transition from suburban character in the centre through to larger lots on the periphery which would, in this case, present an impediment to the

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<sup>215</sup> S42A Report / paragraphs 135 to 137 incl  
<sup>216</sup> Section 42A Report / paragraphs 129 et seq  
<sup>217</sup> Section 42A Report / paragraphs 138 to 147 incl

approval of PC68. I accept the evidence of Mr Compton-Moen in relation to this issue and note that it was supported by Mr Clease who was well qualified to comment on matters of urban design, having regard to his stated qualifications. I suspect that the philosophy referred to above had credence in the early stages of the development of town planning practice, later resource management, as a practice code governing when development could take place, but it is clear that to the extent that there could have been said to have been a practice as noted above, it no longer has application.

4.226 Whilst RRS-14 identified Area 7 as being concerned with large lot development, as Mr Clease has noted, the inclusion of the Area 7 block was seen as appropriate provided that the area was designed in such a manner as could readily transition to higher densities in due course. Thus, as Mr Clease has stated, the RRS-14 provisions for Shands Road form a clear long term township edge to the west with Hamptons Road forming the township edge to the south.

4.227 At this point I pause to comment upon the strongly held views of a number of submitters that if PC68 were to proceed, there would inevitably be a loss of the rural character of the general area. Many submitters stated that they made their choice of purchase of properties in the general vicinity on the basis of a perception that the properties in question would continue to enjoy what were essentially rural amenities. If there were to be a change then there was an expectation that would take place through a process involving extensive consultation with landowners in the area in question. It was said that this did not take place prior to the initiation of PC68. I have considerable sympathy for the concerns which have been expressed as to the inevitable change of character of the area in question. In this context I note that the evidence of Mr Compton-Moen indicated that with proper treatment, the development, involving higher density lots, could be accommodated with sensitive landscape treatment. But the reality is that there is an inevitability that if PC68 proceeds, a number of the qualities which were valued by the residents in the area, and in particular relating to the rural character of the area, will be lost.

4.228 This leads me to comment that the process of zoning which is enshrined in the RMA, and in particular involving the ability for persons to make applications for plan changes, recognises that there

can never be long term certainty as to the maintenance of any particular zoning in a particular area. In this case the pressure has come on SDC to provide substantially more land than is presently available for close urban development. The question of whether the present state of amenities should be preserved, by preventing further development in the area in question, involves a balanced judgment involving not only the consideration of the views of residents as to the maintenance of rural amenities, which are clearly very relevant and worthy of consideration, but also the need to provide further land to accommodate the pressure for housing and the overall interests of the community in question. Notwithstanding the views of residents that they did not expect there to be any change in the environment in question, the resource management system enshrined in the RMA means that change is always in prospect, whatever the current zoning of the land in question.

- 4.229 I conclude this section by stating that I accept the evidence of Mr Crompton-Mopen as to the acceptability, from an urban form perspective, of PC68. I agree that in terms of landscape character and values of the area the proposal will result in acceptable magnitude of change on existing rural-residential landscape character and values. I agree that aspects such as character, creativity and collaboration can be picked up at the subdivision stage when it will be possible to analyse the development enabled by the zoning at a more refined level of design.
- 4.230 Lastly I accept that the exclusion of the additional land which submitters have sought to include in the change will result in a suboptimal localised urban form resulting from PC68 and that several relatively isolated rural zone properties or enclaves will be largely surrounded by suburban or large lots residential development. As will be seen later in this recommendation, I have recommended the exclusion of the properties in question, largely for jurisdictional as opposed to merit-based reasons.
- 4.231 I note the statement of Mr Cleese that whilst the exclusion of the additional properties is not ideal, he considers that the resultant urban form issues will be relatively short-lived in nature and that ultimately Prebbleton would extend out to Shands Road and Hamptons Road with the gaps infilled. Mr Cleese may well be right about this but the determination of the inclusion of the properties in

question will have to await another day. Suffice it to say that at this point I have formed the view that PC68 can proceed without the inclusion of these properties, having regard to urban form considerations.

### ***REVERSE SENSITIVITY***

#### ***Introduction***

4.232 A number of submissions raised the issue of potential reverse sensitivity effects arising from potential complaints by new residents in opposition to the proposed change. This is an important issue because if approval were to be given to PC68, that may potentially lead to complaints from new neighbours about the conduct of agricultural and other activities which are presently permitted but which give rise to noise, dust and traffic effects. These could well affect the standard of amenities expected by those carrying on residential activities on the land the subject of PC68. A summary of issues raised by submitters follows.

#### ***The submitters***

#### ***Evidence of Xiaojiang Chen***

4.233 Mr Chen is the owner of the property at 330 Trents Road. During the course of his evidence he referred to concerns that there may be difficulties associated with the conduct of activities on the purpose-built horse training area on his property. He posed the following questions <sup>218</sup>: -

- (a) *does the applicant wish to utilise my paddocks as a natural domain and to enhance the view of the proposed medium density properties?*
- (b) *or does the applicant assume the medium density property owners will enjoy watching me training my horses or hearing the noises/sucking the dust from the horse training area?*

4.234 On 26 May 2022 I conducted an inspection of the Chen property and in particular the horse training area which at that time was not being utilised. However I proceed on the basis that this area will

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<sup>218</sup> Evidence of Xiaojiang Chen paragraph 3

potentially be used in the future when considering the issue of reverse sensitivity.

**David Somerfield**

4.235 Mr Somerfield and his wife own the property at 382 Trents Road, Prebbleton. A substantial business known as Trents Nursery has operated from this property for approximately 40 years and employs a number of people from the Prebbleton community and surrounding districts. The business generates substantial revenue of the order of \$2m per hectare per annum and contributes approximately \$3m per annum to the local area through wages and products and services purchased <sup>219</sup>.

4.236 Mr Somerfield said that he and his wife were concerned that if the application was approved with their property included and rezoned for residential purposes, this could have a detrimental effect on their business by restricting what is currently a complying rural activity and make them reliant on existing use rights. He saw this as having the potential to restrict business operations in the future. Mr and Mrs Somerfield are operating an intensive horticultural business on a constrained land area. He said this forced innovation and creativity but that this could be affected if he and his wife became reliant on existing use rights and their ability to change and adapt their business became restricted <sup>220</sup>.

4.237 Mr Somerfield made reference to a number of elements which he said could give rise to reverse sensitivity concerns. Fans and heaters operate 24/7 and whilst noise levels are not exceeded, Mr Somerfield said that the noise was likely to prove annoying to close neighbours. There were also two outside fans <sup>221</sup>. Mr Somerfield then made reference to the issue of a 100 m setback which had been requested if the application were to be approved. Mr Somerfield said that the 100 m proposal came from a *NZ Standard 8409: 99: Code of Practice for the Management of Agrichemicals* and was obtained from the *Otago Regional Council Regional Plan Schedule 4 Good Management Practices for Agricultural Application*. Mr Somerfield made reference

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<sup>219</sup> Evidence of David Somerfield / paragraph 8

<sup>220</sup> Evidence of David Somerfield / paragraphs 1 and 2

<sup>221</sup> Evidence of David Somerfield / paragraph 5

to the use of a variety of pesticides and other sprays that could be considered potentially hazardous or require certification <sup>222</sup>.

4.238 Given the high capital cost in establishing a nursery, Mr Somerfield said that relocation to a more rural location was not feasible and that he and his wife held concerns for the longer-term future of what was a complying longstanding business <sup>223</sup>. Because of the matters which were of concern Mr Somerfield requested that the application be declined or if approved, limits be placed on the land as set out in his submission which included a minimum lot size of 5000 m<sup>2</sup> <sup>224</sup>.

4.239 On 26 May 2022 I inspected the Somerfield property, observing the significant number of tunnelhouses in proximity to the boundary with the land which is proposed to be zoned as part of PC68.

***Greg and Jenny Tod***

4.240 Mr Tod, gave evidence for himself and his wife. He referred to concerns about reverse sensitivity. Mr and Mrs Todd had been business owners operating from the property at 349 Trents Road for 24 years. They operate a plant nursery, Parva Plants, from the property employing four local people. Mr Todd responded to a comment by Mr Cleese and referred to by Ms Harte that plant nurseries were “common features in urban environments” and that they were unaware of any reverse sensitivity issues. Mr Todd said that there was a big difference between a plant nursery like Trents Nursery, Morgan and Pollard Nursery and Parva Plants operated by Mr Tod and his wife to a garden centre. He said that there were activities carried out at their business that did not occur in garden centres <sup>225</sup>.

***Adam Roger Pollard and Sarah Elizabeth Pollard***

4.241 Mr and Mrs Pollard are the owners of the property at 681 Shands Road situated at the corner of Shands Road and Trents Road. Part of the property is used for residential purposes but a substantial part is used for the conduct of a landscape gardening business known as Morgan-Pollard Landscapes Limited, a resource consent authorising

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<sup>222</sup> Evidence of David Somerfield / paragraph 6

<sup>223</sup> Evidence of David Somerfield / paragraph 8

<sup>224</sup> Evidence of David Somerfield / paragraph 9

<sup>225</sup> Evidence of Greg Tod / paragraph 14



the conduct of this business. When giving evidence Mr Pollard said that the property was purchased as a rural block with the ability to grow trees and turf and to run the landscaping business from this location. The business employs 62 permanent staff and 10 seasonal staff. As part of the maintenance and operation of the business, earthmoving and other equipment is used which would not be able to be operated in a residential zone due to noise and dust. Further Mr Pollard said that suitable material was burned from trimming hedges and trees etc. He and his wife believe that the submitted plan change would cause complaints and in the long run make it impossible to run the business on this property <sup>226</sup>.

- 4.242 I record that on 26 May 2022 I inspected the Pollard property, and in particular those parts of the property where the processing of soil takes place and the loading areas for soil and other materials.

***Mark and Joanne Hamlyn***

- 4.243 Mr and Ms Hamlyn are the owners of 386 Trents Road and 398 Trents Road. They support PC68 subject to their two properties also being rezoned as they say that they will be directly affected and enclosed by the proposed residential development and therefore unlikely to continue using their property as intended under Rural Inner Plains i.e. run livestock, use machinery, burn offs etc.<sup>227</sup>

***Helen and Roger Urquhart***

- 4.244 Mr and Mrs Urquhart reside at 335 Trents Road, Prebbleton. Mr and Mrs Urquhart expressed a concern that there might be a conflict around animals and stock. It was noted that Mr and Mrs Urquhart had sheep and so did a few neighbours and that dogs on the loose posed a potential risk to stock <sup>228</sup>.

***Angela Phillips***

- 4.245 Ms Phillips owns and operates a rural farm at 799 Shands Road, Prebbleton. She expressed a concern that newcomers to country

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<sup>226</sup> Evidence Adam Roger Pollard / paragraph 8

<sup>227</sup> Submission of Mark and Joanne Hamlyn

<sup>228</sup> Submission of Helen and Roger Urquhart

living are often not prepared for and often complain about the sounds, odours, dust, smoke, machinery operating hours etc that accompany rural activity at various times of the year. Ms Phillips noted that food and fibre production operations involve intermittent use of gun irrigators, fertiliser application, cultivation sowing, harvesting machinery, lamb weaning etc day and night. She said that Hamptons Road was not a sufficient buffer to avoid loss of amenity and reverse sensitivity and that there was not an adequate separation distance <sup>229</sup>.

### ***Submissions and evidence on behalf of the applicants***

#### ***Submissions on behalf of applicant***

4.246 Mr Cleary addressed the issue of reverse sensitivity in his opening submissions <sup>230</sup>. Mr Cleary submitted that reverse sensitivity was a well- established concept in resource management law and noted the factors which needed to be present before reverse sensitivity could be said to be a relevant effect. He went on to state that there was no evidence of anything other than a very minor and occasional effect associated with spray drift from Trents Nursery. He said that given the negligible level of effects associated with the market garden operation that followed the consequence of establishing more intense residential development and proximity to the boundary was unlikely to result in complaints.

4.247 In summary Mr Cleary submitted that reverse sensitivity was not a barrier to approving PC68. He noted that whilst the RMA provided limited protection to incumbent uses (through existing use rights) the RMA did not include any express principle that new activities must necessarily be curtailed or restricted simply to protect established uses.

#### ***Patricia Harte***

4.248 Ms Harte addressed the issue of reverse sensitivity in her evidence, referring to submissions which raised the issue of potential adverse reverse sensitivity effects arising from complaints by new

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<sup>229</sup> *Submission of Angela Phillips*

<sup>230</sup> *Applicant opening submissions / paragraphs 9.5 to 9.11 incl*

neighbours. She said that by reason of checking the existing Rolleston and Prebbleton ODPs, only one had a notation relating to reverse sensitivity which indicated to her that the potential for a reverse sensitivity issue justifying some kind of restriction on development was "quite limited". She went on to address the factors that needed to be present for there to be a problem <sup>231</sup>.

4.249 Ms Harte went on to note that for there to be a problem there needed to be an adverse effect generated by an activity that was very annoying to a resident or residence and that the resident/s needed to feel aggrieved about this to the point that they made a complaint to the Council. She said that normally persons affected would try to discuss the matter with the landowner and this often resulted in some agreement. She summarised the position by stating that in general adverse reverse sensitivity which affected a business being compromised was uncommon.

4.250 Ms Harte went on to refer to comments in the s42A report noting that there were plant nurseries within Christchurch suburbs with long established neighbours where no particular concerns had arisen. She noted that the report commented that it was specific activities such as intensive pig farming, dairy sheds, effluent ponds and mushroom factories that were likely to create potential issues of reverse sensitivity <sup>232</sup>.

4.251 Ms Harte then went on to deal with the concerns of particular submitters <sup>233</sup>:-

- (i) as far as the submissions of Angela Phillips and Helen and Roger Urquhart were concerned, she said that issues detailed in the submissions had the potential to be more prevalent south of Hamptons Road and to a lesser extent north of Trents Road. She noted that Ms Phillips had made some suggestion regarding the treatment of Hamptons Road including no footpaths.
- (ii) she then went on to deal with the submissions of Mark and Joanne Hamlyn. She agreed that if the lots in

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<sup>231</sup> Evidence of Patricia Harte / paragraph 16.2

<sup>232</sup> Evidence of Patricia Harte / paragraphs 16.3 and 16.4

<sup>233</sup> Evidence of Patricia Harte / paragraphs 16.5 to 16.7 incl

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question were to be part of the Living Z zone this would reduce any potential for reverse sensitivity although she said there was no evidence to suggest that this is, or is likely to be and issue of particular concern.

- (iii) lastly Ms Harte dealt with the submission of Julie and David Somerfield. She said that given that approximately two thirds of the site was covered with glasshouses and substantial boundary planting she thought that many of the effects referred to would be relatively confined. She said that as far as the suggestion that there be large lot sizes adjacent to the Somerfield property was concerned the appropriate time to determine the appropriate layout in the vicinity of the nursery was at the subdivision stage.

***Jonathan Clease / s42A report***

4.252 Mr Clease noted that in order for reverse sensitivity risk to be significant, the operations in question needed to be generating effects extending beyond site boundaries and then those effects in turn needed to be at a level when they were likely to give rise to amenity related complaints. Mr Clease said the sites in question were all bounded by lifestyle blocks or large blocks with dwellings in close proximity and that they should therefore already be operating in a manner that was not giving rise to unacceptable effects beyond their boundaries.

4.253 Mr Clease noted that a change in zoning would mean that there would be more residential neighbours with close dwellings located to shared boundaries but went on to state that it was common for farmland to adjoin residential properties and that as far as he was aware the interface did not give rise to significant limitation or farming operations particularly when those operations were separated by roads as is the case with Hamptons Road separating the PC68 site from the Phillips farm to the south <sup>234</sup>.

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<sup>234</sup> S42A report / paragraph 119

- 4.254 Mr Clease went on to refer to plant nurseries and landscape depots being common features in urban environments, noting that there were a number of examples of plant nurseries located within suburban Christchurch with long established residential neighbours. He stated that these submitter activities could therefore be readily differentiated from the type of activities which regularly gave rise to amenity related complaints such as intensive farming, quarries, dairy sheds and associated effluent ponds, mushroom factories or rural machinery depots <sup>235</sup>.
- 4.255 Mr Clease went on to note that the submitter sites already had residential neighbours and appeared to be operating in a reasonably benign manner. He was not convinced that reverse sensitivity risk was at the point where either the plan change should be declined or additional interface rules were necessary. He said that if I was of the view that the interface needed to be further managed, then there were several tools readily available such as wrapping the Living X zoning around the edge of the sites in question and including as a consequential amendment a rule requiring dwellings to be set a certain distance from a shared internal boundary.
- 4.256 Mr Clease said that in the absence of any submitter evidence identifying the extent and nature of offside effect he was unable to recommend lot sizes or building set-back rules that could be justified as being both necessary and effective in managing amenity issues at the interface. He went on to state that the cost of benefits of managing the interface were connected with my findings regarding whether some or all of the block should be included within the plan change and also rezoned <sup>236</sup>.

### ***Reverse sensitivity / my consideration and findings***

#### ***Introductory comments***

- 4.257 Issues raised regarding reverse sensitivity are undoubtedly of particular concern. Those raising reverse sensitivity concerns have been well justified in raising those concerns, and in particular concerns relating to the impact on the businesses operated from the Somerfield, Pollard and Tod properties. These properties are

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<sup>235</sup> S42A report / paragraph 120

<sup>236</sup> Section 42A report / paragraphs 121 to 123 incl

potentially bordered by the residential development contemplated in PC68. As far as the Pollard property is concerned, my assessment will depend upon my recommendation regarding the question of whether adjacent properties should be included in PC68.

- 4.258 A particular issue which I must confront is whether, if I am satisfied that there are legitimate concerns regarding reverse sensitivity effects on adjacent properties, I can leave the question of whether steps should be taken to manage the interface to be established between the housing created by PC68 and the affected land to the subdivision stage, or whether, on the other hand, specific recommendations need to be made to deal with the interface at this time.
- 4.259 Given the location of the Pollard property I am of the view that there are no reverse sensitivity issues of sufficient moment, associated with the use of this property, to dictate that any particular arrangements need to be made to prevent reverse sensitivity complaints, such as providing for a buffer zone. Further, I do not regard the concerns of Mr Chen as justifying the imposition of any special conditions.
- 4.260 I have given careful consideration to the position of the Tod property where the plant nursery, Parva Plants, is operated. I have considered the report of Mr Clease<sup>237</sup> where he states that plant nurseries and landscape depots are common features of urban environments and that they appear to be able to co-exist without giving rise to complaints or amenity effects. Whilst I can readily understand the concerns of Mr and Mrs Tod in relation to the conduct of their business, I have concluded that no particular conditions need to be recommended by me in the context of my consideration of PC68, particularly having regard to the fact that the nursery is separated from the PC68 site by Trents Road.
- 4.261 I have a particular concern regarding the Somerfield property associated with the maintenance of greenhouse buildings immediately adjacent to the boundary of PC68. At subdivision stage, favourable consideration should be given for a setback along the relevant boundary the distance to be determined having regard to the need to ensure that the activities which are carried on the

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<sup>237</sup>

*Section 42A Report / paragraph 120*

Somerfield property do not give rise to significant adverse effects on the new neighbours. An alternative, as suggested in the Request <sup>238</sup> is that larger lots be created along the relevant boundary to mitigate or avoid potential adverse effects associated with the commercial use of the property in question. I note that Ms Harte has noted that it is expected to be several years before any housing is constructed on site and considers that the appropriate time to determine the appropriate layout in the vicinity of the nursery is at the subdivision stage <sup>239</sup>. I agree. I have carefully considered the question of whether I should recommend the imposition of any conditions or rules at this stage to regulate the position and have decided that this is not appropriate at this stage and that consideration of this matter can await the subdivision stage.

- 4.262 In conclusion I note that having given careful consideration to the concerns expressed regarding reverse sensitivity matters, those concerns do not operate to prevent the approval of PC68.

#### **GROUND CONDITIONS**

##### ***Geotechnical / natural hazards***

- 4.263 The original Request contained a section dealing with geotechnical investigations that had been prepared by ENGEO Limited. These reports advised that there were no mapped faults in the immediate area but that the area could be subject to ground shaking from movement of faults elsewhere. The area is located between the Greendale Fault and Port Hills Fault the latter of which has not been mapped. With regard to the liquefaction potential for the site, the ENGEO Report concluded that damaging liquefaction was unlikely consistent with a TC1 zoning.
- 4.264 The Request stated that there were no other known potential natural hazards that could affect the plan change site. In particular the site was not likely to be subject to material damage from erosion, falling debris, subsidence, slippage or inundation from any source <sup>240</sup>.

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<sup>238</sup> Request / paragraph 5.5

<sup>239</sup> Evidence of Patricia Harte / paragraph 16.7

<sup>240</sup> Request / paragraph 5.8

### ***Soil contamination***

- 4.265 The Request went on to deal with the issue of soil contamination stating that a preliminary and detailed site investigation into the potential for soil contamination had been undertaken for the various properties contained in the plan change site. These were carried out as required by the Ministry for the Environment's *Contaminated Land Management Guidelines No.1 : Reporting on Contaminated Sites in New Zealand, 2011*. The investigation was undertaken by ENGEO Limited. The investigation concluded that the various properties had been used for mixed purposes including residential land use, trotting tracks, farming and stockpiles. It was stated that the likelihood of the majority of this land being impacted from this land use was low.
- 4.266 A number of potential areas of concern were highlighted in the desktop review and then further investigated during an onsite walkover. The walkover identified a number of Hazardous Activities and Industries List ("HAIL") activities with a possible contamination, namely burn pits etc. Soil samples were taken and tested. These tests confirmed that contamination such as lead, arsenic, copper, zinc and cadmium exceeded guideline criteria for residential land use on some specific sites. On the basis of these results ENGEO Limited recommended a remedial strategy be developed to manage the soil that exceeded the NES for residential land use. The strategy needed to be developed in co-ordination with final development plans including soil removal volumes and locations. Resource consents were expected to be required under NES for these works <sup>241</sup>.

### ***Flooding***

- 4.267 The plan change request includes a flood hazard report prepared by ENGEO Limited. The flood hazard report confirms that the site is not subject to coastal flooding or flooding from the Waimakariri or Selwyn Rivers. The flood risk is therefore caused primarily by localised ponding generated by rainfall which exceeds the sites ability to absorb that rainfall (rather than large volumes of overland flow generated from rainfall in offsite locations) <sup>242</sup>.

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<sup>241</sup> Request / paragraph 5.9

<sup>242</sup> S42A Report / paragraph 71



- 4.268 Mr Clease went on to refer to the fact that the SDP does not contain any mapped flood hazard areas applicable to the site, however the proposed plan includes several overlays that identify flood management areas on the plains. These maps show that the majority of the site is free from flood risk. Having identified the areas where there was some risk, Mr Clease noted that the ODP aligned the proposed stormwater routes with existing features. Overall he found that the site was not located near any large waterways and was not in a location that was particularly prone to flooding or flood risk <sup>243</sup>.

***Ground conditions / my consideration and findings***

- 4.269 I have given careful consideration to the ground condition matters referred to above. None of them act as an impediment to the development of the land the subject of PC68. There are no known potential or natural hazards that could affect the plan change site. The site has no particular susceptibility to flooding. As far as soil contamination is concerned, these will be able to be dealt with at the subdivision stage with the imposition of appropriate conditions at that time.
- 4.270 In summary I am satisfied that any residual concerns regarding ground condition matters can be dealt with at the appropriate time when subdivision is contemplated by the imposition of appropriate conditions at that time. That is likely to include the need for resource consents in relation to soil contamination removal/treatment issues and conditions relating to the disposal of stormwater.

***NIGHT SKY DARKNESS***

***The effect of development on night sky darkness***

- 4.271 The issue of the effect of the development contemplated by PC68 on night sky darkness was the subject of evidence by Ms Urquhart. In her evidence she said that currently there was no street lighting on Trents Road and there was an ability to see clearly into the night sky and see the Milky Way, constellations and the red moon last November. She was concerned about the prospect that with 820 new sections, there would be a significant production of light pollution.

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<sup>243</sup> S42A Report / paragraphs 71 to 75 incl

She noted that while LED's are better in reducing some light issues, there are other concerns as to the suspected impacts to human health and the environment caused by light emitting diodes that admit excessive amounts of blue light.

***Night sky darkness / my consideration and findings***

4.272 Ms Urquhart has raised an important point. The preservation of night sky amenities is worthy of consideration. I note that no provisions of the SDP relating to the preservation of night sky amenities were drawn to my attention during the hearing. Whilst I have noted that Rule 12.1.4.6 provides that in the Living WM zone, consideration is to be given as to whether street lighting options will assist with mitigating any adverse effects on the operation of West Melton Observatory, there appears to be no rule in the SDP which indicates that consideration should be given to street lighting options in the context of any application to subdivide and the subject of PC68.

4.273 I have formed the view that the issue raised is undoubtedly material and important. It certainly is not an issue which justifies declining the plan change and I so find. I am of the view that the treatment of outdoor lighting is a matter which can be properly dealt with at the subdivision stage, at which time the concerns regarding the night sky issue can be properly taken into account. This may involve imposing a condition that dense light spill should be directed at such an angle as to impede the enjoyment of views of the night sky, but it is not necessary for me to make any further comment about this matter.

5. ***THE INCLUSION OF THE LEES PROPERTY***

***Background***

5.1 The property of David and Fiona Lees situated at 374 Trents Road, Prebbleton, forms part of the land which is sought to be rezoned as part of PC68. Mr and Mrs Lees filed a submission in which they requested that the plan change be declined. However they stated that if the application were to be approved, they wanted conditions in the ODP amended to provide for lower density, fewer and larger sections.

- 5.2 Mr and Mrs Lees appeared before me and gave evidence on 28 March 2022, supporting their submission. In their evidence Mr and Mrs Lees stated that they were opposing PC68 “as it is” realising that “there may well be subdivision in the future, but that it ought to be an integrated part of a larger plan that works best for the community”. Mr and Mrs Lees were critical of lack of consultation, stating that they had not been approached by the developer at any stage. They said that they were concerned that they had not been consulted.
- 5.3 When hearing submissions, I addressed the issue of the implications of the inclusion of the Lees land and the land the subject of PC68, in circumstances where they opposed that inclusion. In particular, I questioned whether there was anything in the legislation which impacted upon the ability to include the Lees property in the land the subject of (in this case) PC68 <sup>244</sup>.
- 5.4 In his submissions in reply <sup>245</sup>, Mr Cleary submitted that there was no distinction in the RMA between council and privately initiated plan changes. The council was able to seek to rezone land regardless of a landowner’s agreement and Mr Cleary said that the same applied in relation to privately initiated plan changes. Mr Cleary went on to note that the approval of the plan change did not direct that Mr and Mrs Lees must develop their land either immediately or otherwise, rather it enabled development in the future.

***The Lees property / my consideration and findings***

- 5.5 I have given careful consideration to the position of the Lees family. On my second site inspection, I inspected the Lees property, noting its configuration and its position in relation to the balance of the land the subject of PC68. I have formed the view that I should consider the various matters raised by Mr and Mrs Lees as to the merits of the plan change and have done so in reaching the view expressed in my recommendation. I have done this on the basis that there is no jurisdictional impediment to the Lees land being included in PC68.

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<sup>244</sup> Submissions in reply of applicant / paragraphs 4.9 and 4.10

<sup>245</sup> Submissions in reply of applicant / paragraphs 4.9 and 4.10

## 6. **INCLUSION OF ADDITIONAL LAND**

### **BACKGROUND**

- 6.1 A number of submitters requested that in the event that the plan change were to be approved, their land also be included in the change. The land in question is helpfully identified in Figure 4 of the s42A Report by Mr Cleese (**attached**). Two discreet issues arise in relation to the treatment of the submissions in question. Firstly I am required to determine as a procedural matter whether there is jurisdiction for me to consider the requests. Secondly, if I find that there is jurisdiction, I must proceed to consider the merits of the requests.

### **PROCEDURAL ANALYSIS / LEGAL PRINCIPLES HAVING APPLICATION**

#### ***The bipartite test***

- 6.2 In the submissions of the parties there is general agreement as to the legal principles which apply in relation to the determination of the jurisdictional question. In submissions on behalf of a submitter, Mr S J Shamy, Ms Limmer noted that Mr Shamy agreed with the summary of legal principles which were recorded in the submissions of the applicant <sup>246</sup>. The leading authority is the decision of the High Court in *Clearwater Resort Limited v Christchurch City Council* <sup>247</sup> where a bipartite test was established: -

- (i) a submission is to be fairly regarded as “on” a variation “if it is addressed to the extent to which the variation changes the pre-existing status quo”;
- (ii) but if the effect of finding the submission is “on” a variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, that would be a “powerful consideration” against finding that the submission was truly “on” the variation. It is important that “all those likely to be affected by or interested in the alternative method suggested in the submission have the opportunity to participate”. So, where a submission could

<sup>246</sup> *Plimer legal submissions / paragraph 10*

<sup>247</sup> *Clearwater Resort Limited v Christchurch City Council AP34/02 / William Young J at [66] and [69]*

be said to be “coming out of left field” there might be little or no real scope for public participation.

6.3 See the helpful summary of relevant principles in the judgment of Kos J in *Palmerston North City Council v Motor Machinists Limited* <sup>248</sup>. This test was adopted by counsel for the applicant in the opening submissions on behalf of the applicant <sup>249</sup>.

6.4 In his submissions <sup>250</sup>, counsel for the applicant submitted that *Clearwater Resort Limited* <sup>251</sup> did not exclude zoning extension by submission and that incidental or consequential extensions of zoning changes were permissible provided: -

- (i) the submissions did not raise any matters that should have been addressed within the s32 evaluation report. If no further s32 issues were raised as a result of the submission, there was less reason to exclude it from the plan change;
- (ii) persons directly, or potentially directed affected by the additional changes proposed by the submission had been given the ability to respond to the additional changes; and
- (iii) the submission was not “out of left field” and completely unrelated to the plan change remit.

6.5 The legal authorities are helpfully summarised in *Motor Machinists Limited* <sup>252</sup>. The facts of that case were that the Council had notified a proposed change to its district plan and the respondent had filed a submission that its land also should also be rezoned. The Council held that the submission was not “on” the plan change because the plan change did not directly affect the respondent’s land. The Environment Court did not agree. An appeal to the High Court followed.

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<sup>248</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA 519 at paras [54] and [55]

<sup>249</sup> *Opening submissions of applicant* / paragraph 11.4

<sup>250</sup> *Opening submissions of applicant* / paragraph 11.5

<sup>251</sup> *Clearwater Resort Limited v Christchurch City Council AP34/02* / William Young J at [66] and [69]

<sup>252</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA 519 at paras [54] and [55]

6.6 Because of its importance, I refer to the relevant sections of the judgment of Kos J. After referring to the s32 report, the judge stated

.....

*[86]The extension of the OBZ on a spot-zoning basis into an isolated enclave within Lombard Street would reasonably require like analysis to meet the expectations engendered by s5. Such an enclave is not within the ambit of the existing plan change. It involves more than an incidental or consequential extension of the rezoning proposal in PPC1. Any decision to commence rezoning of the middle parts of Lombard Street, thereby potentially initiating the gradual transition of Lombard Street by instalment towards similar land use to that found in Taonui Street, requires coherent long term analysis, rather than opportunistic insertion by submission.*

*[87]There is, as I say, no hardship in approaching the matter in this way. Nothing in this precludes the landowner for adopting one of the three options identified in [78]. But in that event, the community has the benefit of proper analysis, and proper notification.*

*[88]In terms of the second limb of Clearwater, I note Mr Ax's confident expression of views set out at [30] above. However I note also the disconnection from the primary focus of PPC1 in the proposed addition of two lots in the middle of Lombard Street. And I note the lack of formal notification of adjacent landowners. Their participatory rights are then dependent on seeing the summary of submissions, apprehending the significance for their land of the summary of MML's submission, and lodging a further submission within the 10-day time frame prescribed.*

*[89]That leaves me with a real concern that persons affected by this proposed additional rezoning would have been left out in the cold. Given the manner in which PPC1 has been promulgated, and its focus on main road rezoning, the inclusion of a rezoning of two isolated lots in a side street can indeed be said to "come from left field".*

6.7 The judge then summarised the correct approach in the following terms

....

*[91] To sum up:*

- (a) This judgment endorses the bipartite approach taken by William Young J in Clearwater Christchurch City Council in analysing whether a submission made under sch1, cl 6(1) of the Act is "on" a proposed plan change .....*
- (b) This judgment rejects the more liberal gloss placed on that decision by the Environment Court in Naturally Best New Zealand Ltd v Queenstown Lakes District Council, inconsistent with the earlier approach of the Environment Court in Halswell Holdings Ltd v Selwyn District Council and inconsistent with the decisions of this Court in Clearwater and Option 5 Inc v Marlborough District Council.*
- (c) A precautionary approach is required to receipt of submissions proposing more than incidental or consequential further changes to a notified proposed plan change. Robust, sustainable management of natural and physical resources requires notification of the s32 analysis of the comparative merits of a*

*proposed plan change to persons directly affected by those proposals. There is a real risk that further submissions of the kind just described will be inconsistent with that principle, either because they are unaccompanied by the s32 analysis that accompanies a proposed plan change (whether public or private) or because persons directly affected are, in the absence of an obligation that they be notified, simply unaware of the further changes proposed in the submission. Such persons are entitled to make a further submission, but there is no requirement that they be notified of the changes that would affect them.*

- (d) *The first limb of the Clearwater test requires that the submission address the alteration to the status quo entailed in the proposed plan change. The submission must reasonably be said to fall within the ambit of that plan change. One way of analysing that is to ask whether the submission raises matters that should have been addressed in the s32 evaluation and report. If so, the submission is unlikely to fall within the ambit of the plan change. Another is to ask whether the management regime in a district plan for a particular resource is altered by the plan change. If it is not, then a submission seeking a new management regime for that resource is unlikely to be "on" the plan change, unless the change is merely incidental or consequential.*
- (e) *The second limb of the Clearwater test asks whether there is a real risk that persons directly or potentially directly affected by the additional changes proposed in the submission have been denied an effective opportunity to respond to those additional changes in the plan change process.*
- (f) *Neither limb of the Clearwater test was passed by the MML submission.*
- (g) *Where a submission does not meet each limb of the Clearwater test, the submitter has other options: to submit an application for a resource consent, to seek a further public plan change, or to seek a private plan change under sch 1, pt2.*

6.8 In her carefully researched and helpful submissions <sup>253</sup>, Ms Limmer referred to a number of authorities including *Motor Machinists Limited* <sup>254</sup>. She said that this case had often been relied upon as a reason to reject all and any "me to" submissions. However Ms Limmer submitted that this was an erroneous and overly simplistic application of the case in question and that further (relevant) legal principles in terms of the first limb in *Clearwater Resort Limited* had emerged since which included: -

- (i) the questions posed in *Motor Machinists Limited* needed to be answered in a way that was not unduly narrow. Reliance was placed on *Bluehaven*

<sup>253</sup> *Limmer submissions / paragraphs 13 to 15 incl*

<sup>254</sup> *Palmerston North City Council v Motor Machinists Limited / supra*

*Management Limited v Western Bay of Plenty District Council* <sup>255</sup>

(ii) in the end the jurisdiction issue comes down to a question of degree and perhaps even an impression, relying upon *Mackenzie v Tasman District Council* <sup>256</sup> citing with approval *Bluehaven Management Limited*;

(iii) each case had to be assessed within the context it arose and that relevant and contextual considerations could include whether the submission sought to substantially alter or add to the relevant objective(s) of the plan change, or whether it only proposed an alternative policy or method to achieve any relevant objective in a way that was not radically different from that could be contemplated as a result from the notified plan change. Reliance was placed on an extract from *Bluehaven Management Limited v Western Bay of Plenty District Council* <sup>257</sup> ....

..... submissions seeking some major alteration to the objectives of a proposed plan change would likely not be "on" that proposal, while alterations to policy and methods within the framework of the objectives may be within the scope of the proposal.

6.9 Consistent with this, Ms Limmer submitted that the Environment Court had noted that the fact that a rezoning request had not fallen within the area of a proposed plan change did not, in and of itself, make the submission out of scope <sup>258</sup>. Ms Limmer noted that *Motor Machinists Limited* had held that *incidental or consequential changes* were permissible in any event. She went on to state that the Environment Court had observed that an example of a permissible consequential change would be the rezoning of land adjacent to the land proposed to

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<sup>255</sup> *Bluehaven Management Limited v Western Bay of Plenty District Council* [2016] NZEnvC 191 at para [36]

<sup>256</sup> *Mackenzie v District Council* [2018] NZHC 2304 at [88]

<sup>257</sup> *Bluehaven Management Limited v Western Bay of Plenty District Council* [2016] NZEnvC 191 at [37]

<sup>258</sup> *Well Smart Investment Holding (NZQN) Limited v Queenstown Lakes District Council* [2015] NZEnvC 214 at [24]



be rezoned by way of a plan change referring to *Tussock Rise Limited v Queenstown Lakes District Council* <sup>259</sup>.

6.10 Ms Limmer went on to refer to the issue of fairness to other parties. She submitted that an assessment of whether a planning instrument might be *appreciably amended without real opportunity for participation by those potentially affected* is required and that this did not mean that any and every un-notified change would create unfairness issues <sup>260</sup>.

6.11 Finally, under this head, further reference is required to be made to *Tussock Rise Limited* <sup>261</sup> where it was stated ....

*If a neighbour to a proposed residential zone submits that its land (however zoned in the ODP) should also be part of the proposed residential zone, then the Council's important integrated management function suggests that issue should be considered (and possibly resolved) sooner rather than later. This is an example of the kind of consequential "spatial change" identified by Whata J in Albany North. At least the issues raised by TRL should not be ruled out of Stage 1 as a jurisdictional matter in limine.*

### ***Consequential amendments***

6.12 The scope of the statutory power to allow consequential amendments requires close examination in the context of the matters which I am called to determine. Zoning extension by subdivision is not excluded altogether if the changes proposed are incidental or consequential.

6.13 Clause 10(2) of Schedule 1 of the Act provides (relevantly) as follows ....

- (2) *The decision –*
  - (a) *.....*
  - (b) *may include –*
    - (i) *matters relating to any consequential alteration necessary to the proposed statement or plan arising from the submissions; and*
    - (ii) *any other matter relevant to the proposed statement or plan arising from the submissions.*

<sup>259</sup> *Tussock Rise Limited v Queenstown Lakes District Council* [2019] NZEnvC 111 at [76]

<sup>260</sup> *Limer submissions* / paragraph 16

<sup>261</sup> *Tussock Rise Limited v Queenstown Lakes District Council* [2019] NZEnvC 111 at [76]

- 6.14 In *Motor Machinists Limited*<sup>262</sup> the position regarding incidental or consequential extensions to zoning changes was stated as follows (after referring to the question of whether the submission raises matters that should have been addressed in the s32 evaluation report and whether the management regime is altered by the plan change)

....

*Another is to ask whether the management regime in a district plan for a particular resource (such as a particular lot) is altered by the plan change. If it is not then a submission seeking a new management regime for that resource is unlikely to be "on" the plan change. That is one of the lessons from the Halswater decision. Yet the Clearwater approach does not exclude altogether zoning extension by submission. **Incidental or consequential extensions of zoning changes proposed in a plan change are permissible, provided that no substantial further s32 analysis is required to inform affected persons of the comparative merits of that change.** Such consequential modifications are permitted to be made by decision makers under sch 1, sl 10(2). Logically they may also be the subject of submission.*

(emphasis added)

- 6.15 I note that in *Clark Fortune McDonald & Associates v Queenstown Lakes District Council*<sup>263</sup> the court concluded the reference could impliedly confer jurisdiction to make amendments to rules, for instance if the objectives and policies changes were as the result of references. It would seem that this jurisdiction arises either as a consequential amendment under Schedule 1, clause 10(2) or under s293 of the RMA.
- 6.16 In *Clark Fortune McDonald & Associates*, the court dealt with an amended boundary adjustment rule. The court found that there was no need for further notification of the relevant amended boundary adjustment rule as the amendment was held to be consequential to an interim decision which it had released<sup>264</sup>.
- 6.17 I adopt the summary of the legal principles outlined above and proceed to examine the issue of scope in relation to each of the proposed requests for rezoning.

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<sup>262</sup> *Palmerston North City Council v Motor Machinists Limited* [2014] NZRMA / at paragraph [81]

<sup>263</sup> *Clark Fortune McDonald & Associates v Queenstown Lakes District Council DC EnvC C089/02* at paragraph [28]

<sup>264</sup> *Clark Fortune McDonald & Associates v Queenstown Lakes District Council DC EnvC C089/02*

**SHANDS / TRENTS ROAD CORNER**

**Mr S J Shamy**

**Mr Shamy's position**

6.18 Mr S J Shamy is the owner of 701 Shands Road, Prebbleton shown in red in Figure 4 (**attached**). In his original submission, Mr Shamy opposed the rezoning requested in PC68 and requested that the entire area, including his own property, remain in rural zoning. In what was termed a "less preferable alternative" Mr Shamy requested that his property also be rezoned if the land the subject of PC68 was to be rezoned for residential development.

6.19 At the hearing, in answer to a question from me, Mr Shamy altered his position which now is that:-

(i) he is now neutral to the question of whether the land the subject of PC68 is rezoned. However if the land is to be rezoned, he wants his land included;

(ii) he is neutral as to whether the other properties in the Shands Road/Trents Road block are rezoned.

6.20 In her submissions on behalf of Mr Shamy, Ms Limmer referred to paragraph 46 of the s42A report which noted <sup>265</sup> ...

*.... A key element in the merit of the plan change advanced by the applicant concerns the logical extension of the township boundary and the establishment of a new southwestern boundary to Prebbleton. The inclusion of the submitters' properties ..... could therefore be said to fall within the broad ambit of PC68 insofar as the plan change examines the appropriate formation of the southern edge of the township.*

6.21 She went on to refer to the "me to" submission relating to the detached land on the southern side of Hamptons Road suggested that this was illustrative of the difference between a submission within the ambit of PC68 and one that was not <sup>266</sup>.

6.22 It was submitted by Ms Limmer that Mr Shamy's submission responds to and directly addresses the change to the status quo proposed by

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<sup>265</sup> *Limmer submissions / paragraph 18*

<sup>266</sup> *Limmer submissions / paragraphs 18 and 19*

PC68. His proposal involved in-filling part of the “gap” in urban form resulting from PC68. She referred to the s42A Report which concluded that Mr Shamy’s request was arguably consequential to the substantive outcome sought in the plan change and further that the relief sought was sufficiently modest in scale and that their inclusion did not threaten or unduly expand the scope of the plan change <sup>267</sup>. Ms Limmer submitted that the change sought was consequential as opposed to just “arguably”. Ms Limmer noted that Mr Shamy’s land would comprise a mere 3% (approximately) of the overall rezoned area if added to the 67.5 hectares currently proposed for rezoning and in that sense was genuinely incidental and remains so even if the entire 12 acres of the relevant gap was rezoned which comprised some 15% of the total area <sup>268</sup>.

- 6.23 In order to obtain a proper understanding of the scope issues, it is necessary to refer to the position of the other landowners in the Shands Road/Trents Road block (“the corner block”).

***Position of other landowners***

- 6.24 The position of the other landowners in the corner block is as follows:-

(i) ***Adam and Sarah Pollard***

Mr Pollard gave evidence on behalf of himself and his wife being the owners of 681 Shands Road. The business of Morgan-Pollard Landscapes Limited operates from the 308 Trents Road entrance. He said (reflecting the relevant submission) that he and his wife primarily opposed PC68 in its entirety as presently submitted. His second preference was to have larger sections “as you move north as is the case on the eastern side of Trents Road”.

Mr Pollard went on to state that he understood that I was not able to recommend a change to a different type of zoning from what had been applied for. That being the case he said that if the Living Z zone was recommended by me, then he and his wife requested that their property be rezoned as per the whole block

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<sup>267</sup> *Limmer submissions / paragraph 21*

<sup>268</sup> *Limmer submissions / paragraph 22*

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"as it does not make sense to leave a corner out when we would be unfairly affected by the rezoning". He later went on to refer to Mr Shamy's submission in his evidence and said ....

12. *Mr Simon Shamy's submission suggested that his block be included if the plan change was recommended as it made sense given his two boundaries bordering the proposed plan change. We were unaware of impact of this submission to us until reading paragraph 143-145 of the 42A report that was circulated. We were unaware of the process whereby we could oppose parts of his submission if we chose too (sic).*
13. *If Mr Shamy's property was to be included then the same argument could be made for Mr Trevor Holder, Mr Chen's and our property as having three outlying properties surrounded by development would seem very problematic for the landowners and Selwyn District Council.*

In addition Mr and Mrs Pollard raised reverse sensitivity issues both in their submission and in evidence, expressing concerns that the development of land adjacent to their property for housing purposes could result in complaints and in the long run make it impossible to run the business on the property in question.

(ii) ***Xaojiang Chen***

Xaojiang Chen is the owner of 330 Trents Road. In his original submission he opposed the plan change. In his evidence he said that although he objected to the proposed development in PC68 due to is development intensity<sup>269</sup>

*..... I request that the Council treat the whole block between the three roads the same. If PC68 is to be accepted for more intense development the three properties including my development at 330 Trents Road should be rezoned in the same way.*

Mr Chen also raised reverse sensitivity issues, associated with the operation of a horse training facility on part of his property.

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<sup>269</sup>

*Evidence of Xaojiang Chen / paragraph 1*

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(iii) ***Trevor Holder and Karlee Mayne***

Trevor Holder and Karlee Mayne are the owners of 687 Shands Road. In their submission they opposed PC68 for a number of reasons, centred around their perception of the resultant detrimental effects on amenities which would follow the establishment of housing on the land the subject of PC68.

Mr Holder and Ms Mayne stated that if the development was to proceed, then their second preference was to follow the existing Prebbleton development plan which is that the further the relevant use spread out from Prebbleton township, the section sizes increase .....

*..... as it has done in Kingcraft drive and penberly where the sections have a minimum size of approximately 5,000 m<sup>2</sup> to retain the rural character of the area and reduce impacts of traffic and services to all the existing residents.*

Mr Holder and Ms Mayne concluded by stating ....

*Our key points that we oppose this subdivision (sic) on the plans provided as it is a high-density development in a rural setting that does not match the rest of the area as you proceed away from the township.*

***Mr S J Shamy /the corner block / my consideration***

***The corner block / the position of landowners other than Mr Shamy***

6.25 Of pivotal importance in considering the corner block properties is to recognise that only one submission sought rezoning, namely that of Mr Shamy (as an alternative). As to this: -

- (i) Mr and Ms Pollard opposed the plan change but said that their second preference was to follow the existing Prebbleton development plan involving sections of a minimum size of approximately 5,000 m<sup>2</sup> to retain the rural character of the area. The relief sought was not consistent with the PC68 request and accordingly does not found jurisdiction to act as a platform for the inclusion of the land in question;

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- (ii) Mr Chen opposed the proposed change in his submission although altered his position in giving evidence by stating that he wanted the Council to treat the whole block in the same way and that if PC68 was to be accepted for more intensive development, then all properties should be included. Thus the Chen submission does not provide a jurisdictional base for the inclusion of his land;
- (iii) Mr Holder and Ms Mayne also opposed the proposed change in their submission but stated that their second preference was to follow the existing Prebbleton development plan involving larger section sizes. This submission could not act as a jurisdictional platform for inclusion of the Holder/Mayne land in PC68.

6.26 The fact that submitters requested the inclusion of their land in the evidence before me as an alternative cannot affect the scope issue which is determined by the relief which was sought in submissions, not in the evidence which followed. Any relief granted must be within the scope of a submission. Accordingly, I find that there is no jurisdiction for me to order the inclusion of any of the land in the corner block, other than that of Mr Shamy, this because he was the only submitter who sought inclusion in his original submission.

***The submission of Mr Shamy / the scope issue***

6.27 I now turn to consider the position of the land of Mr Shamy in terms of the scope issue. Firstly, I consider whether the inclusion of this land in PC68 is justified on the basis that the inclusion could be considered to be an incidental or consequential extension of the zoning changes proposed in the plan change.

6.28 Applying the principles discussed earlier in this recommendation, I am of the view that this avenue for inclusion is not available for the following reasons: -

- (i) whilst, as Ms Limmer has observed, the increase in land area, as a percentage of the overall land the subject of PC68 is low, the area of land sought to be included is substantial;

- (ii) the inclusion of the land cannot be said to be a consequential alteration necessary to the proposed plan. Whilst it has been suggested that the inclusion of the land would tidy up the relevant part of the land the subject of the plan change, in the sense that the inclusion of the land would provide a more logical boundary for PC68 (and this may well be so), as a matter of impression and otherwise the extent of the area of the land dictates to me that the addition of the land is too significant in area to be treated as being either incidental or consequential to the plan change. Importantly, the amendment sought by Mr Shamy is not a necessary consequence of any approval of PC68 and is not needed to complete the proposed plan.

6.29 In summary the relief sought is not able to be granted pursuant to clause 10(2) of Schedule 1 of the Act as an incidental or consequential extension of the zoning changes proposed.

***Does the submission fall within the ambit of the plan change?***

6.30 The fact that I have found that inclusion of the land of Mr Shamy is not able to be facilitated as being an incidental or consequential extension of the zoning changes proposed is not an end to the consideration of the scope issue. The pivotal question is whether the Shamy submission can be reasonably said to fall within the ambit of the plan change. This is certainly arguable. However, a fundamental impediment to this argument is that the submissions of other parties in the corner block indicate to me that, contrary to the position taken by Ms Limmer, further analysis under s32 of the RMA is necessitated. *Motor Machinists* emphasised that one way of analysing whether a submission must reasonably be said to fall within the ambit of a plan change is to ask whether the submission raises matters that should have been addressed in the s32 evaluation and report <sup>270</sup>. For the following reasons I have concluded that a further analysis was necessitated: -

- (i) an issue has arisen as to whether the land of Mr Shamy should be developed along the same lines as the balance of

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<sup>270</sup> *Palmerston North City Council v Motor Machinists Limited* [2014] NZRMA 519 at paragraph [81]



the block containing the PC68 land, or whether, on the other hand, Mr Shamy's land should be zoned so as to provide for larger section sizes representing a transition between the density of development in PC68 and the other development in the surrounding area. Mr Pollard referred to the need to give consideration to the rezoning of the whole block, rather than just the land of Mr Shamy. Mr Chen also raised the same issue;

- (ii) further, I am of the view that a s32 evaluation and report is necessary to consider the question of whether the development of Mr Shamy's land would be likely to have any material impact upon the ability of the Pollard family to conduct its business from the balance of the corner block. It cannot be assumed that the development of Mr Shamy's land would have no influence on this issue;
- (iii) I have reached the clear view that the question of whether Mr Shamy's land should be treated in isolation, and ahead of the other land in the corner block, given the submissions made by the other landowners in the corner block, clearly calls for analysis and comment in an appropriate evaluation and report.

6.31 In these circumstances, and on balance, I am not persuaded that the first limb of the *Clearwater*<sup>271</sup> test can be satisfied. I have concluded that there are matters which should have been addressed in the s32 evaluation and report and were not. Further, under this head, I remind myself that a precautionary approach is called for and I have adopted such an approach.

***The submission of Mr Shamy / participatory rights***

6.32 My finding in relation to the first limb of the *Clearwater* test means that I am not able to consider the merits of the proposal to rezone Mr Shamy's land. However, in case I am incorrect in making this finding, I proceed to consider the issue of whether there is a real risk that persons directly or potentially affected by the additional changes proposed in Mr Shamy's submission may have been denied an effective

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<sup>271</sup> *Clearwater Resort Limited v Christchurch City Council HC Christchurch AP34/02, 14 March 2003*

opportunity to respond to those additional changes in the plan change process. This is the second limb of the *Clearwater* test.

6.33 Earlier in this section, I referred to the comments of Mr and Mrs Pollard in relation to the submission of Mr Shamy, and in particular the statement that they were unaware of the process whereby they could oppose parts of Mr Shamy's submission if they chose to. This statement highlights the fact that whilst Mr and Mrs Pollard have had an opportunity to give evidence before me, they have not had the benefit of any analysis under s32 of the RMA relating to the question of whether Mr Shamy's land should be developed with larger sections than are contemplated by PC68 and whether his land should be developed ahead of the other land on the corner block with the lots created on Mr Shamy's land.

6.34 As already noted, Mr Chen raised the issue of the appropriateness of the whole of the corner block being rezoned, rather than just part of it. I contemplate that he should have had the benefit of an analysis under s32 of the RMA in the context of advancing submissions in evidence in relation to this issue.

6.35 An additional matter which must be considered is that Mr and Mrs Pollard have raised reverse sensitivity issues. There has been no analysis of the impact of the conduct of their business on persons occupying the land of Mr Shamy should it be developed in accordance with PC68. That would have been expected if Mr and Mrs Pollard were to have an informed position in relation to the status of that land.

6.36 Mr Holder and Ms Mayne have adopted a similar position to that of the Pollards in that their second preference was to follow the existing Prebbleton development plan which would involve larger section sizes than contemplated by PC68. The land of Mr Holder and Ms Mayne is immediately adjacent to that of Mr Shamy and the development of Mr Shamy's land would clearly be likely to have an effect on the amenities associated with the use of their land. I am left with the impression that there is a risk that Mr Holder and Ms Mayne, being persons directly affected by the additional changes proposed by Mr Shamy, could well have been denied an effective opportunity to respond to the changes in the plan change. I am unable to be sure that Mr Holder and Ms Mayne were aware of the changes proposed in Mr Shamy's submission because they took no further steps beyond lodging their submission.

In any event they should have had the benefit of a full analysis under s32 of the RMA so that they could put forward an informed view about the proposals to include Mr Shamy's land.

- 6.37 As a further matter, I am concerned that had proper notice been given of the request for rezoning of Mr Shamy's property, this may have attracted submissions beyond the landowners in the corner block. I am of the view that by reason of the absence of a proper analysis of the overall position, there may have been potential submitters who were "left in the cold". Accordingly the second limb of the *Clearwater* test cannot be satisfied.

***Mr Shamy's position / concluding comments***

- 6.38 It is important that I add a concluding comment. It is not my intention that anything in this recommendation should be taken as suggesting how Mr Shamy's property should be treated, should he determine that further steps, such as the initiation of a private change or submission on the forthcoming variation, be adopted. On the face of it, there may well be a strong case for inclusion of Mr Shamy's property, as well as some or all of the properties in the corner block in an enlarged development mirroring PC68. As Kos J noted in *Motor Machinists Limited*<sup>272</sup>, there is unlikely to be any hardship in approaching matters in the way that I have because Mr Shamy will be able to attempt to seek to persuade the Council to promulgate a land change or himself seek a private land change or alternatively be involved in the plan change variation process which is contemplated by SDC. I suspect that Mr Shamy's land may well be strong candidate for rezoning, given urban form and other considerations, although the size of the lots to be created is likely to be an issue which will need to be resolved. However the evaluation of this matter will have to await another day.

***THE TRENTS ROAD GAP***

***Properties making up "the Trents Road gap"***

- 6.39 There are five 2 ha properties that make up what I will term "the Trents Road gap" between the PC68 site and the eastern edge of Prebbleton

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<sup>272</sup> *Palmerston North City Council v Motor Machinists Limited* [2014] NZRMA 519 at paragraph [87]

/ Farthing Drive shown as a green rectangle. The position of the owners in relation to the possible rezoning of the Trents Road gap is as follows: -

(i) **David Somerfield**

David and Julie Somerfield are owners of 382 Trents Road, Prebbleton. Mr Somerfield gave evidence on behalf of himself and his wife. Mr and Mrs Somerfield operate Trents Nursery, being a wholesale plant producer which employs 21 permanent staff and a further 10 seasonal staff from August to April each year. The business has operated at the property since 1983 and supplies plants to garden centres throughout New Zealand.

In his submission Mr Somerfield requested that the application be declined or if approved, limits be placed on the mode of development of the applicant's land adjacent to the Somerfield property including a minimum lot size of 5,000 m<sup>2</sup>.

In his evidence Mr Somerfield stated (in relation to the gap) <sup>273</sup>....

*The 42a report covers various procedural matters and in paragraphs 45 to 50 discusses what has been termed "the gap" which includes our property. The report notes that this area is not part of the application but recommends that these 5 lots could be included if it is considered that it is within the scope (which there seems to be some question about). We are concerned that our property might be included in an application which we oppose. We are concerned that if the application is approved and our property included and rezoned for residential purposes this could have a detrimental effect on our business by restricting what is currently complying rural use activity and make us reliant on existing use rights. This may restrict our business operations in the future. While we understand that including the gap properties would provide a neat form to the application land we are disappointed that the 42a Report fails to discuss what effect inclusion of the gap would have on existing complying rural land uses.*

Mr Somerfield suggested that if PC68 was to be approved, the lots adjoining the property must have a buffer zone and that a council covenant (or consent

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<sup>273</sup> Evidence of David Somerfield / paragraph 1

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notice through the subdivision consent process) should be registered on resultant titles for any new allotments adjoining the property to prohibit property owners complaining about existing rural uses. These matters have been considered in this recommendation.

(ii) **Mark and Joanne Hamlyn**

Mark and Joanne Hamlyn are the owners of 386 and 398 Trents Road, Prebbleton. In their submission Mr and Ms Hamlyn gave conditional support to the rezoning of the land the subject of PC68 stating ....

*We will support subject to my two properties at 386 Trents Road and 398 Trents Road also being rezoned as we will be directly affected and enclosed by the proposed residential development and therefore unlikely to continue using our property as intended under the Rural Inner Plains i.e. run livestock, use farm machinery, burnoffs etc.*

*Effectively, ourselves and our 3 neighbouring properties (comprising 10 ha) would be completely isolated by PC68 and as we were not formally consulted or asked to be involved in this application, we request that our property be included and considered for rezoning approval as well.*

(iii) **Jonelle and Richard Bowman**

Jonelle and Richard Bowman are the owners of 400 Trents Road, Prebbleton. In her submission, Ms Bowman stated that the decision that she wanted the Council to make was as follows ....

*Amend to include the 5 blocks into zoning change to keep these consistent (sic) with immediate neighbouring properties.*

In his submission Mr Bowman said that there had not been proper consultation with himself or his wife prior to the request being made. He opposed the proposed plan change as it currently stood excluding the 10 ha and said ...

*I would consider supporting a proposal which included the 10ha.*

(iv) **Norma and Dawn Eagle**

Norma and Dawn Eagle are the owners of 414 Trents Road, Prebbleton. They did not make a submission in relation to the request.

***Trents Road gap / my consideration***

***Trents Road gap / the scope issue***

6.40 In the s42A Report, Mr Clease expresses the view that the inclusion of (inter alia) the Trents Road gap could be said to fall within the broad ambit of PC68 insofar as the plan change examines the appropriate formation of the southern edge of the township. He goes on to state that the infilling of the “gaps” and the urban form resulting from PC68 is therefore arguably consequential to the substantive outcome sought in the plan change and they are sufficiently modest in scale that their inclusion does not threaten or unduly expand the scope of the plan change <sup>274</sup>. Mr Clease went on to state that the exclusion of the Trents Road gap would in his view result in a poor localised urban form outcome with a relatively small pocket of rural and bounded by urban development<sup>275</sup>.

6.41 In her evidence, Ms Harte expressed a similar view. She considered that the request to include the Trents Road gap properties would in principle enable the area being rezoned to fully integrate with Sterling Park <sup>276</sup>.

***Incidental or consequential extensions***

6.42 I note that incidental or consequential extensions of zoning changes proposed in a plan change are permissible provided that no substantial further s32 analysis is required to inform affected persons of the comparative merits of that change <sup>277</sup>.

6.43 I have formed the view that the extension of zoning to include the Trents Road gap could not be said to be incidental or consequential. The inclusion of the land in question represents a substantial and material change to the boundaries of PC68. Were I to recommend that the Trents Road gap be included in PC68, that would represent a very substantial increase in the overall area of the land the subject of the change. This itself militates against the treatment of inclusion of this

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<sup>274</sup> S42A Report / paragraph 46

<sup>275</sup> S42A Report / paragraph 140

<sup>276</sup> Evidence of Patricia Harte / paragraph 13.3

<sup>277</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA 519 at paragraph [81]

land as being either incidental or consequential, particularly having regard to my comments in relation to the interpretation of these concepts earlier in this recommendation. I should add that the element of necessity referred to in the statutory provision is clearly absent.

***Are relevant submissions on the plan change?***

6.44 Given this finding I now turn to examine the issue of scope. I have formed the clear view that the submission seeking the inclusion of the properties making up the Trents Road gap is not within scope. A critical factor supporting my view is whether any further s32 analysis could be said to be required. Mr Cleese says that it is not required. He points out that the transport report prepared for the applicant, and the peer review of Mr Collins, have not shown any transport related issue with the inclusion of additional sites and that Mr England's servicing report does not identify any issues with infrastructure capacity associated with including this additional land that could not be resolved through the subdivision consent process <sup>278</sup>.

6.45 After careful analysis, I have concluded that I am unable to safely say that no further s32 analysis would be required before the Trent Road gap properties were to be included in PC68 for the following reasons: -

- (i) Mr Somerfield wanted PC68 to be declined but said that if it was to be approved there should be minimum lot sizes of 5,000 m<sup>2</sup> in area. There has been no analysis of the implications of this view;
- (ii) there has been no analysis of the effect on Mr and Ms Eagle being the owners of 414 Trents Road, Prebbleton. They did not make a submission;
- (iii) understandably, the s32 assessment which accompanied the application did not examine the s32 factors which indicate whether including the Trents Road gap properties would represent the most appropriate way of fulfilling the various matters which s32 calls to be assessed. In particular, given Mr Bowman's submission, the issue of whether the status quo should remain, or Trents Road gap properties have

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<sup>278</sup> S424A Report / paragraph 141

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a minimum area of 5,000 m<sup>2</sup>, would need to be examined to comply with s32.

6.46 I am conscious of the fact that there is no intention to alter the objectives and policies of the SDP (other than in a minor respect). This is clearly a starting point in favour of the inclusion of the Trents Road gap properties being within scope, but still leaves for consideration other matters, including the question of whether the lots in the land in question should have a minimum size. I note from *Motor Machinists Limited*<sup>279</sup> that one way of analysing whether the submission reasonably falls within the ambit of the plan change is to ask whether the submission raises matters that should have been addressed in the s32 evaluation and report. If so, the submissions are unlikely to fall within the ambit of the plan change. Under this head I have concluded that the absence of a s32 analysis would be expected and acts as a barrier to considering the Trents Road gap as being within the scope of the existing submissions.

6.47 Finally under this head, I note that *Motor Machinists Limited* requires that a precautionary approach be adopted to receiving submissions proposing more than incidental or consequential further changes to a notified proposed plan change<sup>280</sup>. In this case I have found that what is sought is more than incidental or consequential. Accordingly I have proceeded to examine the scope criteria to determine whether the Trents Road gap is within scope. Utilising a precautionary approach to that issue, I find that the submissions are not within scope.

#### ***Trents Road gap /participatory rights***

6.48 I note my findings above. I proceed to consider the second limb of the *Clearwater Resort Limited*<sup>281</sup> test, in case my finding on the first limb of the scope test is in error. I have reached a clear view in relation to the issue of whether the second limb of the test can be satisfied. I have concluded that the participatory rights of those who were entitled to make submissions in relation to the inclusion of the Trent Road gap properties may have been affected and interested parties may have

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<sup>279</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA / paragraph [81]

<sup>280</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA / paragraph [91](c)

<sup>281</sup> *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP 34/02, 14 March 2003



been denied an effective response to the proposed changes in the plan change process. As to this: -

- (i) I have noted that one of the owners of the subject properties did not make a submission (Eagle). The participatory rights of that owner would have been dependent on seeing the summary of submissions, apprehending the significance of the proposed rezoning of their land and lodging a further submission within the prescribed time period <sup>282</sup>. I have a real concern that these persons, clearly affected by the proposed additional rezoning, “would have been left out in the cold”;
- (ii) I have noted the level of disquiet about the apparent level of consultation with those who did make submissions. Mr and Mrs Somerfield were critical of the suggestion that there had been adequate consultation with them. They stated that at no time had the applicant made contact in any form with them as an adjoining property owner and that if they had done so, considerable time and effort incurred by all properties may have been avoided <sup>283</sup>. Mr Bowman, in his submission, was critical of the level of consultation and said that he was certainly not asked to be involved in the proposal in question. It would be inappropriate for me to make any finding about the adequacy of consultation. However, whilst these parties have had an opportunity to state their case before me, the fact that there has been no s32 analysis leaves me with a concern that their participatory rights may have been fettered by lack of the provision of proper information to them regarding the proposed additional rezoning <sup>284</sup>.
- (iii) Finally, it is appropriate that a precautionary approach be taken to the determination of this matter, as noted above.

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<sup>282</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA / paragraph [88]

<sup>283</sup> *See submission of David and Julie Somerfield* / paragraph 11

<sup>284</sup> *See the comments of Kos J in Palmerston North City Council v Motor Machinists Limited* [2014] NZRMA / paragraph [91](d)

***Trents Road gap / my findings***

6.49 In conclusion, I have formed the view that I should not recommend that the Trents Road gap properties should be rezoned as part of my consideration of PC68. This is against the background that in his report, Mr Clease expresses the view that the exclusion of the Trents Road gap would result in a poor localised urban form outcome with a relatively small pocket of rural land bounded by urban development. His recommendation is that provided sufficient scope existed that the properties be included within PC68 and rezoned to Living Z with the ODP updated to show their inclusion <sup>285</sup>.

6.50 Mr Clease may well be correct in expressing his concerns about the poor localised urban form outcome if the properties comprising the Trents Road gap are not included in the change. However there is a jurisdictional bar to my consideration of the merits of such inclusion. I note that the landowners in question are not without a remedy beyond this point. My preliminary consideration of matters indicates that there may well be grounds for rezoning the land in question subject to an appropriate and full analysis of the position being undertaken beyond this point and interested parties having a full and informed opportunity to comment. Clearly it would be inappropriate for me to express a view about this matter and I refrain from doing so.

***HAMPTONS ROAD LOTS / 743 SHANDS ROAD AND 184 HAMPTONS ROAD******The setting / background matters***

6.51 There are two small lots with frontages to Hamptons Road which will be bounded on all internal boundaries by the PC68 site: -

- (i) the property at 743 Shands Road located on the north-eastern corner of the intersection of Hamptons and Shands Road;
- (ii) the property situated at 184 Hamptons Road which, while it appears on maps to be two properties, it is in

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<sup>285</sup> S42A Report / paragraphs 140 and 142

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fact one title comprising 1612 m<sup>2</sup> of land currently occupied by a dwelling.

(“the Hamptons Road lots”).

Should PC68 be approved, the Hamptons Road lots will constitute small rural zoned lots inserted into a residential suburban environment.

6.52 Mr Clease sees considerable merit in including both of these properties within the proposed Living Z zone and conversely expresses the view that their exclusion would result in a fragmented zone pattern. Mr Clease has noted that no submitter scope exists for either of these sites and therefore the inclusion would need to fall within the ambit of consequential amendments <sup>286</sup>.

6.53 The property on the north-eastern corner of the intersection of Hamptons Roads and Shands Roads (743 Shands Road) is now owned by the SDC and has the legal purpose of “for use in connection with a road”. This property is expected to be used to enable the Shands/Hamptons Roads roundabout.

***The Hamptons Road lots / my consideration***

6.54 In my view, the property on the north-eastern corner of the intersection of Hamptons Road and Shands Road (743 Shands Road) should not be added to the land sought to be rezoned in PC68 as being a consequential alteration necessary to the proposed plan. I agree with Ms Harte when she expresses the view that it may not be necessary or even appropriate for the land to be rezoned for residential purposes <sup>287</sup>. Given that the subject property is expected to be used to enable the Shands/Hamptons Roads roundabout, there is no point in considering adding this land to the land the subject of PC68, either as a consequential or incidental amendment or otherwise.

6.55 The land at 184 Hamptons Road, Prebbleton, is in a different category. Whilst it may be tempting to consider that there is a strong case for saying that by reason of the size of this property, the rezoning of it would fill a gap and be consequential or incidental to PC68, the owners have not made a submission to PC68 and I have a residual concern

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<sup>286</sup> S42A Report / paragraph 146

<sup>287</sup> Evidence of Ms Harte / paragraph 13.7

that notwithstanding the fact that the land may be an obvious candidate for inclusion in the land the subject of PC68, there may be matters which are at this stage unknown and which should be taken into account before I recommend that the land should be included in PC68. In this context, I note that there is no mention of this land in the s32 report. For this reason, and notwithstanding that the land is clearly a very strong candidate for rezoning should I recommend the land the subject of PC68 be rezoned, I refrain from recommending that this land be included, given my concerns regarding the preservation of the participatory rights of the owners and (possibly) others.

#### **169 AND 171 HAMPTONS ROAD**

##### ***The further Hamptons Road lots***

- 6.56 Chris and Carol White and Adam and Lucy Gard'ner-Moore have sought the inclusion of their respective land holdings at 169 and 171 Hamptons Road, Prebbleton. These two lots are located on the southern side of Hamptons Road and are disconnected from the plan change site being separated by Hamptons Road, Prebbleton. Mr Cleese does not consider that the two properties should be included (even if scope were to be available) due to the poor resultant urban form that would result in an isolated suburban enclave extending out into an otherwise intact rural environment <sup>288</sup>.

##### ***The further Hamptons Road lots / my consideration***

- 6.57 The land in question is clearly disconnected from the plan change site. Whilst this case is not on all fours with the facts in *Motor Machinists Limited*<sup>289</sup>, there is a similarity in that the land is clearly "isolated" in the sense referred to by Kos J in *Motor Machinists Limited* which led to him concluding that such an enclave in the case in question was not within the ambit of the existing plan change. The subject land is "isolated" in a similar fashion to that dealt with in *Palmerston North City Council*.

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<sup>288</sup> S42A Report / paragraph 147

<sup>289</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA 519 / paragraph [86]

6.58 The land in question does not logically form part of an enlarged plan change area. It is separated by a road and its rezoning would call into question why land adjacent to it should not be treated in the same way. It does not logically form part of an enlarged plan change area. The question of whether the subject land should be rezoned would require long-term analysis rather than opportunistic insertion by submission. In addition, and importantly, there has been no analysis under s32 of the RMA which further reinforces my view that the request falls foul of the first requirement in *Clearwater Resort Limited*<sup>290</sup> that the request must be within scope.

6.59 In addition there is a real risk that persons with an interest in the rezoning of this land would be disadvantaged and accordingly the requirements of the second limb of *Clearwater Resort Limited*<sup>291</sup> have not been satisfied. There is a strong possibility that persons with an interest in the rezoning of this land were deprived of an opportunity to comment on it because the summary of submissions was not visited by them and the opportunity for further submissions on the point lost. As was noted by Kos J in *Motor Machinists Limited*<sup>292</sup>, Mr and Ms White and Mr and Ms Gard'ner-Moore have other opportunities to seek the rezoning of their land, such as by initiating a private change to the SDP or by becoming involved in the forthcoming variation. I express no view about the prospects of successfully seeking a rezoning but comment that PC68 does not represent an appropriate opportunity for involvement and that any consideration of the merits of the request will have to be decided on another day.

## 7. **STATUTORY FRAMEWORK / ANALYSIS**

### **INTRODUCTION**

7.1 In the earlier part of this recommendation, I noted that a district plan (including as amended by any plan change) must give effect to any operative national policy statement<sup>293</sup>, any regional policy statement<sup>294</sup>,

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<sup>290</sup> *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP 34/02, 14 March 2003

<sup>291</sup> *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP 34/02, 14 March 2003

<sup>292</sup> *Palmerston North City Council v Motor Machinists Limited* / [2014] NZRMA 519 at paragraph [78]

<sup>293</sup> S75(3)(a) of the RMA

<sup>294</sup> S75(3)(c) of the RMA

have regard to any management plan or strategy prepared under other Acts <sup>295</sup>, take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district <sup>296</sup> and must not be inconsistent with any regional plan <sup>297</sup>.

- 7.2 In the s42A Report, Mr Cleese provides a helpful discussion of the planning history of Prebbleton and the evolution of the statutory framework, discussing relevant instruments in chronological sequence. I adopt the sequence in the s42A Report and identify the relevant statutory instruments which need to be taken into account before discussing their impact on this case.
- 7.3 A matter which has assumed particular importance in considering the request is to determine the relationship between the National Policy Statement on Urban Development 2020 and the Canterbury Regional Policy Statement. The resolution of this critical issue is fundamental to the approach which is to be taken to my consideration of the request. I note that the issue has been raised in a number of other plan changes in the Selwyn District and that in this case I have had the benefit of extensive submissions in relation to the issue. My consideration of this issue follows.

#### **LAND USE RECOVERY PLAN**

- 7.4 By way of background to the amendments to the CRPS which are referred to hereafter, I note that the Land Use Recovery Plan ("LURP") was prepared in December 2013 to facilitate developing the recovery of the Greater Christchurch Area. As Mr Cleese has noted, of significance, the LURP included amendments to the CRPS through a new Chapter 6 which directed land use change across the Greater Christchurch area. Importantly, the CRPS amendments included "Map A" which identified growth locations around the various Selwyn townships as "Greenfield Priority Areas". Mr Cleese noted that the provisions included directed policies that growth should only occur within the identified Greenfield Priority Areas. The application site is *not* identified as a Greenfield Priority Area in the Selwyn District <sup>298</sup>.

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<sup>295</sup> S74(2)(b)(i) of the RMA

<sup>296</sup> S74(2A) of the RMA

<sup>297</sup> S75(4)(b) of the RMA

<sup>298</sup> S42A Report / paragraphs 176 and 177

- 7.5 In addition to directing the location of urban growth the new CRPS Chapter 6 also considered the provision of “Rural Residential” development, which was defined as residential development at a density of one to two households per hectare and located outside the greenfield priority areas. Policy 6.3.9 stated that the new rural residential areas could only be provided where they were located in accordance with a council adopted rural residential development strategy prepared in accordance with the Local Government Act <sup>299</sup>. Reference has already been made to the fact that in 2014 SDC prepared the RRS-14 to set out the locations for rural residential development. A number of the areas identified in the RRS-14 were then rezoned to Living 3 through private plan changes <sup>300</sup>.

***OUR SPACE AND THE NATIONAL POLICY STATEMENT – URBAN DEVELOPMENT CAPACITY***

- 7.6 By way of background to the National Policy Statement on Urban Development 2020, I note that Mr Cleese has recorded in the s42A Report <sup>301</sup> that in response to increasing concerns regarding housing affordability, supply and integration with infrastructure, the Government gazetted the NPS-UDC in 2017, requiring councils in high growth areas to undertake an assessment of housing (and business) demand and supply and to demonstrate that there will be sufficient feasible development in place to support housing and business growth needs over the medium (next 10 years) and long-term (10 to 30 years).
- 7.7 In response to meeting the reporting obligations under the NPS-UDC the Greater Christchurch Partnership organisations (including SDC) prepared a document entitled *“Our Space 2018-2048 : Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrapa Nōhoangi”* (“Our Space”). This document is focussed on how best to accommodate housing and business land needs in a way that integrates with transport and other infrastructure provisions etc. It provides targets for housing for 30 years and outlines how any identified short-fall capacities to meet these targets will be met, including through the identification of areas for housing growth. Mr

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<sup>299</sup> S42A Report / paragraph 179

<sup>300</sup> S42A Report / paragraph 180

<sup>301</sup> S42A Report / paragraph 181

Cleese has noted, given the significant cross-over between Our Space and the CRPS, subsequent changes to the CRPS were signalled as being required to facilitate the outcome set-out.

***NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT 2020***

***The issue of relationship with CRPS***

- 7.8 As Mr Cleese has noted in his report <sup>302</sup> prior to July 2020, the planning framework for the Inner Plains was clearly established. Development to suburban densities could only occur within greenfield priority areas identified on Map A of the CRPS. Our Space recognised the need for some additional capacity to be made available in Rolleston with the additional locations of greenfield growth incorporated into the CRPS. Further, development of rural residential densities could likewise only occur in areas specifically identified in the RRS-14 and then only once a change in zoning to Living 3 had been confirmed through a private plan change process. The above analysis is important because it provides background to the gazetting of the NPS-UD. NPS-UD replaced NPS-UDC. NPS-UD was in response to growth pressures being faced nationally and has particular relevance for “Tier 1” Councils which include SDC.
- 7.9 As already, a noted fundamental issue which has arisen in this case, and not susceptible to easy analysis, is to determine the relationship between NPS-UD and the CRPS. As will be recorded later in this recommendation, the view which has been taken by a number of submitters is that the provisions of the CRPS, and in particular Map A, preclude the rezoning of the land the subject of PC68. The proponents of the change argue otherwise. They say that NPS-UD signalled a clear change in the criteria which need to be applied when considering this plan change and the provisions of NPS-UD, that NPS-UD must be taken as effectively overriding the requirements of the CRPS and that the provisions of the CRPS do not represent an impediment to rezoning.
- 7.10 I have received detailed legal submissions from counsel for the applicant, Mr Cleary, both in opening and reply, and submissions in response by Mr Wakefield on behalf of CCC and CRC. These will be referred to in greater detail hereafter. These submissions have been helpful and detailed. I observe that at this stage no party with an

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<sup>302</sup> S42A Report / paragraphs 185 et seq



interest in this issue has sought guidance from the courts. I note that I have considered the insightful analysis of this issue by Commissioner David Caldwell in his recommendation dated 10 January 2022 relating to proposed Plan Change 67. I should add that I have been provided with a memorandum from Mr Paul Rogers, of Adderley Head dated 13 September 2021 which addresses the issue in a comprehensive manner in the context of plan changes and submissions on the proposed District Plan. This memorandum was requested in my third minute in which I noted that the memorandum had been publicly released.

7.11 I have made my own independent assessment of this matter and given detailed consideration to the submissions and material which has been made available to me at the hearing. What follows represents my own assessment of this difficult legal issue.

7.12 As a final observation under this head, I comment that given the very real importance of the issue which is addressed by NPS-UD, it is regrettable that the document did not provide greater guidance as to the circumstances in which RMA planning documents could be taken as being effectively overridden by the application of the requirements of NPS-UD. The absence of clearer guidelines is unfortunate because it has imposed a significant burden on those tasked with interpreting and administering the provisions of the NPS-UD in circumstances such as the present.

7.13 In order to properly consider this matter, it is necessary to record the key objectives and policies in the CRPS, SDP and NPS-UD which are material.

***The CRPS /key objectives and policies***

7.14 The key objectives and policies of the CRPS which relate to the matters the subject of my consideration are: -

***Objective 6.2.1:***

***Recovery framework***

*Recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:*

- 1. Identifies priority areas for urban development within Greater Christchurch;*

*.....*

3. *avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS;*

**Policy 6.3.1:**

***Development within the Greater Christchurch Area***

*In relation to recovery and rebuilding for Greater Christchurch:*

1. *Give effect to the urban form identified in Map A, which identifies the location and extent of urban development that will support recovery, rebuilding and planning for future growth and infrastructure delivery;*  
.....
3. *enable development of existing urban areas and greenfield priority areas, including intensification in appropriate locations, where it supports the recovery of Greater Christchurch;*
4. *ensure new urban activities only occur within existing urban areas or identified greenfield priority areas as shown on Map A, unless they are otherwise expressly provided for in the CRPS.*

***Selwyn District Plan / key objectives and policies***

- 7.15 The objectives and policies which are of particular relevance in the SDP are: -

***Objective B4.3.3:***

*For townships within the Greater Christchurch area, new residential or business development is to be provided within existing zoned land or priority areas identified in the Regional Policy Statement and such development is to occur ...*

***Policy B4.3.1 : (relevantly)***

*Ensure new residential rural residential or business development either:*

.....

- *The land is rezoned to an appropriate Living or business Zone and, where within the Greater Christchurch area, is contained within existing zoned land and greenfield priority areas identified in the Regional Policy Statement and developed in accordance with an Outline Development Plan incorporated into the District Plan.*

***NPS-UD / key objectives and policies***

- 7.16 The key objectives and policies and other matters within the NPS-UD in relation to the matters which I am called to consider are: -

***Objective 1 :*** *New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

***Objective 2 :*** *Planning decisions improve housing affordability by supporting competitive land and development markets.*

**Objective 3** : *Regional policy statements and district plans enable more people to live in and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

- (a) *the area is in or near a centre zone or other area with many employment opportunities;*
- (b) *the area is well-served by existing or planned public transport;*
- (c) *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

.....

**Objective 6** : *Local authority decisions on urban development that affect urban environments are:*

- (a) *integrated with infrastructure planning and funding decisions; and*
- (b) *strategic over the medium term and long terms; and*
- (c) *responsive, particularly in relation to proposals that would supply significant development capacity.*

**Policy 1** : *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

- (a) *have or enable a variety of homes that:*
  - (i) *meet the needs, in terms of type, price, and location, of different households;*
  - (ii) *enable Māori to express their cultural traditions and norms; and*
- (b) *.....*
- (c) *have good accessibility for all people between housing, jobs, community services natural spaces, and open spaces, including by way of public or active transport; and*
- (d) *support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (e) *support reductions in greenhouse gas emissions; and*
- (f) *are resilient to the likely current and future effects of climate change.*

**Policy 2** : *Tier 1, 2 and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term and long term.*

**Policy 6** : *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*

.....

- (d) *the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);*

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- (e) *any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity:*

**Policy 8 :** *Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:*

- (a) *unanticipated by RMA Planning documents; or*
- (b) *out-of-sequence with planned land release.*

### **3.7 When there is insufficient development capacity**

- (1) *If a local authority determines that there is insufficient development capacity (as described in clauses 3.2 and 3.3) over the short term, medium term, or long term, it must:*
  - (a) *immediately notify the Minister for the Environment; and*
  - (b) *if the insufficiency is wholly or partly a result of RMA planning documents, change those documents to increase development capacity for housing or business land (as applicable) as soon as practicable, and update any other relevant plan or strategy (including any FDS, as required by subpart 4); and*
  - (c) *consider other options for:*
    - (i) *increasing development capacity; and*
    - (ii) *otherwise enabling development.*

## **Subpart 2 – Responsive planning**

### **3.8 Unanticipated or out-of-sequence developments**

- (1) *This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.*
- (2) *Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:*
  - (a) *would contribute to a well-functioning urban environment; and*
  - (b) *is well-connected along transport corridors; and*
  - (c) *meets the criteria set under subclause (3);*
- (3) *Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.*

## **The relationship issue / submissions on behalf of applicant**

### **Statutory interpretation principles**

7.17 In his extensive submissions, Mr Cleary commenced by referring to the relevant principles of statutory interpretation. I agree that an appropriate summary of the principles as they apply to subordinate

legislation can be found in *Simons Pass Station Limited v MacKenzie District Council* <sup>303</sup>. I note that in *Simons Pass Station Limited* there is reference to the leading Court of Appeal authority *Powell v Dunedin City Council* <sup>304</sup>. Mr Cleary has helpfully summarised the principles <sup>305</sup>. I adopt the summary. I agree that in circumstances where the plain ordinary meaning of a provision creates an anomaly, inconsistency, or absurdity, the other principles of interpretation must be taken into account in order to determine its proper interpretation <sup>306</sup>.

7.18 Further, where there is an inconsistency between two documents, particularly where one is a high order document, the courts will first seek to reconcile this inconsistency and allow the two provisions to stand together. Indeed Mr Cleary submits that decision makers are under an obligation to make a “thoroughgoing attempt to find a way to reconcile” conflict, referring to *Royal Forest and Bird v Bay of Plenty Regional Council* <sup>307</sup>.

7.19 Finally, under this head, I note that I agree with Mr Cleary that extrinsic materials can be considered as relevant to an interpretation, the critical factor being whether the material is sufficiently relevant<sup>308</sup>. As will be seen from the further discussion of this issue, this principle has particular relevance in this case.

#### ***The NPS-UD***

7.20 Mr Cleary then dealt with the NPS-UD. Having traversed the means of implementing the objectives and policies above by local authorities, Mr Cleary highlighted that the NPS-UD also included a requirement on behalf of the council to provide *at least sufficient development capacity* to meet expected demand for housing in both existing *and* new housing areas (Clause 3.2). Mr Cleary submitted that the clear message was that growth was anticipated to be both up and out <sup>309</sup>.

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<sup>303</sup> *Simons Pass Station Limited v MacKenzie District Council* [2020] NZHC 3265, (2020) 22 ELRNZ 277 at paragraphs [25] to [34] and [38]

<sup>304</sup> *Powell v Dunedin City Council* [2004] 3 NZLR 721; (2005) 11 ELRNZ 144 (CA)

<sup>305</sup> *Opening submissions of applicant* / paragraph 4.3

<sup>306</sup> *Submissions of applicant* / paragraph 4.4

<sup>307</sup> *Royal Forest and Bird v Bay of Plenty Regional Council* [2017] NZHC 3080 at paragraph [98]

<sup>308</sup> *See Sky City Auckland Limited v Gambling Commission* [2008] 2 NZLR 182 at [38] to [55]

<sup>309</sup> *Opening submissions of applicant* / paragraph 5.3

7.21 Mr Cleary then went on to note the requirement in Clause 3.8 that local authorities must have particular regard to the development capacity provided by a plan change if that development capacity: -

*(a) would contribute to a well-functioning environment;*

*(b) is well connected along transport corridors; and*

*(c) meets the criteria under sub-clause (3); and*

*(3) every regional council must include criteria in its regional policy statement for determining what plan change will be treated, for the purpose of implementing Policy 8, adding significantly to development capacity.*

7.22 Mr Cleary summarised the position by submitting that the overarching purpose of the NPS-UD was to set in place a framework to address an ongoing critical social and economic issue facing New Zealand being the under-supply of housing capacity to meet demand. He emphasised that sufficient development capacity *must* be enabled in the short (3 years) medium (3 to 10 years) and long term (30 years). He noted that there was a stated requirement *at all times* to meet the demand for housing <sup>310</sup>. Mr Cleary stated that even if the development capacity was unanticipated, local authorities *must* be responsible/ have regard to plan changes which provided for significant development capacity.

#### ***The CRPS***

7.23 Mr Cleary then went on to refer to Chapter 6 of the CRPS. He noted that Chapter 6 was written with a clear focus on the recovery and rebuilding of Greater Christchurch after the earthquakes, that things had moved on from the time of recovery and that now was a time of growth as was illustrated by the evidence of Mr Sellars and Mr Colegrave <sup>311</sup>.

7.24 Mr Cleary noted that post 2013, the only amendment of present relevance to Chapter 6 was Change 1, initially prepared under the previous NPS-UD 2016 and then finalised under the later 2020 version. This plan change included "targets" for housing development capacity in Greater Christchurch for the period 2018 to 2048. It also identified Future Development Areas that may be rezoned if certain criteria were met. In summary Mr Cleary submitted that the CRPS clearly did not give effect to the NPS-UD and nor did the operative Selwyn District Plan which

<sup>310</sup> Opening submissions of applicant / paragraph 5.5

<sup>311</sup> Opening submissions of applicant / paragraphs 5.8 and 5.9

incorporated the hard urban limit approach of the CRPS and therefore did not have sufficiently zoned land to meet ongoing demand <sup>312</sup>.

***The hierarchy of documents***

7.25 Mr Cleary then dealt with the question of the reconciliation of the provisions of the NPS-UD and CRPS. He noted that Objective 6.2.1 and Policy 6.3.1 in the CRPS had remained essentially unchanged since 2013 and that collectively they established the doctrinaire, hard urban limit approach <sup>313</sup>.

7.26 Mr Cleary then dealt with the hierarchy of documents under the RMA being <sup>314</sup>: -

- (i) national policy statements
- (ii) regional policy statements
- (iii) district plans.

7.27 Mr Cleary referred to the important decision of the Supreme Court in *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited* <sup>315</sup> ("*King Salmon*") which held that to "give effect to" was a strong direction demonstrating that national policy statements give more than just general guidance to local authorities. He noted that more than an "overall judgment" approach was required when implementing the policies of a national policy statement <sup>316</sup>. Mr Cleary then went on to observe that *King Salmon* contained several observations which were relevant to PC68 as to why decision makers must give effect to national policy statements being: -

- (i) the hierarchical scheme of the RMA;
- (ii) national policy statements allow central government input into local decisions and decision makers should not decline to implement aspects of a national policy statement;

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<sup>312</sup> *Opening submissions of applicant / paragraphs 5.11 to 5.13 incl*

<sup>313</sup> *Opening submissions of applicant / paragraph 6.2*

<sup>314</sup> *Opening submissions of applicant / paragraphs 6.5 to 6.6 (sic)*

<sup>315</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited [2014] NZSC 38*

<sup>316</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited [2014] NZSC 38 at [132]*

- (iii) that where provisions are in conflict between the two planning documents, it is important not to include too readily that reconciliation cannot be achieved.

7.28 Mr Cleary noted that SDP was required to implement the direction given by both regional and national level planning documents and that where changes were proposed the higher order documents needed to be considered. He went on to state that where a document or provision published later in time was inconsistent with a document published earlier it was logical to assume by the process of statutory amendment that the intention of the later in time document was to amend the earlier document.

7.29 Mr Cleary referred to and accepted the decision of the Court of Appeal in *R v Pora*<sup>317</sup> where it was said that the approach to amendment described above was too technical and that where there was an inconsistency the proper approach was to determine which was the leading provision. Because of the importance of this matter I refer to the relevant parts of the decision ....

*[38] We do not think it matters greatly whether the (sequentially) later provision was enacted at the same time as the earlier one (as was the case in Marr) or later in time (as is the case here). Preference for a later provision is equally a default one which presupposes a mechanical rather than a purposive approach to statutory interpretation. The latter is not to be preferred if the earlier expressly provides that it is to prevail.*

*[39] the proper approach is that described by Lord Herschell in Institute of Patent Agents and referred to above in paragraph [4]. Where there is inconsistency the court must determine which is the leading provision. This approach does not prevent implied repeal where it is clear that a later enactment supplants an earlier one. It makes it clear however that there is no chronological formula to be mechanically applied.*

7.30 Mr Cleary submitted that the document at the top of the planning hierarchy was the NPS-UD and must be read as prevailing over inconsistent provisions within the subordinate CRPS. Mr Cleary went further and submitted that the NPS-UD must be considered the dominant component of the planning framework against which the plan change in question must be tested<sup>318</sup>.

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<sup>317</sup> *The Queen v Pora* [2000] NZCA 403

<sup>318</sup> Opening submissions of applicant / paragraphs 6.4 and 6.5



**Absurdity**

7.31 Then Mr Cleary went on to take issue with the submission of CRC/CCC that taking a responsive approach meant that whilst there was an entitlement to “open the door” to consider PC68 on its merits, ultimately the door must be closed shut because Objective 6.2.1 and Policy 6.3.1 direct this outcome. Mr Cleary submitted that this would render Policy 8 meaningless and referred to Commissioner Caldwell’s decision on Plan Change 67 where he traversed the issues in question and concluded that Policy 8 provided the method by which a qualifying plan change could be assessed on its merits. Mr Cleary submitted that the NPS-UD responsiveness policy was deliberately included by Government in order to allow a pathway to development in areas anticipated by planning documents and that to rigidly apply the “avoidance” approach in the CRPS would prevent local authorities from acting in accordance with the NPS-UD <sup>319</sup>.

**Extrinsic evidence**

7.32 Lastly under this head, Mr Cleary dealt with the ability to introduce extrinsic evidence in aid of the interpretation of the NPS-UD. He referred to *Planning for Successful Cities – a discussion document on a proposed National Policy Statement on Urban Development (August 2019)* (“the Discussion Document”). Referring to relevant parts of the Discussion Document, Mr Cleary highlighted the need for a more responsive planning system for greenfield growth and submitted that both the Discussion Document and the document which followed the Discussion Document, the *Recommendations and Decisions Report on the National Policy Statement on Urban Development. Wellington : Ministry for the Environment and the Ministry of Housing and Urban Development* released in July 2020 (“the Decision”) were explicit in directing that the purpose behind a responsiveness policy was to ensure plan changes (greenfield included) which would add significantly to the development capacity and they must be considered on merit.

7.33 Mr Cleary submitted that PC68 could not be rejected as urged by CRC and CCC simply because it was said to be inconsistent with their strategic framework. Mr Cleary submitted that a responsive approach

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<sup>319</sup> *Opening submissions of applicant / paragraphs 6.7 to 6.10 incl*

required me to consider PC68 on its merits and, in doing so, to put to one side the hard limits in Chapter 6 of the CRPS <sup>320</sup>.

7.34 Mr Cleary relied upon the analysis of Commissioner Caldwell in his decision on Plan Change 67 <sup>321</sup>. As already noted, whilst I have been assisted by Commissioner Caldwell's analysis, and have considered his reasoning, I have reviewed all the material put before me and have formed a view independently of the decision of Commissioner Caldwell on this issue.

7.35 In essence Mr Cleary submitted that the NPS-UD responsiveness policy had been intentionally included by Government in order to allow a pathway for development in areas unanticipated by planning documents. Mr Cleary went on to refer to Chapter 12 of the document which followed the Discussion Document, namely the Decision released in July 2020. His submission was that I am entitled to have regard to this material, albeit extrinsic to the NPS-UD, in aid of interpreting its provisions. Because of their importance I refer to the conclusions in the Decision relied upon by Mr Cleary <sup>322</sup> ...

*The panel broadly supported the intent of improving planning responsiveness and agreed there would be value in retaining specific policy direction for local authorities to actively consider out-of-sequence and/or unanticipated development. Officials recommend introducing a policy to ensure planning decisions affecting urban environments are responsive to proposals that would add significant development capacity. This policy would apply to both RPSs and decisions on plan changes to district and regional plans. In particular, this policy should provide for opportunities to be considered on their own merits and not rejected simply because they do not align with current plans.*

*The policy would recognise the benefits of plan changes that would add significantly to development capacity and contribute to well-functioning urban environments. Because the intent is responsiveness in the planning system, this would apply to both greenfield and brownfield developments. ....*

*This approach will also address the possibility raised by submitters and the panel for local authorities to entrench hard urban growth boundaries in their RPSs. This could undermine the intent of the NPS-UD because RPSs are not subject to private plan changes under the RMA.*

7.36 Mr Cleary submitted that the purpose behind the responsiveness policy was to ensure plan changes which would add significantly to development capacity must have the ability to be considered on merit.

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<sup>320</sup> Opening submissions of applicant / paragraphs 6.11 to 6.19 incl

<sup>321</sup> Opening submissions of applicant / paragraph 6.8 et seq

<sup>322</sup> Opening submissions of applicant / paragraph 6.17

PC68 is not able to be rejected as is urged by CRC and CCC simply because it is said to be inconsistent with their strategic framework <sup>323</sup>.

***Significant development capacity / the submissions of the applicant***

7.37 Mr Cleary submitted that because CRC had failed in its requirement to include criteria in the CRPS as to what constituted “significant development capacity” I was able to determine what it might mean. Mr Cleary went on to submit that NPS-UD defined “urban environment” as an area of land that was or intended to be predominantly urban in character and was intended to be part of the housing market of at least 10,000 people and that SDC had previously considered Prebbleton, Lincoln and Rolleston collectively as an urban environment having collectively a population exceeding 10,000 <sup>324</sup>.

7.38 Mr Cleary went on to note that the position of both CCC and CRC was that the question of capacity should be assessed within the context of the Greater Christchurch area but that notwithstanding this Mr Langman had properly acknowledged that the contribution of housing proposed, in terms of quantum, could be considered to be substantial. Mr Cleary went on to submit that the evidence of Mr Colegrave, Mr Sellars and Mr Cleese were all of the opinion that the significant additional capacity threshold was met <sup>325</sup>.

***Significant development capacity / the submissions of applicant in reply***

7.39 Mr Cleary was critical of the evidence of Mr Williamson in relation to the issue of responsiveness (I refer to this hereafter). He submitted that Mr Williamson had failed to discuss in any meaningful way the relevance of the NPS-UD to the subject plan change. He submitted that Mr Williamson had not responded to my question regarding the responsiveness policy being able to provide for clear demand without the inherent delays associated with the development of spatial and reviews of the CRPS.

7.40 Mr Cleary traversed the evidence of Mr Williamson in relation to the availability of infrastructure, submitting that development agreements

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<sup>323</sup> *Opening submissions of applicant/paragraph 6.18*

<sup>324</sup> *Opening submissions of applicant/paragraphs 7.1 and 7.2*

<sup>325</sup> *Opening submissions of applicant/paragraphs 7.3 to 7.4*

which had been criticised by Mr Williamson, had been used by SDC on large scale greenfield developments in the past. He was critical of Mr Williamson's response as to whether or not he considered it necessary to have absolute certainty as to the availability of every single piece of infrastructure required to support the development and said that Mr Williamson sought to add a level of complexity to the issue of infrastructure which did not exist, given the level of funding already committed to SDC's long term plan for roading and wastewater upgrades. In conclusion he submitted that the plan change development was "infrastructure ready" as that term is defined in the NPS-UD <sup>326</sup>.

### ***Submissions on behalf of CCC and CRC***

#### ***Introduction***

7.41 Mr Wakefield presented extensive and detailed submissions in relation to the issue of the relationship between the NPS-UD and the CRPS for which I am most grateful. His starting point was that this was not a situation where the NPS-UD should be interpreted as having primacy/taking precedence over the CRPS and that the two documents can and should be read and applied together with the CRPS allowed to adopt a policy approach that recognises and responds to its sub-regional context <sup>327</sup>. He stated that if the applicant's interpretation was preferred and "high demand in the Selwyn District" demanded the approval of plan changes in reliance on Policy 8, that would be failure to reconcile and apply the NPS-UD as a whole, alongside the balance of the statutory framework. It would also fail to accord with the relevant urban growth strategy established by the CRPS and recently updated by Change 1 <sup>328</sup>.

7.42 Importantly, Mr Wakefield submitted that allowing departures of this nature from existing strategic infrastructure and spatial planning decision making with was why CCC and CRC were taking this request (and others) seriously. Spatial planning was a core part of their respective statutory functions and allowing continual greenfield expansion could ultimately undermine the intensification outcome that the Chapter 6 framework was intended to achieve <sup>329</sup>.

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<sup>326</sup> *Submissions in reply of applicant / paragraphs 4.1 to 4.8 incl*

<sup>327</sup> *Wakefield submissions / paragraph 1.5*

<sup>328</sup> *Wakefield submissions / paragraph 1.6*

<sup>329</sup> *Wakefield submissions / paragraph 1.7*

7.43 After submitting that there was no sound legal interpretation that required the “responsive planning framework” to be given weight or precedence over a CRPS framework, he concluded that the outcome that CCC and CRC were supporting was not at odds with the intensification themes present in the NPS-UD, CRPS and now the Enabling Act. He said that if anything the legislation in higher order planning documents collectively supported limiting opportunity for speculative greenfield expansion, in order to make better use of available capacity within brownfield areas and to achieve meaningful intensification and the benefits that derived from that <sup>330</sup>.

***Relevance of Change 1***

7.44 Mr Wakefield then went on to refer to the historical background to Change 1 which I refer to in some detail later in this recommendation. He submitted that the suggestion that Map A was now out-of-date could not be supported and noted that Change 1 amended Map A to identify FDAs in only July 2021 which he said could hardly be said to be outdated <sup>331</sup>.

***Layering and effect of planning documents***

7.45 Mr Wakefield then referred to *King Salmon* <sup>332</sup> and admitted that while NPS-UD provided high level direction, the CRPS provided more particularised regional (and, in particular, sub-regional) direction in relation to similar matters, as well as a number of other important policy matters. He said that these other matters were needed to give effect to other national policy statements and the other statutory requirements of Part 2 of the RMA. In consequence CRPS were said to be by nature a more wide-ranging policy document and must be read as a whole when assessing plan change requests of this nature <sup>333</sup>. Lastly Mr Wakefield said that there were a number of relevant policy directions in both the NPS-UD and the CRPS which varied in terms of their expression and that this was relevant when seeking to reconcile the documents <sup>334</sup>.

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<sup>330</sup> Wakefield submissions / paragraph 1.8

<sup>331</sup> Wakefield submissions / paragraphs 2.3 to 2.8 incl

<sup>332</sup> *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* [2014] NZSC 38

<sup>333</sup> Wakefield submissions / paragraphs 3.4 and 3.5

<sup>334</sup> Wakefield submissions / paragraph 3.8

***Doctrine of implied repeal***

7.46 Mr Wakefield then dealt with the doctrine of implied repeal, submitting that the doctrine should not be invoked in this case as the two provisions at issue, which are alleged to be in contention with each other, serve a different statutory function. This as an important issue so I note the statutory functions which are referred to by Mr Wakefield as follows: -

- (i) Policy 8 of the NPS-UD serves as an administrative pathway, by “opening the gate” for plan changes, and then allowing them to be considered on their merits and against the relevant statutory framework;
- (ii) Objective 6.2.1 of the CRPS provides substantive policy direction in relation to the matter of urban growth in a sub-regional context.

7.47 Mr Wakefield said that the doctrine could not be invoked because the two instruments could work in tandem <sup>335</sup>.

***Responsive planning framework / significant development capacity***

7.48 Mr Wakefield’s fundamental submission was that NPS-UD contains a number of objectives or policies all of which are intended to operate together and that the NPS-UD (when read as a whole) provides direction on a number of different components relating to urban development. In answer to a question from me, Mr Wakefield confirmed that the NPS-UD was concerned with urban development but that the CRPS had a wider application and dealt with other matters such as the coastal environment <sup>336</sup>.

7.49 Mr Wakefield then went on to refer to the “responsive planning framework” being one component of the NPS-UD and said that the framework provided an administrative pathway for the consideration of out-of-sequence plan changes subject to the criteria which he specified. He noted that CRC had not yet included the criteria in question in the CRPS and that as a consequence PC68 needed to be

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<sup>335</sup> Wakefield submissions / paragraphs 3.9 to 3.11 incl

<sup>336</sup> Wakefield submissions / paragraph 4.1

considered against other potentially relevant factors including those discussed in the non-binding Guidance published by the Ministry for the Environment and the relevant objectives and policies concerning urban growth in both the NPS-UD and CRPS <sup>337</sup> .

7.50 Again Mr Wakefield emphasised that the “significant development capacity” criterion was unique to the responsive planning framework and referred to the other criteria set out in clause 3.8(2) which engage with the requirement that urban environments are well functioning and well serviced. He said that these criteria overlapped with other NPS-UD objectives and policies (including Objective 6) and remain part of the wider coherent scheme of the NPS-UD <sup>338</sup> .

7.51 In supporting this interpretation Mr Wakefield referred to the following factors <sup>339</sup>; -

- (i) there was nothing expressly stated in the NPS-UD that gave Policy 8 any elevated significance over any other objective or policy. He said, put another way, there was nothing in the NPS-UD or Policy 8 that demanded exceptions or legitimate departures from any other restrictive policy provisions;
- (ii) the parent objective for Policy 8 – Objective 6 – put three different matters on an equal footing all of which had to be satisfied. He said that the implication of this was that the responsive planning framework could not be treated as a pathway isolated from the remainder of the NPS-UD;
- (iii) thirdly he said there was nothing stated expressly or implicitly in the NPS-UD to suggest that the responsive planning framework provided, or is enabling of or directed innate flexibility for urban development;
- (iv) he said that whilst the appropriateness of such a framework would depend upon the facts and circumstances of each case he submitted that for

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<sup>337</sup> Wakefield submissions / paragraphs 4.2 and 4.3

<sup>338</sup> Wakefield submissions / paragraph 4.4

<sup>339</sup> Wakefield submissions / paragraph 4.5

Greater Christchurch it could be found to be an entirely valid approach to give effect to the NPS-UD;

- (v) finally he said that if precedence were to be given to being “responsive” without engaging the other criteria, the end result would be a proliferation of ad hoc (and potentially significant and speculative developments) being granted.

7.52 In response to the case for the applicant that “rigidly” applying the avoidance direction and the CRPS would be out of step with the NPS-UD, Mr Wakefield submitted that there was no provisional purpose statement in the NPS-UD that directed the *enablement* of development through plan changes or any other processes. Instead, the NPS-UD (and Policy 8) relied on the standard Schedule 1 process to evaluate and decide any plan changes which engaged all RMA matters and the relevant statutory framework <sup>340</sup>.

7.53 Finally under this head, Mr Wakefield said that it was not his submission that any plan change request that conflicted with the CRPS avoidance framework should not be considered. However he said that neither Policy 8 nor the balance of the NPS-UD gave rise to any presumption of approval or support. Instead he said that decisionmakers had to look at all aspects of the relevant statutory framework, the language used in relevant provisions and to make a reasoned statutory decision <sup>341</sup>.

***The term “responsive”***

7.54 Mr Wakefield then went on to consider the term “responsive” <sup>342</sup>. He said that it was of significant concern to CCC and CRC that the responsive planning framework was being pitched as a positive or enabling mechanism for urgent urban growth when it was essentially devoid of any detailed substantive policy direction. In answer to the submission by the applicant that Policy 8 would be totally meaningless for Greater Christchurch if the CRPS avoidance framework was respected, Mr Wakefield noted that there needed to be a recognition and proper management of certain resource management matters and that the applicant’s submission would only hold water if the term “responsive” was considered a proxy for a substantive direction to

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<sup>340</sup> Wakefield submissions / paragraph 4.7

<sup>341</sup> Wakefield submissions / paragraphs 4.8 to 4.10 incl

<sup>342</sup> Wakefield submissions / paragraphs 4.11 et seq



*approve* plan changes but he said that that is not what it says. It was possible to be responsive in other ways including by collaborating with other local authorities and seeking to change the CRPS <sup>343</sup>.

7.55 The essence of the applicant's approach is that the proper application of the NPS-UD would preclude waiting for CCC and CRC to collaborate and request a change to the CRPS. Mr Wakefield's submission was that change should only occur through collaboration and a companion request to change the CRPS stating that this is what the statutory framework required until such time as the CRPS was amended (if that was the case) <sup>344</sup>. Mr Wakefield said that the responsive planning framework criteria (when introduced into the CRPS) would play a critical role in evaluating plan change requests against Policy 8. When the criteria are included, Mr Wakefield said that they would act to distinguish ad hoc/speculative plan changes from those that would actually deliver significant development capacity <sup>345</sup>.

7.56 Importantly, Mr Wakefield submitted that the decision maker was being tasked with pre-empting what the criteria would say which was unfortunate timing. He went on to submit that there was no "failure" on behalf of CRC as there was no date stated by which criteria were to be included and there are important strategic aspects to the criteria which deserved close and careful attention <sup>346</sup>.

7.57 Mr Wakefield concluded by stating that in response to the suggestion that the CCC and CRC interpretation rendered Policy 8 "meaningless" he noted that the FDAs brought in by Change 1 provided for flexibility and responsiveness in areas that are not live zoned for urban development. He acknowledged that outside of those areas, there was a restriction on urban development but within the FDAs there was an ability to be responsive to plan change requests <sup>347</sup>.

### ***The submissions in reply of the applicant***

7.58 The submissions in reply of Mr Cleary identified the key issue as the relationship between the NPS-UD and the CRPS. In the first part of those submissions Mr Cleary noted the detailed legal advice which had

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<sup>343</sup> Wakefield submissions / paragraph 4.11 to 4.14 incl

<sup>344</sup> Wakefield submissions / paragraph 4.15

<sup>345</sup> Wakefield submissions / paragraph 4.16

<sup>346</sup> Wakefield submissions / paragraph 4.17

<sup>347</sup> Wakefield submissions / paragraph 4.18

been prepared for SDC by Adderley Head, highlighting relevant passages. In essence his submission was that the responsive provisions in the NPS-UD were created to expeditiously address the housing crisis identified by the Government in background documents and that NPS-UD specifically recognised and provided for an exceptional legitimate departure from restrictive objectives such as CRPS Objective 6.2.1.

7.59 The submission went on to state that according primacy to the avoidance of Objective 6.2.1 of the CRPS would represent a reading down of Policy 8 of the NPS-UD which was not legally permitted. Mr Cleary said that the administrative pathway identified by Mr Wakefield for private plan changes downplayed the importance of Policy 8 in its role in implementing the NPS-UD. He said that the responsiveness provisions were to be applied in two stages, the first being a decision under Clause 25 of the First Schedule to the RMA to accept, adopt or reject the plan change for public notification (that decision has already been made) and the second to consider the substantive consideration of PC68 on its merits <sup>348</sup>.

7.60 Mr Cleary then went on to consider whether the CRPS (incorporating Change 1) gave effect to the NPS-UD. He said that the acceptance by Mr Wakefield that Change 1 ...

*..... only partially gave effect to the NPS-UD requirements, but it did not seek to give effect to all such requirements ....*

was a realistic acceptance. He said that a more fulsome analysis of the issue of whether or not Change 1 gave full effect to the NPS-UD had been included in the supplementary report of Mr Cleese, which he supported <sup>349</sup>.

7.61 Mr Cleary then went on to submit that Change 1 relied on inaccurate and outdated information <sup>350</sup>. As to this: -

- (i) he said that Change 1 relied on data incorporated in the Our Space document;

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<sup>348</sup> Submissions in reply of applicant / paragraphs 2.1 to 2.12 incl

<sup>349</sup> Submissions in reply of applicant / paragraphs 3.1 to 3.5 incl

<sup>350</sup> Submissions in reply of applicant / paragraphs 3.6 to 3.12 incl

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- (ii) that Change 1 was approved by the Minister in May 2021, in the apparent absence of any contemporaneous evidence on the issue of demand and supply within the Selwyn District;
- (iii) there was no suggestion in the documents relating to Change 1 that any effort had been expended in updating the 2017/18 analysis or considering any publicly available evidence on this issue;
- (iv) there was a further very real difficulty in reliance on the FDA's included in Change 1 in that they did not equate to either short or medium term "plan enabled capacity" as defined in Clause 3.1 of the NPS-UD. He said that this meant the responsibility for providing short and medium term capacity, i.e. out to eight to ten years, fell squarely on the shoulders of territorial authorities such as SDC.

7.62 Mr Cleary went on to submit that there were a number of reasons why simply identifying land within a regional policy statement as either a Greenfield Priority Area or FDA failed to provide certainty that the same land would crystallise into zoning <sup>351</sup>. As to this Mr Cleary submitted: -

- (i) some landowners, visited with a rezoning opportunity, will decide that they do not harbour any ambition to rezone or develop;
- (ii) that zoning should never be confused with the volume of sections available at any one time to meet demand, referring to *Appealing Wanaka Inc v Queenstown Lakes District Council* <sup>352</sup> and noted that land may be zoned residential but that did not mean that it was actually assisting to meet the quantity of sections demanded and only sections for sale could do that.

7.63 Mr Cleary then went on to consider the question of whether the operative plan gave effect to the NPS-UD <sup>353</sup>. He concentrated upon the timing issue noting that the NPS-UD imposed an obligation on

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<sup>351</sup> *Submissions in reply of applicant / paragraphs 3.13 to 3.15 incl*

<sup>352</sup> *Appealing Wanaka Inc v Queenstown Lakes District Council [2015] NZEnvC 196 at [113]*

<sup>353</sup> *Submissions in reply of applicant / paragraphs 3.16 to 3.18 incl*

behalf of SDC to *at all times* provide at least sufficient development capacity to meet expected demand for housing. He noted that operative SDP pre-dated the NPS-UD by some considerable time and said that there were several areas in which the operative plan did not give effect to the higher order NPS-UD. Mr Cleary <sup>354</sup>; -

- (i) referred to the evidence of lack of land availability;
- (ii) submitted that the SDP did not enable more people to live in areas of the District where there was a high demand for housing;
- (iii) related to this said that there was a failure to give effect to the enabling aspects of the objectives of the NPS-UD.

***Relationship between the NPS-UD and CRPS/my consideration and findings***

***Preliminary comments / the matters of choice and timing***

***Introduction***

7.64 I accept the fundamental principle of statutory interpretation that every effort should be made to reconcile the provisions of NPS-UD and the CRPS. I have given this matter careful consideration. I have concluded that whilst, as Mr Wakefield has submitted, NPS-UD provides high level direction and CRPS provides more particularised regional (and in particular a sub-regional) direction in relation to development, the two documents cannot be treated as being on an equal footing, applying the principles in *King Salmon* <sup>355</sup>. Whilst an attempt must be made to read the two documents together, in an attempt to reconcile their contents, this does not involve ignoring the effects which flow from the fact that the two documents are on different hierarchical levels. It is this feature which leads to my conclusion that the hierarchical structure determines the manner which each of the documents should be interpreted, as is noted later in this recommendation.

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<sup>354</sup> Cleary submissions in reply / paragraph 3.18

<sup>355</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38

***The markets***

7.65 A matter of particular significance is to consider whether, in the Greater Christchurch area there is what could be called an interchangeable housing market or whether, on the other hand, there are different markets which require differing treatment. In this context I note that Policy 1 of the NPS-UD (set out in paragraph 7.16 above) is to make planning decisions which contribute to well-functioning urban environments that, as a minimum ....

(a) *have or enable a variety of homes that: -  
meet the needs, in terms of type, price and location, of different households .....*

7.66 Policy 8 reinforces the view that the NPS-UD is concerned to provide a variety of outside development opportunities by referring to decisions that ....

*..... contribute to well-functioning urban environments ....*

7.67 A “well-functioning urban environment” has the meaning in Policy 1 which reinforces the view that any decisions made under the NPS-UD must have a consciousness of the requirement to meet needs, in terms of type, price, and location of different households.

7.68 It is in relation to the discussion of this issue that the submissions of Mr Wakefield and Mr Cleary part company. Mr Wakefield’s submission was that the recent change to the CRPS (post the NPS-UD) was specifically developed to provide requisite levels of development capacity across certain temporal periods. He noted that several FDAs had been identified to enable land within these areas to be rezoned by SDC or others if required to meet medium housing needs. Mr Cleary concentrated upon the failure of the provisions of the CRPS to provide for the element of choice which I have discussed in some detail above.

7.69 After careful consideration, I have concluded that the NPS-UD does not treat all housing markets on the same plane, and that the housing opportunities associated with the developments legitimated by the provisions of Change 1 do not satisfy the different housing market which is legitimised by the NPS-UD, consisting of those persons who wish to live in or adjacent to Prebbleton on small residential sections. I agree with Mr Cleary that the documents relating to Change 1 (which are examined hereafter) suggest that data available from the

2017/2018 analysis was not thoroughly reviewed. If that had been the case, then the extraordinary demand for sections in and around Prebbleton could have been expected to have been clearly identified. I summarise by concluding that in effect the provisions of the NPS-UD in relation to choice represent a paradigm shift from the more restrictive provisions of the CRPS.

***The timing issue***

7.70 A second, and associated matter is to consider the timing of the provision of development opportunities. If the approach which is contended for by Mr Wakefield is adopted, there will, of necessity, be a delay in providing development opportunities which have associated with them an element of choice (discussed above) because the provision of such opportunities will have to await the processes which are being undertaken to review the overall housing availability position. I note that the process of considering and completing work to develop and include the criteria in the CRPS that will respond to the requirements of the NPS-UD is likely, understandably, to take some time. Measured against this, it has been pointed out that the housing opportunities which would be facilitated by the approval of PC68 would not be available for some time, given the procedure which SDC has adopted, involving the promulgation of a variation and the delays which are likely to be inherent in the process which has been adopted. However I have formed the view that the promulgation of PC68 represents a more immediate and timely response to meeting the housing needs than the adoption of the process suggested on behalf of CCC and CRC, involving further consultation and reporting. I make it clear that I make no judgment about the question of whether there has been a failure on behalf of CRC to introduce the responsive planning framework criteria which are intended to be introduced into the CRPS to assist in evaluating plan change requests against Policy 8. I agree that this process is unlikely to be straightforward and will take some time. However the provisions of NPS-UD make provision for the timing issue. I observe that Policy 2 of the NPS-UD provides that the SDC must ....

*..... at all times ....*

provide at least sufficient development capacity to meet expected demand for housing over the short term, medium term and long term.

7.71 If my findings in relation to the element of choice are accepted, then it follows that should it be established that there is an inadequate supply of housing opportunities which have associated with them an appropriate element of choice to comply with the provisions of the NPS-UD, the suggestion that potential household owners should be required to wait for the further consideration of matters is antithetical to the specific timing provisions of the NPS-UD.

***The relationship issue / my consideration***

7.72 Of fundamental importance to my consideration of the relationship between the two statutory documents is the requirement to adopt an holistic approach to interpretation that incorporates the factors identified in *Powell v Dunedin City Council* <sup>356</sup>. Further, the policy considerations in *Nanden v Wellington City Council* <sup>357</sup> serve as a useful test for assessing the appropriateness of the conclusions reached. Most importantly, there appears to be agreement amongst all interested parties that in the case of conflict between the provisions of planning documents there is an obligation to make a "thorough going attempt to find a way to reconcile" that conflict <sup>358</sup>. See *Royal Forest and Bird Protection Society of New Zealand Inc v Bay of Plenty Regional Council* <sup>359</sup>, citing *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* <sup>360</sup>.

7.73 There are significant difficulties in attempting to reconcile the provisions of the two statutory documents. This is in part because of the implications of the specification of the elements of choice and timing associated with the NPS-UD to which I have already made reference. It is clear that the CRPS is not yet in a state which reflects these critical elements as is required under s55 of the RMA. I note that Mr Wakefield submitted that the CRPS provides more particularised regional direction in relation to relevant matters and that the CRPS is by nature a more wide-ranging policy document which must be read

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<sup>356</sup> *Powell v Dunedin City Council* [2004] 3 NZLR 721; (2005) 11 ELRNZ 144 (CA)

<sup>357</sup> *Nanden v Wellington City Council* [2000] NZRMA 647

<sup>358</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Bay of Plenty Regional Council* [2017] NZHC 3080 at [98]

<sup>359</sup> *Royal Forest and Bird Protection Society of New Zealand Inc v Bay of Plenty Regional Council* (2017) 20 ELR NZ 564 at paragraph [98]

<sup>360</sup> *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* [2014] 1 NZLR 593

as a whole when assessing plan change requests, notwithstanding the hierarchical analysis of the two documents <sup>361</sup>.

7.74 Mr Wakefield's submission, as I understood it, was that because both documents have a different emphasis, it is possible to read the documents together. As Mr Wakefield submitted, it is not able to be said that it is necessary for one to fall away, in favour of the other, .....

*.... as the two can work in tandem.....*

so that the responsive planning framework in the NPS-UD remains part of the wider coherent scheme of that document and there is nothing in the NPS-UD or Policy 8 that demands exceptions or legitimate departures from other restrictive policy provisions, including those contained in the CRPS which are of particular moment in this case <sup>362</sup>.

7.75 I find myself in agreement with the submission that the processing of this plan change is on face value consistent with the intention of the responsive planning framework (in the sense that the plan change is capable of being processed). However I agree with the submission that neither Policy 8 nor the balance of the NPS-UD gives rise to any presumption of approval, or support for any trumping of other statutory planning instruments. Whilst I agree with the submission that there is a requirement to consider requests against all aspects of the relevant statutory framework, in the end result a decision maker must be cognisant of the hierarchical structure of the statutory documents. It follows from my further analysis of this issue that Policy 8 and the balance of the NPS-UD does support the effective "trumping" of the CRPS in the critical area of the placement and timing of development <sup>363</sup>.

7.76 A fundamental difficulty in the analysis of the relationship between the two statutory documents is to recognise that CRC has not yet included the criteria for the "responsive planning framework" established by Objective 6 and Policy 8 in the NPS-UD (which I have already commented upon). Mr Langman noted that when developed, the criteria will guide the determination of what constitutes "significant development capacity" in a Greater Christchurch and Canterbury context. Mr Langman said that given that CRC had initiated but not yet completed work to develop and include criteria in the CRPS that will respond to clause 3.8(3) of NPS-UD, the plan change could not

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<sup>361</sup> Wakefield submissions / paragraphs 3.4 and 3.5

<sup>362</sup> Wakefield submissions / paragraphs 4.5

<sup>363</sup> Wakefield submissions / paragraphs 4.9 and 4.10



technically achieve the relevant criteria that will respond to clause 3.8(3) in Policy 8, and nor did the plan change achieve the requirement to contribute to a well-functioning urban environment or to be well connected along transport corridors.

7.77 Whilst Mr Langman is correct to highlight the requirement to include criteria in the CRPS for the purpose of implementing Policy 8, the timing provisions of the NPS-UD dictate that notwithstanding the lack of established criteria in the CRPS, I must proceed to form an evidence based view of matters at this time and not wait until some indeterminate time for the CRC process to be completed. That approach would be antithetical to the timing requirements of the NPS-UD.

7.78 As noted earlier in this recommendation, SDC, being a Tier 1 local authority, has an obligation to *at all times* provide at least sufficient development capacity to meet expected demand for housing and business land over the short, medium and long terms as required by Policy 2 of the NPS-UD.

7.79 I have concluded that it would be inappropriate to await the further review of Change 1 in the face of the clear and direct provisions of Policy 2 and the wording “at all times” and must be read as meaning the position now and at all times in the future. There can be no gloss put on those words to satisfy the suggestion that there is a need to await the steps taken to review Change 1. I note that there are no provisions of the NPS-UD which require local authorities to amend statutory documents under their control in order to make the document consistent with the provisions of the NPS-UD <sup>364</sup>. However local authorities are required to make amendments to documents that are required to give effect to any provision of a national policy statement that affects the document by using the process in Schedule 1 <sup>365</sup>. I conclude that the requirement to have adequate development capacity available “at all times” dictates that effect must be given to the provisions of the NPS-UD, ahead of any amendments to (in this case) the CRPS.

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<sup>364</sup> S55(2) of the RMA

<sup>365</sup> S55(2)(B) and (2)(C) of the RMA

***Unanticipated development capacity***

7.80 Pivotal to an understanding of the relationship between the two statutory documents is to recognise the circumstances that Policy 8 of the NPS-UD addresses. Policy 8 provides that local authority decisions must be responsive to plan changes ....

*.... that would add significantly to development capacity and contribute to well-functioning urban environments, **even if the development is:-***

- (a) **unanticipated by RMA planning documents;** or*
- (b) out of sequence with planning land release.*

(emphasis added)

7.81 Having considered the analysis of this matter by Commissioner Caldwell, I find myself in agreement with his finding that the above provision "must be given some meaning". The provision specifically addresses not only out-of-sequence developments but those that are "unanticipated" by the RMA planning documents. The development which is contemplated in this case is clearly not anticipated by the CRPS, in that it is to be established in an area which is not provided for in that document.

7.82 Importantly, the fact that the contemplated development is unanticipated by the CRPS does not carry with it any presumption that the development is appropriate. As Mr Wakefield has submitted, the net is cast wide and there are a number of factors which must be considered before there can be approval of (in this case) PC68. The issues which need to be considered (inter alia) include: -

- (i) whether the change would add significantly to development capacity;
- (i) whether the decision on the relevant development is integrated with infrastructure planning and funding decisions;
- (ii) whether the decision is strategic over the medium and long term; and
- (iii) whether the decision is responsive, particularly in relation to proposals that would supply significant development capacity;
- (iv) whether the decision contributes to a well-functioning urban environment as contemplated by Policy 1.

- 7.83 All of these matters require consideration, there being no presumption that the proposed development will satisfy any of the criteria in question.

***My concluding comments and findings***

- 7.84 The analysis of this matter is not without difficulty as is evidenced by the well considered competing submissions on the point which have been made in this case and elsewhere. The application of the provisions of the NPS-UD present a major departure from what has become a settled process for determining the timing and location of the development opportunities contained in the CRPS. I interpolate that this document contemplates an orderly process involving collaboration between interested parties including local authorities associated with the CRPS to determine appropriate land use opportunities and the ultimate reflection of the results of such collaboration in the provisions of the CRPS and relevant district plans.

- 7.85 The implications of making a finding which effectively usurps this statutory process have to be considered because this undoubtedly leads to the necessary adoption of a relatively unstructured process where the relationship between impacts of separate plan changes is not able to be examined at a particular time to establish whether, when viewed as a whole, the various plan changes represent desirable cohesive planning. But the legislature was clearly aware of the implications of interfering with the previously established regime. The NPS-UD made specific reference to changes which were made out of sequence and, more importantly, not contemplated by existing planning instruments. I have proceeded to make my findings on the basis of a clear awareness of the magnitude of the paradigm shift from the provisions of the statutory regime as it was before the NPS-UD and those which existed thereafter.

- 7.86 I have concluded that the imprimatur to provide appropriate development capacity at this time in circumstances where the element of choice is preserved, is clearly conveyed by the provisions of the NPS-UD.

- 7.87 I note that in his submissions, Mr Wakefield advised that it was not the submission of CRC / CCC that any plan change request that conflicted with the CRPS avoidance framework should not be considered. He said

that both bodies accepted that the processing of these plan changes appears at face value to be consistent with the intention of the responsive planning framework. However he went on to state that neither Policy 8 nor the balance of the NPS-UD give rise to any presumption of approval, or support for any trumping of other statutory instruments <sup>366</sup>.

7.88 I find myself in agreement with Mr Wakefield to the extent that this plan change is able to be processed and I am able to consider the request in this case against all aspects of the relevant statutory framework and make a reasoned statutory decision <sup>367</sup>.

7.89 In conclusion, I have formed the view that there is no impediment to my consideration of the proposal the subject of PC68 against the relevant statutory provisions and the relevant planning framework, including the provisions of the NPS-UD which I have identified above. I now make that assessment.

## 8. **STATUTORY DOCUMENTS / ASSESSMENT**

### **INTRODUCTION**

8.1 I refer to my analysis of the statutory framework for my consideration of PC68 in paragraphs [7.1] to [7.89] above. I proceed on the basis of my analysis of and findings in relation to the statutory framework which lead me to make a merit-based assessment of the various elements of that stated framework at this point.

### **SECTION 31 OF THE RMA**

8.2 Section 31 of the RMA provides for the functions of territorial authorities. One function of particular relevance (S31)(1) of the RMA is .....

(a) *the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district;*

(aa) *the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district;*

<sup>366</sup> Wakefield submissions/paragraphs 4.8 and 4.9

<sup>367</sup> Wakefield submissions/paragraph 4.10

- (b) *the control of any actual or potential effects of the use, development, or protection of land .....*

- 8.3 I record that my consideration and treatment of the issues in this case reflects an application and recognition of the stated functions of (in this case) SDC.

## **PART 2 OF THE RMA**

### **Introduction**

- 8.4 I note that under s74(1)(b) of the RMA, any changes to a district plan must be in accordance with the provisions of Part 2 of the RMA. This sets out the purpose of the RMA (s5) matters of national importance that must be recognised and provided for (s6) and other matters that particular regard is to be had to (s7).
- 8.5 In his s42A Report, Mr Cleese states that notwithstanding the SDC has notified the proposed SDP, he considers that the purpose of the Act is reflected in the objectives and policies of the SDP, which PC68 does not seek to change. He goes on to state that the appropriateness of the plan change in achieving the purpose of the RMA is also a requirement under s32 of the RMA<sup>368</sup>.
- 8.6 Given the nature of the PC68 area, Mr Cleese is of the view that there are no s6 matters in play. In terms of other matters set out in s7 of the RMA, he considers that the efficient use and development of natural and physical resources (s7(b)), the efficiency and end use of energy (s7(b)(a)), the maintenance and enhancement of amenity values (s7(c), the maintenance and enhancement of the quality of the environment (s7(f)); and the effects of climate change (s7(1)) are relevant to the plan change<sup>369</sup>.
- 8.7 In his report, Mr Cleese notes that various submitters have expressed concerns about the creation of a large residential development without a corresponding increase in local employment and access to services resulting in a further increase in the existing pattern of commuter travel from Prebbleton. Concerns have also been expressed about impacts in terms of climate change and the impacts on the road

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<sup>368</sup> S42A Report / paragraphs 280 and 281

<sup>369</sup> S42A Report / paragraphs 282 and 283

network. Mr Clease said that in considering this issue he has noted that Prebbleton is located closer to Christchurch than any of the other Inner Plains townships and as such development of Prebbleton will result in fewer emissions relevant to the alternative if the same growth was located in Lincoln or Rolleston (absence of any high volume public transport system). Conversely he says that it is likely to result in higher overall emissions than if growth was accommodated by infill in Christchurch <sup>370</sup>.

- 8.8 He goes on to state that he is not convinced that the townhouse infill market in inner Christchurch is readily interchangeable or able to be substituted for stand-alone family size houses and townships such as Prebbleton and explains the reasons for this. In summary Mr Clease expresses the view that the plan change represents a "less bad" option in terms of climate change effects when compared with the readily substitutable alternatives. Otherwise he considers the matters set out in s7 and s8 have been addressed in the effects assessment and consideration of submissions and in the various reports from technical experts attached <sup>371</sup>.

#### ***Part 2 / evidence of Patricia Harte***

- 8.9 Ms Harte commented that the purpose of the function is listed in s31 of the RMA as to give effect to the RMA, including its purposes set out in Part 2. She referred to the purpose of the Act and concluded that the requested plan change was providing for development at a rate which enables people in the communities of Prebbleton and greater Christchurch to provide for their wellbeing. In particular she said it would assist in providing for one of the basic needs of people, namely the provision of homes for people to live in <sup>372</sup>.

#### ***Part 2 / my consideration and findings***

- 8.10 I do not at this stage propose to repeat my analysis of the environmental effects of PC68. Suffice it to say that I am of the view that PC68 accords with the provisions of Part 2 of the RMA. I agree with Mr Clease that the purpose of the Act is reflected in the objectives and policies of the SDP which PC68 does not seek to change (subject

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<sup>370</sup> S42A Report / paragraphs 284 and 285

<sup>371</sup> S42A Report / paragraphs 284 to 286 incl

<sup>372</sup> Evidence of Patricia Harte / paragraph 7.2(b)

to one addition). To the extent that PC68 has required an analysis of initial or potential effects of the use and development of the land proposed for PC68, I summarise the position by stating the conclusion previously reached, namely that in balancing both the positive and negative aspects of the proposed change, I have concluded that on balance, PC68 clearly promotes the various matters the subject of s5 of the Act.

- 8.11 I agree with Mr Cleese that there are no matters under s6 of the RMA in play. I am of the view that proper regard has been made to the matters of national importance set out in s7 of the RMA as is reflected in my assessment of environmental effects. In summary the efficient use and development of natural and physical resources (s7(b)), the efficiency of the end use of energy (s7(b)(a)), the maintenance and enhancement of amenity values (s7(c)), the maintenance and enhancement of the quality of the environment (s7(f)) and the effects of climate change (s7(i)), being relevant to the plan change have properly been taken into account and are supportive of the plan change.

### ***NPS-UD***

#### ***Introduction***

- 8.12 Were it not for the coming into force of NPS-UD on 20 August 2020, it appears to be common ground that this request would have faced a high hurdle, represented by the restrictive provisions of the CRPS and in particular Map A. There is a fundamental difference in the approach taken to these provisions by the applicant and the submitters in opposition, and in particular CCC and CRC. In summary, CCC and CRC argue that, notwithstanding the hierarchical differences, the NPS-UD and the CRPS can be read together and that a proper approach to an examination of the merits, by reference to the various criteria contained in the two instruments, can only yield to one conclusion, namely that approval should not be given to PC68.

***The term “responsive”******Introduction***

8.13 The term “responsive” is not defined in the NPS-UD. However the interpretation of the term assumes particular importance when one has regard to its introduction in Objective 6 and Policy 8, both of which refer to decisions affecting urban environments needing to be responsive, in relation to proposals that would supply significant development capacity and in relation to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.

8.14 Mr Wakefield submitted that the submission of the applicant that Policy 8 would be meaningless if the CRPS avoidance framework was respected would only hold water if the term “responsive” was considered a proxy for a substantive direction to “approve” plan changes but he said that is not what it says. He noted that it was possible to be responsive in other ways including by collaborating with other local authorities and seeking a change to the CRPS <sup>373</sup>.

***The term “responsive” / my consideration and findings***

8.15 I refer to my discussion of this term commencing at paragraph 7.64. The term “responsive” cannot be defined in a vacuum but must reflect the statutory context. Given the imprimatur in Policy 2 of the NPS-UD for Tier 1 local authorities to provide development capacity “at all times”, it must follow that the question of whether a local authority decision is responsive to plan changes is required to be examined in the context of the duty to make provision “at all times”. In the particular context in which the term “responsive” appears, I have concluded that whilst Mr Wakefield is correct in submitting that it is possible to be responsive in ways other than by approving plan changes, a local authority will not be acting in a responsive manner if the process of processing appropriate enabling instruments unduly delays plan changes to a point where the local authority is in breach of Policy 2 because appropriate provision has not been made “at all times”. As already noted, I do not overlook the fact that even if PC68 is approved by the Council, there are likely to be delays before the development the subject of PC68 can proceed. But lengthier delays

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<sup>373</sup> Wakefield submissions/paragraph 4.14



must be anticipated if the collaborative process which has been urged by Mr Wakefield is adopted.

- 8.16 In summary I have concluded that the processing of PC68, including the making of a decision in relation to it, represents a response which is in compliance with Policy 8, this on the assumption that the plan change is approved, (a matter which falls to be considered later in this recommendation).

### ***Significant development capacity***

#### ***Introduction***

- 8.17 I have canvassed and discussed the submissions made on behalf of the parties in relation to the appropriate treatment of the concept of significant development capacity. I will not repeat my analysis of the relevant submissions. I now proceed to discuss the evidence and submissions led on behalf of the competing parties in relation to this much contested issue.

#### ***Evidence of Gary Russell Sellars***

- 8.18 Mr Sellars is an experienced registered valuer who has specialised in (inter alia) land development valuation. He has been involved in a number of plan change applications in the Selwyn District and is accordingly familiar with the West Melton, Prebbleton, Rolleston and Lincoln vacant land market <sup>374</sup>.
- 8.19 Mr Sellars referred to an historical analysis of residential development in Prebbleton. He stated that since 2014 there had only ever been a limited supply of sections available to the market in Prebbleton which had always been sold down quickly <sup>375</sup>. Mr Sellars went on to comment that there was market evidence of the shortage of available residential sections in Prebbleton and other districts which, combined with the increased prices, had resulted in buyers looking further afield in the likes of Darfield, Kirwee and Leeston where there were cheaper section prices and greater availability <sup>376</sup>.

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<sup>374</sup> Summary of evidence of Gary Russell Sellars/paragraphs 1.1 to 1.5  
incl

<sup>375</sup> Summary of evidence of Gary Russell Sellars/paragraph 7

<sup>376</sup> Summary of evidence of Gary Russell Sellars/paragraph 13

- 8.20 Mr Sellars then went on to note that there had been a significant price escalation in Prebbleton during the past 12 months at or around 100%. He said that the levels of price escalation were extreme even in a buoyant market and provided a clear indication of the constrained supply. He said that a similar trend had occurred in the improved residential sale prices in Prebbleton <sup>377</sup>.
- 8.21 Mr Sellars stated that the supply of vacant residential land had failed to keep pace with the ongoing level of demand in Prebbleton. There were currently only two sections available for sale in Prebbleton and there was currently an insatiable demand for residential sections throughout Greater Christchurch. He said that the situation was desperate in Prebbleton where there were only two sections available and no further sections were planned in the short term until plan changes occurred <sup>378</sup>.
- 8.22 In conclusion Mr Sellars said that as with other locations in the Selwyn District, the current land market in Prebbleton exhibited a dysfunctional market where there was virtually no current supply or choice with uncompetitive market practices being adopted by vendors and extreme price escalation <sup>379</sup>.

***Evidence of Fraser Colegrave***

- 8.23 Mr Colegrave is an experienced economist who has worked on numerous land use and property development projects across Greater Christchurch including several in Selwyn. Relevantly, he has provided evidence on five other district plan changes over the past six months (PC67, PC69, PC72, PC73 and PC75). Accordingly he is very familiar with the matters the subject of this request <sup>380</sup>.
- 8.24 Mr Colegrave noted the rapid growth in the Selwyn District population and expressed the view that SDC was not currently meeting its NPS-UD obligations to provide at least sufficient capacity to meet the demand for new dwellings at either district or sub-district level. This was because SDC's estimates of demand for additional dwellings were

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<sup>377</sup> Summary of evidence of Gary Russell Sellars/paragraphs 14 to 16 incl

<sup>378</sup> Summary of evidence of Gary Russell Sellars/paragraphs 17 to 20

<sup>379</sup> Summary of evidence of Gary Russell Sellars/paragraph 25

<sup>380</sup> Evidence of Fraser Colegrave / paragraphs 1.1 et seq

too low while its estimates of likely capacity to meet that demand were over-stated <sup>381</sup>.

8.25 Mr Colegrave went on to state <sup>382</sup> that it was his assessment that the PC68 proposal would provide strong economic benefits including: -

- (i) providing a substantial, direct boost in market supply to meet current and future short-falls;
- (ii) bolstering land market competition, which helps deliver new sections on the market quicker and at better average prices;
- (iii) providing a variety of housing options/typologies to meet diverse needs and preferences, which was also required by the NPS-UD;
- (iv) contributing to achieving critical mass to support greater local or retail/service provision;
- (v) the one-off economic stimulus associated with developing the land and constructing the dwellings that will be enabled there.

8.26 Mr Colegrave then went on to discuss areas of disagreement with, in particular, Mr Langman. He agreed that the focus should be broadly on Greater Christchurch and said that the purpose of his evidence was to determine the need for and the merits of providing additional residential land to meet the need for new dwellings in Prebbleton, which was a sub-market of the Selwyn District housing market. He categorically rejected the insinuation that the markets were perfectly interchangeable and that people would realistically trade up a potential new dwelling in Prebbleton with one located in (say) Fendalton, Sumner or Marshlands <sup>383</sup>.

8.27 Mr Colegrave went on to state that the population growth in Selwyn was exceptionally high and that housing demand was far more acute in Selwyn than in the city or the rest of the sub-region and Mr Langman did not appear to acknowledge what he termed "these basic facts" <sup>384</sup>.

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<sup>381</sup> Summary statement of Fraser Colegrave / paragraphs 3 to 5 incl

<sup>382</sup> Summary statement of Fraser Colegrave / paragraph 7

<sup>383</sup> Summary statement of Fraser Colegrave / paragraphs 10 to 12 incl

<sup>384</sup> Summary statement of Fraser Colegrave / paragraph 14

- 8.28 Mr Colegrave said he was perplexed by the statement of Mr Langman that demand should not be used as the driver for increased supply and said that this made no sense. He considered that building consent trends to be a better measure of underlying demand rather than house prices <sup>385</sup>.
- 8.29 Mr Colegrave went on to state that the demand projections used in the 2021 capacity assessment significantly understated recent trends and that its corresponding estimates of capacity were fundamentally flawed <sup>386</sup>.
- 8.30 Mr Colegrave took issue with the 2018 HCA being said to be generally fit for purpose because it included a peer review process and said that this document was fatally flawed because it assumed that all plan enabled capacity was automatically feasible for development which was not the case. In answer to the suggestion by Mr Langman that sufficient development capacity had already been identified to meet the demand, Mr Colegrave said that such conclusions were incorrect and that the District faced significant short-falls in capacity <sup>387</sup>.
- 8.31 Mr Colegrave went on to reinforce the view that the various factors identified in his evidence as potentially limiting market supply (relative to feasible capacity) would be significant over the medium term and could not be discounted as suggested by Mr Langman. He went on to refer to examples and said that he failed to see how a spatial planning process could, as Mr Langman states, address material reasons why feasible capacity may not be converted in the market supply <sup>388</sup>.
- 8.32 Importantly, Mr Colegrave said that a critical issue was timing. He noted the three-year gap between each HCA, and said that given the very long lead times associated with both land development and house construction, relying just on HCAs to address capacity shortfalls was flawed. A more responsive approach was desirable both from a market and regulatory perspective <sup>389</sup>.
- 8.33 Finally Mr Colegrave referred to the impacts of the new medium residential standards ushered in by the Enabling Act. He said that he did not consider the recent medium density residential standards to

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<sup>385</sup> Summary statement of Fraser Colegrave / paragraphs 15 and 16

<sup>386</sup> Summary statement of Fraser Colegrave / paragraphs 18 and 19

<sup>387</sup> Summary statement of Fraser Colegrave / paragraphs 20 and 21

<sup>388</sup> Summary statement of Fraser Colegrave / paragraphs 22 to 24 incl

<sup>389</sup> Summary statement of Fraser Colegrave / paragraph 27

have any material bearing on the District's likely supply demand balance. He said that district land prices, the age of the housing stock and local housing preferences did not lend themselves to the sort of density uplifts enabled by those provisions and that caution should be applied when assuming any drastic rise in housing capacity through the new legislation <sup>390</sup>.

***Evidence on behalf of CCC and CRC***

***Evidence of Marcus Hayden Langman***

8.34 Fundamental to the evidence of Mr Langman was his contention that the scale for considering "significant development capacity" should be at Greater Christchurch level not at Selwyn District level, reflecting the CCC submissions.

8.35 Mr Langman noted that the only matter missing within the CRPS at this point was the clause 3.8 criteria which will guide the assessment of what constitutes "significant development capacity" <sup>391</sup>. Mr Langman went on to make observations regarding this matter <sup>392</sup>. As to this: -

- (i) he emphasised that the requirement for local authorities to be responsive to plan changes in the NPS-UD was only relevant if certain criteria were satisfied and that there was nothing express or inherent in that document that demanded flexibility more generally;
- (ii) Mr Langman submitted that Chapter 6 of the CRPS provided clear strategic direction for urban development and with the inclusion of Change 1 gave effect to Policy 2 of the NPS-UD;
- (iii) he said that the important time-frames in the NPS-UD had been so far achieved;
- (iv) he submitted that CRC had, in his view correctly, prioritised completion of the 2021 HCA, adoption of Change 1 and development of an FDS through Greater

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<sup>390</sup> *Summary statement of Fraser Colegrave / paragraphs 27 to 29 incl*

<sup>391</sup> *Evidence of Marcus Hayden Langman / paragraph 90*

<sup>392</sup> *Evidence of Marcus Hayden Langman / paragraph 90*

Christchurch Spatial Plan over finalising the criteria under clause 3.8(3);

- (v) ahead of the inclusion of the criteria under 3.8(3) in the CRPS, the MfE guidance on the responsive planning policies provided quantitative and qualitative factors to determine what constituted significant development capacity;
- (vi) ahead of the clarification in relation to the criteria referred to above under clause 3.8(3), it was submitted that it was open for applicants to seek plan changes that would give effect to both the CRPS and NPS-UD. He suggested that a proposal to CRC to effect a companion change to the CRPS to enable development in a manner that did not conflict with Chapter 6 was appropriate;
- (vii) he submitted that having identified FDAs through Change 1, the CRPS had already enabled a level of responsive planning to occur;
- (viii) he noted that Objective 6 of the NPS-UD required the decision were both integrated with infrastructure and strategic over the medium and long-term.

8.36 In essence the evidence of Mr Langman was to the effect that sufficient development capacity to meet expected housing demand over the medium term had already been identified in the CRPS and that the failure to include criteria under clause 3.8(3) in the CRPS to give guidance to land users was able to be explained (as noted above).

8.37 Mr Langman then went on to deal with housing demand, available capacity and meeting needs by location. He acknowledged that the NPS-UD identified that the enabling of a variety of homes was integral to a well-functioning urban environment. He said that whilst he accepted the demand for housing was high in Prebbleton, he understood that was the nature of the whole of the Christchurch housing market at present and considered the perception of high demand in Selwyn District had been partly because of the release of GPAs and FDAs in Rolleston and Lincoln for development. He said this did not mean that Prebbleton was the

optimal location for further greenfield expansion <sup>393</sup>. He noted that no FDAs were identified for Prebbleton and that it was not a key activity centre <sup>394</sup>.

8.38 Mr Langman went on to refer to the Our Space document which provided medium to long-term direction. He said that a balanced and transitional approach was required to deliver against UDS outcomes and adapt to identified demographic and housing trends. He said that the conclusion he drew from Table 6.1A of Chapter 6 was that the GCP and CRC considered the location of housing demand to be important but not determinative of the most appropriate location for development capacity <sup>395</sup>.

8.39 Mr Langman then went on to consider whether development capacity provided through Chapter 6 and the SDP was sufficient and not overestimated in the 2021 HCA. He said that the MDRS could only be less enabling of development to the extent necessary to accommodate one or more of the qualifying factors set out in s77 I to L of the RMA <sup>396</sup>.

8.40 Mr Langman then went on to consider the 2021 HCA, his overall conclusion being that this document was generally consistent with the requirements for preparing an HCA as outlined in subpart 5 of the NPS-UD, that the 2018 HCA incorporated a peer review process and was considered fit for purpose. Mr Langman noted that the study area for the 2021 HCA appeared to differ from the 2018 HCA as the former seemed to encompass the full extent of the three territorial authorities as opposed to just the Greater Christchurch urban environment (as identified in Map A in the CRPS and Figure 1 in Our Space). Mr Langman went on to note that Change 1 was now operative and that as a result of three private plan changes being in train, which would in total enable nearly 1,200 hhs. In addition the Environmental Protection Authority had granted consents for 970 lots which would extend the Farrington subdivision in Rolleston <sup>397</sup>.

8.41 Mr Langman noted that Mr Colegrave had distinguished between capacity and likely market supply. He said that the factors inhibiting the release of land cited by Mr Colegrave would not be significant over

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<sup>393</sup> Evidence of Marcus Hayden Langman / paragraphs 100 to 102

<sup>394</sup> Evidence of Marcus Hayden Langman / paragraph 104

<sup>395</sup> Evidence of Marcus Hayden Langman / paragraph 105

<sup>396</sup> Evidence of Marcus Hayden Langman / paragraph 106

<sup>397</sup> Evidence of Marcus Hayden Langman / paragraph 107

the medium term. He said that the 2021 HCA included a section on development capacity that was “reasonably expected to be released”. He said that whilst point in time assessments for development capacity were important bench mark reports, the three-year cycle for competing HCAs (or in the first instance a NPS-UD deadline for a full housing business assessment by December 2021) ensured that any new information could be considered across the entire urban development rather than just at a local level. Mr Langman went on to state that the introduction of the MDRS would mean that estimates for land capacity and supply in existing urban areas had been significantly underestimated by the HCA <sup>398</sup>.

8.42 When dealing with sufficient development capacity, Mr Langman said that sufficient development capacity to meet expected housing demand over the medium term had already been identified which had led to Change 1 and the inclusion of FDAs. He said that should recalculations be required these could first be off-set against the medium-term surplus capacity in Selwyn of between 3,667 and 4,961 households as shown in Table 3 of the 2021 HCA. He said that given the intensive up-zoning in Christchurch City and the introduction of the MDRS, there was a potential medium-term surplus of up to 92,453 households within Greater Christchurch. He noted that there was no directive in the NPS-UD to enable anything more than was sufficient. He said that providing abundant development capacity could undermine the efficient and untimely intake of existing zone capacity for residential development <sup>399</sup>.

8.43 When dealing with the implications of the Enabling Act, Mr Langman noted that in the Cabinet paper introducing the bill, one of the benefits noted was that the Enabling Act would enable a range of developments which would result in less pressure being placed on urban dispersal/sprawl. Mr Langman traversed the provisions of the Enabling Act and submitted that neither Mr Cleese, nor the other Council experts had taken into account the impact of the NDRS provisions in relation to capacity or planning for the subject site, Prebbleton or Greater Christchurch <sup>400</sup>.

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<sup>398</sup> Evidence of Marcus Hayden Langman / paragraph 107

<sup>399</sup> Evidence of Marcus Hayden Langman / paragraphs 108 to 110 incl

<sup>400</sup> Evidence of Marcus Hayden Langman / paragraphs 111 to 116 incl



***Significant development capacity / my consideration and findings***

8.44 In an earlier part of this recommendation, I commented upon the important issue of whether, in assessing development capacity, it was appropriate to give consideration to the element of choice in the housing market. Fundamental to the position adopted by CCC and CRC is that Change 1 already makes provision for land which can be developed for housing and that this provision matches the obligations to make provision for development capacity contained in the NPS-UD. Mr Langman is of the view that there is a need for greater intensification within Christchurch's urban areas and that this would reduce the need for further expansion of peripheral areas. He said that Objective 6.2.2 of the NPS-UD recognised that while the majority of intensification would take place within in Christchurch City rather than Selwyn or Waimakariri, the contribution to these areas to the overall growth pattern was important <sup>401</sup>.

8.45 In an earlier part of this recommendation, I made the finding that the NPS-UD was clearly concerned to preserve the element of choice. The implications of this are that the creation of development opportunities in the urban areas of Christchurch cannot be taken as satisfying any established need, based on choice, for housing in or around Prebbleton. The preservation of this element of choice is precisely what Policy 1 is concerned with.

8.46 It follows from my findings in relation to the issue of choice, that the evidence of Mr Sellars and Mr Colegrave is of particular importance. That evidence concentrated upon the in-balance of supply and demand for residential sections in Prebbleton which had resulted in significant price escalation and what Mr Sellars termed a "disfunctional market where there is virtually no current supply or choice with uncompetitive market practices being adopted by vendors and extreme price escalation" <sup>402</sup>. I adopt this evidence.

8.47 Mr Colegrave expressed the view that the PC68 proposal would provide the strong economic benefits which are set out in paragraph 8.25. The combined effect of the evidence of Mr Sellars and Mr Colegrave is that the provision for housing development in the plan change area, the yield for the plan change area, being 820 lots based on the Living Z

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<sup>401</sup> *Langman evidence / paragraph 49*

<sup>402</sup> *Sellars evidence summary / paragraph 25*

density rule and the roading and servicing layout specified in the ODP, would add significantly to development capacity.

8.48 On any view of the interpretation of “significant development capacity” the facilitation of land use opportunities associated with PC68 can clearly be regarded as “significant”. I do not overlook that unanticipated developments such as that the subject of PC68 must be able to satisfy the criteria set out in clause 3.8(2) of the NPS-UD. The fact that the development capacity is “significant” is not the end of the matter. It may be significant, and not acceptable, because (inter alia) of a failure to contribute to a well-functioning urban environment, or because it is not well connected along transport corridors.

8.49 A particular difficulty in this regard is that clause 3.8(3) of the NPS-UD provides ....

*Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.*

I have already dealt with the implications of the acknowledgement by CRC that this matter has not yet been dealt with. In the absence of direction in this statutory document, I am obliged to determine the elements which must exist before any plan change can be considered as adding significantly to development capacity.

8.50 I have concluded that it is difficult to imagine the creation of a land use opportunity which more clearly adds significantly to development capacity than that associated with PC68. I should note that Mr Langman has accepted that PC68 would provide significant development capacity in terms of the “quantum” of dwellings but does not accept that it satisfies the criteria when considered in its wider context <sup>403</sup>. In summary I am satisfied that the development which will follow PC68 will satisfy the requirement that it would add significantly to development capacity in terms of the requirements of Objective 6 and Policy 8.

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<sup>403</sup> See reference Wakefield submissions / paragraph 5.4

***Contributing to a well-functioning urban environment***

***Introduction***

8.51 The finding that I am satisfied about the addition of significant development capacity is but one factor which must be considered when implementing Policy 8 of the NPS-UD. This provides that decisions should be responsive to plan changes that would add significantly to development capacity ....

*..... and contribute to well-functioning urban environments ....*

8.52 Then, what are expected of well-functioning urban environments is defined in the following terms ....

*Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

- (a) *have or enable a variety of homes that :*
  - (i) *meet the needs, in terms of type, price, and location of different households; and*
  - (ii) *enable Māori to express their cultural traditions and norms; and*
- (b) *have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *have good accessibility for all people between housing, jobs, community services, natural spaces and open spaces, including by way of public or active transport; and*
- (d) *support, and limit as much as possible adverse impact on, the competitive operation of land and development markets; and*
- (e) *support reduction in greenhouse gas emissions; and*
- (f) *are resilient to the likely current and future effects of climate change.*

So Policy 1 defines the circumstances which must exist before there can be a finding that a planning decision contributes to a well-functioning urban environment. I now examine the submissions and evidence relating to this issue.

***Well-functioning urban environment / opening submissions on behalf of the applicant***

8.53 In the opening submissions on behalf of the applicant, Mr Cleary submitted that the current urban environment in Selwyn did not represent a well-functioning urban environment, relying on the

evidence of Mr Sellars. He said that if approved, the PC68 site would contribute substantially towards a well-functioning urban environment by adding a significant number of residential houses with a variety of medium and low-density allotments at a minimum of 12 households/hectare.

- 8.54 Mr Cleary went on to state that PC68 was expected to provide a one-off economic stimulus by providing employment for around 262 people over a 10-year construction period. He said that PC68 was directly adjacent to the Prebbleton area which was marked as an identified growth area in the Our Space report and that the area had already been marked as suitable for future development because the Greater Christchurch councils believed that Prebbleton had the facilities and amenities, transport links and ability to undertake further development and growth in population. He noted that the PC68 site was located in a manner that was consistent with future growth direction and the most recent strategic planning document undertaken for Prebbleton <sup>404</sup>.
- 8.55 Mr Cleary then went on to deal with the issue of the reduction in greenhouse gas emissions being a requirement of a well-functioning urban environment which is referred to in Policy 1(e). He said that, notably, the language of the policy referred to the word "support" but did not say that greenhouse gas emissions are to be avoided or the reduction of the same must be demonstrated or particularised.
- 8.56 Mr Cleary went on to note that Objective 3 contemplated the rezoning of areas that were not well serviced by existing or planned public transport and that there were other factors at play including proximity of areas of employment or areas where there was a high demand for housing. He then went on to refer to Policy 1(c) referring to accessibility including by way of public or active transport and said realistically, and plainly, the use of private motor vehicles and attendant emissions must be contemplated. Finally, under this head, Mr Cleary referred to the opinions of Mr Smith and Ms Harte and said that this evidence was supportive of a reduction in greenhouse emissions <sup>405</sup>.

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<sup>404</sup> *Opening submissions on behalf of applicant / paragraphs 8.2 to 8.7 incl*

<sup>405</sup> *Opening submissions on behalf of applicant / paragraphs 8.8 to 8.10 incl*

***Well-functioning urban environment / evidence of Patricia Harte***

8.57 Ms Harte stated that the location of PC68 would enable easy access to jobs, community services and open space and routes for public and active transport. She went on to state there was the potential for reduced greenhouse emissions through a compact urban form with Prebbleton being relatively close to various employment opportunities. She referred to the increasing trend towards working from home as supporting her view. She also referred to Prebbleton being serviced by regular buses through to Christchurch and Lincoln and said that a range of cycling and walking opportunities would be enabled by the development <sup>406</sup>.

***Well-functioning urban environment / evidence of Marcus Langman***

8.58 Mr Langman took issue with the suggestion that the site at PC68 was currently or will be well connected to or along transport corridors. He said that there would be heavy reliance on private vehicle use for residents, with the consequential emissions of greenhouse gases. He said that there had been no attempt by Ms Harte to quantify how there was to be a reduction in greenhouse emissions which he said was a significant gap in the case.

8.59 Mr Langman noted that in the s42A report, Mr Clease agreed that PC68 may not support reductions in greenhouse gases because of the reliance on private vehicles but said the same situation arose currently in relation to existing zoned land or land identified for future development in the Selwyn District. He took issue with the suggestion that PC68 could draw comfort from these factors, stating that PC68 was an addition and not in substitution to other growth areas <sup>407</sup>.

8.60 Mr Langman then went on to submit that no aspect of the proposal looked to achieve the policy direction that development should contribute to well-functioning environments which *at a minimum* supports reductions in greenhouse gas emissions. He said that this was one of the key objectives of the NPS-UD and a significant issue for all plan changes before SDC <sup>408</sup>. Mr Langman concluded that the recent mode shift plan for Greater Christchurch, prepared by Waka

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<sup>406</sup> Evidence of Patricia Harte / paragraph 7.15

<sup>407</sup> Evidence of Marcus Langman / paragraphs 157 to 164 incl

<sup>408</sup> Evidence of Marcus Langman / paragraph 165

Kotahi with the GCP stated that land transport currently accounted for 41% of greenhouse emissions in Greater Christchurch, thus recognising the significant contribution of private vehicle use to greenhouse emissions and private change <sup>409</sup>.

***Well-functioning urban environment / section 42A report***

- 8.61 Mr Clease considered that the proposal would enable a variety of homes to meet the needs of different households and would support the competitive operation of land and development markets. He noted that the discussion on urban design and urban form matters concluded that the application site was well located in terms of adjacency to Prebbleton and located in an area identified as being a logical preferred growth path avoiding both expansion north towards Christchurch and ribbon development along Springs and Shands Road to the south <sup>410</sup>.
- 8.62 As to accessibility of employment, Mr Clease noted that PC68 would provide limited accessibility because the site itself did not contain a commercial area and Prebbleton township likewise did not contain a large employment base. However he said that the application site was located within cycling distance of Lincoln, Rolleston and Hornby and the proposed Halswell Key Activity Centres. He noted that public transport services were currently limited in Prebbleton but that there was a potential for such services to be enhanced. Having said that Mr Clease said that active and public transport opportunities were unlikely to be practicable for the majority of residents in the short term which had a flow-on effect in terms of the degree to which the proposal could support reductions in greenhouse gas emissions <sup>411</sup>.
- 8.63 Mr Clease noted that an increase in commuter traffic would result in more people taking trips but noted that this was not an issue just specific to PC68 but also to other growth areas in the Selwyn District. He said that if climate change were to be used as a reason to refuse growth in Prebbleton then no growth anywhere in the Selwyn District would be appropriate for the same reason. He said that markets for quite different locations and housing typologies were not interchangeable referring to the Greater Christchurch Housing Development Capacity Assessment which supported this view.

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<sup>409</sup> Evidence of Marcus Langman / paragraph 167

<sup>410</sup> Section 42A report / paragraph 213

<sup>411</sup> Section 42A report / paragraphs 214 to 216 incl

8.64 In summary Mr Clease considered that the proposed development would add significantly to development capacity and that the effects resulting from under supply on the efficient functioning of the housing market outweighed the risks associated with over supply. He concluded that the proposal would contribute to a well-functioning urban environment subject to the amendments to the ODP recommended by Mr Collins <sup>412</sup>.

***Well-functioning urban environment / my consideration and findings***

8.65 Policy 8 states that local authority decisions affecting urban environments are to contribute to well-functioning urban environments. Policy 1 makes it clear how one is to approach the issue of whether any particular decision contributes to a well-functioning urban environment by specifying the minimum requirements, each of which have been discussed in the foregoing part of this recommendation.

8.66 In considering whether a particular decision contributes to a well-functioning urban environment my consideration must be directed to each of the elements which are prescribed as a minimum and then consideration must be given to whether, when the elements are viewed collectively, the planning decision in question can be said to contribute to a well-functioning urban environment. Any planning decision may be strongly supported by some of the elements and perhaps less so by others but sight must not be lost of the fact that the requirements are minimum requirements. If the minimum requirements are not established, then the decision in question will not be able to be said to contribute to a well-functioning urban environment. In relation to this important matter, it is necessary to examine each of the elements in turn.

8.67 I comment on each of the elements in turn: -

(i) ***Policy 1(a)(i) / meet the needs in terms of type, price and location of different households***

I agree with Mr Clease that the proposal will enable a variety of homes to meet the needs of different households and will

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<sup>412</sup> Section 42A report / paragraphs 218 to 220 incl

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support the competitive operation of land and development markets. The uncontested evidence of Mr Sellars and Mr Colegrave strongly supports this conclusion. Mr Cleary has made the observation that the current urban environment in Selwyn is not a well-functioning urban environment, particularly with respect to its housing market. I conclude that the change which will be brought about by PC68 will result in people being able to meet their needs in terms of this policy;

(ii) **Policy 1(a)(ii) / enable Māori to express their cultural traditions and norms**

I have studied the report from Mahaanui Kurataiao Limited dated 10 February 2021 which was attached to the response to a request for further information from Davie Lovell-Smith dated 16 June 2021. In that report it is stated .....

*Ngāi Tahu are tangata whenua of the Canterbury region, and hold ancestral and contemporary relationships with Canterbury. The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act) and, through this structure and this Act, sets the requirements for recognition of tangata whenua in Canterbury.*

*The natural resources – water (waterways, waipuna (springs), groundwater, wetlands); mahinga kai; indigenous flora and fauna; cultural landscapes and land – are taonga to manawhenua and they have concerns for activities potentially adversely affecting these taonga. These taonga are integral to the cultural identity of ngā rūnanga manawhenua and they have a kaitiaki responsibility to protect them. The policies for protection to taonga that are of high cultural significance to ngā rūnanga manawhenua are articulated in the Mahaanui Iwi Management Plan (IMP).*

The report goes on to consider matters which are of concern to Māori and an evaluation based on the Mahaanui Iwi Management Plan ("IMP"). I will not repeat the discussion in the document, but note that there were a number of recommendations at the conclusion of the document as follows: -

**Recommendation 1**

The applicant should incorporate recommendations from the Ngai Tāhu Subdivision Development Guidelines in the development;

**Recommendation 2**

All erosion and sediment control measures installed should be constructed, inspected and maintained in accordance with ECan's Erosion and Sediment Control Toolbox for Canterbury;



**Recommendation 3**

Future subdivisions should incorporate best practice onsite stormwater management controls;

**Recommendation 4**

An accidental discovery protocol (consistent with Appendix 3 of the IMP) should be established to avoid any adverse effects on cultural values;

**Recommendation 5**

The remediation of contaminated sites to minimise the prospects of contaminated water entering water bodies;

**Recommendation 6**

Indigenous planting as a critical mitigation measure.

I am satisfied that the matters which are of concern to Māori have been identified in the above recommendations and that the matters of concern will be dealt with in the context of the implementation of PC68, either in terms of the requirements set out in the change associated with the ODP and narrative, or the additions which can be expected to be imposed upon the subdivision of the land the subject of PC68.

(iii) ***Policy 1(b) / have or enable a variety of sites that are suitable for different business sectors in terms of location and site size***

There are no specific sites specifically identified for business use. However, as Ms Harte has noted, the development will incorporate fibre broadband to ensure that the increasing trend towards and in many cases requirements for working from home opportunities are fully enabled <sup>413</sup>. To this extent there is provision for a particular business sector, namely the increasing sector of business people who wish to work from their homes. I am satisfied that PC68 will give effect to this policy to a limited extent.

(iv) ***Policy 1(c) / good accessibility for all people between housing, jobs, community services, natural spaces and open spaces, including by way of public or active transport***

In my assessment of the evidence relating to transportation, I commented upon the issue of accessibility which is the subject of this comment in the policy. Whilst PC68 will provide limited accessibility to employment by way of active transport, because

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<sup>413</sup> Evidence of Patricia Harte / paragraph 7.15

the site itself does not contain a commercial area and Prebbleton township likewise does not contain a large employment base, the application site is located within cycling distance of Lincoln, Rolleston, Hornby and the proposed Halswell key activity centres. Further, there is the potential for public transport services to be enhanced with their proposed internal spine road network capable of accommodating public transport.

To the extent that public transport opportunities are unlikely to be practicable for the majority of residents, there will undoubtedly be a flow on effect. I note that Prebbleton is serviced by regular buses through to Christchurch and Lincoln. I find that whilst public or active transport opportunities are limited at present, there is the likelihood that such services will be established to accommodate the needs of those residing in the newly established housing environment.

(v) ***Policy 1(d) / support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets***

This criterion is undoubtedly satisfied. In this regard I refer to my findings in relation to the evidence of Mr Sellars and Mr Colegrave who strongly support the view that PC68 will support and limit adverse impacts on the competitive operation of the relevant land and development markets.

(vi) ***Policy 1(e) support reductions in greenhouse gas emissions***

Earlier in this recommendation I discussed the issue of reductions in greenhouse gas emissions and made certain findings in relation to that issue.

On the basis of my previous discussion and findings, I am of the view that to the extent that it is possible, in the context of making provision for housing opportunities adjacent to Prebbleton, PC68 to some extent supports the policy in question for the reasons previously discussed.

(vii) ***Policy 1(f) / resilient to the likely current and future effects of climate change***

In considering this issue, I adopt the analysis of Mr Clease where he states that if climate change were to be used for a reason to refuse further growth in Prebbleton then no growth anywhere in the Selwyn District would be appropriate <sup>414</sup>. The alternative would be that growth should be accommodated as infill within Christchurch. I adopt Mr Clease's reference to the Greater Christchurch Housing Development Capacity Assessment which identified that substitution in the markets for quite different locations and housing typologies was by no means certain.

In reliance upon the evidence of Mr Sellars and Mr Colegrave, it is clear that the Christchurch infill market and the market for Prebbleton are quite different markets and accordingly when examining the question of resiliency to the likely current and future effects of climate change, this factor has to be taken into account. It is not an answer to say that PC68 should not proceed because of the infill opportunity in Christchurch offering greater resiliency, this because that is a quite different market. In the result I am of the view that to the extent that is possible, PC68 is resilient to the likely current and future effects of climate change, in the sense I have outline above.

8.68 My overall conclusion under this head is that PC68 will contribute to a well-functioning urban environment having regard to the minimum standards which are prescribed for such an environment and Policy 1 of the NPS-UD.

***Strategic over the medium term and long term***

***Introduction***

8.69 Objective 6 states that decisions on urban development are to be ....

*.... strategic over the medium term and long term ....*

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<sup>414</sup> S42A Report / paragraphs 218 and 219

***The submissions / evidence***

8.70 Fundamental to the attack on PC68 by (in particular) CCC and CRC is that PC68 cannot be said to be “strategic” because: -

- (i) the Council has adopted a more strategic “community-led” approach to managing growth through the preparation of structure plans for the larger townships in the Greater Christchurch area such as Prebbleton <sup>415</sup>.
- (ii) PC68 runs contrary to one of the major policies in the NPS-UD reflecting strategic planning being <sup>416</sup> ....

*Councils are required to work together to produce “Future Development Strategies”, which set out in the long-term strategic vision for accommodating urban growth.*

- (iii) Mr Williamson stated that the opposite of strategic planning could be described as “opportunistic planning” which presented proposals to spread more of “what people want” because “they want it now” under the guise of adopting a policy of “responsiveness” <sup>417</sup>;
- (iv) that PC68 is inconsistent with the agreed strategic planning framework established through Our Space in that it does not give effect to the CRPS <sup>418</sup>;
- (v) strategic planning exercises such as the UDS, Our Space, and more recently the Greater Christchurch 2050 Strategic Framework, can offer more integrated and accessible mechanisms to galvanise wider community engagement than standard RMA processes. Agreed strategic directions can then be consistently anchored in statutory and non-statutory plans <sup>419</sup>;
- (vi) if SDC were to approve PC68 ahead of the wider strategic planning exercise being completed, this could

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<sup>415</sup> Evidence of Nick Williamson / paragraph 27

<sup>416</sup> Evidence of Nick Williamson / paragraph 72

<sup>417</sup> Evidence of Nick Williamson / paragraph 73

<sup>418</sup> Evidence of Marcus Hayden Langman / paragraph 28

<sup>419</sup> Evidence of Marcus Hayden Langman / paragraph 69

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result in ad hoc development and set a precedent for subsequent decision making without fully considering the cumulative impacts of other requests or having analysed alternative growth scenarios. Any decision on these private plan changes would drive the spatial planning exercise which is not the most sensible approach to considering the location of urban growth <sup>420</sup>.

- 8.71 Mr Langman noted that a spatial plan exercise was expected to be completed within two years to inform the 2024 Long Term Plans as required by the NPS-UD. This work will inform a full review of the CRPS scheduled to be notified in 2024. Further Mr Langman noted that in July 2021 the GCP collaboratively prepared and published a Housing Capacity Assessment in accordance with the requirements of the NPS-UD which was relied upon <sup>421</sup>.

***Strategic over the medium-term and long-term / my consideration and findings***

- 8.72 The issue of whether PC68 represents a strategic response over the medium and long-term requires a contextual analysis. Prior to the introduction of NPS-UD, the statutory planning framework favoured what could be termed a “top down” and strictly structured approach to the identification of areas for new developments. Submitters in opposition are right to point out the merits of this approach because in concentrating upon the wider picture, there is a basis for holding that the chosen locations are the most appropriate in a Greater Christchurch context, that suitable infrastructure will indubitably be available for the chosen locations and that the transportation network can be relied upon to provide efficient transportation networks.

- 8.73 The settled framework referred to above changed with the coming into force of the NPS-UD. That document:-

- (i) anticipates that the strategic planning reflected in planning documents such as the CRPS may be displaced by decisions which are not anticipated by those documents (Policy 8);

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<sup>420</sup> Evidence of Marcus Hayden Langman / paragraph 72

<sup>421</sup> Evidence of Marcus Hayden Langman / paragraphs 74 and 75

- (ii) requires local bodies such as SDC to at all times provide sufficient development capacity to meet demand for housing over the short-term, medium-term and long-term, thus giving rise to the prospect that the provision of such land use opportunities will displace the strategy embedded in existing planning instruments such as the CRPS (Policy 2).

8.74 Consideration of whether decisions are strategic involves an examination of context. There has been a paradigm shift in the identification of the elements which are to be considered in considering whether decisions are strategic, because of the introduction of the new requirements in the NPS-UD which will inevitably impact upon the reliance upon the strategy embedded in existing planning instruments such as the CRPS.

8.75 Because the provisions of the NPS-UD require consideration of plan changes which give effect to the objectives and policies in that document which contain a temporal element, it will generally not be possible to consider with any degree of certainty the likely impact on other plan changes which have either been initiated or are likely to be initiated. Undoubtedly in a perfect world there would be an overall assessment of the implications of approving all plan changes which are in prospect at one time. Mr Langman was correct to emphasise the benefits of an holistic assessment of Spatial planning. However, by its terms, the NPS-UD effectively displaces this approach and requires a different approach to the consideration of the issue of whether decisions on plan changes could be said to be "strategic".

8.76 I am satisfied that the approval of PC68 represents decision making which is strategic over the medium-term and long-term, thus satisfying Objective 6. The term "strategic" is not defined. I have taken the term to be associated with decision making which is not ad hoc, but rather planned with reference to likely future events and circumstances.

8.77 In this case I have already made reference to the substantial body of evidence dealing with a number of aspects of the proposed change including transportation, infrastructure and associated matters. On the basis of the evidence I have concluded that the decision making associated with PC68 is not "ad hoc" but is planned with regard to present and future circumstances. The evidence which I have heard

provides a setting for PC68 in the context of the environment as it is now and the future environment and, to that extent, must be said to represent a “strategic” analysis and response.

#### ***CANTERBURY REGIONAL POLICY STATEMENT***

##### ***Introduction***

8.78 Fundamental to the prospects of success for this request, is the consideration which will need to be given to the provisions of (in particular) Change 1 of the CRPS. Reference has already been made to the provisions of particular application. As already noted, if the provisions of Change 1 were to be applied, utilising what could be termed a black letter approach, this request would face significant difficulties. I have already commented upon the relationship between the NPS-UD and the CRPS. Fundamental to an examination of the provisions of the CRPS, in order to determine the extent to which its contents must be applied in this case, is to recognise the hierarchical structure inherent in the RMA which places the NPS-UD on a higher tier in the hierarchy than the CRPS. At this point it is helpful to gain an understanding of the manner in which the CRPS has developed, and in particular Change 1.

#### ***Change 1 to the CRPS / historical analysis***

##### ***Introduction***

8.79 In response to a direction which I made during the course of the hearing, Mr Wakefield helpfully made available to me a memorandum dated 23 March 2022 which had attached to it a number of documents which describe the historical development of Change 1 to the CRPS. The analysis of the history to Change 1 is relevant to my consideration of the issue of responsiveness, highlighted by the relevant provisions of the NPS-UD. CCC and CRC submit that the relevant provisions of the NPS-UD have already been given effect to, in that a number of steps have been taken to implement the relevant objectives and policies with the consequence that the responsiveness criteria in the NPS-UD must be taken as having been complied with. This is an important issue and calls for an examination of a number of background documents which describe the steps taken to comply with the requirements of the NPS-UD.

**Report to the Minister for the Environment / March 2021**

8.80 This report reviews the obligations under the NPS-UD and concludes that there is clear justification for proposed Change 1 and its alignment with the NPS-UD <sup>422</sup>. The report deals with the submissions that more land should be released for development due to uncertainties and demand over time and reported inaccuracies in the capacity assessment undertaken to support Our Space. Environment Canterbury accepted the findings of the capacity assessment that informed Our Space stating that these findings had been independently peer reviewed. The report notes that the next capacity assessment under the NPS-UD was scheduled to be completed later in 2021 which could consider changes in population and employment projections in order to assess demand <sup>423</sup>.

8.81 The report notes the submission of Urban Estates seeking to enable a “merits based” assessment of applications for rezoning outside the areas identified in Map A. Importantly, the report states <sup>424</sup> ...

*We consider that the merits of land outside of the FDAs promoted through the Proposed Change are best considered as part of a comprehensive strategic planning exercise rather than individual and ad hoc assessments. Environment Canterbury is currently collaborating with the territorial authorities and other organisations comprising the Greater Christchurch Partnership to scope and programme such a strategic planning exercise.*

8.82 The report went on to deal with the issue of the development proposal adding significantly to development capacity. The report states <sup>425</sup> ...

*Environment Canterbury is currently formulating criteria in response to clause 3.8(3) to determine what plan changes are considered significant in a Greater Christchurch and Canterbury context, to be advanced through a separate RMA process. The Greater Christchurch Partnership is considering the significance criteria in the first half of the 2021 calendar year.*

8.83 Importantly, pending the review, the report states ....

*In the meantime, we recognise the NPS-UD as a higher order document under the RMA and decision makers assessing plan changes will need to consider the implications of such national direction alongside the policies contained in Chapter 6.*

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<sup>422</sup> Report to the Minister / paragraph 94

<sup>423</sup> Report to the Minister / paragraphs 123 and 124

<sup>424</sup> Report to the Minister / paragraph 131

<sup>425</sup> Report to the Minister / paragraph 132



- 8.84 The report states that it was not considered that any amendments were required in response to submissions that consider there to be insufficient flexibility <sup>426</sup>.

***Evaluation under s32 of the RMA***

- 8.85 This document contains a discussion of the proposed change in the context of NPS-UD and the relevant statutory framework <sup>427</sup>. There follows a discussion of options <sup>428</sup>. Then there is a discussion of the NPS-UD in relation to efficiency and effectiveness <sup>429</sup>. There follows a discussion of the requirements placed on local authorities and a section dealing with the risk of acting or not acting <sup>430</sup>.

- 8.86 Because of its importance I highlight certain sections of this part of the report under "Risk of Acting or Not Acting" <sup>431</sup>...

*The NPS-UD requires local authorities to provide at least sufficient development capacity to meet expected demand for housing and business land over the short, medium and long-term, as well as providing for an additional competitiveness margin. At present the land supplied within the Waimakariri and Selwyn Districts falls short of that requirement in the medium and long-term. The NPS-UD requires that, if a local authority determines that there is insufficient development capacity over the short term, medium term or long term, which is wholly or partly a result of RMA planning documents, it must change those documents to increase development capacity for housing or business land as soon as practicable. The NPS-UD requires local authorities to give immediate effect to these policies.*

*The Proposed Change is necessary to ensure that Waimakariri and Selwyn District Councils can rezone areas in within the FDAs, as required, to meet shortfalls in the available development capacity for housing as part of their District Plan Reviews. At present, the existing policy framework of the CRPS is an impediment to the Council's rezoning any land outside of that already identified for development in the CRPS. The Proposed Change will enable any future zoning of land to occur in a timely way through Selwyn and Waimakariri District Council's District Plan Reviews and/or subsequent processes, and for those councils to give effect to the requirements of the NPS-UD.*

- 8.87 The report concludes that the purpose of the Proposed Change is the most appropriate way to achieve the purpose of the RMA. It is stated that the evaluation of options demonstrates that the purpose of the

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<sup>426</sup> Report to the Minister / paragraph 133

<sup>427</sup> S32 evaluation / pages 15 to 20

<sup>428</sup> S32 evaluation / page 41

<sup>429</sup> S32 evaluation / page 49

<sup>430</sup> S32 evaluation / page 76 / paragraph 7.3

<sup>431</sup> S32 evaluation / page 76 / paragraph 7.3

Proposed Change and CRPS objectives are most likely to be achieved by Option 2 which is to modify Map A to identify future development areas through a change ahead of the scheduled full review of the CRPS and to insert new policy provisions to enable land within these areas to be rezoned by the Selwyn and Waimakariri District Councils if required to meet their medium-term housing needs <sup>432</sup>.

***Legal and statutory framework***

8.88 The report to the Minister contains a discussion of the legal and statutory framework relating to compliance with the requirements of the relevant national direction and the RMA. The appendix discusses the council obligations in relation to the statutory documents and concludes that the Proposed Change gives effect to the NPS-UD <sup>433</sup>.

8.89 The report goes on to note that an extension of time to respond was granted by the Minister and the Proposed Change was reviewed in the light of the new requirements of the NPS-UD before being notified in January 2021. The report states ...

[62] *The Proposed Change does not purport to, and nor is it required to, give full effect to the NPS-UD as it has not been practicable for Environment Canterbury to fully implement the NPS-UD within the scope of this change being processed through the streamlined planning process and within the timeframes available.*

[63] *The purpose of this Proposed Change is to respond to an identified shortfall in development capacity as required by clause 3.7 of the NPS-UD so that the council can give effect to Policy 2 of the NPS-UD i.e. to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term and long term.*

8.90 The report goes on to note that the Proposed Change identifies and enables additional development capacity for housing and greenfield areas within the area shown on Map A and provides the SDC and Waimakariri District Council with the flexibility to consider rezoning land within the future development areas to meet medium term housing demands <sup>434</sup>

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<sup>432</sup> S32 evaluation / page 77

<sup>433</sup> Legal and statutory framework / paragraph 59

<sup>434</sup> Legal and statutory framework / paragraph 64

**Peer review / March 2021**

- 8.91 A peer review was conducted by the Honourable Lester Chisholm, a retired Judge of the High Court. The report discusses and compares the former NPS-UD 2016 and the NPS-UD. It then goes on to discuss the submissions which sought increased flexibility. The report states ...<sup>435</sup>

*I might add that submissions opposing Change 1 on the basis that more land should be made available would have to be considered within the constraints of the streamlined planning process (this is not a criticism of the process or its utilisation on this occasion). There has been no opportunity to present evidence and, when making recommendations to the Minister, CRC can only assess the information concerning capacity and demand that is before it. As it was entitled to do, CRC accepted and relied upon the Our Space material.*

- 8.92 Then the report went on to express the opinion that the “fixed non-contestable boundaries” on Map A were not of themselves contrary to the NPS-UD but were a fundamental component of a strategy that had been evolving over time. The report noted that Change 1 could not be divorced from its history and context, was part of an ongoing process, with the implementation of Policy 8 still to come. It was stated that to the extent that submitters were seeking a “responsive” and “flexible” approach by virtue of Policy 8, a touch of reality was required and that NPS-UD only came into force after the streamlined planning process for Change 1 had commenced and CRC was working on that issue <sup>436</sup>.

- 8.93 The report went on to state <sup>437</sup> ...

*As the Council has noted in response to a number of submissions on this topic, NPS-UD is a higher order document under the RMA and decision makers assessing plan changes will need to consider the implications of the national direction alongside the policies contained in Chapter 6. It is unrealistic to expect these matters to be resolved overnight.*

**Evidence of Mr Langman**

- 8.94 Mr Langman made particular reference to Objective 6.2.2 of the CRPS which, amongst other things, sets targets for intensification through to 2028 <sup>438</sup>. Mr Langman noted that the explanation to Objective 6.2.2 recognised that there was a need for greater intensification within Christchurch’s urban areas, and that this would reduce the need for

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<sup>435</sup> At paragraph [86]

<sup>436</sup> At paragraph [88]

<sup>437</sup> At paragraph [89]

<sup>438</sup> Evidence of Marcus Langman / paragraphs 47 to 50 incl

further expansion of peripheral areas. It recognises that while the majority of intensification will take place within Christchurch City rather than Selwyn or Waimakariri, the contribution of these areas to the overall growth pattern was important. Mr Langman noted that development of a greenfield area outside of that planned in the CRPS: -

- (i) impacts on the ability to achieve intensification targets within Greater Christchurch;
- (ii) will have a flow-on effect proportionally reducing the success of delivery of housing through intensification of existing brownfield areas which were said to run counter to the intention of the Enabling Act.

8.95 Mr Langman then went on to describe key features of Chapter 6 including Map A. He noted that it was anticipated through the preparation of Chapter 6 that there would be requests for development of adjoining existing townships which led to the notification of the “avoidance” framework. He said this provided certainty around the spatial extended growth. He went on to note that intensification was a key tool to achieve a number of outcomes in the CRPS including the efficient use of land, increase in uptake of public transport and increased transport efficiency and limiting carbon emissions. Mr Langman said that the Chapter 6 framework encouraged the sustainable and self-sufficient growth of the Greater Christchurch towns <sup>439</sup>.

8.96 Mr Langman went on to note that approval by the Minister for the Environment of Change 1 and noted that the change identified Future Development Areas within the existing Projected Infrastructure Boundary in Rolleston, Rangiora and Kaiapoi and inserted associated policy provisions enabling land within these areas to be rezoned by the Selwyn and Waimakariri District Councils if required to meet their medium (ten year) housing needs. He emphasised that urban development outside the identified areas was to be avoided <sup>440</sup>.

8.97 Importantly, Mr Langman took strong exception to the evidence of Ms Harte who considered Map A in the CRPS was out-of-date. He said that

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<sup>439</sup> Evidence of Marcus Langman / paragraphs 51 to 55 incl

<sup>440</sup> Evidence of Marcus Langman / paragraphs 56 to 59 incl

this opinion was erroneous and at worst misleading. He said that he noted the development versions of Map A noting that the additions of new urban greenfield area across Greater Christchurch as recently as 2021. He went on to refer to the history of the development of Change 1 and said that it could not be said that Map A was “out-of-date” without a proper explanation <sup>441</sup>.

- 8.98 Mr Langman went on to refer to Mr Colegrave’s evidence, expressing the view that it was narrowly focused on the population growth of Selwyn District rather than Greater Christchurch. He said that high numbers of commuters to Christchurch from all Selwyn townships indicated that population growth in Selwyn was not supported by an equivalent increase in business development. He said that much of the growth had been as a result of high level of land supplies and that Our Space identified the delivery of new dwellings through redevelopment and intensification a key issue. The result of this was to enable people to live close to work opportunities and establish public transport routes. He went on to note that the provisions of the CRPS that were relevant to PC68 supporting the evidence which he had given <sup>442</sup>.

#### **S42A Report**

- 8.99 This report notes the intensification Objective 6.2.2 of the CRPS, noting that there appears to have been a significant increase in the number of medium density houses built in Christchurch in recent years. However in addition to a gradual shift in emphasis towards intensification, the report notes that Objective 6.2.2(5) concurrently seeks to <sup>443</sup> ...

*..... encourage sustainable and self-sufficient growth of the towns of Rangiora, Kaiapoi, Woodend, Lincoln, Rolleston and Prebbleton and consolidation of the existing settlement of West Melton.*

- 8.100 The report goes on to state the view that the addition of the PC68 block will help reinforce the commercial viability of the town centre due to the provision of additional households in the local retail catchment <sup>444</sup>.
- 8.101 After noting that the NPS-UD opens the door to overcome the prescriptive CRPS directions regarding growth only being located

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<sup>441</sup> Evidence of Marcus Langman / paragraphs 60 to 63 incl

<sup>442</sup> Evidence of Marcus Langman / paragraphs 65 to 66 incl

<sup>443</sup> S42A Report / paragraph 225

<sup>444</sup> S42A Report / paragraph 226

within greenfield priority areas, the report notes that “such door opening” is not however open-ended and that the growth areas still need to “stack up” in terms of their alignment with the other outcomes sought in the CRPS <sup>445</sup>.

8.102 The report then goes on to summarise the position noting that were this application to have been considered prior to the NPS-UD being gazetted “then such a policy conflict would have presented an extremely high hurdle”. The report concludes that the PC68 block is compatible with the other outcomes sought in the CRPS for new growth areas <sup>446</sup>.

8.103 The report goes on to consider direction in the CRPS regarding rural residential development, noting that Policy 6.3.9 provides for this form of housing where the location for such is identified in an RRS, noting that the central portion of the application site is so identified and that accordingly this identification can be taken to mean that it meets the CRPS qualifying criteria. The report suggests that this inclusion in the RRS provides some context in relation to the assessment of effects in-so-far as development to rural residential densities is anticipated as acceptable in terms of the CRPS without the need for recourse to the NPS-UD Policy 8 doorway <sup>447</sup>.

***Canterbury Regional Policy Statement / my consideration and findings***

8.104 Earlier in this recommendation I made a number of findings in relation to the relationship between the NPS-UD and the CRPS. These findings are fundamental to my approach to the consideration of the application of the provisions of the CRPS. The historical analysis of the development of Change 1, referred to above, indicates that the process of considering the implications of the national direction alongside the policies contained in Chapter 6 of the CRPS is not complete and, as the Honourable Lester Chisholm stated, it is unrealistic to expect these matters to be resolved over-night.

8.105 Given the complexity of the required analysis on a Canterbury wide basis, it is not surprising that there has been no finality in relation to the assessment in question and I do not see that CRC can be criticised

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<sup>445</sup> S42A Report / paragraph 227

<sup>446</sup> S42A Report / paragraphs 229 and 230

<sup>447</sup> S42A Report / paragraphs 231 to 233 incl

for this. But, as noted in some detail earlier in this recommendation, the provisions of the NPS-UD call for prompt consideration and action to be taken in relation to (in this case) the demand for housing adjacent to Prebbleton. Whilst there is clearly a conflict with the directive outcomes sought in the CRPS, the provisions of the NPS-UD require an assessment of this plan change on the merits without awaiting a Canterbury wide assessment of matters which could be expected to be ultimately reflected in the provisions of the CRPS.

- 8.106 I have concluded that proper consideration has been given to relevant objectives and policies of the CRPS. Clearly PC68 is inconsistent with the location requirements of that document. Otherwise, as noted by Mr Clease in the s42A Report, there is reference to encouraging sustainable and self-sufficient growth in Prebbleton. The extensive analysis of the implications of PC68 indicate that this objective can be satisfied. In summary, for the reasons expressed in this recommendation, I find that the provisions of the CRPS do not act as a barrier to the approval of PC68 and that effect will be given to these provisions to the extent that the NPS-UD permits.

***CANTERBURY LAND AND WATER REGIONAL PLAN AND  
CANTERBURY AIR REGIONAL PLAN***

- 8.107 Under s75(4)(b) of the RMA, a district plan cannot be inconsistent with a regional plan, which in respect of this request includes the Canterbury Land and Water Regional Plan and the Canterbury Air Regional Plan. The establishment of activities within the plan change site will either need to meet the permitted activity conditions of these plans or be required to obtain a resource consent. The s42A Report concludes that the effects associated with the requirements under these regional plans can be considered at the time of a detailed development and necessary consents are obtained <sup>448</sup>. I agree.

***NATIONAL POLICY STATEMENT FOR FRESH WATER  
MANAGEMENT 2020 AND NATIONAL ENVIRONMENTAL  
STANDARD FOR FRESHWATER***

- 8.108 The National Policy Statement for Fresh Water Management 2020 introduces the fundamental concept of Te Mana o te Wai which refers to the fundamental importance of water and recognises the protection

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<sup>448</sup> S42A Report / paragraphs 234 and 235

of the health of fresh water. There is a hierarchy of obligations set out in Objective 2.1 which prioritises firstly, the health and wellbeing of water bodies and fresh water ecosystems, secondly the health needs of people and thirdly the ability of people in communities to provide for their wellbeing now and in the future. There are policies referring to the preservation of inland wetlands, the habitats of indigenous freshwater species and for communities being able to provide for their wellbeing.

- 8.109 The s42A Report notes that the site does not include any waterways or wetlands, with subdivision-phase or earthworks and associated management of stormwater subject to obtaining the necessary regional consent. Given the absence of waterways and wetlands on the site, the s42A Report states that a change in zone does not threaten the values that the NPS-FM seeks to protect <sup>449</sup>. I agree.

***NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING  
AND MANAGING CONTAMINANTS IN SOIL TO PROTECT  
HUMAN HEALTH***

- 8.110 The report states that, as this is a request for a zone change and not to determine the actual use of the site, the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (“NES-CS”) does not strictly apply. The report states that any risk of developing the land for residential purposes where there is a risk to people’s health can be effectively managed under the NES-CS of the subdivision stage of the process. I agree <sup>450</sup>.

***MAHAANUI IWI MANAGEMENT PLAN***

- 8.111 The Mahaanui Iwi Management Plan (“IMP”) is a planning document recognised by an iwi authority and lodged with the Council relation to the district’s resource management issues. Under s74(2A) of the RMA, the council must take into account the IMP.
- 8.112 The applicant has advised that prior to lodgement a draft copy of the application was lodged with Mahaanui Kurataiao Limited representing tangata whenua interests. As already noted, the report on PC68 was received from Mahaanui Kurataiao Limited dated 10 February 2021

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<sup>449</sup> S42A Report / paragraphs 236 to 239 incl

<sup>450</sup> S42A Report / paragraphs 240 to 241



which has already been the subject of comments by me. I will not repeat those comments here. I conclude by stating that I am satisfied that proper regard has been had to the IMP to the extent that its content has a bearing on the resource management issues in this case and that accordingly the provisions of s74(2A) of the RMA have been satisfied.

***CONSISTENCY WITH THE PLANS OF ADJACENT TERRITORIAL AUTHORITIES***

- 8.113 Mr Cleese notes that matters of cross-boundary interests are outlined in the SDP (in Section A1.5 of the Township Volume). The report concludes that there are no directly relevant provisions and that cross-boundary interests have primarily been addressed and managed through the sub-regional approach in managing growth across Greater Christchurch through the Greater Christchurch Partnership Forum and resultant Our Space document. I agree <sup>451</sup>.

***9. ANALYSIS UNDER S32 OF THE RMA AND ASSOCIATED MATTERS***

***Introduction***

- 9.1 An important element in the consideration of PC68 is to consider the report under s32 of the RMA which accompanied the application ("the s32 assessment"). S32 of the RMA requires: -
- (i) the consideration and evaluation of the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act (s32(1)(a)) as well as;
  - (ii) an assessment of whether the provisions of the proposal are the most appropriate way to achieve the objectives (of both the proposal and the existing district plan objectives) having regard to the efficiency and effectiveness of the provisions and having considered other reasonably practicable options (s32(1)(b)).
- 9.2 The report under the s32 assessment of the RMA which accompanied the application commenced with an analysis of the criteria of s32 required for the relevant assessment and went on to discuss the

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<sup>451</sup> S42A Report / paragraphs 245 to 246 incl

objectives and policies of the SDP. An important feature of PC68 is that it does not seek to alter any objectives or policies of the SDP (other than in a minor respect referred to hereafter). In the s32 assessment <sup>452</sup>, it was contended that an examination under s32(3)(a) of whether the objectives of the district plan are the most appropriate way of achieving the purpose of the RMA is not required. This is because as the SDP is operative, it is assumed that the objectives are the most appropriate way of achieving the purpose of the Act. Similarly it is assumed that as no policies are proposed to be altered, they represent the most appropriate means of achieving the objectives of the SDP.

### ***Objectives and policies of the SDP***

#### ***Introduction***

- 9.3 S32(1)(b) of the RMA requires examination of whether the proposed plan change provisions are the most appropriate way of achieving the objectives of the SDP. As is noted in the s42A Report <sup>453</sup> there are several objectives and policies specific to the form of development of Prebbleton Township itself. There are also objectives and policies addressing urban form and residential amenities generally.
- 9.4 It has already been noted that there is no intention to change the objectives and policies of the SDP (save in a minor respect) and that it can be assumed that the SDP has been prepared to give effect to the purpose of the RMA. Notwithstanding this, a discussion of relevant objectives and policies of the SDP is required to examine the question of consistency with the proposal. A discussion of the relevant objectives and policies, identified in the s42A Report, follows.

#### ***Objective B4.3.3 and Policy B4.3.1***

- 9.5 These provisions give effect to the CRPS direction regarding growth areas and seek that within the Greater Christchurch area, new residential development is contained within existing zoned areas or priority areas identified within the CRPS. The proposal is clearly contrary to this. However, these provisions are subject to the same need to consider unanticipated proposals under the NPS-UD where

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<sup>452</sup> Section 32 assessment / paragraph 7.2

<sup>453</sup> Section 42A Report / paragraph 252

proposals are in locations where development is not anticipated. Accordingly, the objective and policy must be read as being subject to the NPS-UD provisions.

***Objectives and policies / urban growth matters***

9.6 The following objectives and policies are relevant: -

***Objective B4.3.6***

This seeks to ensure that Living Z areas achieve an average net density of at least 10 households per hectare.

***Objective B4.4.4 and Policy B4.3.6***

Seeks that the growth of townships achieves a compact urban form where practical.

***Policies B4.3.7 and B4.3.8***

Requires the provision of an ODP in the identification of principal roads, stormwater and parks, integration or upgrades with infrastructure and any other methods necessary to protect important features.

***Objective B3.4.5***

Seeks that urban growth provide a high level of connectivity within the development with adjoining land areas and provide suitable access to a variety of forms of transport.

9.7 In an earlier part of this recommendation, I considered the issue of urban form and the matters associated with the provision of an ODP. My findings in relation to these matters (which I will not repeat here) reinforce the view that there is compliance with each of the objectives and policies specified above.

***Policies B4.3.64 and B4.3.65***

9.8 Policy B4.3.64 seeks to .....

*..... encourage land located to the east and west of the existing Living and Business zones, being those Living and Business zones that adjoin Springs Road, which is located as close as possible to the existing township centre as the first preferred areas to be rezoned for new residential development at Prebbleton, provided sites are available and appropriate for the proposed activity.*

9.9 This is followed by Policy B4.3.65 which seeks to .....

*... discourage further expansion of Prebbleton Township north or south of the existing Living Zone boundaries adjoining Springs Road and PC68.*

- 9.10 I agree with the view expressed in the s42A Report <sup>454</sup> that there is an alignment with both of the above policies because PC68 does not result in a north or south expansion along Springs Road but is located to the west of the existing Living zones and is located as close as possible to existing suburban areas.

***Policy B4.3.3 / isolated pockets of land***

- 9.11 Policy B4.3.3 seeks to ...

*.... avoid zoning patterns that leave land zoned Rural surrounded on three or more boundaries with land zoning Living or Business.*

Mr Clease has noted that this policy falls within a section of the SDP that directs how growth is to be managed in that part of the District outside of Greater Christchurch. He states that the policy is not strictly in play. However the principle of forming logical urban edges remains relevant, especially as the proposal is for an out-of-sequence development that is overtly not aligned with policies directing growth in Greater Christchurch <sup>455</sup>. A comment by Mr Clease that ideally the entire block bounded by Hamptons, Trents, and Shands Roads would be rezoned in a comprehensive manner is understandable. He goes on to note that the PC68 site as currently proposed does resolve a number of relatively isolated pockets of rural land embedded within new suburban environments <sup>456</sup>.

- 9.12 Mr Clease correctly observes that the PC68 site as currently proposed does result in a number of relevantly isolated pockets of rural land embedded within new suburban environments and that the resultant urban form sits uneasily against the policy direction regarding the formation of logical urban boundaries <sup>457</sup>.
- 9.13 Undoubtedly the incorporation of the isolated pockets within PC68 would result in the formation of a more logical urban boundary and a zoning pattern that complies with Policy B4.3.3. The observation by Mr Clease that if the isolated pockets are not included then the resultant gaps are likely to be relatively short-lived is in my view a correct observation. I have given consideration to the question of

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<sup>454</sup> S42A Report / paragraphs 257 to 259 incl

<sup>455</sup> S42A Report / paragraph 260

<sup>456</sup> S42A Report / paragraph 261

<sup>457</sup> S42A Report / paragraph 261

whether the isolated pockets of land should be included in the land to be rezoned as part of PC68. After careful consideration I have formed the view that there are jurisdictional barriers to the inclusion of all of this land, for the reasons which I have set out extensively in an earlier part of this my recommendation. I will not repeat what was said at this point.

- 9.14 As to the future, there can be no certainty about the steps which are taken beyond this point to rezone the isolated blocks and it would be inappropriate for me to express any view as to the merits of that rezoning, other than in a very general sense. In summary I have concluded that having regard to the future treatment of the isolated blocks, the compliance with Policy B4.3.3 or the failure to at this time comply with Policy B4.3.3, does not represent a barrier to the rezoning of the land the subject of PC68.

***SDP / my consideration and findings***

- 9.15 For the reasons set out above, I have concluded that, subject to the comments made above, the proposal the subject of PC68 should not be rejected because of a failure to comply with any of the objectives and policies of the SDP. I have already given extensive consideration to the environmental effects which will flow from the establishment of PC68 and will not repeat my findings at this point. I note that the s32 assessment concluded that the listed of matters and outcomes sought were fully satisfied by the proposal <sup>458</sup>. I agree.

***Proposed Selwyn District Plan***

- 9.16 I agree with the understanding of Mr Cleese that there is no specific requirement to consider a plan change against the proposed SDP especially given that the urban provisions are subject to a significant number of submissions and decisions and decisions have yet to be released.
- 9.17 I have noted the comments of Mr Cleese in his report to the effect that the Urban Growth chapter of the proposed SDP is intended to assist in meeting demands for housing and business opportunities and that new urban areas have an underlying general rural zoning but are

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<sup>458</sup> S32 assessment / paragraph 7.2

identified within an “urban growth overlay”. The Urban Growth Overlay (“UGO”) is intended to generally identify areas for future growth while still requiring these areas to go through a more specific rezoning process before they can be developed for urban purposes. Mr Cleese notes that the central portion of the site *is* identified as an UGO (albeit for rural residential purposes) <sup>459</sup>.

- 9.18 I regard the provisions of the proposed SDP as not having a material influence on the question of whether I should recommend acceptance of the request in this case. The plan in question is at a very early stage and its final form will have to await a number of planning processes as yet not undertaken. In those circumstances I have not regarded it as having a material bearing on this matter.

***Whether the provisions of PC68 are the most appropriate way to achieve the objectives / examination of options***

***The options***

- 9.19 The provisions of s32(1)(b) of the RMA require a proper analysis to be made of all alternative options of achieving the relevant objectives of the proposal. When considering this matter I have had regard to the four options identified by Mr Cleese in his report <sup>460</sup> which are:-

***Option 1***

*Retain a rural zone.*

As Mr Cleese has noted in the s42A Report, <sup>461</sup> this is the option preferred by the majority of submitters who enjoy what can be termed rural amenities associated with the undeveloped character of the land at present. I have identified the site of PC68 as being appropriate for development for a number of reasons. Further, as Mr Cleese has noted, PC68 is sited in a location that aligns with the SDP guidance concerning the preferred direction in which Prebbleton is to grow and identified in the RRS-14 as a preferred growth path. I agree with Mr Cleese that given the shortage of land available for housing in Prebbleton, the retention of this block of land as rural land does not represent

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<sup>459</sup> S42A Report / paragraph 263  
<sup>460</sup> S42A Report / paragraphs 264 to 277 incl  
<sup>461</sup> S42A Report / paragraph 265

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an efficient or effective option when measured against the need to address the housing needs of the community.

***Option 2***

*Rezone the centre of the site to Living 3 and keep the balance rural.*

This option would most readily align with the provisions of the SDP and the CRPS policy frameworks. I do not favour this option in spite of it being readily compatible with both the SDP and CRPS policy frameworks, because of the paramount and overarching provisions of the NPS-UD which present, as Mr Cleese has noted, material changes in both the policy framework and the physical environment since the RRS-14 was developed. I agree with Mr Cleese that higher yielding forms of development are a more efficient use of the land resource and that notwithstanding the lack of compatibility with the area identified by the RRS-14, PC68 represents an opportunity to provide significantly more houses in an appropriate location that can be easily serviced and so I do not favour this option.

***Option 3***

*Rezone to Living Z and Living X.*

Ms Harte has noted in her evidence <sup>462</sup> that the S42A Report refers to PC68 requesting rezoning of most of the site as Living Z “with a strip of low-density living X zoning (minimum 1500 m<sup>2</sup>) along the Shands Road frontage”. She states that for the record Living Z zoning was requested for the whole PC68 site but with a requirement in the ODP that the land fronting Shands Road have a minimum lot size of 1500 m<sup>2</sup>.

I am of the view that development to suburban densities of the site the subject of PC68 is appropriate and I consider this a more efficient use of the site than the alternatives for the reasons which are set out in this recommendation.

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<sup>462</sup> Summary evidence of Patricia Harte / paragraph 9

**Option 4**

*Rezone the entire site to Living Z with a minimum density of 15 hh/ha.*

The PC68 request proposes a minimum net density of 12 households per hectare and is to this extent consistent with the provisions of the CRPS, which only requires a minimum net density of 10 households per hectare in greenfield areas in the Selwyn District. I note that a density of 12 hh/ha is a standard minimum density that has been applied to recent Living Z greenfield areas in the SDP and is likewise the density requirement in the proposed SDP <sup>463</sup>. It is clear that the housing typologies in Prebbleton are limited to three to four bedroom detached family houses, with very few smaller low maintenance housing options available. For this reason the density of 12 hh/ha does represent an increase in density relative to other recent housing developments in Prebbleton. However I note that the ODP contemplates the provision of pockets of medium density housing both to enable the overall yield target to be met and to provide some choice in housing typology.

As Mr Cleese has noted in his report <sup>464</sup> a further increase to 15 hh/ha will have benefits in terms of the efficient use of this site but those benefits need to be weighed against the delivery of a new era of housing that comfortably integrates with the existing township. I agree with Mr Cleese that a requirement to deliver a yield of 15 hh/ha would be out of context with Prebbleton and recommend against this level of density.

- 9.20 I note that in his evidence, Mr Williamson referred to alternatives which he said had not been considered. He felt that the s32 assessment in the original application was hugely simplistic and that there were numerous other options that should be considered <sup>465</sup>. Mr Williamson went on to state that an assumption had been made that because existing zones were being used, they were somehow “deemed” to give effect to the high order policies. Mr Williamson

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<sup>463</sup> S42A Report / paragraph 273 et seq

<sup>464</sup> S42A Report / paragraph 277

<sup>465</sup> Evidence of Nick Williamson / paragraph 75



noted that the objectives and policies that presently apply to the land were changing because the entire PC68 area would be subject to the Township Volume <sup>466</sup>.

9.21 Mr Williamson went on to consider two further alternatives which he said had not been considered at all: -

- (i) to introduce a "future development" zone to hold the land in abeyance until such time as higher densities could be achieved. He said that the advantage of a future or deferred development zone was that it provided time for the infrastructure planning to occur more comprehensively; <sup>467</sup>
- (ii) the second alternative was to intrude a more "agile" and adaptive approval to land development that provided for some development to occur now but in a form that maintained the potential for full urbanisation in the future without the impediments that could result if land was allowed to be developed into a "lifestyle" form of development <sup>468</sup>.

***My assessment of the benefits and costs***

9.22 Mr Williamson is correct to point out the advantages of waiting so that there is greater certainty in relation to (in particular) infrastructure planning. However, in my view neither alternative would give proper effect to the directive provisions of the NPS-UD which I have outlined earlier in this my recommendation. The first alternative involves waiting and seeing and the second a delay in providing for the totality of the anticipated development. In my view neither of these scenarios is acceptable, given the critical need for the provision of housing identified by Mr Sellars and Mr Colegrave and the directive provisions of the NPS-UD.

9.23 The matter of identifying other reasonably practicable options for achieving the objectives of PC68 is not a straightforward matter. However, I have formed the view when considering the available options, the provisions of the NPS-UD must be taken into account as

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<sup>466</sup> Evidence of Nick Williamson / paragraph 76

<sup>467</sup> Evidence of Nick Williamson / paragraph 78

<sup>468</sup> Evidence of Nick Williamson / paragraph 79

the directive provisions in that document mean that a number of options that might otherwise be available are no longer available. In particular the “do nothing” option is clearly ruled out when one has regard to the directive provisions of the NPS-UD.

- 9.24 I note that in the s32 assessment, there is an analysis of the benefits and costs of the proposed change <sup>469</sup>. This is to satisfy the requirement under s32(2)(ii) of the RMA which provides that an assessment must ...

*....if practicable, quantify the benefits and costs referred to in paragraph (a) .....*

this in the context of examining the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act <sup>470</sup>.

- 9.25 I have considered the helpful analysis of benefits and costs contained in the s32 assessment referred to above, which includes the options examined by Mr Cleese, but also the option of developing the land by resource consent, being stated as Option 3 in the s32 assessment. This option was said to have the advantage of the Council having the ability to place stricter controls on the development through consent conditions that may be possible through a plan change and the potential for greater environmental benefit through the Council having greater control over development. I have carefully considered this option. Whilst later in this recommendation I note that using the plan change with the associated ODP as a vehicle for providing the land use opportunity to develop the land for housing purposes has associated with it an element of uncertainty which has been commented upon critically by Mr Langman and Mr Wakefield, I am satisfied that the ODP and explanation have a sufficient degree of certainty for me to be able to recommend acceptance of them in the context of this request for a plan change. As noted hereafter, I have in mind that further certainty will be engendered by the subdivision process which will follow any rezoning of the land in question.

- 9.26 I draw attention to the comments which follow in relation to the issue of the enforceability of the ODP which is relevant in this context.

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<sup>469</sup> See assessment / paragraph 7.3

<sup>470</sup> S32(1)(a) of the RMA

Taking a broad view, I have concluded that identifying that the land could be developed by resource consent and recommending that the request be refused would almost certainly represent a failure to discharge the directive responsibilities which are contained in the NPS-UD and in particular the duty to provide sufficient development capacity to meet expected demand for housing over the short-term, medium-term and long-term. In my view treating this obligation on the basis that landowners have the ability to make applications for resource consents would not represent a discharge of this obligation and so I find that this option is clearly not acceptable.

- 9.27 In addition I have had regard to the assessment of the benefits and costs of the proposed change set out in the s32 assessment which accompanied the application <sup>471</sup>.
- 9.28 In summary I have concluded that the requirements of s32(1)(b) of the RMA have been discharged by the examination of the options referred to above and the choice of the option which is reflected in my recommendation which is associated with the incorporation of the ODP and narrative to the ODP.

### ***Part 2 matters***

- 9.29 Earlier in this recommendation I made a brief mention of Part 2 of the RMA in the context of my assessment of statutory documents. Some further elaboration is required at this time. I record that under s74(1)(b) of the RMA, any changes to a district plan must be in accordance with the provisions of Part 2 of the RMA.
- 9.30 Dealing with the purpose of the Act enshrined in s5 of the RMA, I find that the purpose of the Act is currently reflected in the objectives and policies of the SDP which PC68 does not seek to change (except to a minor extent).
- 9.31 As Mr Cleese has noted in his report <sup>472</sup> the efficient use and development of natural and physical resources (s7(b)), the efficiency of the end use of energy (s7(ba)), the maintenance and enhancement of amenity values (s7(c)), the maintenance and enhancement of the

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<sup>471</sup> S32 assessment / paragraph 7.3

<sup>472</sup> S42A Report / paragraph 283

quality of the environment (s7(f)), and the effects of climate change (s7(i)) are relevant to the plan change.

- 9.32 I have already considered the effects of the creation of what is undoubtedly a large residential development in the context of the use and development of this natural and physical resource. I have concluded, as is noted in the section of this recommendation dealing with s32 of the RMA, that PC68 represents the efficient use and development of the appropriate resources.
- 9.33 As to the efficiency of the end use of energy, this matter has been fully considered previously. I have considered this matter in the context of the flow-on effects of climate change. Undoubtedly, as has already been noted, there will be an increase in the existing pattern of commuter travel from Prebbleton to other centres of employment which clearly has impacts in terms of climate change. However, I have noted that Prebbleton is located closer to Christchurch than any of the other Inner Plains townships and that the development in Prebbleton will result in correspondingly fewer emissions relative to the alternatives. Overarching this topic is my finding that the Christchurch inner city market is not interchangeable with that in Prebbleton. On balance I have concluded that proper consideration has been given to the efficiency of the end use of energy and the effects of climate change and that PC68 can be said to have been prepared in accordance with the provisions of s7 of the RMA as required by s74(1)(b)) of the RMA.
- 9.34 I have made a number of findings in relation to the maintenance and enhancement of amenity values earlier in this my recommendation and will not repeat those findings at this point. Suffice it to say that I find that PC68 has been prepared in accordance with the provisions of Part 2 of the RMA relating to their maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment.

### ***Evidence based decision making***

- 9.35 The NPS-UD is prescriptive as to the manner in which local authorities must act when changing plans in ways that affected development of urban environment. Such local authorities must <sup>473</sup>:-

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<sup>473</sup> NPS-UD clause 3.11

- (i) clearly identify the resource management issues being managed;
- (ii) use evidence about land and development markets and the results of the monitoring required by the statement, to assess the impact of different regulatory and non-regulatory options for urban development. Local authorities must include the matters referred to above in relevant evaluation reports and further evaluation reports prepared under ss32 and 32A of the Act.

9.36 I comment that this recommendation reflects the identification of relevant resource management issues and the adoption of the use of evidence and analysis which is prescribed above. The resource management issues have been clearly identified and (with reference to the use of evidence about land and development markets) I have had regard to the evidence of Messrs Sellars and Colegrave in relation to these issues to assess the options for urban development in this case. I conclude that the requirements of clause 3.11 of the NPS-UD have been satisfied.

### **Section 32AA**

9.37 Section 32AA of the RMA requires a further evaluation for any changes made to the proposal since the evaluation report was completed. The relevant part of the statutory provision is as follows: -

- (i) *A further evaluation required under this Act –*
  - (a) *is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes; and*
  - (b) *must be undertaken in accordance with s32(1)(2)(4); and*
  - (c) *must, despite paragraph (b) and s32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and*
  - (d) -
    - (i) *in an evaluation report that is made available for public inspection at the same time as the approved proposal ...or the decision on the proposal, is notified; or*

*(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section;*

*(iii) an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with sub-section (1)(d)(ii).*

9.38 As to this, I note that, consistent with my previous findings in relation to this matter, because PC68 does not seek to alter or add to the objectives, policies or rules of the SDP (except for a minor exception) there is no need to evaluate the extent to which the objectives are the most appropriate way to achieve the purpose of the Act. A further analysis of this issue is not required.

9.39 The main alterations to the proposal relate to amendments to the ODP, to which I have already made reference. The amendments address the prescription of cycle routes and frontage upgrades which respond to the analysis which was carried out to that point and does not call for any further analysis. I am satisfied that the requirements of s32AA of the RMA are satisfied.

## 10. **OUTLINE DEVELOPMENT PLAN**

### ***Introduction***

10.1 The ODP which is to form part of PC68 has been the subject of a number of iterations, the last being version R6. The ODP contains the basic elements of the development area including connections with adjoining areas. The latest iteration of the ODP reflects the fact that there has been refinement of the document through the process of preparing the plan change request and responding to the s42A reports. The relevant amendments, as proposed by Ms Harte <sup>474</sup> are: -

- (i) cycle routes have been identified along the primary north-south roads and the east-west road and eastern north-south secondary roads;
- (ii) frontage upgrade notations have been added for the lengths of the plan change area adjoining Trents Road and Hamptons Road requiring the developers of the plan

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<sup>474</sup> Summary evidence of Patricia Harte / paragraph 4.1

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change to upgrade these frontages to the usual urban standard involving wider carriageways, footpaths and cycleways.

- 10.2 Associated with the ODP is an explanatory narrative document which will form part of PC68, should it be approved. This document contains an amendment to the original document making provision for educational facilities <sup>475</sup>, to reflect matters raised in the s42A Report relating to the provision of educational facilities. Ms Harte stated that an alternative option to the ODP narrative would be <sup>476</sup> ....

*At the time of subdivision, consultation with Ministry of Education will consider whether it is appropriate and necessary for any land to be provided for education purposes with the site, and the appropriateness of any amendments to the layout shown in the ODP to accommodate this.*

#### ***Evidence / submissions on the ODP***

##### ***Mr Williamson***

- 10.3 Mr Williamson was particularly critical of the use of the ODP. He noted that the ODP identified areas of proposed open spaces surrounded by "high density" housing and lot sizes but said it was not clear whether the open space areas were intended to remain private or vest as public open space. He said that the process by which this decision was made and whether they would vest without compensation or cost, or whether the Council would be expected to purchase those areas was not addressed in PC68 <sup>477</sup>. Mr Williamson described the ODP as ....

*..... one of the most critical flaws with PC68 .....*

together with the accompanying "narrative" as it was defined by the applicant's planner.

- 10.4 Mr Williamson noted that the SDP anticipates "standards" which have very different functions in an RMA context than a "narrative" (which he says could at best be described as an "explanation".) <sup>478</sup> Mr Williamson went on to state that he expects that the ODP "standards" referred to in the SDP are of the nature set out in all other Living

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<sup>475</sup> S42A Report / paragraphs 166 to 170

<sup>476</sup> Evidence of Patricia Harte / paragraph 17.6

<sup>477</sup> Evidence of Nick Williamson / paragraph 35

<sup>478</sup> Evidence of Nick Williamson / paragraph 53

zones which includes most of the fundamental development and performance standards associated with urban form and development etc. He said that instead of this, what is proposed through PC68, is that any subdivision or development that is in "general accordance" with the ODP will be assessed as discretionary activities, whether or not the aspirations set out in the "narrative" are met <sup>479</sup>.

10.5 Mr Williamson commented upon the subdivision process in his summary statement of evidence <sup>480</sup>. He noted his concerns regarding over-reliance on the subdivision consenting process and said that these concerns were supported by his practical experience. He noted that it was the "expectation" of the applicant's experts that the unresolved questions regarding infrastructure adequacy upgrade requirements, and funding methods could be dealt with at the subdivision stage. He noted that the engineer of the applicant had acknowledged that infrastructure upgrading would be required, including downstream works, some which were subject to regional consenting processes. But he said that these requirements, could not be lawfully imposed as conditions of subdivision consent where they required the approval of, or actions to be taken by, a third party beyond the application site.

10.6 Mr Williamson has raised matters of considerable importance in this case. In broad terms, the issue is whether the ODP presented by the applicant represents a suitable vehicle to ensure the development of the land the subject of PC68 in accordance with both the ODP and the accompanying narrative and whether the anticipated subdivision process have been overstated. In order to properly consider these matters, it is necessary to have regard to the provisions of the SDP which govern the use of outline development plans to see how such plans are to be utilised in the context of the SDP.

***The ODP / my consideration and findings***

10.7 An examination of the provisions of the SDP shows that the use of outline development plans is widespread throughout the plan. The plan typically uses the wording (in relation to rules) that any subdivision ....

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<sup>479</sup> Evidence of Nick Williamson / paragraph 53 to 55 incl

<sup>480</sup> Evidence of Nick Williamson / paragraph 25 et seq



*..... shall be in general accordance with the outline development plan (specified) .....*

There are a number of outline development plans for areas adjacent to Prebbleton. There is no definition of an outline development plan in the SDP.

- 10.8 The resolution of the question of whether the use of an ODP in this case is appropriate requires revisiting the findings which I made in relation to the extent to which there needs to be certainty in relation to the provision of infrastructure at the time of the establishment of the development the subject of a change and thereafter. My findings in this regard were (broadly) that there is a practical limit to the extent to which there needs to be certainty in relation to the provision of infrastructure and that reliance is able to be placed on the mechanisms which have operated satisfactorily to-date, namely infrastructure funded by SDC where provision has been made for the relevant expenditure in a LTP, the use of development agreements and the funding of infrastructure by the imposing of development contributions under the Local Government Act 2002. I will not repeat what I have stated earlier in this recommendation regarding these matters but refer to my findings in this regard.
- 10.9 I have concluded that the ODP and associated narrative contain the essential elements of the proposed change which are required to be implemented. The minimum density has been prescribed. I do not regard the prescription of choice associated with the subdivision consent process to be a fatal flaw in the narrative. It is not necessary at this stage, when considering the broad question of whether the land the subject of PC68 is a suitable candidate for rezoning, to require the prescription of standards beyond those which are the subject of the narrative.
- 10.10 The broad purpose of my consideration of this request is to consider whether any proposed rezoning the subject of PC68 is appropriate, having regard to the wide range of matters which I have already considered to this point. Undoubtedly there is a threshold to be reached in relation to the provision of sufficient information to identify clearly the nature of the rezoning which is sought. But it is not essential to my consideration of the rezoning request to consider matters beyond the threshold, that is to say those matters which are

not pivotal to the question of whether the land should be rezoned, but will need to be resolved at a later date, in the context of subdivision provisions or otherwise. In summary I find that the information which has been presented to this point has met the threshold test to which I have just made reference.

10.11 I have noted the criticisms made by Mr Williamson regarding the implications of the prospective subdivision process. It is clear that Mr Williamson has significant experience and knowledge in this area and I accept that he has a better understanding of subdivision provisions than most. I have given careful consideration to the question of whether the matters which have been raised by Mr Williamson should act as a barrier to the approval of PC68. It is clear that a wide range of conditions are available to councils when imposing conditions on subdivision consents which are directed at governing and controlling the environmental effects which will flow from subdivision. The matters which have been raised in relation to possible difficulties utilising the subdivision process do not impact on the ability to ensure structure upgrading and associated matters. It is clear from the evidence I have heard that ODPs, coupled with the subdivision process which follows, represents a process which has been used satisfactorily in the past in relation to other approved developments.

10.12 I do not see it as my role at this point to attempt to identify all the issues which may arise in relation to the prospective subdivision process. It is for the developer to deal with these matters, in company with SDC. In the event that some fundamental difficulty arises with the position of conditions in the subdivision process, that will be a matter for the developer to deal with. In summary, I am satisfied that whilst Mr Williamson was right to draw my attention to possible difficulties in the subdivision consent process, the matters he has raised do not act as a barrier to the approval of PC68.

10.13 I note that the prescription that any subdivision in Prebbleton should be ....

*In general accordance with the respective concept and/or Outline Development Plans .....*

has been utilised to this point. I do not see it as my role to make any pronouncement on the validity of this rule and anticipate it being used in this case. I find that it is capable of implementation, albeit that

there is some level of uncertainty associated with the ability to approve a subdivision plan which does not exactly match the ODP. It covers immaterial departures from the ODP, but not material departures.

## **11. OVERALL ASSESSMENT AND FINDINGS**

### ***Discussion***

11.1 The process of evaluating the competing evidence and submissions both for and against the approval of PC68 has represented a complex exercise. Overarching my consideration of relevant matters has been my recognition that the coming into force of the NPS-UD has represented a paradigm shift in the framework for the consideration of privately initiated plan changes, directed at providing new housing opportunities. This has had a particular influence on the outcome in this case.

11.2 As will be noted from my analysis of matters to this point, I have been satisfied that the requirements of s32 of the RMA have been complied with and in particular have formed the view that the proposal the subject of PC68 represents the best means of achieving the purpose of the RMA enshrined in s5. I will not repeat my analysis of this matter contained earlier in this recommendation.

11.3 I make it clear that my analysis in analysing matters has not taken place without my having due regard to the statutory documents other than the NPS-UD. I have attempted to explain the relationship between the various statutory documents, to attribute the degree of importance which needs to be associated with each document, on the way to forming the view that I should recommend the approval of PC68.

### ***Recommendation***

11.4 In the result, and having regard to my analysis of the evidence and submissions and findings referred to above, I make the following recommendations:-

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1. that the Council either accept, accept in part or reject the submissions referred to and summarised in **Appendix A** and for the reasons which are particularised in this my recommendation;
  2. that pursuant to clause 10 of Schedule 1 of the Resource Management Act 1991, the Council approve Plan Change 68 to the Selwyn District Plan by rezoning the land parcels set out in the request of the applicant (**Appendix B**);
  3. that a new Outline Development Plan Living Z zone, West Prebbleton(**Appendix C**), and accompanying narrative (**Appendix D**) be inserted in Appendix 19 of Volume 1 Townships of the Selwyn District Plans;
  4. that an addition be made to SDP Policy B4.3.77 in accordance with **Appendix E**;
  5. that a new rule be introduced into the SDP in accordance with **Appendix F**.
  6. that any other consequential amendments including but not limited to renumbering of clauses and planning maps as appropriate be made in order to give effect to this recommendation.
- 11.5 Given the length of these recommendations, the extent of detail and the complexity of the matters referred to herein, I reserve leave to make corrections and alterations should they be necessary on the basis that such alterations or corrections do not alter the substance of the findings in these recommendations. Further, whilst these recommendations are final in relation to the determination of matters of substance, I am concerned to ensure that no difficulties arise in relation to the implementation of my findings. Accordingly, I reserve the right to give further directions or rulings in relation to matters of implementation should that be necessary.

**DATED** this 23rd day of June 2022

**"A C HUGHES-JOHNSON"**  
**A C HUGHES-JOHNSON QC**  
**COMMISSIONER**

SDC RECOMMENDATION FINAL 23062022

## REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Rachael Carruthers, Strategy and Policy Planner

**DATE:** 3 August 2022

**SUBJECT:** **PRIVATE PLAN CHANGE 71 – REZONING OF LAND IN ROLLESTON**

---

## RECOMMENDATION

*‘That the Council:*

- a. accepts the recommendation of the Independent Commissioner in regard to Private Plan Change 71 from the Four Stars Development Limited and Gould Developments Ltd to rezone land in Rolleston;*
- b. pursuant to Clause 29(4) of the First Schedule of the Resource Management Act 1991, approves Private Plan Change 71 for the reasons given in the Commissioner’s recommendation dated 29 July 2022;*
- c. approves the public notification of Council’s decision that establishes that the Operative Selwyn District Plan is deemed to have been amended in accordance with the decision in (b) above from the date of the public notice in accordance with Clause 11 of the Resource Management Act;*
- d. notes that Plan Change 71 will not become fully operative until the notification of Council’s variation to PC71; and*
- e. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to recommendations (b), (c) and (d) above.*

### 1. PURPOSE

This report seeks a decision from Council that Private Plan Change 71 (PC71) be approved in accordance with the Commissioner’s recommendation dated 29 July 2022 (**Attachment 1**) and that it be confirmed for inclusion in the Operative Selwyn District Plan.

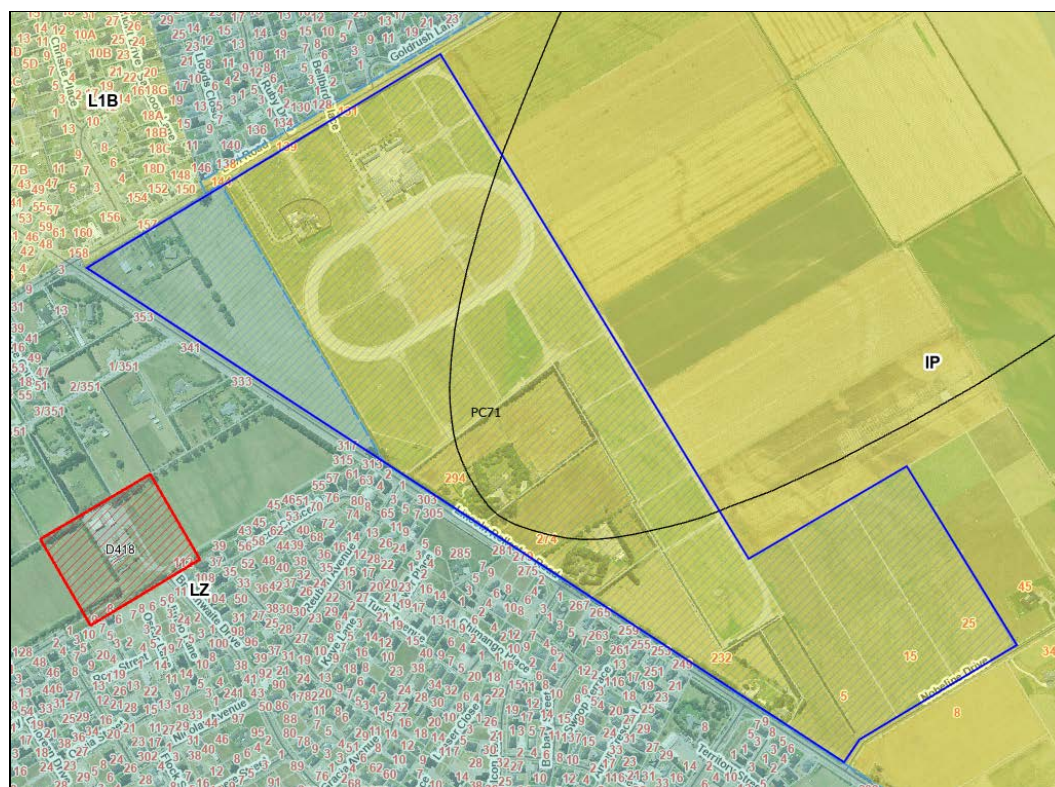
### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report does not trigger the Council’s Significance Policy. Considering to accept the Commissioner’s recommendation as Council’s decision is a procedural requirement of the Resource Management Act 1991 (the Act).

### 3. HISTORY/BACKGROUND

PC71 is a private plan change initiated by the Four Stars Development Limited and Gould Developments Ltd to rezone approximately 53 hectares of Rural (Inner Plains) zoned land to Living Z zone, to enable residential development on the eastern edge of Rolleston between Levi Road, Lincoln Rolleston Road and Nobeline Drive as shown in Figure 1. The central portion of the site is under the Christchurch International Airport

50 dBA Ldn air-noise contour. The western edge of the plan change area is already zoned Living Z, but is included in the plan change area because an amendment to the outline development plan is proposed.



**Figure 1- Aerial photograph of PC71 area (outlined in blue)**  
(Source: Selwyn District Council Maps)

The following is the general timeline of the plan change's progress so far through the statutory process:

- Formally received by Council on 13 November 2020.
- Accepted by Council on 26 May 2022.
- Publicly notified on 30 June 2021.
- Hearing held on 9 and 10 February 2022.
- Hearing Commissioner's interim recommendation provided on 7 June 2022, pending finalisation of amended plan provisions
- Hearing Commissioner's final recommendation provided on 29 July 2022

Following notification on 30 June 2021, the plan change attracted 10 submissions and three further submissions.

#### 4. PROPOSAL

An independent Planning Commissioner, Mr David Caldwell, was appointed to consider all the relevant material in respect of the plan change and to make a recommendation to the Council on the plan change and the submissions received.

This recommendation relates to whether the plan change should be approved, approved with modification (in accordance with the scope provided by the plan change)

or declined. The final decision on whether or not this recommendation and, as a consequence the plan change, should be adopted is the responsibility of the Council.

Of particular note for this proposal is that the request includes land under the 50dBA airport noise contour. The Commissioner gives particular attention to this aspect, and recommends that the land under the noise contour not be rezoned, but that instead it remains Rural.

For the reasons set out in his recommendation, the Commissioner recommends that Plan Change 71 be approved in part and that the matters raised in submissions are accepted, accepted in part or rejected.

In addition to the rezoning request, the changes sought to be made to the Operative District Plan through the Commissioner's recommendation include:

- Introducing a new ODP for the request area to coordinate the subdivision and development of the site and integrate this into the wider environment.
- Introducing subdivision rules to ensure that water supply and traffic matters are adequately addressed when the land is developed
- Amending the ODP for the adjoining area (ODP Area 4) to provide for connectivity through that site to the main PC71 land.

## **5. OPTIONS**

In accordance with Clause 29(4) of the First Schedule of the Act, Council may decline, approve, or approve with modifications, the plan change.

### **a. Approve (– recommended option)**

Through the process set out in the Act, the Commissioner has considered that PC71, other than the area under the noise contour, is generally appropriate in terms of the s32 tests and meets the purpose and principles set out in Part 2 of the Act in promoting sustainable management.

Specifically, it will enable people and communities to provide for their economic and cultural wellbeing by provision of additional residential development in Rolleston, in a location that will contribute to a compact urban form, and in a manner where the effects of that development are acceptable and appropriate.

Overall, having considered all of the submissions, the evidence and reports, the Commissioner considered that, outside the area under the noise contour, the actual and potential effects on the environment of the proposal were unlikely to be such as to render the plan change request inappropriate. As such, approving the rezoning in part is the most appropriate outcome.

### **b. Approve with modifications**

The Commissioner considered that, outside the area under the noise contour, the plan change will implement the policies, and is appropriate in achieving objectives, of the District Plan. As such, it would be inappropriate for the Council to amend any of the findings contained in the Commissioner's recommendation in the absence of hearing the submissions and considering the substantive material that has been considered.

**c. Decline**

It is considered that it would be inappropriate for the Council to decline the plan change, as this would be contrary to the recommendation of the independent Commissioner who has determined, through the statutory processes, that the plan change is appropriate.

**Recommended Option:**

It is recommended that Council accepts the Commissioner's recommendation and approve PC71 in part.

If the Council accepts the Commissioner's recommendation and approves PC71 in part, then PC71 will continue along the statutory RMA process, with the decision being publicly advertised and notice being served on all submitters. A 30-day appeal period is provided to lodge an appeal against the decision to the Environment Court.

Usually, if at the end of the appeal period no appeal has been received, Council staff, under delegation, would take the necessary steps to make the plan change operative and amend the District Plan as appropriate. However, in light of the requirements of clause 34 of the Amendment Act, it is recommended that Council does not make the plan change operative following the conclusion of the appeal period (or the resolution of any appeals should there be any). Instead it is recommended that Council makes the Plan Change operative once the Council's Variation to PC71 has been notified (or the resolution of any appeals should there be any).

**6. VIEWS OF THOSE AFFECTED / CONSULTATION**

**(a) Views of those affected and Consultation**

These matters are addressed in the recommendation of the Commissioner, with the mandatory public notification, serving of the notice of the request on potentially affected parties and submissions processes required under the RMA having provided appropriate opportunity for interested parties to participate in the private plan change process. The mandatory public notification and submissions processes required under the RMA has provided the wider public an opportunity to participate in the private plan change process.

**(b) Māori and Treaty implications**

No wāhi tapu or wāhi taonga sites of cultural significance within the plan change area have been identified. No submissions were received from Mahaanui Kurataiao Ltd who act on behalf of local rūnanga on environmental and resource management matters.

**(c) Climate Change considerations**

PC71 will assist in responding to climate change by enabling development in Rolleston that is a logical extension to the existing township boundary; provides for a consolidated urban form; and provides pedestrian and cycle linkages to community infrastructure.



## 7. FUNDING IMPLICATIONS

The funding implications are limited to any appeal proceedings. All costs incurred in notifying the decision are on-charged to the private plan change proponent.



Rachael Carruthers  
**STRATEGY AND POLICY PLANNER**

***Endorsed For Agenda***



Tim Harris  
**GROUP MANAGER DEVELOPMENT AND GROWTH**

**Attachment 1: Commissioner's Recommendation Report with Outline Development Plan and Recommendations by Submission point**

**BEFORE THE SELWYN DISTRICT COUNCIL**

**IN THE MATTER OF** Clause 21 of the First Schedule of the  
Resource Management Act 1991

**AND**

**IN THE MATTER OF** Four Stars Development Limited and  
Gould Developments Limited, Private  
Plan Change 71

**Applicant**

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**INTERIM RECOMMENDATION BY COMMISSIONER DAVID CALDWELL**

**Dated 7 June 2022**

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**Hearing Held: 9 and 10 February 2022**

**Appearances:**

Council:

Ms Liz White – Consultant Planner for Selwyn District Council

Mr Mat Collins – Associate in Transportation Planning at Flow Transportation Specialists

Mr Hugh Nicholson – Consultant Urban Design and Landscape

Mr Murray England – Asset Manager – Water Services with Selwyn District Council

Applicant:

Mr Gerard Cleary, Anthony Harper – Legal Counsel

Mr Philip Kennard (Company Representative)

Mr John Ballingall, Partner at Sense Partners – Economics

Ms Lisa Williams, Transport Engineer and Planner at Novo Group Limited – Transportation

Mr William Salmund, Licensed Cadastral Surveyor and Principal of Christchurch Branch Paterson Pitts Group – Servicing/Infrastructure excluding Water Supply

Mr Victor Mthamo, Principal Consultant at Reeftide Environmental and Projects Limited – Versatile Soils/Water Supply

Ms Nicole Lauenstein, Urban Designer and Architect, Director a + urban – Urban Design

Ms Fiona Aston, Principal of Aston Consultants – Planning

Submitters

Foodstuffs (South Island) Properties Limited (PC71-0009):

- Ms Alex Booker, Anderson Lloyd – Legal Counsel
- Ms Rebecca Parish – Development Manager for Foodstuffs (South Island) Limited
- Mr Robert Hay – Associate and Director of Marshall Day Acoustics – Reverse Sensitivity Effects/Noise Mitigation
- Mr Mark Allan – Director with Aurecon New Zealand Limited – Planning

Christchurch City Council (PC71-0007) / Canterbury Regional Council (PC71-0008):

- Mr Michael Wakefield, Simpson Grierson – Legal Counsel
- Mr Marcus Langman – Independent Planning Consultant – Planning

Christchurch International Airport Limited (PC71-0004):

- Ms Joanne Appleyard and Ms Amy Hill, Chapman Tripp – Legal Counsel
- Ms Felicity Blackmore, Environment and Planning Manager at CIAL – Aircraft Noise and Contour Modelling
- Mr Matthew Bonis – Associate at Planz Consultants – Planning

Mr Ivan Court (PC71-0005)

**ABBREVIATIONS TABLE**

<b>CARP</b>	Canterbury Air Regional Plan
<b>CCC</b>	Christchurch City Council
<b>CIAL</b>	Christchurch International Airport Limited
<b>CLWRP</b>	Canterbury Land and Water Regional Plan
<b>CRC</b>	Canterbury Regional Council / Environment Canterbury
<b>CRPS</b>	Canterbury Regional Policy Statement
<b>FDA</b>	Future Development Area
<b>GCP</b>	Greater Christchurch Partnership
<b>HCA</b>	Housing Capacity Assessment
<b>hh/ha</b>	Households per hectare
<b>LTP</b>	Long Term Plan
<b>MIMP</b>	Mahaanui Iwi Management Plan
<b>NPS-UD</b>	National Policy Statement – Urban Development
<b>ODP</b>	Outline Development Plan
<b>Our Space</b>	Our Space 2018-2048: Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrapa Nohoanga
<b>PC71</b>	Private Plan Change 71
<b>PDP</b>	Proposed Selwyn District Plan
<b>PIB</b>	Projected Infrastructure Boundary
<b>pNPS-HPL</b>	Proposed National Policy Statement for Highly Productive Land
<b>RMA</b>	Resource Management Act 1991
<b>RSP</b>	Rolleston Structure Plan 2009
<b>SDC</b>	Selwyn District Council
<b>SDP</b>	Operative Selwyn District Plan
<b>UDS</b>	Urban Development Strategy
<b>WWTP</b>	Wastewater Treatment Plant

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## Introduction

1. I have been appointed to hear submissions and make a Recommendation on Private Plan Change 71 to the Operative SDP.
2. I attended and conducted the hearing at the Selwyn Health Hub, Norman Kirk Drive, Rolleston on 9 and 10 February 2022. The Applicant's reply submissions and evidence were received on 4 March 2022. The hearing was formally closed on 28 March 2022.
3. I have not included a specific summary of all of the documents considered, evidence provided and submissions made. All of that information is publicly available and has been uploaded to SDC's plan change site at [www.selwyn.govt.nz/pc71](http://www.selwyn.govt.nz/pc71). I refer to the relevant evidence, submissions and other documents, when addressing the particular issues and statutory provisions. I have carefully considered all of the relevant documents, evidence and submissions.

## PC71

4. PC71 is a private plan change initiated by Four Stars Development Limited and Gould Developments Limited (**the Applicant**) to rezone, as notified, approximately 53 hectares of land at Rolleston bounded by Levi and Lincoln Rolleston Roads and Nobeline Drive. Under PC71 as notified, it was proposed that the area of land within the noise contour would be deferred zoning reflecting the anticipated shift of contour off the site. In summary, the changes sought were:
  - Amend the SDP maps to rezone and identify the 53 hectare site Living Z and Living Z Deferred;
  - Add Rolleston ODP Area 5 and supporting narrative;
  - Add an additional rule in relation to Deferred LZ status of the land currently under the Christchurch International Airport 50 dBA Ldn noise contour;
  - Amend ODP Rolleston Area 4 by showing a link through the ODP for Area 4, removing a Large Lot notation on the boundary, amending the supporting narrative and removing medium density area on ODP Area 4's eastern boundary.
5. The yield assessment was estimated to be a potential yield of 688 lots across three blocks. A number of changes were proposed in evidence. These will be addressed in my Recommendation.
6. PC71 was formally received by SDC on 12 November 2020. A Request for Further Information was issued on 2 February 2021 with the Applicant's responses received on 16 March 2021 and 12 May 2021. SDC accepted PC71 for notification pursuant to Clause 25(2)(b) of Schedule 1 to the RMA at its meeting on 26 May 2021.

7. PC71 was publicly notified on 30 June 2021 with the submission period closing on 29 July 2021. A Summary of Submissions was publicly notified on 18 August 2021 with the further submission period closing on 1 September 2021.
8. 10 primary submissions were received, together with 3 further submissions.
9. A late submission was received from S M and B A Roche on 17 March 2022. I declined to accept the submission, accepting the recommendation provided by Ms Rachael Carruthers, Strategy and Policy Planner with SDC. The reasons for that were recorded in my decision of 21 March 2022.

#### **Site Visit**

10. I undertook a site visit on 28 February 2022. I had intended to undertake that site visit earlier but due to various commitments the Applicant had, I was unable to do so before that date. I was advised that the only person able to accompany me onto the site was Mr Philip Kennard who of course gave evidence on behalf of the Applicant. I issued a Minute on 22 February 2022 recording that and reiterating my previous advice that the site visit is not an opportunity for any party to provide further evidence and recording that Mr Cleary had confirmed he had made Mr Kennard aware that under no circumstances was he to discuss the plan change with me.
11. I met Mr Kennard at the All Stars Racing Stable. I followed him into the property. Mr Kennard pointed out some of the boundaries and locations from within the site. We then went, in separate vehicles, to other properties on Lincoln Rolleston Road and Nobeline Drive. I was able to view the surrounding environment and properties incorporated into the plan change. The site visit assisted in my understanding of the site and how it fits into the surrounding environment.

#### **The Site and Surrounding Environment**

12. The site and its surrounds was described in in the application/request.<sup>1</sup>
13. Ms White described the site in her s42A Report.<sup>2</sup> Ms White noted that Part A, being 53.89 ha, comprised in 8 land parcels, was the site over which the change in zoning was sought. She noted the second site to which the Request applied (Part B) was a 7.1831 ha site which is currently zoned Living Z. She noted no change was sought to that zoning but amendments to the ODP currently applying were sought. Ms White noted Part B of the site, while zoned for residential development, was subject to a resource consent application (216016) to establish a Pak n Save supermarket which had been accepted by SDC for processing on 11 January 2022. Ms White also noted that part of the site is affected by the Christchurch International Airport 50 dBA Ldn noise contour.

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<sup>1</sup> Application for Private Plan Change June 2021. Note the plan change application was amended to incorporate the further information requested. The amended application superseded the original application documents received.

<sup>2</sup> s42A Report 17 January 2022 at paras [9] – [15]



### *Surrounding Environment*

14. Again the surrounding environment was described in the application, particularly in paragraphs [4], [5] and [10] – [13], and by Ms White in paragraphs [16] and [17] of her s42A Report. I consider those descriptions are accurate and I adopt them for the purpose of this Recommendation. It directly adjoins the Living Z zones to the north and west. The areas to the east and south of the site are zoned Rural Inner Plains. Directly on the eastern boundary, SDC owns 99 ha which were purchased for the purpose of developing a district-scale park. This was described by Mr Rykers as effectively being a land-banking opportunity to ensure sufficient space was available for those purposes to meet the district growth requirements. He noted that the needs assessment and planning work for the development of the park had not yet formally commenced and therefore the actual activities to be accommodated on the park are yet to be defined.

### **Statutory Framework**

15. The Environment Court has provided a comprehensive summary of the mandatory requirements in its decision in *Long Bay*.<sup>3</sup> This was updated to reflect changes to the RMA in 2009 in the Environment Court's decision in *Colonial Vineyards*.<sup>4</sup>
16. The general requirements are:
  - (a) The district plan (change) should accord with and assist the local authority to carry out its functions under s31 and to achieve the purpose of the RMA;<sup>5</sup>
  - (b) When preparing the district plan (change) the territorial authority must give effect to any National Policy Statement, a National Planning Standard, the New Zealand Coastal Policy Statement and the operative Regional Policy Statement;<sup>6</sup>
  - (c) When preparing its district plan (change) the territorial authority shall:
    - (i) Have regard to any proposed Regional Policy Statement;<sup>7</sup>
    - (ii) Give effect to any operative Regional Policy Statement;<sup>8</sup>
  - (d) The district plan (change) must not be inconsistent with an operative Regional Plan for any matter specified in s30(1) or a Water Conservation Order,<sup>9</sup> and must have regard to any proposed Regional Plan on any matter of regional significance;<sup>10</sup>

<sup>3</sup> *Long Bay – Okura Great Park Society Inc v North Shore City Council* A078/08

<sup>4</sup> *Colonial Vineyards Limited v Marlborough District Council* [2014] NZEnvC 55

<sup>5</sup> s74(1)(a) and (b) of the RMA

<sup>6</sup> s75(3)(a), (ba) and (c) of the RMA

<sup>7</sup> s74(2)(a)(i) of the RMA

<sup>8</sup> s75(3)(c) of the RMA

<sup>9</sup> s75(4) of the RMA

<sup>10</sup> s74(2)(a)(ii) of the RMA

- (e) The territorial authority must also have regard to any relevant management plans and strategies under other Acts, and must take into account any relevant planning document recognised by an iwi authority and lodged with a territorial authority, to the extent that its contents has a bearing on the resource management issues of the district;<sup>11</sup>
- (f) The policies are to implement the objectives, and the rules are to implement the policies;<sup>12</sup>
- (g) The plan change shall have regard to the actual or potential effects on the environment of activities including, in particular, any adverse effects.<sup>13</sup>

17. Section 32 requires that:

- (a) Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account the benefits and costs of the proposed policies and methods, and the risk of acting or not acting if there is uncertain or insufficient information;
- (b) If a National Environmental Standard applies, and the proposed rule imposes a greater prohibition or restriction than that, then an assessment is required as to whether the greater prohibition or restriction is justified in the circumstances;
- (c) The objectives of the proposal (here the stated purpose of the proposal) are to be the most appropriate way to achieve the purpose of the RMA;<sup>14</sup>
- (d) An assessment of whether the provisions of PC71 are the most appropriate way to achieve the objectives of the SDP and the purpose of the proposal.<sup>15</sup>

**Assessment of Actual or Potential Effects on the Environment/Matters Raised in Submissions**

18. Ms White identified the key matters that had either been raised by submitters or are necessary to be considered in ensuring SDC's statutory functions and responsibilities are fulfilled. These were:

- (a) Traffic effects;
- (b) Servicing;
- (c) Effects on community facilities;
- (d) Density;

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<sup>11</sup> s74(2)(b)(i) and s74(2A) of the RMA

<sup>12</sup> s75(1)(b) and (c) of the RMA

<sup>13</sup> s76(3) of the RMA

<sup>14</sup> s32(1)(a)

<sup>15</sup> s32(1)(b)

- (e) Versatile soils;
- (f) Landscape and visual impacts;
- (g) Reverse sensitivity;
- (h) The form of urban growth;
- (i) Geotechnical and contaminated land considerations;
- (j) Other matters.

19. I largely adopt those headings in this Recommendation.

#### Traffic Effects

##### *Submissions*

20. A number of the submitters raised concerns in relation to traffic effects. The relevant submitters, and their concerns, were summarised by Ms White in her paragraphs [33] through to and including [41]. I accept and adopt Ms White's summary of the concerns raised in those submissions. The submissions ranged from concerns expressed by residents relating to what could be described as the more direct impacts in terms of congestion, the state of the roading network, and safety concerns.<sup>16</sup>
21. Other submitters raised wider concerns in relation to what might be described as the more strategic issues. These related to matters such as the Greater Christchurch approach including the UDS, Our Space and similar. The importance of providing for multi-modal transport was also identified by those submitters, and associated concerns in relation to emissions.<sup>17</sup>

##### *Evidence*

22. The application included an Integrated Transport Assessment (**ITA**) prepared by Ms Williams which included an assessment of effects based on the total 660 lots anticipated. That was peer reviewed by Mr Collins in his Transportation Hearing Report which included recommendations and an assessment of the matters raised in submissions.
23. Ms Williams identified and addressed the matters raised in submissions including that raised by Foodstuffs (PC71-0009) in relation to the impact that an extension of Broadlands Drive would have on its landholdings at 157 Levi Road and that there was only one road connection to Levi Road. In her Summary of Evidence presented at the hearing, she confirmed that she considered the amended ODP, including changes adopted in response to the Officers' Report, provided good access to the site for pedestrians, cyclists and vehicles. She considered the site to be well located in terms of pedestrian and cycle access to public transport stops, schools

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<sup>16</sup> Paula (PC71-0001); A Grant (PC71-0002); B Morch (PC71-0011)

<sup>17</sup> Waka Kotahi (PC71-0006); CCC (PC71-0007); CRC (PC71-0008)

and the town centre, and that the proposal was generally consistent with the transport related objectives and policies in the SDP and would achieve an extension of a primary road through the site to the future district park. She noted that there was general agreement between her and Mr Collins and focused her evidence and summary on the points of difference which she understood to be left in relation to the issues identified in Mr Collins' report.

24. There was a high level of agreement between the traffic experts. Mr Collins, in his Summary, addressed Mr Nicholson's recommendation that a second road connection to Levi Road be shown on the ODP. He agreed with Ms Williams that if it were to be included, it be located to the east of Goldrush Road and that it be designed to discourage through traffic. Both Ms Williams and Mr Collins identified that Levi Road is a critical through movement corridor between Rolleston and Christchurch. He considered that the proposed ODP narrative appropriately identified the through movement function of that road and was of the view that a second connection could be provided without compromising its primary function.
25. One of the issues where there was disagreement related to the timing of the connection of the Broadlands Drive extension with Lincoln Rolleston Road. Mr Collins was of the view that a planning mechanism needed to be included to require the formation of a roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive and an extension of Broadlands Drive over ODP Area 4. Ms Williams supported that recommendation but proposed a threshold of 491 dwellings at which point the roundabout and connection would be required. Mr Collins agreed with that from a traffic efficiency perspective but did not consider it adequately addressed the potential effects on the effectiveness of the transport network. He noted that if the northern and southern portions of PC71 were separated by a deferred zoning, or by the retention of a Rural zoning in the area under the noise contour, the northern block could develop with only one or two road accesses, both onto Levi Road. That would limit the connectivity and resilience of the transport network within that northern block. He remained of the view that a connection from Broadlands Drive to Levi Road should be formed in conjunction with any development of the southern portion of the northern block.
26. Another area of disagreement related to the need for walking/cycling facilities being identified on the site frontage with Lincoln Rolleston Road, including safe crossing points. Ms Williams considered that the existing shared use pathway on the western side of Lincoln Rolleston Road, along with crossing points at new intersections, were sufficient as the existing shared use path allowed for two-way cycle movements. Mr Collins disagreed. He noted Lincoln Rolleston Road is an arterial road which creates a barrier to crossing movements for pedestrians and cyclists. He also considered that PC71 would generate internal cycling demand which would be suppressed if cyclists were required to cross Lincoln Rolleston Road to use the cycle facilities. He considered cycling facilities on the eastern edge of Lincoln Rolleston Road would address the "disconnected nature" of the northern and southern sections of PC71.
27. Both Ms Williams and Mr Collins addressed cumulative effects, being an issue raised by CCC in particular and Mr Langman in his evidence. This related to the cumulative effects of the

various private plan changes proposed. Ms Williams agreed with the cumulative effects assessment provided by Mr Collins in sections 3 and 4 of his report. His view was that the planning and coordination of road network improvements to accommodate the cumulative growth was a matter to be considered by SDC through the LTP and development contributions.

28. In his Summary presented at the hearing, Mr Collins expanded on this issue. He advised that he had become aware that a report prepared by Quality Transport Planning (**QTP**) had become available. This report assessed two future land use scenarios. He provided a copy of that as Appendix A to his Summary. He noted that the QTP analysis compares the two future growth scenarios, being Scenario 1 (2038), which was the growth in Selwyn based on forecasts agreed by the GCP committee for households, population and employment; and Scenario 2 (2038) being Scenario 1 plus an additional 10,000 dwellings (Selwyn District only) without any changes to employment, or changes to households in Christchurch City or Waimakariri District.
29. He advised that QTP had found that travel patterns in both scenarios would remain similar to 2021 but with an increased magnitude proportional to population increase of around 32% of peak hour trips. He noted the report concluded that there is now, and will remain, high demand between Selwyn and Christchurch, with approximately 50% of Selwyn's peak hour trips starting or finishing in Christchurch. Those trips were distributed across available corridors between the two districts. He noted the report identified that for both scenarios, limited growth is indicated on some commuter routes such as Springs Road and Shands Road, due to downstream constraints in Christchurch, which would result in other routes seeing a higher increase in traffic. These included State Highway 1/State Highway 76, Maddisons Road and Waterholes Road.
30. He considered the QTP report supported his commentary in relation to the potential effects of PC71 on the wider transport network. He summarised those as being that if PC71 affected the quantum of residential growth within Selwyn without a corresponding increase in local employment and access to services, additional impact on the Greater Christchurch transport network could be expected but the wider effect of an 'out of sequence' plan change may not be overly apparent in a macro scale regional traffic model. He noted that as vehicle movements generated by a plan change distribute, they become a smaller and smaller proportion of the total trips on the network.
31. He was therefore of the view that while PC71 will have effects on the wider transport network beyond those assessed by Ms Williams, those effects (including cumulative effects of other plan changes) were more appropriately addressed at a district and/or regional level.
32. Ms Williams and Mr Collins both addressed an issue raised in the Foodstuffs submission. Ms Williams noted the opposition by Foodstuffs to the extension of Broadlands Drive over its landholdings. Ms Williams advised that the Broadlands Drive extension was understood to represent an important connection in Rolleston and the connection across both ODP areas to the future park was consistent with the RSP. She agreed with Mr Collins in terms of the

positioning of the road connection and the rationale for it, noting that it allowed for sufficient intersection separation distance between the future Broadlands Drive intersection with Lincoln Rolleston Road and the existing Reubin Avenue/Lincoln Rolleston Road intersection.

33. Mr Collins confirmed his opinion that the extension of Broadlands Drive over ODP Area 4 was a key component of the future transport network as it would fulfil a role as a major east/west link through Rolleston. He advised that the form of the urban land use and transport network to the west of Lincoln Rolleston Road precluded any alternative east/west link. He considered Broadlands Drive to be a key link in opening access for all transport modes into PC71. He advised that he had viewed the development plans for Foodstuffs' resource consent application and considered that the proposed supermarket did not compromise the extension of Broadlands Drive. It may compromise the proposed northern local road connection but, in his view, that could be assessed and addressed through the subdivision/land use consent application process.
34. The two key areas of disagreement between Ms Williams and Mr Collins, being the appropriateness of a pedestrian/cycle path along the Lincoln Rolleston Road frontage and the issue of the timing of the connection to the Broadlands Drive extension with Lincoln Rolleston Road, were also addressed in the urban design evidence of Ms Lauenstein and Mr Nicholson.
35. In relation to the pedestrian/cycle path along the Lincoln Rolleston Road frontage, Ms Lauenstein agreed with Ms Williams' evidence that a footpath only was required on the eastern side as part of the road frontage upgrade. She considered a dedicated crossing point would need to be provided at the key intersections for the Levi Road and Broadlands Drive to provide a safe and continuous network. Mr Nicholson acknowledged the shared pedestrian/cycle path on the western side of Lincoln Rolleston Road. He was of the view that expecting pedestrians or cyclists to cross a busy arterial road in order to reach a safe facility signals that they have secondary status and does not encourage or support alternative traffic modes. He recommended that a separated shared pedestrian and cycleway be provided along the Lincoln Rolleston Road frontage as part of the ODP in order to provide high quality pedestrian and cycling opportunities for the future residents of PC71.

#### *Discussion and Assessment*

36. As is apparent from the summary of the evidence, there was little dispute between the traffic experts in relation to the fundamental transportation issues and effects.
37. In relation to the provision of a pedestrian/cycle path along the Lincoln Rolleston Road frontage, I consider that is appropriate both from a transportation perspective and in terms of urban design. I accept the evidence of Mr Collins and Mr Nicholson in that regard. While I acknowledge there is a cycleway on the opposite side of Lincoln Rolleston Road, that is a busy arterial road which does create a barrier to crossing movements to pedestrians and cyclists.
38. Even with the crossing points, in my view that barrier will remain. PC71 will generate internal cycling demand. The shared pedestrian/cycle path on the eastern frontage will address the

disconnected nature of the northern and southern sections arising from either the deferred zoning of the area underneath the contour, or that land remaining rural. In my view, from both a transportation and urban design perspective, cycling facilities on the eastern Lincoln Rolleston Road frontage is appropriate. The cycling facilities are useful in providing modal choice, connecting the various areas within the ODP, and improving accessibility to Rolleston Town Centre and other facilities.

39. In terms of the connection of Broadlands Drive, there was again agreement as to its importance but disagreement as to the timing and the mechanism to ensure that it occurred at the appropriate stage. A complicating factor with this issue is the position of Foodstuffs expressed at the hearing that it would not agree to the extension of Broadlands Drive across its land. That position remained notwithstanding Mr Collins' evidence the supermarket would not interfere with the Broadlands Drive extension.
40. Again, this issue was addressed by Ms Lauenstein and Mr Nicholson from an urban design perspective. Mr Nicholson proposed that a rule be included in relation to the northern area which would require the Broadlands Drive connection and intersection to be formed before any subdivision of the land is approved south of a "development line" he illustrated in Figure 2 of his evidence. He considered that the land to the north of the development line could be adequately connected by the two connections to Levi Road, while the land to the south of that line would require an additional connection to Broadlands Drive to provide an adequate level of connectivity for future residents.
41. Ms Lauenstein provided rebuttal evidence in response to Mr Nicholson's Summary of Evidence, and particularly in relation to the introduction of the development line and rule.
42. Ms Lauenstein advised that she had had discussions with Mr Nicholson following the hearing and that his main criteria for the exact location was to ensure a "walkable distance" is achieved from any dwelling within the northern part of the development to Levi Road. Ms Lauenstein noted that she and Mr Nicholson agree that in a standard residential development 400m – 500m (as the crow flies) was generally considered an appropriate walkable distance.
43. While Ms Lauenstein agreed with the importance Mr Nicholson places on walkability as a key part of connectivity, she considered the development line proposed could be counterproductive and create unnecessary hurdles as it did not take into account other important parameters and could result in undesirable lot geometries. She provided an analysis in terms of walkability and considered that the only remaining area of concern was the southwest corner of the site around the Broadlands Drive extension. Ms Lauenstein agreed with Mr Nicholson that in addition to access to Levi Road, a pedestrian/cycle link to Lincoln Rolleston Road should be provided for this portion to ensure appropriate walkable connectivity. It was however her view that instead of using a line limiting development, the following requirement should be incorporated:

Construction of any part of the Broadlands Drive extension on ODP 14 west of the main intersection with the main North-South road (leading to Levi Road) will

trigger the provision of a walking and cycle connection to Lincoln Rolleston Road. This link should be provided as an integral part of the Broadlands Drive extension across ODP 4.

Should the main connection west across ODP 4 to Lincoln Rolleston Road not yet be available, a temporary walking and cycle connection is to be provided to Lincoln Rolleston Road via the shortest possible alternative route.

She identified that in her Appendix A being the ODP diagram.

#### *Finding*

44. In my view this is a reasonably significant issue. Considerable emphasis has been placed on the positive aspects of the extension of Broadlands Drive. That extension is identified in the RSP as a primary road linking Lowes Road, Goulds Road, Springston Rolleston Road and Lincoln Rolleston Road and through to the proposed district park. In those circumstances, given its importance, I consider it appropriate that an additional rule is included. However I think there is merit in Mr Cleary's suggestion, which Ms White confirmed was acceptable to her, that it be a restricted discretionary activity.
45. Overall, and subject to the discussion above in relation to status, I consider that the changes recommended by Ms White in her s42A Report and in her Summary in relation to transportation aspects are appropriate. These include the amendment to recommended Rule 12.1.3.52A(b); the reference in the ODP text for a roundabout to be formed by the Applicant when Area 14 connects to the Levi/Ruby intersection; and addition of the reference to a separate shared pedestrian and cycle way and the provision of safe crossing points to include the Lincoln Rolleston Road frontage.

#### Servicing

46. Servicing was identified in two of the submissions. Paula (PC71-0001) raised an issue as to whether the additional housing facilitated would affect their water well and also raised a query in relation to the impact of the Request on the internet. CRC (PC71-0008) submitted that the application may be inconsistent with Policy 6.3.5(2) of the CRPS.
47. Mr England, Council's Asset Manager – Water Services, provided an assessment as part of the s42A Report and attended the hearing. Overall he concluded that there was capacity within the water network to service the part of the site which is within the RSP; additional water needs to be made available for that part of the site which is not within the RSP; conveyance of wastewater to the Pines WWTP is feasible and will be the subject of an engineering approval process; expansions to the Pines WWTP are planned and budgeted for which provide for growth within the District including this site; and there is a viable method to dispose of stormwater.
48. Mr Salmond prepared the Preliminary Servicing Assessment which accompanied the PC71 Request. In his evidence he addressed stormwater. He advised that he was not aware of any existing reticulated stormwater network servicing the site. He advised that stormwater would



need to be managed through the collection, conveyance and discharge to ground which would require CRC consent. He described the primary and secondary stormwater systems. The discharge of roof stormwater would be directly to ground via standard soak pits. Driveway runoff would either be intercepted at the end of the driveways and discharged to ground via soak pits, or would flow onto the streets to be conveyed to the collection and discharge systems servicing the roads. Road runoff would be discharged to ground via roadside soak pits without the need for treatment. He also addressed how the secondary flows from individual lots and roads would flow towards the main roads away from building platforms. He outlined the infiltration tests and similar which had been undertaken, noting the discharge to ground would be a discretionary activity under the CLWRP. Mr Salmond addressed construction phase stormwater which again would be to ground with resource consent for construction phase discharge to be sought from CRC.

49. In terms of wastewater generation and flow, he discussed the calculations undertaken in accordance with the methodology in Part 6 of the SDC's Code of Engineering Practice. He discussed his initial assessment of the wastewater servicing for the site and options available for reticulating the wastewater. He identified five options, noting that they were not mutually exclusive and that a combination of options was likely to be used to service the site. He identified that in some parts of the catchment there may need to be pumped water flows. He confirmed that power and telecommunications would be available.
50. Mr Mthamo addressed water supply noting that a third (17 ha) of the site was within the RSP and FDA, and the potable water requirements associated with that area was included in SDC's planning.
51. Mr Mthamo estimated the potable water requirements for the remaining two-thirds of the area. He identified a number of options which he considered to be available or highly likely to be available to meet the demand for PC71. These included the provision of a new community water take supply on the land and/or by purchasing and transferring consents from other sites.
52. He advised that new takes for community water supplies were a restricted discretionary activity pursuant to Rule 5.1.1.5 of the CLWRP. He discussed the rules enabling consents to be transferred from site to site. He noted that SDC had 7,183,440 m<sup>3</sup>/year consented and that the average annual use being 3,300,000 m<sup>3</sup>/year which provided a significant existing surplus.
53. Overall he considered that the balance of PC71 (outside of the FDA) could be provided with a potable water supply at the time of development. It was his view that there was no need for a rule to be included, as had been suggested by Ms White, restricting subdivision until the water supply is provided. It was his view that the Applicant should "just be able to" demonstrate at subdivision stage that each stage submitted for subdivision consent can be supplied.
54. Finally, Mr Mthamo addressed flooding. He identified that there were no areas of high flood hazard within the site and that the requirements relating to flood hazards in the PDP and the CRPS would be achieved.

55. Mr Langman raised concerns in relation to Policy 6.3.5(2) as raised in the CRC submission. Mr Langman also identified a concern in relation to the cumulative effects of the various plan changes on the WWTP and its capacity. He was unclear as to whether Mr England had considered those cumulative effects.

*Analysis and Finding*

56. I specifically discussed that issue with Mr England in terms of both the capacity and the upgrades. He confirmed that the potential cumulative effects of the various plan changes in Selwyn had been considered. He noted the upgrades to the Pines WWTP were planned and budgeted for. He confirmed that they were not yet consented. I am satisfied there are no readily identifiable risks to that consenting process. The Pines WWTP is established, SDC owns the land and holds the existing consents. The plant is designed to enable modular upgrading.
57. Overall, I am satisfied that infrastructural issues have been appropriately addressed. I agree there are potentially some uncertainties in relation to potable water supply. I note however that there does appear to be significant capacity available in the consented takes. Mr Mthamo discussed the likelihood of further potable water becoming available either through transfer or additional bores. With the inclusion of the subdivision rule proposed by Ms White, in my view infrastructural issues have been properly resolved.

Effects on Community Facilities

58. Several submitters raised concerns in relation to community facilities. Paula (PC71-0001) raised a concern that existing supermarkets and shops do not have sufficient carparking. A Grant (PC71-0002) raised concerns in relation to wellbeing from the increased number of residents and the lack of reasonable sized parks or greenspace in comparison to other areas. The Ministry of Education (PC71-0010) noted the increase in population in the east of Rolleston resulting in an increase in school-age children and that there had not been any consultation. In addition to the issues raised in relation to PC71 itself, the Ministry raised issues in relation to planning and precedent.
59. On the parking issue raised by Paula (PC71-0001), Mr Collins addressed that in his review. He considered parking external to the site can be managed by landowners and existing Council processes. I agree. If there are issues with additional housing impacting on parking in the Town Centre then that can be addressed through those processes. It is not an effect which relates to this particular site.
60. In terms of greenspace, Mr Rykers, the Manager of Open Space and Strategy for SDC, provided comments by way of an appendix to the s42A Report. He addressed the originally proposed ODP including the large central linear open space through the site and connecting with the district park to the east; a local neighbourhood reserve to service the southern part of development in ODP Area 5 and a local neighbourhood reserve to service the northern part of development in ODP Area 4. Mr Rykers identified a lack of an indication of size for the proposed reserves but considered that could be determined at the time of subdivision.

61. Mr Rykers' Memorandum advised that SDC standards are 1.2 ha per 1,000 head of population but noted the proposal benefited from it bordering the planned district park with easy access to that land. It was his view that it was not essential to meet the 1.2 ha per 1,000 population provision standard.
62. Mr Rykers' Memorandum also addressed additional demand for active sports and recreation space and that over the next 30 years around 50 ha of additional land would be required to meet the adopted standard of 3.0 ha per 1,000 population. He advised that modelling of the sports park demand against the additional population created through the proposed development indicated that there would be more than adequate land available. While he identified that there was some uncertainty around the land requirements for park purposes, given the growth in eastern Selwyn, it was anticipated that the full area of land would be required for the park.
63. Mr Nicholson expressed a concern in his Summary regarding the ODP indicating a park in the area under the 50 dBA noise contour together with a pocket park to service the northern half of the site with open space. It was his view that it was not appropriate for new residential areas to rely on a neighbourhood park in the land under the 50 dBA noise contour. Even if the land was zoned on a deferred basis, he considered there was no certainty that the 50 dBA noise contour would be removed. It was his opinion that two neighbourhood parks should be located close to the centres of the northern and southern residential areas to ensure adequate greenspace provision.<sup>18</sup>

#### *Finding*

64. I have considered the evidence in relation to this issue. I note that Mr Nicholson's position in his Summary was not expressly responded to in Ms Lauenstein's reply evidence, nor Mr Cleary's closing submissions.
65. I consider it is appropriate that what is presently identified as the pocket park to service the northern part of the site is replaced with a neighbourhood park. That provides some certainty in the event that the 50 dBA noise contour is not removed. In my view it is appropriate in any event. That area of the site is proposed to have a density of 15 hh/ha. That density, in my view, supports, indeed requires, a neighbourhood park. The scale of that park can of course be determined at subdivision stage.

#### Ministry of Education

66. The Ministry of Education (PC71-0010) identified that the Request would result in a considerable increase in the population in East Rolleston which would result in an increase in school-age children from the catchment of existing schools in Rolleston. It identified that there had been no consultation and they sought that it only be approved if there was consultation and sufficient provision is made to accommodate school-aged children such as a new site

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<sup>18</sup> Summary of Hearing Report of Hugh Anthony Nicholson on behalf of Selwyn District Council 10 February 2022 at para [2.3]

within the ODP. The Ministry's submission also raised the wider issue of precedent for development occurring outside existing planned areas which would make planning for school capacity networks increasingly difficult.

67. Ms White accepted that there was a need to assess the impact of the rezoning on the capacity of local schools and identify where it is appropriate to provide for additional capacity within the site.
68. She considered that the matter could be resolved through amendments to the Request. She recommended an amendment to the ODP text to include:

*The ODP does not identify a specific area for new education facilities, but some land may be required within the ODP area for such facilities. This will be determined in conjunction with the Ministry of Education.*

69. I agree that wording is appropriate.

#### Density

70. CCC (PC71-0007) sought a minimum density of 15 hh/ha. It submitted this better achieved efficiencies in coordination of land use and infrastructure, supported mixed use activities and multi-modal transport systems, and protected the productive rural land resource.
71. Mr Nicholson considered, on balance, it would be appropriate to increase the density to a minimum of 15 hh/ha in the northern portion of the site, given its proximity to the township's community and commercial facilities, with the 12 hh/ha retained in the southern part.
72. Ms Lauenstein agreed that the northern part of the site was a suitable location for a minimum of 15 hh/ha density due to its proximity to the walkable distance to the Town Centre, recreation facilities and schools and was capable of absorbing the potential effects.<sup>19</sup>
73. She considered that a 15 hh/ha minimum density does bring with it some changes to the residential character as it would likely introduce a larger amount of 2-3 storey town houses, duplex and terrace housing and possibly low-level apartment type buildings in a few selected locations. She recommended that to guide intensification on the northern part of the site to 15 hh/ha there would need to be strategic location of comprehensive medium density which should be placed adjacent to open and green space, and major movement corridors to provide easy access to open space and public transport. She noted that in addition the open space and wider road corridors provide a break in the built form and a sense of scale for the denser build environment.

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<sup>19</sup> Summary Brief of Evidence of Nicole Lauenstein 8 February 2022 at para [6.3]

*Finding*

74. In my view, the density proposed is appropriate. I rely on and accept the evidence of Mr Nicholson and Ms Lauenstein in relation to the minimum of 15 hh/ha in the northern part of the site and 12 hh/ha in the southern part.

Versatile Soils

75. CRC (PC71-0008) identified in its submission that the predominant LUC Class 3 classification of the site meant that the area would likely be identified as highly productive land under the pNPS-HPL. It also submitted that the Request was in conflict with Policy B1.1.8 of the SDP. The submission also identified the proposed policy UG-P9 of the PDP which seeks to recognise and provide for the finite nature of the versatile soil resource when zoning land to extend township boundaries.
76. Sam Carrick (PC71-0013) was a further submitter on the CRC submission. He sought that the CRC submission point on the importance of protecting highly versatile soils be accepted. He considered this to be an important reason for declining PC71.
77. Mr Mthamo provided comprehensive expert evidence on this issue. Overall he concluded that the site contained 51.85 ha of LUC Class 2 soils and 2.04 ha of LUC Class 3 soils. He confirmed that 17 ha of the 51.85 ha had been designated as FDA, leaving 31.85 ha of LUC Class 2 soils which he described as the total 'new area' potentially lost. He confirmed his opinion was that the use of the LUC classes in defining soil versatility is only a first step and where site-specific information is available, this is to be taken into account. He referenced the pNPS-HPL which, in his view, recognised that the use of LUC classes is only a starting point. He also identified and discussed Judge Treadwell's decision in *Canterbury Regional Council v Selwyn District Council*.<sup>20</sup> I accept that the comprehensive list of factors suggested by Judge Treadwell in determining versatility of soils is helpful.
78. I accept Mr Mthamo's evidence that the productive potential of land should not be based on the LUC classes alone and that there are other relevant factors that require consideration on a site-specific basis. The restraints identified by Mr Mthamo included soil moisture deficits given that Selwyn can have very hot and dry springs and summers and that moisture or irrigation was critical to support crop growth no matter how inherently fertile or productive the soils are.<sup>21</sup> He provided, in tabular form, information in relation to the monthly deficit moisture days, monthly mean moisture deficits and monthly maximum moisture deficits. Overall in relation to irrigation he considered the soils versatility and production potential was lower than the LUC classes suggest. He noted the lack of irrigation availability. He also identified the regional planning framework and particularly its restrictions on nitrogen application.

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<sup>20</sup> *Canterbury Regional Council v Selwyn District Council* [1997] NZRMA 25, Judge Treadwell

<sup>21</sup> Statement of Evidence of Victor Mkurutsi Mthamo 24 May 2022 at para [72]

79. Other factors identified included reverse sensitivity from the surrounding subdivisions and land fragmentation both on the site itself and the land surrounding it. He noted this was well documented to be a hindrance for intensive land use productivity.
80. Ms Aston relied on Mr Mthamo's evidence. She noted that 17 ha of the 51.85 ha had been designated FDA. She acknowledged the pNPS-HPL. She considered there was not a strong policy context supporting the protection of high quality soils and described the CRPS as being virtually silent in protecting them in Greater Christchurch. This reflected, in her view, the more holistic approach to managing soil resources in the RMA.<sup>22</sup> She identified Policy B1.1.8 and relied on Mr Mthamo's evidence in relation to the factors which told against the land being used productively. She identified these as including the lack of irrigation, reverse sensitivity effects, the relatively small area of LUC soils that would be foregone to accommodate housing, and the overall loss of productivity potential being insignificant.
81. Mr Langman considered that Ms Aston downplayed the importance of the soil resource. He accepted Ms Aston's evidence that part of the area had already been identified for urban growth through a strategic planning process but he noted that did not apply to a large portion of the land in the northern part of the plan change and under the airport noise contour.<sup>23</sup> He noted that cumulative impact of loss of finite soils over time to urban development could potentially be significant, referencing the discussion document on the pNPS-HPL. Overall, he considered that discussions regarding expansion onto highly productive land should be made following a strategic review of the development options across a district and sub-regional basis. He also noted that within Rolleston there were less versatile soils available in the western end.
82. Ms White identified Policy B1.1.8. She considered the loss to be a relevant factor to be considered in the overall assessment of the plan change but that it was not, of itself, sufficient to render rezoning inappropriate.

#### *Discussion and Findings*

83. Again versatile soils are an important issue. Policy B1.1.8 appears to be reasonably directive in its approach. It directs that the rezoning of land for new residential development is avoided if the land is appropriate for other activities and there are other areas adjoining the township that are appropriate for new residential development which do not contain versatile soils.
84. The explanation to that policy notes that the RMA does not recognise adverse effects of activities on soils as having primacy over adverse effects on other parts of the environment. In my view, neither the RMA, the CRPS or the SDP place primacy on soil protection over the other natural and physical resources which allow people and their communities to provide for the needs of current and future generations. That was identified in the SDC Baseline Assessment of Versatile Soils (DW015).

<sup>22</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [140]

<sup>23</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [145]

85. I note that Mr Mthamo carried out his assessment of the productive values of the land by, in essence, applying the list of factors that Judge Treadwell identified as being relevant in determining if land is productive.<sup>24</sup> He identified a number of factors relevant to this site which he considered would limit the productive use of the soil. The current use of a large part of the site is associated with the All Stars Racing Stable and its training track. From the evidence, it is my understanding that that activity is not dependent on the productive nature of the soils and can be relocated.
86. There are other locations around Rolleston, particularly on its western edges, which do not contain versatile soils. I note a number of sites along the western edge are subject to private plan change requests. While there is some tension with Policy B1.1.8, relying on Mr Mthamo's evidence in particular, the loss of versatile soils is not, of itself, sufficient to render rezoning inappropriate.

#### Landscape and Visual Impacts

87. While landscape and visual effects were not matters directly raised in any submission, they of course remain relevant.
88. The application was accompanied by a Landscape Matters and Visual Assessment prepared by Ms Lauenstein. For the purpose of that assessment, it was the combined ODP 4 and ODP 14 (5) which was determined to be the site. The existing site character was defined in the assessment noting that there were no natural landscape or heritage features on the site of any significance. The assessment addressed the landscape characteristics of the receiving environment including the residential developments to the west and to the north. The assessment included a number of mitigation measures which were identified and discussed. The assessment concluded that the proposed plan change site would naturally extend the existing residential development at Levi Road and Lincoln Rolleston Road respectively with similar density to that edge of the township.
89. In terms of visual amenity effects, the most significant effects without mitigation were identified as those to be experienced by the small rural lifestyle properties to the south and southeast of Nobeline Drive. In terms of residential neighbours, it considered there were no adverse effects on openness for most residents along Lincoln Rolleston Road and Levi Road as the views were largely blocked by the vegetation and shelterbelts but there would be a change from rural to suburban.
90. Ms Lauenstein addressed this topic in her evidence and in her Summary presented at the hearing. In terms of character and amenity, she considered PC71 to promote social interaction and neighbourhood cohesion through the inclusion of a variety of open spaces and neighbourhood reserves. She considered the integration of the green corridor and other green links contributed positively to the character and visual amenity of the street scape. She advised that sensitive responses were proposed. She did not consider there would be any adverse

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<sup>24</sup> *Canterbury Regional Council v Selwyn District Council* [1997] NZRMA 25

effects on the key characteristics of the Rolleston township noting that the surrounding land was zoned on two sides by urban residential land and on the other two sides by rural residential and a proposed future district park.

91. Mr Nicholson considered PC71 would have a moderate to low impact on landscape character reflecting the change from rural residential and rural landscape to a residential one. In terms of visual effects, he considered these would be on neighbouring houses, and the effects on those properties on Lincoln Rolleston Road, Levi Road and Nobeline Drive would be moderate to low. This reflected the setbacks and aspect, the existing hedges and shelterbelts, and the existing rural residential land use.

#### *Finding*

92. In my view, landscape and visual effects have been well considered and addressed in the application and in the evidence. Those matters are appropriately identified in the ODP plan and text and can be further addressed at subdivision stage.

#### Reverse Sensitivity

93. The issue of reverse sensitivity was raised by Paula (PC71-0001) in relation to residents being affected from motorcycle riding on her property. CIAL (PC71-0004) opposed the Request on the basis that it was contrary to both the SDP and the CRPS particularly in relation to noise sensitive activities within the 50 dBA Ldn air noise contour. This was raised on the basis of the need to reduce the number of occupants subject to higher noise sensitive levels and associated amenity effects and avoiding reverse sensitivity effects on the Airport. It submitted that the deferred zoning and further residential zoning prior to the remodelling being undertaken and completed would undermine the integrity of both the SDP and the CRPS. It also expressed concerns regarding the creation of expectations of residential development.
94. CRC (PC71-0008) also identified that a third of the site was located within the noise contour. It acknowledged the work being undertaken to remodel the contours but considered the deferred status for urban development under the existing contours was presumptuous given that it had not been completed and that the matter was better considered as part of the full review of the CRPS.
95. Foodstuffs (PC71-0009) submitted that the proposed changes in PC71 would create an unanticipated and significant change in the environment surrounding its land, which would have adverse effects given its intended use for a non-residential activity. The adverse effects of PC71 on the submitter (and including particularly reverse sensitivity) were not appropriately provided for in PC71.

#### *Analysis*

96. In terms of the matters raised by Paula, I agree with Ms White that residential zones adjoining rural zones is extremely common and while the plan change alters the current location of the



interface, there is nothing particular about either the site or the surrounding rural use that warrant either declining the Request on the basis of potential reverse sensitivity effects arising in relation to existing rural activities, or requires particular mitigation at the site. Again as noted by Ms White, the southern part of the site is identified as an FDA and within the UGO in the PDP.

97. In relation to the Foodstuffs submission, Mr Cleary advised in his closing submissions that the Applicant had reached an agreement with Foodstuffs South Island Limited which would incorporate a package of measures to address the interface between the respective sites should consent be granted for a Pak n Save supermarket. In light of that he considered it was no longer necessary to address me on the issue of the weight to be given to the consent application lodged with SDC. In those circumstances, I simply note that it would be somewhat novel to rely on reverse sensitivity effects on a proposal which was still subject to notification, submissions and hearing.

*CIAL – Contours*

98. Mr Cleary submitted the contour should not be determinative, particularly as it is based on outdated analysis and information. Mr Cleary submitted further that to the extent that the contour should be considered a constraint, which is not accepted, it is temporary only. He submitted that in reliance on the best and most current information available, the Applicant says there is a very high probability that the constraint will disappear in the very near future.
99. Mr Cleary submitted, consistent with the position he advanced in relation to other prescriptive objectives and policies in the CRPS, the blanket avoidance policy (CRPS 6.3.5.4) needs to be evaluated in light of the provisions of the NPS-UD and it should not be determinative of the outcome. He submitted that the best available information demonstrated the analysis underpinning the contour is out-of-date, inaccurate, and therefore entirely unreliable. He submitted further that the best available information supports a clear conclusion that the land will not be affected either by the level of movements anticipated in 2008, or the revised ultimate runway capacity figure of 200,000 used as the basis for remodelling the contours.<sup>25</sup>
100. Mr Cleary spent some time discussing the 2008 contour modelling exercise and submitted that it had proven over time to be wildly inaccurate. He advised that the aircraft movements predicted by CIAL in developing the contour had “quite simply failed to materialise”. He submitted there was no evidence that future landowners would have their amenity affected to an extent that would lead to complaints against the Airport and that the concept of reverse sensitivity which underpins the prescriptive policy approach in 6.3.5.4 would “simply not materialise”. He submitted that CIAL and its witnesses were relying on a policy based on an outdated technical analysis and the development of the site would not “... affect the efficient operation, use, development ...of the Airport”.

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<sup>25</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [6.6]

101. Mr Cleary submitted the Applicant had adopted a deferred zoning in light of the then information as to the prospects of the contour lines moving and while that remained an option, it was now suggested that the deferral could be removed as soon as the upcoming peer review report confirms the 50 dBA contour no longer applies to any of the PC71 land, or alternatively, the affected land could be rezoned now with a consenting mechanism in place which ensures the status/implications of the contours can be addressed at the subdivision stage. This could include either a non-complying activity rule or a restricted discretionary activity rule, with preference being for the latter.<sup>26</sup>
102. Ms Aston addressed the planning aspects in her evidence at some length. She also addressed it in her comprehensive summary provided and read at the hearing. She noted the area subject to the 50 dBA Ldn noise contour had a potential yield of 220 of the total approximately 660 plus dwellings which would be enabled by PC71. She considered the PC71 process was part of a “fluid statutory planning environment” where a mix of outdated documents and airport noise contours, other planning processes that are underway, and recently proposed new legislation, can cloud the decision-making process.
103. Ms Aston accepted the evidence of Ms Blackmore and Mr Bonis in terms of Christchurch International Airport being vital to the economic performance of Christchurch, Canterbury and New Zealand as a whole, and she did not dispute that the Airport is strategic infrastructure as identified in Policy 6.3.5.4 of the CRPS and nationally significant infrastructure in terms of the NPS-UD.
104. She considered the resource management issue here was one entirely of process and timing. Within the context of the current housing crisis, she identified the issue as whether the deferred zoning of land affected by the contour (or alternatively rezoning the contour affected land now and making development subject to a resource consent where the result/implications of the peer review exercise can be taken into account) is the most efficient and effective method of achieving the purpose of the RMA. She identified that a non-complying activity status had been proposed but, in her view, a more targeted restricted discretionary activity status would be appropriate given the single issue and nature of the constraint. She considered that the outcome sought by the CRPS in relation to the protection of the safe and efficient operation of the Airport could be safeguarded by either option.
105. Ms Aston spoke to the process and her understanding that there were three sequential processes to be completed before CRC and CIAL would agree to the land under the 50 Ldn contour being considered for rezoning. The first was the technical process where the noise remodelling is carried out, peer reviewed and reported to CRC. This is set out in Policy 6.3.11 of the CRPS. The second process in the sequence she described is the statutory process leading up to the review of the CRPS. Ms Aston advised that she had heard anecdotally that would be notified in December 2024. If the revised airport noise contours were included in the CRPS review and/or used for guidance and/or a directive matter to be taken into account in

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<sup>26</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [7.11]

determining suitable urban growth areas, experience says this would likely be contentious, drawn-out and with potential to cause delays. She identified that she was aware of parties who favour the urban growth restrictions applying at 55 not the 50 Ldn contour, and her expectation was that this could take a significant time to resolve.

106. Ms Aston described the third process in the sequence as the inserting of the contours into the district plan and amending the zoning to enable development within suitable areas no longer affected by the contour. If SDC notified a plan change to give effect to the CRPS review, that would potentially be a significant change as it would basically be a reset of the urban growth framework for the district. Again, she considered there was likely to be a high level of submitter interest and would take some time to progress through the statutory process.
107. Overall, she considered the above process did not amount to a responsive process within the context of Rolleston's housing market nor one that would achieve integrated management of the effects of the use, development or protection of land as required under s31. At best, she considered it would leave two isolated and disjointed blocks of land and a large public space without access, and at worst no land could be rezoned in a way that could be efficiently serviced in the long term.
108. Ms Aston identified and discussed the key policies being CRPS Policy 6.3.5.4 and SDP Policies B4.4.3.71 which is to avoid rezoning land for new residential development in an area shown under the contour. She noted Policy B2.1.26 which is to avoid new residential development and other noise sensitive activities occurring on land which is located underneath the airport flightpath noise contour shown on Planning Map 013 for 50 dBA Ldn or greater. Ms Aston considered that PC71 did not conflict with Policy B4.4.3.71 as the deferred zoning was not "providing for residential development under the current noise contour". The activity would remain restricted discretionary or non-complying until such time as the Expert Panel findings were public. Again she considered this to be an integrated approach but would only enable residential development once the Expert Review Panel confirmed the contour no longer applied.
109. She considered a responsive approach was enabling the rezoning now subject to a rule which focused on the single issue. Ms Aston did not accept Mr Bonis' expectation for development view. Finally Ms Aston identified that it was open to me to defer a decision on PC71 land under the noise contour until the Review Panel findings on the remodelled contours were made public and if the contours no longer affected the site there would be no need to delay zoning.

*Findings in relation to reverse sensitivity effects raised by CIAL and CRC*

110. In terms of the noise contour, that raises issues of some complexity and it is difficult to address it purely as a reverse sensitivity effect. As it stands, the central area of ODP 14 remains under the 50 dBA Ldn airport noise contour. The evidence is clear that the contour is undergoing review but it remains in place.

111. Under the current planning framework, both the SDP and the CRPS contain clear and directive avoidance policies in relation to residential activities under the contour. PC71 as notified did not request any changes to the relevant SDP policies.
112. There was considerable evidence from Ms Aston on the merits of the contour. This was also a focus of Mr Cleary's submissions. I do not consider this to be the correct forum for assessing the merits or otherwise of those planning provisions. In my view, the issue is what is the most appropriate method to achieve or give effect to the policy framework. That is, whether the parts of the site under the contour should remain rural; subject to a deferred zoning; be rezoned to LZ with non-complying or restricted discretionary activity rules; or, as raised by Ms Aston, deferring a decision on that land until the Review Panel findings on the remodelled contours are public. I will address those issues, and the evidence and submissions from the opposing submitters, in my subsequent s32 discussion and analysis of the relevant planning documents.

#### The Form of Urban Growth

113. As noted by Ms White, a number of submitters raised concerns in relation to the form of urban growth from the perspective of inconsistency with the UDS, CRPS and NPS-UD.<sup>27</sup> From a merits perspective, Mr Nicholson considered that the *"proposed plan change area is an appropriate location for urban growth linking Rolleston with the district-wide reserve to the east, and rezoning a block of rural land which has existing residential land to the north and west"*.<sup>28</sup> I also note Mr Nicholson's report and evidence that if the noise contour remains, it is still appropriate for the remainder of the site to be rezoned and considered that it would promote a more compact urban form and more efficient use of land and infrastructure given the proximity of the site to the centre of Rolleston and adjacent residential areas.<sup>29</sup> As noted by Ms White, the site is located closer to the Town Centre than many other development areas identified in both the operative and proposed district plan.
114. Mr Nicholson confirmed in his summary presented at the hearing his view that a spatial planning exercise was unlikely to reach a different conclusion with regard to the use of this land, given the 50 dBA noise contour, together with the new district park proposed in the RSP, set the parameters for the urban form of this part of Rolleston.<sup>30</sup>
115. Similar to Mr Nicholson, Ms Lauenstein considered the proposal could be considered in part as infill development and in part as greenfield development within an FDA. She considered it to be an important part to complete a gap in the urban form of Rolleston noting that it would link the existing Rolleston township and the proposed district park to the east.
116. I accept the expert evidence of Mr Nicholson and Ms Lauenstein in regard to this issue. The rezoning of the site, either in whole or in part, will ultimately contribute to a compact and appropriate urban form for Rolleston.

<sup>27</sup> CCC (PC71-0007), Waka Kotahi (PC71-0006); CRC (PC71-0008) and Foodstuffs (PC71-0009)

<sup>28</sup> Hugh Nicholson Report 17 January 2022 at para [2.6]

<sup>29</sup> Hugh Nicholson Report 17 January 2022 at para [2.6] and [5.13]

<sup>30</sup> Summary of Hearing Report of Hugh Anthony Nicholson 10 February 2022 at para [1.2] and [1.4]

#### Geotechnical and Contaminated Land Considerations

117. The Request included a geotechnical assessment of the appropriateness of the land for residential development and a Preliminary Site Investigation (PSI). This was peer reviewed by Mr Ian McCahon of Geotech Consulting Limited who agreed that there was minimal to no liquification potential of the site, that the land was equivalent to TC1 technical land classification, and that the report was sufficient for a plan change. As advised by Ms White, the PSI had been reviewed by the Contaminated Land Team at CRC.
118. I accept Ms White's conclusion that on the basis of the technical reports and peer reviews, there are no geotechnical or contaminated land issues that preclude the rezoning of the site for residential purposes.<sup>31</sup>

#### Other Matters

119. Ms White identified the submissions of Paula (PC71-0001), which queried the timing of the development; I & B Court (PC71-0005) who supported it but sought clarification in relation to ODP services and roads and deferral timeframe; and CCC (PC71-0007) which referred to the Social and Affordable Housing Action Plan. Further, Foodstuffs (PC71-0009) considered that PC71 would create an unanticipated and significant change to the environment surrounding the property and that the proposed changes to ODP Area 4 were not feasible given their intended use of the property.
120. I accept Ms White's analysis and conclusions at paragraph [106] – [109] of her s42A Report and conclude that none of the "other matters" raised are such as to render the proposed rezoning inappropriate.

#### Conclusion On Effects and Other Matters Raised in Submissions

121. Overall, having considered all of the submissions, the evidence and the reports, there is nothing which has been raised which renders the rezoning of at least parts of the site inappropriate, or that retaining of the present zoning over the whole site is the most appropriate method.

#### **Statutory Analysis**

122. I have identified the statutory framework in paragraphs [15] to [17] above. I do not repeat those paragraphs here.

#### **Functions of Territorial Authorities**

123. Ms White identified the relevant functions of territorial authorities pursuant to s31.

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<sup>31</sup> s42A Report 17 January 2022 at para [101]

124. SDC has the function of the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the District; the establishment, implementation and review of objectives, policies and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the District; and the control of any actual or potential effects of the use, development or protection of land, including for the specified purposes.
125. Ms White considered that both the current zoning and the proposed zoning accorded with the functions of SDC in terms of management of effects. She considered the plan change was “not necessary” to provide sufficient housing development capacity and therefore it was not necessary for SDC to meet this aspect of its functions under the RMA. She noted, for the avoidance of doubt, the proposal was not inconsistent with this function.
126. I do not consider that s31 requires that the plan change be necessary to provide sufficient housing capacity. The issue is whether it accords with and assists the local authority in carrying out its functions. In a general sense I consider it does.

#### **Statutory Documents**

127. Ms White again identified that the district plan must give effect to any operative national policy statement (s75(3)(a)) and any regional policy statement (s75(3)(c)); have regard to any management plan or strategy prepared under other Acts (s74(2)(b)(i); take into account any relevant planning documents recognised by an iwi authority and lodged with the territorial authority (s75(2A)); and not be inconsistent with any regional plan (s75(4)(b)).

#### **NPS-UD**

##### Responsive Planning

128. As has been the case in a number of other proposed private plan changes, the relationship between the NPS-UD and the CRPS has been identified as an issue. I have addressed this in various recommendations including PC67, PC69 and PC73. Again, to summarise the issue, it is essentially whether the avoidance objective and policies in the CRPS, implemented by Objective B4.3.3 and Policy B4.3.1 of the SDP, mean that the proposal must be declined, or, whether the NPS-UD responsive planning provisions offer a pathway whereby appropriate plan changes can be approved.
129. This was the subject of detailed submissions from Mr Wakefield on behalf of CCC and CRC and Mr Cleary for the Applicant. I have considered those submissions in full.
130. Mr Wakefield identified the central concerns for CCC and CRC were that:
- (a) The Request did not qualify for consideration under the responsive planning framework under the NPS-UD; and

- (b) PC71 was either inconsistent with or contrary to a number of the important policy directions in the CRPS.

131. Mr Wakefield noted that the CCC/CRC position on the approach to reconciling and applying the NPS-UD and the CRPS has been traversed through earlier private plan change hearings and through the PDP review hearings to date and relied on those submissions to the degree relevant. Mr Wakefield was conscious of avoiding repetition of the earlier submissions that he had made on PC67, PC69, PC72 and PC73. He focused his submissions on responding to matters raised by Mr Cleary.
132. Mr Cleary submitted that given the NPS-UD post-dates both the CRPS and the SDP, care must be taken to ensure prescriptive objectives and policies within those subordinate documents are not interpreted or applied in such a manner as to prevent private plan change applications being considered on their merits. He considered that the requirement to variously give effect to or implement such provisions must be read or interpreted in this light.<sup>32</sup>
133. Mr Cleary submitted that reduced to its simplest form, the key legal issue raised in submissions and evidence was whether or not the responsiveness provisions of the NPS-UD can be reconciled with Chapter 6 of the CRPS. He identified the responsiveness provisions as Objective 6(c) and Policy 8. He submitted the implementation of Objective 6(c) and Policy 8 was addressed in Subpart 2 – Responsive Planning. He referred expressly to Clause 3.8 which provides:
  - (1) *This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.*
  - (2) *Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:*
    - (a) *would contribute to a well-functioning urban environment; and*
    - (b) *is well-connected along transport corridors; and*
    - (c) *meets the criteria set under subclause (3);*
  - (3) *Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.*
134. Again Mr Cleary identified the “contest” as between those provisions and the prescriptive objectives and policies of Chapter 6 which entrench a “hard limit” approach to urban development in Greater Christchurch. Mr Cleary identified CRPS Objectives 6.2.1 and 6.2.2, Policy 6.3.1 and Policy 6.3.5.
135. Mr Cleary’s submissions on this issue were comprehensive. He addressed the background to the NPS-UD, its development and the Minister’s decision. He submitted that the full rationale

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<sup>32</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [2.2]

behind its development by both the MfE and the Ministry for Housing and Urban Development could be found in *Planning For Cities – A discussion document on a Proposed National Policy Statement on Urban Development* (August 2019). Mr Cleary identified that the Ministers' opening message pointed to a "startling array" of indicators that there was a problem and as a consequence there was a need for urban land and housing markets to work better and be more competitive by significantly increasing the number and type of development opportunities to the market.

136. Mr Cleary referred to various excerpts from the discussion document including "*urban land markets that do not enable housing development to keep up with growth and ensure land is affordable ...*"; and the need to "*remove unnecessary restrictions on development to allow growth up (e.g., higher density housing near existing services and infrastructure) and out (e.g., well connected houses in greenfield areas with good infrastructure)*".<sup>33</sup>
137. Mr Cleary identified the greenfield growth aspects of the discussion document which identified that to meet growth requirements local authorities may need to provide for growth out as well as up. It further identified that an important part of this work is to ensure outward development is managed in the best way possible to deliver quality urban environments, while being responsive to development beyond areas planned for.
138. Mr Cleary then addressed the *Recommendations and decisions report on the National Policy Statement on Urban Development, Wellington: Ministry for the Environment and the Ministry for Housing and Urban Development* which was released in July of 2020. He discussed Chapter 12 of the decision document which addresses responsive planning. He emphasised the conclusions in relation to the responsiveness policy. He highlighted the key aspects including that the responsiveness approach would address the possibility raised by submitters and the Panel for local authorities to entrench hard urban growth boundaries in their RPSs which could undermine the intent of the NPS-UD, because RPSs are not subject to private plan changes under the RMA.
139. He submitted that the proper interpretation of the prescriptive CRPS policies in light of the NPS-UD is that they can no longer act as an unresponsive veto or barrier to the assessment of private plan changes of the type which local authorities must have particular regard to (i.e. they must be given genuine attention to).<sup>34</sup> Mr Cleary submitted that Policy 8 should be read in the context of the purpose behind the NPS-UD which had been developed to address the Government's stated priority to address the housing market and the issues that were "so obviously present".<sup>35</sup> He identified Objective 1, Objective 2 and Objective 3 as giving expression to that purpose, together with Policy 1 and Policy 2. Mr Cleary referred to the opinion provided by Adderley Head to SDC on 13 September 2021 and particularly paragraphs [46] and [47] of that opinion. He considered those paragraphs "neatly encapsulate" how the

<sup>33</sup> Planning for Successful Cities – page 8

<sup>34</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [4.19]

<sup>35</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [4.21]



responsiveness provisions are to be regarded as a more agile tool for responding to urgent land supply issues. This, Mr Cleary submitted, was in contrast to strategies and plans which by their very nature can take many years to develop.<sup>36</sup>

140. Mr Wakefield, in his response, submitted that the responsive planning provisions are in effect non-substantive. They open the door but do not provide all answers in terms of whether a proposal should be accepted or not on their merits.
141. He clarified that it was not his submission that any plan change requests outside of Map A should not be considered. He noted that SDC's acceptance of PC71 and others for processing appears to be consistent with the intention of the responsive planning provisions in the NPS-UD by requiring consideration of out-of-sequence or unanticipated development.
142. He submitted that neither Policy 8 nor the balance of the NPS-UD give rise to any presumption of acceptance of PC71 on its merits. Instead, he submitted decisionmakers on any plan change are required to consider the statutory framework, the language used in the relevant provisions and then reach a view as to how to reconcile those provisions. If the decision is to recommend approval, that would, in his submission, be in the knowledge that the SDP would end up non-compliant with the CRPS.
143. He responded to Mr Cleary's submission that the CRPS provides the "foundation for future growth" but that the NPS-UD provides the more fulsome "articulation in terms of how growth is to be enabled through a range of plan changes and processes". Mr Wakefield noted that the NPS-UD is a higher level document that is expressed at a greater level of abstraction than the CRPS. He submitted the CRPS provided the more directive regional and sub-regional provisions that deal with a multitude of RMA issues, not only limited to urban growth as per the NPS-UD. He submitted that there was no provision in the NPS-UD that directs the enablement of development by way of plan changes or other processes, and any plan change process will engage all relevant RMA matters and the relevant statutory framework.
144. He submitted that the NPS-UD and the CRPS could be reconciled together with an additional local authority decision by either SDC or CRC or both required before this or any other plan change can be approved in a way that satisfies s75(3).
145. Mr Wakefield also advised that CCC and CRC have considered a contingent or deferred approval of PC71 pending a change to the CRPS but identified issues with that approach, particularly that it would involve an approval that was meaningless until a statutory decision is made by a different local authority (CRC) with no certainty that PC71 could ever be implemented until after that decision had been made. This would create potential uncertainty for plan users, the community, the landowner, SDC and other key stakeholders.
146. Mr Wakefield submitted that Policy 8 opened the door and provided a pathway (which he described as an administrative pathway) that provided for the assessment of plan changes on

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<sup>36</sup> Submissions on Behalf of Four Stars Development Limited and Gould Developments Limited 8 February 2022 at para [4.25]

their merits against a statutory framework but recorded that the *“problem that we are facing in this instance is that the decision that needs to be made at the end of that process runs foul of the regional policy statement and its highly directive avoid framework”*. Mr Wakefield’s submission went on to state that there is no presumption through Policy 8 or the NPS-UD that accepting it for processing means that it is also able to be granted on its merits.

147. Mr Cleary, in his submissions in reply, submitted that to accept such a proposition would render Policy 8 of the NPS-UD functionally meaningless or impotent, referring to my earlier conclusion in my Recommendation on PC67 where I recorded that Policy 8 specifically addresses responsiveness to plan changes, must be given some meaning, and that “unanticipated” must be read to include circumstances where planning documents (here the CRPS as reflected in the SDP) contain avoidance objectives. I concluded that development in the areas outside of those identified in Map A is clearly “unanticipated” and concluded that to read otherwise would amount to a significant watering down, or even undermining, of the responsiveness provisions of the NPS-UD.

#### *Findings*

148. I do not intend to unnecessarily lengthen this Recommendation by recording my full analysis and reasoning. For the reasons expressed in earlier plan change hearings and summarised in my conclusion in PC67 which is referred to above, I remain of the view that the NPS-UD and Policy 8 and associated provisions provides jurisdiction to consider, and, if appropriate, approve qualifying plan changes on their merits. Again by the use of the word “qualifying”, I am referring to plan changes which contribute to well-functioning urban environments, provide significant additional development capacity, and meet the other relevant objectives and policies of the NPS-UD.
149. I record that I have been assisted in my consideration of this issue by the planning evidence of Ms Aston and Mr Langman in particular. I also note that while the evidence of Mr Bonis recorded that he did not assess the issue, in his summary of evidence he noted that the NPS-UD was gazetted after the CRPS and operative plan but both the CRPS and the operative plan remained relevant as part of the framework that should be considered. He agreed with Ms Aston that Policy 8 of the NPS-UD opens the door but in his view, it was not ultimately determinative alone in terms of whether the plan change should be approved in full, in part or rejected.
150. I agree that Policy 8 is not “ultimately determinative alone”. There was a degree of commonality in the submissions and planning evidence in that regard. Overall I consider that Policy 8 and the relevant provisions of the NPS-UD do provide a pathway for unanticipated or out-of-sequence plan changes to be fully considered. The difference between CCC/CRC and the Applicant (and others) was where that pathway can ultimately lead. I consider, having considered the text, the purpose, and the context of the responsive planning provisions of the NPS-UD, that appropriate qualifying plan change requests can be approved on their merits notwithstanding the avoidance objectives and policies in the CRPS and the SDP. The ability

to act in a responsive manner would be severely curtailed in Greater Christchurch if I were to find otherwise. The NPS-UD is a higher order document and is later in time.

#### NPS-UD Assessment

##### *Planning Evidence*

151. Ms White addressed the NPS-UD in her s42A Report in some detail.<sup>37</sup> She noted the Applicant had identified the provisions within the NPS-UD they considered to be relevant and that the Request included an assessment as Appendix 20. Ms White summarised that assessment and the Applicant's position before identifying the submissions where the NPS-UD had been raised. These included Waka Kotahi (PC71-0006), CCC (PC71-0007), CRC (PC71-0008).
152. It was also identified as an issue by CIAL (PC71-0004) in its submission, submitting that it was not in accordance with the NPS-UD and in particular it did not meet the criteria for consideration of out-of-sequence plan changes contained in Policy 8, and that out-of-sequence zoning of land under the air noise contour would not contribute to a well-functioning urban environment. CIAL also lodged a further submission in support of the CRC submission points and further supported the submission of CCC. It largely supported CCC's submission points other than those in relation to an increased minimum density.
153. Ms White addressed Policy 1. She considered that the Request would enable a variety of homes to meet the needs of different households and would support the competitive operation of land and development markets.<sup>38</sup>
154. In terms of accessibility for all people between housing, jobs, community services, natural spaces and open spaces, including by way of public or active transport, she shared the concern expressed by some submitters that the proposal would provide limited accessibility between the proposed housing and *jobs* (her emphasis) by way of active transport. That was as a result of her understanding that there were not enough employment opportunities within Rolleston itself for the additional households created by the plan change. The distance to employment opportunities in Christchurch would therefore mean active transport opportunities were not practicable. She accepted that the changes suggested by Mr Collins and Mr Nicholson in relation to active transport options would ensure active transport accessibility between the site and local jobs and facilities.
155. She also agreed with concerns raised by submitters that the proposal may not support reductions in greenhouse gas emissions as it would introduce additional households into the area that is dependent on private vehicle movements. It was her view that the same situation arose in relation to existing zoned land or land identified for future development and was not a particular feature of the Request. She therefore did not consider the proposal to be contrary to Policy 1 in that regard.<sup>39</sup>

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<sup>37</sup> s42A Report 17 January 2022 at paras [115] – [137]

<sup>38</sup> s42A Report 17 January 2022 at para [125]

<sup>39</sup> s42A Report 17 January 2022 at para [127]

156. Ms White addressed accessibility by public transport. She addressed Objective 6 and the integration of local authority decisions on urban development that affect certain developments being integrated with infrastructure planning and funding decisions, strategic over the medium term and long term, and responsive in relation to proposals that would supply significant development capacity. She identified various directions in Part 3. These included what Ms White described as Policies 3.2, 3.5 and 3.8. I will refer to those provisions as clauses.
157. Overall, Ms White concluded that, on balance, particular regard must be given to the development capacity provided by the proposal. She recorded her understanding that development capacity did not of itself act as a “trump card” and automatically require approval of the plan change; rather the significance of the capacity provided needed to be weighed up against other matters.
158. Addressing capacity, she considered and discussed the Memorandum on “Growth Planning in the Selwyn District” 19 August 2021 which had been prepared by Mr Ben Baird. She noted that Memorandum outlined the various strategic documents prepared over the last 15 years and how that influenced the growth in the District and the identification of areas intended for growth. Ms White emphasised that the various growth planning documents seek to provide consolidated and compact settlement patterns which are integrated with infrastructure, and that there is a preference for providing capacity in Rolleston.<sup>40</sup>
159. Overall it was her view that the rezoning of that portion of the site outside the FDA was not required in order to give effect to the minimum requirements of the NPS-UD, nor had it been considered necessary in more localised assessments of capacity and planning for growth. It was her view that the portion of the site located within the noise contour had not been considered for growth because of the application of those contours. Regarding the northern portion of the site not affected by the contours, while she considered it was not required to meet NPS-UD capacity directives, the rezoning was consistent with the provision of additional capacity in Rolleston and would contribute towards achievement of the outcomes sought with respect to Rolleston.<sup>41</sup>
160. Ms Aston’s ultimate opinion was that PC71 gives effect to the NPS-UD. She considered it would help provide a variety of homes to meet estimated market demand for feasible development capacity, its development was within the medium-term timeframe provided for in the CRPS, and would support the competitive operation of land and development markets both within Selwyn District and the Greater Christchurch subregion. Ms Aston identified and responded to the matters raised by CCC/CRC noting that she did not rely entirely on Policy 8 as part of the site was not unanticipated or out-of-sequence given its identification as an FDA. Ms Aston’s evidence provided, as Appendix 2, an updated assessment of the NPS-UD objectives and policies. That assessment was provided in tabular form and provided a comprehensive summary.

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<sup>40</sup> s42A Report 17 January 2022 at para [136] referencing Mr Baird’s Memorandum at para [69] and Our Space at page 28

<sup>41</sup> s42A Report 17 January 2022 at para [137]

161. Mr Langman again provided comprehensive evidence in relation to the NPS-UD. In his summary he confirmed his opinion remained that PC71 did not provide for significant development capacity; that sufficient development capacity had been identified to meet expected housing demand over the medium term for the Greater Christchurch urban environment; and the proposed housing typologies did not go far enough to align with the housing needs stated in the 2021 HCA. He considered it would not contribute to a well-functioning urban environment that is well connected along transport corridors.
162. Mr Langman identified that the NPS-UD contains 8 objectives and 11 policies, none of which are expressed to have priority over another. He also noted that the NPS-UD sets out the implementation of the objectives and policies in Part 3, providing for implementation methods set out at 3.3 – 3.38.
163. He identified the key issues related to Objective 1 and its requirement in relation to well-functioning urban environments. He also identified and discussed other objectives and policies which he considered to be of particular relevance. This included: Objective 2 – that planning decisions improve housing affordability; Objective 3 – enable more residents and jobs in areas of an urban environment in or near employment centres, (and/or) well-served by existing or planned public transport, (and/or) where there is high demand relative to other areas.
164. He also identified Objective 6 – decisions on urban development are integrated with infrastructure planning and funding, strategic over the medium term and long term, and responsive to significant development proposals; Objective 8 – urban environments support reductions in greenhouse gas emissions and are resilient to the effects of climate change.
165. In terms of the policies, he identified Policy 2 – sufficient development capacity to meet expected demand; Policy 6 – particular regard to the planned urban built form anticipated by RMA planning documents, the benefits of changes resulting from urban development, and relevant contribution to provide or realise development capacity; and Policy 8 – responsiveness.
166. For completeness, Mr Langman also identified Policy 10 – local authorities that share jurisdiction over urban environments work together and engage with infrastructure providers to achieve integrated land use and infrastructure planning.
167. Mr Langman discussed Clause 3.2.2 which directs that at least sufficient development capacity is provided to meet expected demand with ‘sufficient development capacity’ being defined. Secondly, in relation to Policy 8 he identified Clause 3.8 which requires local authorities must have particular regard to the development capacity provided by the plan change only if the development capacity:
- (a) Would contribute to a well-functioning urban environment; and
  - (b) Is well-connected along transport corridors; and

- (c) Meets the criteria set out in a regional policy statement that determine what plan changes will be treated as adding significantly to development capacity. He recognised that CRC has not formulated and included the criteria in the CRPS in response to Clause 3.8(3).
168. Mr Bonis focused on the matters he saw as being particularly relevant to CIAL including the recognition provided in Clause 3.32(c) as a qualifying matter for the application of Policy 3/Policy 4 which seeks to otherwise enable further development capacity. He discussed Objective 1. He acknowledged the housing capacity enabled by PC71 would provide additional housing capacity but noted the CRPS identified areas where additional capacity should be provided first through GPAs and FDAs, neither of which applied to the land within the 50 dBA Ldn air noise contour. He identified Objective 6 in relation to integrating with infrastructure planning and funding. In discussion, Mr Bonis also queried, given the number of private plan change requests in Rolleston, whether there was any shortage in development capacity.
169. Mr Allan again focused on provisions which were most relevant to Foodstuffs' concerns. He identified Objective 1, Objective 7 and Policy 1(d) in particular.
170. Having considered the submissions and evidence, I consider that the key issues identified are:
- (a) Will the plan change add significantly to development capacity?
  - (b) Is there at least sufficient development capacity to meet expected demand as required by Policy 2?
  - (c) Will the plan change contribute to well-functioning urban environments?
  - (d) Will development capacity enabled by the plan change be well connected along transport corridors?
  - (e) Can it be integrated with infrastructure planning and funding, and can it be strategic and responsive?

*Will PC71 add significantly to development capacity?*

Applicant's Evidence

171. Mr Ballingall addressed this question in his evidence in chief and in his summary presented at the hearing. In his summary, Mr Ballingall advised that he had used a figure of 660 dwellings proposed under PC71 to inform his analysis but that he had since been advised that, based on a rough updated calculation by Mr Salmond, the land in question could yield up to 715 dwellings if the northern portion of the site increases from 12 hh/ha to 15 hh/ha. He noted that would drop to a minimum of 540 dwellings if the "correct area" under the noise contours was deferred. In his opinion, a yield of between 540 to 715 dwellings was clear evidence that PC71

would make a significant contribution to dwelling supply in Selwyn in the medium term (2021-2031).<sup>42</sup>

172. In response to Mr Langman's evidence, Mr Ballingall stated that it appeared, at least until further guidance is provided, significance was in the eye of the beholder. He confirmed his view providing dwellings for between 540 and 715 families seeking a home in Selwyn is "certainly significant".<sup>43</sup> He advised that the 540 to 715 dwellings now proposed would account for between 4.7% and 6.2% of the new Selwyn District supply from private plan changes that Mr Langman had identified in his table at paragraph [79]. He considered 4.7% to 6.2% to be a "significant" share given that PC71 is within Rolleston where the highest demand is evident.
173. Ms Aston responded to the CCC submission in relation to the need for significant development capacity to be considered in the context of Greater Christchurch. It was her opinion that such an interpretation could lead to perverse results. She provided an example of Christchurch City's theoretical long term capacity of 60,700 creates a surplus of 46,766 households for Greater Christchurch and would mean that there was no need for any more capacity in the other two districts. In her view, meeting housing demand needed to be more nuanced in terms of market dynamics at a localised level.<sup>44</sup>
174. Ms Aston noted that the NPS-UD's requirement is that district plans of each district must enable at least sufficient capacity. It was her view that significant development capacity should be considered in the context of each township and the particular context in which it is provided. She considered that approach was likely to lead to a number of development areas around Greater Christchurch providing greater locational choice, increasing competition, and minimising effects on infrastructure. It would also enable more developers to enter the market which would provide a greater likelihood of housing being delivered. She also considered that approach would lead to broader support for local businesses and social infrastructure and thereby contribute to the social and economic wellbeing of a greater cross-section of communities.
175. In responding to Mr Langman's evidence, Ms Aston confirmed her view that it is appropriate to consider Greater Christchurch as the urban environment for the purpose of the subregional land use and transport integration, and scenario development for the purpose of growth allocation, but it made little sense, in terms of being responsive to short and medium term housing needs and providing a competitive development sector, to consider significant development at that high level.<sup>45</sup> Ms Aston discussed the MfE guidance on factors to consider when assessing this issue. She noted that one of the factors identified was significance of scale and location. In that context, she advised it would help address the shortfall in development capacity to meet short and medium term housing needs in Rolleston. She recorded that not all FDA land at South Rolleston is likely to be available for some time noting

<sup>42</sup> Summary Evidence of John Ballingall 8 February 2022 at para [12]

<sup>43</sup> Summary Evidence of John Ballingall 8 February 2022 at para [20]

<sup>44</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [104]

<sup>45</sup> Summary Evidence of Pauline Fiona Aston 9 February 2022 at para [22]

that around 20-25% of that area was not the subject of rezoning submissions or private plan change requests. She also addressed the fulfilling of identified demand criteria. She considered that was clearly established on the evidence of Mr Ballingall and Mr Kennard.

176. Mr Langman confirmed his opinion that the relevant urban environment context in which significant development capacity should be considered is Greater Christchurch. He also noted that a portion of the quantum (220) may be unable to be realised and is dependent on a separate planning process, and that the remaining 440 households proposed was not considered to meet a threshold of significant in the context of Greater Christchurch and would not make a substantial contribution to the housing bottom lines.

#### Assessment

177. I have carefully considered this issue and the evidence and submissions made. The criteria guidance notes provided by MfE are helpful.<sup>46</sup> I consider that assessing criteria only by reference to Greater Christchurch would require plan changes to meet an unreasonable threshold and would risk undermining competitive land markets. I consider that a more nuanced approach is available to decisionmakers in determining significance. There are a number of policies within the NPS-UD which indicate this. For example Objective 3 is to enable more people to live in, and more businesses and community services to be located in, areas of the urban environment which one or more of the following apply:

- (a) It is in or near a centre zone or other area with many employment opportunities;
- (b) The area is well serviced by existing or planned public transport; and
- (c) There is a high demand for housing or for business land in the area, relative to other areas within the urban environment.

178. Policy 1 itself identifies urban environments are to have, as a minimum:

- (a) *Have or enable a variety of homes that:*
  - (i) *Meet the needs, in terms of type, price, and location, of different households;*

179. I agree with Ms Aston that the NPS-UD's requirement that district plans of each district must enable at least sufficient capacity is relevant to the determination of context. All of the matters that I have addressed above indicate to me, quite clearly, that a more nuanced approach than that suggested by CRC and CCC is available and indeed is required. Overall, I consider that PC71 does enable significant capacity. I recognise that that is perhaps by somewhat of a fine margin given the area of land subject to the air noise contour but with the proposed increase in density in the northern portion, I am comfortable with that conclusion.

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<sup>46</sup> Ministry for the Environment (2020) – National Policy Statement on Urban Development 2020, Understanding and implementing the responsive planning provisions at pages 5-6



*Is there at least sufficient development capacity to meet expected demand at all times?*

180. Policy 2 requires Tier 1, 2 and 3 local authorities, at all times, to provide at least sufficient development capacity to meet expected demand for housing and for business over the short term, medium term and long term.

181. Clause 3.11 of the NPS-UD directs that when making plans, or changing plans, in ways that affect the development of urban environments, local authorities must:

...

(b) *use evidence, particularly any relevant HBAs, about land and development markets ... to assess the impact of different regulatory and non-regulatory options for urban development and their contribution to:*

...

(ii) *meeting the requirements to provide at least sufficient development capacity.*

182. Again, Clause 3.2 provides that every Tier 1, 2 and 3 local authority must provide at least sufficient development capacity in its region or district to meet the expected demand for housing:

- (a) In existing and new urban areas;
- (b) For both standalone dwellings and attached dwellings; and
- (c) In the short, medium and long terms.

183. To be sufficient in order to meet expected demand for housing, the development capacity must be:<sup>47</sup>

- (a) Plan enabled – that is, in relation to the short term, zoned in an operative district plan; in relation to the medium term, zoned in an operative or proposed district plan; and in the long term, zoned or identified for future urban use or intensification in an FDS;<sup>48</sup>
- (b) Infrastructure ready – in the short term, development infrastructure is adequate to support the development of the land; in the medium term, either there is adequate existing developed infrastructure or funding for adequate infrastructure to support development is identified in an LTP; or in the long term, identified in a local authority's infrastructure strategy;<sup>49</sup>
- (c) Are feasible and reasonably expected to be realised;<sup>50</sup> and

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<sup>47</sup> NPS-UD 2020 Part 3 – Subpart 1 – Clause 3.2(2)

<sup>48</sup> NPS-UD 2020 Part 3 – Subpart 1 – Clause 3.4(1)

<sup>49</sup> NPS-UD 2020 Part 3 – Subpart 1 – Clause 3.4(3)

<sup>50</sup> NPS-UD 2020 Part 3 – Subpart 1 – Clause 3.26

- (d) For Tier 1 and 2 local authorities only, meet the expected demand plus the appropriate competitive margin.<sup>51</sup>

Applicant's Evidence

184. Mr Kennard has been active in property development in Selwyn since 1992. He advised that he had been involved in the development, marketing and sale of in excess of 3,000 sections of which over 550 had been in Rolleston. His evidence related to the issue of a shortfall in developed and available land for sale and building in the Rolleston market. He identified the reasons why Rolleston had become an attractive location to live, including accessibility, employment opportunities, growing amenity and urban quality, growing suite of services and amenities, growth and development of Rolleston close to source of second incomes for households, and excellent Council utility services. He advised that he was certain that a key contributing factor to the significant rise in house and section prices in Rolleston was a lack of availability – that is zoned and titled sections to meet the high level of demand. He noted that post the 2011 earthquakes a surplus of zoned land was available and that had the beneficial effect of maintaining housing affordability but in the last five years or more there had been little if any “proactive zoning” by local authorities. He identified a number of other factors that he considered contributed to the limitation of land available for development including forecasting, delays in subdivision, multiple ownership and large developers holding large tracts of land.
185. His evidence was that in all of his 35 years in the real estate industry he had never seen the market as it is today. He provided a table of sales records for land which he had developed which clearly illustrated an increase of between 100 and 110% in average values from January 2021 to January 2022. He also advised that he had a database of over 150 people still looking for sections whereas in August 2021 they were averaging over 10 inquiries a week. Based on his experience with the Rolleston market, he considered that the pressure on land will continue for the foreseeable future and discussed the benefits of competitive land supply and surplus.
186. Mr Ballingall identified that the house and vacant section prices in Selwyn had surged in the past year with demand for housing clearly outstripping supply and consequently putting further pressure on housing affordability and rental prices. He noted that the rolling annual average median house price in Selwyn rose by 29% in 2021. It was his view that that price growth would not be seen in a housing market where there was adequate supply to cater for current and expected future demand. He identified a key reason for the strong demand was population growth in Selwyn being considerably higher than expected, partly driven by families being priced out of suitable homes in Christchurch City.
187. He considered the actual housing capacity in Selwyn to be lower than those expected in the housing demand and capacity assessments. This was particularly so in terms of the short to medium term, noting some errors in the HCA 2021. The errors included the inclusion of 2,256 plan enabled dwellings in Darfield and Leeston. Given they are outside the Greater

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<sup>51</sup> NPS-UD 2020 Part 3 – Subpart 1 – Clause 3.22

Christchurch urban area as identified in Our Space they should not be, in his view, part of that supply. He also considered the assumptions in relation to 75% of greenfield sites being available for residential development was optimistic and a more appropriate assumption was 60% of existing greenfield sites would be available for housing. A further reason he identified was that a significant area of the FDA had been described by Mr Sellars (in evidence given to other hearings) as long term potential land.

188. He discussed a “false precision” in terms of population growth and local supply. He noted that over a 30 year period all experts will be wrong as it is impossible to make such predictions with absolute confidence. It was his opinion that Councils should consider the balance of the evidence, use a range of plausible assumptions and projections, and ultimately decide whether it seems more likely that demand will outstrip supply or will there be sufficient supply to cater for demand.
189. He considered that the balance was clearly leaning towards demand outstripping supply which would lead to a housing shortage and worsening home affordability. His analysis was that in the immediate term, the potential balance ranges from a surplus of 526 dwellings to a shortage of up to 963 dwellings. There was a shortage of between 2,089 to 6,920 dwellings for the 2021-2031 period when FDAs were not included. He further considered there was a surplus of between 167 to 4,961 dwellings for 2021-2031 if all FDAs were included in capacity at a density of 15 hh/ha unless the highest demand and lowest capacity scenario occurs in which case there would be a shortfall of 1,213. Finally, he considered there were significant shortages in the longer term with demand projected to outstrip capacity by between 8,498 and 19,639 dwellings by 2051.
190. Mr Langman accepted the demand for housing in Rolleston was high but he understood that was the nature of the whole of the Christchurch housing market at present. He described it as a perception of high demand that had partly been because of the release of GPAs in Rolleston for development which would show a pattern of high uptake for newly developed sections. It did not, in his view, mean that it is the optimal location for further greenfield expansion, particularly if there is not an increase in employment being provided. He considered that the 2021 HCA was generally consistent with the requirements of preparing an HCA as outlined in Subpart 5 of the NPS-UD, including the use of population projections, and the 2018 HCA incorporated a peer review process including from an economist and officials representing MfE and the Ministry for Housing and Urban Development and was generally considered to be fit for purpose.
191. He noted that Change 1 was now operative and the FDAs identified on Map A and three private plan changes (75, 76 and 78) were “in train” which would enable nearly 1,200 households. He also noted that the EPA had granted consents under the COVID-19 Recovery (Fast-track Consenting) Act for 970 lots that would extend the Faringdon subdivision in Rolleston. He considered that met the medium term capacity figures in Table 3 of the 2021 HCA.

192. Mr Langman also observed that the rise in house prices is not specific to Rolleston and there can be a range of reasons for this at a national level including low interest rates, inflation, increasing liquidity for investors due to housing price rises and increased capital costs for new buildings which influence sale prices. He considered these effects were being felt nationwide. He considered the three year cycle for completing HCAs ensures that any new information, methodological improvements, and views from the development sector can be considered in an orderly manner and across the entire urban environment rather than just at a local level.
193. Mr Langman also responded to Mr Ballingall's evidence in relation to the impact of the RM Amendment Act<sup>52</sup> and his view that multi-dwelling sites are more likely to occur where land prices are very high relative to existing capital. Mr Langman was of the view that Mr Ballingall had not considered the uptake of new vacant land for multi-unit development which will be enabled through the Medium Density Residential Standards (MDRS).
194. Mr Ballingall responded to that in his summary. He advised that the cost/benefit analysis of the MDRS conducted for the MfE included multi-unit development across all existing properties in the ratings database, including vacant land. He acknowledged that yet to be plan enabled land was excluded from the analysis.<sup>53</sup> He noted that the analysis also suggested that the expansion of capacity enabled by the MDRS – primarily close to Christchurch City – would be demanded partly by residents of the urban area and partly by those from outside of the urban area in roughly equal proportions. That is, intensification around Christchurch City will not reduce the demand for housing in Selwyn on a one-for-one basis.

#### Discussion and Findings

195. The evidence in my view establishes that despite the application of the high growth scenario in the SCGM, the demand for new dwellings has significantly exceeded SDC's predictions and that does raise a potential risk of SDC not meeting Policy 2 of the NPS-UD or its function under s31(aa).
196. I acknowledge the decisions on PC75, 76 and 78. Mr Cleary made the point that zoning should never be confused with the volume of sections available at any one time to meet demand, citing appeal in *Wanaka Inc v Queenstown Lakes District Council*.<sup>54</sup> The Court there stated that there was no direct relationship between the number of sections theoretically able to be cut out of land zoned residential and the number of sections actually on the market at any one time. I accept that is correct. The number of sections actually on the market is not a matter within Council's control. I accept Mr Langman's evidence that private plan changes which have been approved are relevant in determining whether there is sufficient development capacity, once they are outside the appeal period or operative. The private plan changes have been sought on the basis that development will follow and their approval must be something which is considered in the overall assessment.

<sup>52</sup> Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

<sup>53</sup> Summary Evidence of John Ballingall 8 February 2022 at para [30]

<sup>54</sup> [2015] NZEnvC 196 at para [113]

197. I accept that the NPS-UD does not endeavour to restrict supply to sufficient capacity. That is clear from the use of the wording “at least”. Mr Ballingall, in his summary of evidence, considered that the increase in house prices, and the level of demand, was clearly illustrated by what Mr Ballingall described as a concrete example in the evidence of Mr Sellars in PC64 in relation to the 970 lots in the Faringdon subdivision. Mr Ballingall’s understanding was that all 970 lots were sold within five months of consent being received, which he considered was clear evidence of high demand for housing that is running ahead of supply and forcing prices up. He provided other examples of price rises concluding that the evidence was that the local housing demand is far outpacing supply, it is not perception. Further, Mr Ballingall was clear that from an economic perspective a ‘no regrets’ approach should be taken to the amount of capacity that is made available via rezoning decisions.
198. I note Mr Langman’s concern that an oversupply could impact on intensification, particularly within Christchurch City. There is no evidence that is occurring, and indeed substantial intensification in Central Christchurch is progressing at pace.
199. In terms of Change 1, that was, on my understanding, essentially limited to include only the FDAs already identified through the Our Space process. Submissions seeking to add additional land were considered to be not on the plan change and therefore determined to be out of scope. I also accept that the legal and statutory framework assessment accompanying Change 1 specifically acknowledged that Change 1 is not intended to give full effect to the NPS-UD.
200. There is no doubt SDC and CRC have taken steps to address capacity issues. Areas within the FDAs identified in Rolleston have been subject to plan change requests and recommendations have been made and accepted in relation to PC75 (280 residential sites), PC76 to enable approximately 155 residential sites, and PC78 which would enable approximately 750 residential sites. Their approval is relevant, but on balance, in this particular plan change, I do not consider their approval means that a responsive approach is not available.

*Will the plan change contribute to well-functioning urban environments?*

201. Policy 8 of the NPS-UD identifies that local authority decisions are to be responsive not only to plan changes that add significantly to development capacity and contribute to well-functioning urban environments.
202. Clause 3.8(2) specifies that for unanticipated or out-of-sequence developments that provide significant development capacity, particular regard to the development capacity is to be had if that development capacity:
- (a) Contributes to a well-functioning urban environment;
  - (b) Is well-connected along transport corridors; and

- (c) Meets the criteria set out in subclause (3). As noted, no criteria has been set.

203. Policy 1 directs that planning decisions contribute to well-functioning urban environments that as a minimum:

- (a) *Have or enable a variety of homes that:*
  - (i) *Meet the needs, in terms of type, price, and location of different households; and*
  - (ii) *Enable Māori to express their cultural traditions and norms; and*
- (b) *Have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *Have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
- (d) *Support, and limit as much as possible adverse effects on, the competitive operation of land and development markets; and*
- (e) *Support reductions in greenhouse gas emissions; and*
- (f) *Are resilient to likely current and future effects of climate change.*

204. **Policy 1(a)** – The Living Z Zone framework includes medium density housing and the option for comprehensive development. The Request facilitates an increase in density by proposing a minimum of 12 hh/ha. As noted by Ms Aston, this is consistent with the policy direction in the CRPS, Our Space and the greenfield development occurring in the surrounding area.<sup>55</sup>

205. Ms Lauenstein and Mr Nicholson have identified, and the ODP now includes, an area where density around 15 hh/ha would be appropriate from an urban design perspective. I agree with Ms Aston's opinion that what is now proposed is consistent with outcomes sought both by the NPS-UD and the CRPS in providing a mix of housing typologies and encouraging intensification closer to centres and open space.<sup>56</sup> I note Ms White agreed.<sup>57</sup>

206. I did not hear any evidence in relation to enabling Māori to express their cultural traditions and norms. The Request addressed the MIMP and noted that there were no identified sites of significance within the site, nor any known areas of Mahinga kai given the site had a long history of use for lifestyle and grazing purposes.

207. **Policy 1(b)** – In terms of business sectors, I note that no commercial zoning is proposed in the Request. Given the location of the site and its proximity to the Rolleston Town Centre, and to local business areas and other residential zones, I do not consider this to be an issue. Indeed, it supports those sites.

<sup>55</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [150]

<sup>56</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [151]

<sup>57</sup> s42A Report 17 January 2022 at para [125]

208. In relation to **Policy 1(c)**, Ms White shared the concern of some of the submitters that the proposal would provide limited accessibility between proposed housing areas and jobs by way of active transport. This was due to locational issues. Ms White's concern was that there are not enough employment opportunities within Rolleston itself and the distance to employment opportunities in Christchurch would therefore mean active transport options were not practicable. She did note that Mr Collins and Mr Nicholson had made recommendations to improve active transport options and Ms White accepted that with those there would be better active transport accessibility between the site and local jobs and facilities.
209. I agree that there is likely to be some limits on accessibility by way of active transport to jobs outside of Rolleston. Rolleston is progressively becoming a more significant source of employment as it grows. Industrial development in IZone, IPort and the Inland Port, combined with the growth of the commercial area of Rolleston, do supply jobs. Mr Ballingall identified the growth in employment in Selwyn. The growth in secondary jobs was identified by Mr Kennard.
210. I accept that active transport opportunities for employment outside of Rolleston are not likely to be practicable for the majority of residents.
211. I note Mr Langman, in addressing Policy 1(c), and Policy 8 and Clause 3.8, noted that unanticipated or out-of-sequence plan changes must be well connected along transport corridors. He referred to the MfE guidance which states that ideally transport corridors should be connected by a range of transport modes and proximate to amenities and services, and if possible, should not need to rely solely on private vehicles to travel to other urban areas or to access essential services such as employment, health and community services. He noted the guidance further states that ideally developments under this policy should be transit orientated with mixed land uses and densities. He did not consider PC71 to achieve Policy 1(a) or (c) nor that it was currently or will be well connected to transport corridors.
212. Overall, I consider that Policy 1(c) and the other provisions referred to by Mr Langman are largely met. The changes in relation to accessibility and connectivity to the site will be beneficial. I have addressed the transportation and network effects earlier in this Recommendation. Certainly from meeting local needs and for accessing local employment opportunities, in my view the access and connectivity is well provided both by the plan change itself and in light of its location.
213. **Policy 1(d)** – On the basis of the evidence of Mr Ballingall in particular, I am satisfied that the proposal can be seen as supporting and limiting as much as possible impacts on the competitive operation of land and development markets.
214. **Policy 1(e)** – Greenhouse gas emissions were identified by a number of submitters. Waka Kotahi (PC71-0006) identified that New Zealand has a net zero carbon target by 2050 and that the transport sector was a significant contributor to greenhouse gas emissions through carbon emissions resulting from vehicle use. It identified that the Request would likely further contribute to transport associated carbon emissions as there appeared to be a reliance on

private vehicle use due to the limited job opportunities and local amenities in Rolleston resulting in private commuter traffic. Again CCC (PC71-0007) raised issues in relation to reliance on car-based transport resulting in increased emissions, as well as congestion and longer journey times. It sought rejection of the plan change unless urban form and development controls were applied to ensure a funded and implemented public transport system prior to residential development.

215. Ms White agreed with the submitters' concerns that the proposal may not support reductions in greenhouse gas emissions because of the use of private vehicles but was of the view that the same situation arose in relation to existing zoned land or land identified for future development within Rolleston and was not a particular feature of this Request. She did not consider the proposal to be contrary to Policy 8 in that regard.<sup>58</sup>
216. Ms Aston considered that PC71 supported reductions in greenhouse gas emissions through current and future Council and GCP transport initiatives and investment and that relative to other potential urban growth locations it was in close proximity and readily accessible in particular to the Rolleston District Centre and the neighbouring key activity centres at Christchurch and Lincoln.
217. Mr Langman was of the view that no aspect of the proposal looked to achieve the requirement to support reductions in greenhouse gas emissions, noting there was no quantification of those emissions, nor any proposal as to how reductions might be achieved. He considered the current analysis of the issue to be inadequate and overall he considered it was difficult to understand how a conclusion can be reached that the proposal would contribute to a well-functioning urban environment in the absence of any robust evidence or analysis.<sup>59</sup>
218. He identified that through Change 1 to the CRPS the land identified for future development had been considered through a detailed comprehensive spatial planning exercise which comprised multiple facets. He acknowledged that not all land within the GPAs and FDAs may deliver on every NPS-UD or CRPS policy, it could reasonably be expected that this would occur as a result of the strategic planning and infrastructure that would unlock the land for development including public transport development. The distinction he saw with PC71 is that it is unplanned and should be required to demonstrate it will support a reduction in greenhouse gases, which he considered it had not.<sup>60</sup> He also advised that the recent mode shift plan for Greater Christchurch prepared by Waka Kotahi with the GCP stated that land transport emissions currently account for 41% of greenhouse gas emissions in Greater Christchurch which he considered recognised the significant contribution of private vehicle use to greenhouse gas emissions and climate change.
219. I have carefully considered the evidence. I accept there has been no quantification of greenhouse gas emissions. I do note however that part of the site has been identified within

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<sup>58</sup> s42A Report 17 January 2022 at para [127]

<sup>59</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [160]

<sup>60</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [161]



the Rolleston FDA. The urban design/landscape witnesses all concluded that it would contribute to a compact urban form for Rolleston, a point accepted by Mr Langman. It is in accordance with the various growth planning documents which seek to provide consolidated and compact urban settlement patterns and there is a clear preference for providing capacity in Rolleston.<sup>61</sup>

220. Mr Cleary in his reply, raised the question of how could the non-FDA portion of the land be said to be inconsistent with the reduction of greenhouse gases component of a well-functioning urban environment if the opposite conclusion has, self-evidently, been reached in Change 1 for all FDAs in Rolleston. He referred to the report provided to the Minister on Change 1 at paragraphs [90] – [92] in particular. Paragraph [91] of that report states:

*While the Report accepts that the potential effect on greenhouse gas emissions and climate change are essential considerations, it notes that this must be balanced with other considerations, including the need to meet future demand for housing and business. CRC considers that the settlement pattern promoted through Change 1 will produce a compact urban form that will in fact support reductions in emissions.*

221. Overall I accept Mr Cleary's submission that approving consolidated development such as PC71 inherently supports the minimising of energy use and provides greater modal choice. I accept that the consolidated and compact urban form, located in and around a township that is specifically identified as the focus of growth in Selwyn, can be seen as supporting reductions in greenhouse gas emissions.
222. **Policy 1(f)** – Resilient to likely current and future effects of climate change. Given the location of this site being inland and not subject to natural hazard risks associated with sea level rise or, on the evidence of Mr Mthamo, flood risks, it is resilient to the likely current and future effects of climate change.

#### Overall Findings on Policy 1

223. Overall, having considered all of the evidence and submissions, and subject to my subsequent s32 analysis, I am satisfied that enabling the plan change request would contribute to well-functioning urban environments, subject to my resolution on the most appropriate method to address that part of the plan change which is presently within the 50 dBA Ldn noise contour.

#### *Well connected along transport corridors?*

224. Again, pursuant to Clause 3.8(2)(b), the local authority must have particular regard to the development capacity provided by the plan change if that development capacity is well-connected along transport corridors.
225. Mr Langman identified Clause 3.8 requiring that unanticipated or out-of-sequence plan changes must be well-connected along transport corridors.<sup>62</sup> Mr Langman referred to the MfE

<sup>61</sup> Ben Baird, Growth Planning in Selwyn District, 19 August 2021 at para [69] referencing Our Space at page 28

<sup>62</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [154]

guidance which he advised states that ideally transport corridors should be connected via a range of transport modes and proximate to amenities and services.

226. Ms White, on the basis of the evidence of Mr Collins and Mr Nicholson, considered the site to be well-connected along transport corridors.

Finding

227. I note the MfE guidelines referred to by Mr Langman and I have considered that, noting that it is guidance. Overall I consider that the site is well-connected along transport corridors. In terms of the wider transportation network, Levi Road is a critical through movement corridor between Rolleston and Christchurch, and its importance was recognised by both Ms Williams and Mr Collins. In terms of the more local connections, as already noted in my view it is well connected to community facilities and commercial/retail services.

*Can it be integrated with infrastructure planning and funding?*

228. Objective 6 provides:

*Local authority decisions on urban development that affect urban environments are:*

- (a) integrated with infrastructure planning and funding decisions; and*
- (b) strategic over the medium term and long term; and*
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.*

229. Objective 6 refers to integration with infrastructure planning and funding decisions and strategic over the medium and long term as well as being responsive. Responsiveness does, in my view, indicate that a degree of flexibility is acceptable. Clause 3.5(1) provides that local authorities must be satisfied that the additional infrastructure to service the development capacity is likely to be available. A degree of pragmatism is perhaps appropriate when considering servicing about sequenced development proposals.

230. The evidence of Mr England was thorough and our discussions at the hearing were useful. As I have found earlier, and after considering Mr Mthamo's evidence in particular, I consider it is likely that infrastructure to address that issue will be available. As noted earlier, I consider the rule proposed by Ms White adequately addresses that issue.

Other Relevant Objectives and Policies in the NPS-UD

231. I have considered all of the relevant objectives and policies of the NPS-UD. A number of the key issues are addressed by the analysis of Policy 1 and through my earlier assessment of effects, matters raised in submissions and other matters needing to be resolved.
232. In terms of Objective 1, the key matters have been addressed in my assessment of Policy 1. In terms of Objective 2, again that has been addressed in my consideration of Policy 1(d).

233. Objective 3 seeks the enabling of more people to live in, and businesses and community services to be located in, areas of an urban environment in which one or more of the following apply. These are: (a) it is in or near a centre zone or other area with many employment opportunities; (b) the area is well serviced by existing or planned public transport; (c) there is a high demand for housing or for business land in the area, relative to other areas within the urban environment.
234. The site is close to the Rolleston Town Centre and the IZone and IPort business areas. In general terms, Rolleston is well serviced by public transport including to the city and Lincoln with a park and ride scheme in Central Rolleston. I also consider that this is an area of high demand relative to other areas within the urban environment. In terms of Objective 4, which recognises change to New Zealand's urban environments including their amenity values, this is in my view met by the change from rural to urban. In terms of Objective 5, it was not raised as an issue in this Request or in the hearing of it.
235. Objective 6, I have addressed. Objective 7 in relation to local authorities having robust and frequently updated information and use it to inform planning decisions, I have considered the HCA and Mr Baird's Memorandum and the information provided. I have also considered the evidence of Mr Ballingall and the information provided therein.
236. In terms of Objective 8, I have addressed those issues in my discussions on Policy 1. I agree with Ms Aston's assessment that the area adjoins the existing built-up areas of Rolleston, is close to public transport links, adjoins the proposed Council reserve and has accessibility to Rolleston which is expanding in terms of business and service sectors. I acknowledge that private vehicle trips to Christchurch are likely to remain in the foreseeable future. Again I have addressed the effects of climate change and resilience in my discussion of Policy 1. In relation to Policy 3(d) I am satisfied that the density of urban form is appropriate, noting the increase in density in the northern part of the site.
237. In relation to Policy 6, I am not aware of any RMA planning documents that have given effect to the National Policy Statement that are relevant to Rolleston. In relation to changes to the area and amenity, I am largely satisfied that amenity values are appropriately addressed, and there are benefits of urban development on the site.
238. I consider that urban development on the site, in a general sense, is consistent with well-functioning urban environments. I have also given particular regard to the contribution that will be made to meeting the requirements to provide a realised development capacity, and as noted, I have had particular regard to the likely current and future effects.
239. Policy 7 is not a matter for me to set. Policy 8 has been addressed. Policy 9, in relation to taking into account the principles of the Treaty of Waitangi, that was not a matter which featured in the plan change evidence or submissions. In terms of Policy 10 and the working together, I have addressed that in my commentary on the evidence of Mr Langman, but I see that policy as having a wider focus than this private plan change.

240. In terms of Policy 11, I do not consider that is of particular relevance given the plan change proposes in essence to adopt the Living Zone standards. Policy 11(b) is clearly not aimed at private plan change requests.

**CRPS**

241. A number of submissions identified inconsistencies with the CRPS. These included Waka Kotahi (PC71-0006), CCC (PC71-0007), CRC (PC71-0008), Foodstuffs (PC71-0009) and CIAL (PC71-0004).
242. The Request included an assessment of the plan change provisions against the CRPS as Appendix 15. Ms White identified the objectives and policies addressed in that assessment, noting that in terms of Objectives 6.2.1 and 6.2.2 there was an acknowledgment the Request was contrary to those parts of those provisions that direct where urban growth is to be located.
243. Ms White also considered Objective 16.2.1 to be relevant. This seeks that development is located and designed to enable the efficient use of energy including maintaining an urban form that shortens trip distances. Ms White broadly agreed with the assessment undertaken by the Applicant and addressed the areas where she did not.
244. Relying on Mr Nicholson's evidence, she considered that Objective 5.2.1 which seeks development is located and designed so that it functions in a way that achieves a consolidated and well designed growth was met. She noted that in the context of this Request, various subclauses of Objective 5.2.1 were also particularly relevant with respect to Christchurch Airport given it is regionally significant infrastructure. Ms White identified subclause 2(f) which seeks that such development is compatible with and will result in the continued safe, efficient and effective use of regionally significant infrastructure. She also identified subclause 2(g) which seeks that development avoids adverse effects on significant natural and physical resources including regionally significant infrastructure and, where avoidance is impracticable, remedies or mitigates those effects. She identified that subclause 2(i) broadly seeks that development is located and designed to avoid conflicts between incompatible activities.
245. Ms White identified the relevant parts of Objective 6.2.1 which seeks that recovery within Greater Christchurch is enabled through a land use and infrastructure framework that, relevantly:
9. *integrates strategic and other infrastructure and services with land use development;*
  10. *achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs;*
  11. *optimises use of existing infrastructure.*

246. Ms White identified Policy 6.3.5 that directs the recovery of Greater Christchurch is to be assisted by integration of land use development with infrastructure by various methods including:

4. *Only providing for new development that does not affect the efficient operation, use, development, appropriate upgrading and safety of existing strategic infrastructure, including by avoiding noise sensitive activities within the 50 dBA Ldn airport noise contour for Christchurch International Airport, unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified in Map A ...*

247. Ms White considered the direction outlined was particularly relevant and in her view required that the development facilitated by the Request did not affect the continued operation and optimal use of the airport, nor result in conflict between the proposed residential use and the airport. She accepted that the Applicant was not proposing the contours be disregarded and that development would not be provided for within the proposed Living Z deferred areas unless and until the noise contour shifted. She remained concerned that there was no certainty that the remodelled contours would result in the site being located outside the contours and applying deferred status implies this will occur and the land will be suitable for residential development in the future. She considered that cannot be determined until the remodelling is completed and it would therefore be inconsistent with the CRPS to rezone the land within the noise contour even with a deferred status. It was her view that in its current form, the Request did not give effect to Objectives 5.2.1 and 6.2.1 and Policy 6.3.5.

248. She further discussed Objective 6.2.1 in relation to integration and Policy 6.3.5(2) which directs that the nature, timing and sequencing of new development is coordinated with development, funding, implementation and operation of infrastructure. She noted Mr England's view in relation to the priority of water allocation needing to be to those developments within the RSP. If consented water could not be made available to service the demand for that part of the site, then the rezoning of the whole site would, in her view, be in conflict with the relevant objectives and policies.

249. Ms White identified Objective 6.2.4 in terms of planning of transport infrastructure so that it maximises integration with identified priority areas and new settlement patterns and facilities the movement of people and goods and services in Greater Christchurch while achieving a number of outcomes including reduction of dependence on private motor vehicles. It was her understanding of the objective and the related policy direction that it is aimed towards planning of transport infrastructure and the lack of current public infrastructure to the site did not, in her view, conflict with the policy. She considered there was nothing about the site which would impede the ability for transport planning to be integrated with this development.

250. In relation to Policy 6.3.3, she noted that provides direction in relation to outline development plans and that applies to greenfield priority areas. She considered the directions still to be relevant including the references to community facilities or schools, transportation options, potential adverse effects on and/or by existing or designated strategic infrastructure. She

confirmed that she had addressed and considered those issues in relation to traffic effects and connectivity, community facilities and potential reverse sensitivity effects.

251. Ms Aston addressed the CRPS in some detail in her written evidence and in her summary presented at the hearing. Ms Aston confirmed that the southern part of the site was within an FDA as depicted on Map A with the remainder of the site subject to Policy 6.3.1.3 which is to avoid urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS.
252. Ms Aston queried why the FDA and PIB, also shown on Map A, were positioned where they are given they extend out to Weedons Ross Road to the north-east of the site and infilling all the land from the Lincoln Rolleston Road. She considered it logical in terms of urban form for the area to extend to Levi Road and considered the sole and obvious reason to be avoiding enabling noise sensitive activities inside the 50 Ldn airport noise contour.<sup>63</sup> She noted that without the contour it would have made sense from an integrated planning perspective to include all of the site within the PIB and noted that view was shared by Mr Nicholson where he concluded that the plan change area was an appropriate location for urban growth linking Rolleston with the proposed district-wide reserve to the east and rezoning a block of rural land which has existing residential land to the north and east. In her view, the exclusion of the area north of the contours appeared to be based solely on the CRPS policy approach in Policy 6.3.5.4.
253. In terms of Policy 6.3.5.4 Ms Aston queried what restrictions were necessary to provide an appropriate level of protection given that there are opportunity costs to landowners associated with the protection. It was her view if there was a way to avoid or reduce those costs without any increase in risk to the airport operations, then that should be taken in terms of promoting the purpose of the RMA.<sup>64</sup>
254. Given the deferral, it was her view that there was no fundamental conflict between the plan change and Policy 6.3.5.4 because it was “not providing for new development” while the noise contour affects the site.<sup>65</sup>
255. Ms Aston addressed Policy 6.3.5 in some detail. She noted the intention is to include a mechanism within the plan change, either through a deferred zoning or a sunset non-complying rule (or potentially a restricted discretionary activity rule), to ensure that Policy 6.3.5.4 is given effect to. Ms Aston noted that the issue of the noise contour had been identified at the outset and advised that she was aware that the changes to the location of the contours shown on the CRPS and all subordinate district plans were on the immediate horizon. Ms Aston advised that as part of the Experts Agreement reached in late January 2008, a review was scheduled for 2018 and that CIAL had engaged a team of experts on noise modelling and aviation to commence the review. She advised that she had subsequently learned the majority

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<sup>63</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [47]

<sup>64</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [50]

<sup>65</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [51]

of the technical analysis had been completed in late 2019 and was due to be provided to CRC in 2020. She further advised that she was familiar with the outcomes of the Performance Based Navigation Trials undertaken by the Airport in 2018 to 2019 and that in particular the associated reports illustrated a change in the 50 Ldn contour was such that it did not affect the site. Ms Aston referred to discussions with Mr Boswell from CIAL at a meeting in February 2020 and further explained that she was aware that the CRPS was due for a full review in 2023 and that part of that would include an examination of the existing 2008 contours.

256. Ms Aston then spent some time going through the background to the inclusion of the 50 Ldn contour. She concluded, that in the context of any potential risk of reverse sensitivity effects on Christchurch Airport occurring from the development of all of the PC71 land, it appeared highly questionable as to whether or not this land would ever be subject to levels of aircraft noise that may impact on the amenity of future residents.<sup>66</sup>

257. Ms Aston then spent some time in her evidence addressing steps which had occurred from the time the plan change was notified including the *2021 Christchurch International Airport Expert Update of the Operative Plan Noise Contours – For Review by Environment Canterbury’s Independent Expert Plan*. She explained her understanding of the contours and provided excerpts in relation to the outer envelope boundary noting that the site was no longer restricted by the 50 Ldn contour irrespective of the approach which was ultimately taken. On that basis, she concluded that the current policy of avoiding residential development of the land can no longer be justified on the basis of protecting the airport.

258. Ms Aston addressed Objective 5.2.1:

***Location, design and function of development (Entire Region) Development is located and designed so that it functions in a way that:***

1. *achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region’s growth; and ...*

259. Ms Aston’s assessment against that objective was that part of the site was in an FDA and adjoins the existing urban area to the west whereas to the north the proposed district park provided a defensible boundary for further urban spread if necessary. Ms Aston referred to Ms Lauenstein’s evidence where she stated:<sup>67</sup>

*Within this urban (Rolleston Structure Plan) context I consider that the proposed development will further consolidate the urban form of the township and ensure a well-functioning urban environment is achieved.*

260. In terms of Objective 6.2.2 – Urban form and settlement patterns, Ms Aston considered that there was no sound resource management reason why, if and when the noise contours move, the entire site should not be recognised as an FDA in the Greater Christchurch spatial plan.

<sup>66</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [66]

<sup>67</sup> Statement of Evidence of Nicole Lauenstein – Urban Design 24 January 2022 at para [5.1]

261. Ms Aston addressed Policy 6.3.1 – Development within the Greater Christchurch area. She considered that policy to be outdated given it referred to recovery and rebuilding, and contrary to the NPS-UD through promoting a rigid urban limit that is not responsive to new proposals. Ms Aston noted that the NPS-UD requires CRC to incorporate criteria into the CRPS to provide for a more flexible and nuanced approach to urban growth and management and that this had not occurred.<sup>68</sup>
262. Ms Aston addressed Policy 6.3.7 in relation to residential location, yield and intensification. Ms Aston then addressed Policy 6.3.12 – Future Development Areas, noting that it was relevant to that part of the site identified in the Urban Growth Overlay in the PDP and FDA in the CRPS Map A. She identified and discussed the criteria contained in that policy.
263. Mr Langman considered that PC71 does not give effect to Objective 6.2.1(3), Objective 6.2.2, Policy 6.3.1(4) and Policy 6.3.5(4). In essence, these are the avoidance objectives and policies in the CRPS, including the avoidance of noise sensitive activities within the 50 dBA Ldn air noise contour (unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi).
264. Mr Langman considered that a key feature of Chapter 6, and the UDS, is to provide for sustainable growth, along with certainty about where and how this is to occur, by providing a framework that enables greenfield growth in the Greater Christchurch area as outlined in Map A of Chapter 6, and also provides for intensification within existing urban areas. He noted the targets set in Objective 6.2.2 for intensification through the period to 2028. He identified that the explanation to Objective 6.2.2 recognises there is a need for greater intensification within Christchurch's urban areas, and that this will in turn reduce the need for further expansion of peripheral areas.
265. He considered that development of greenfield land outside of that planned in the CRPS has a twofold impact. It increases the amount of land for greenfield development and as a proportion of the overall supply of housing then impacts on the ability to achieve intensification targets within Greater Christchurch. In his view, if greenfield development is significantly increased above levels anticipated, that will have a flow-on effect of proportionally reducing the success of delivery of housing through intensification of existing brownfield areas.<sup>69</sup>
266. He spent some time in his evidence focusing on the certainty provided by the avoidance of urban development outside of the areas identified in Map A and the focus on intensification. He considered the framework generated certainty for development, encouraged the sustainable and self-sufficient growth of the key Greater Christchurch towns, enabled efficient long term planning and funding for strategic, network and social infrastructure, and protects significant natural and physical resources.<sup>70</sup>

<sup>68</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [57]

<sup>69</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [47]

<sup>70</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [52]



267. Mr Langman then addressed Change 1 and considered that it provides for the development of land within existing urban areas, greenfield priority areas and FDAs (where the circumstances set out in Policy 6.3.12 are met) at a rate and in locations that meet anticipated demand and enables the efficient provision and use of network infrastructure.<sup>71</sup>
268. Mr Langman identified a number of other provisions of the CRPS that are relevant including Objective 6.2.1a – that sufficient, feasible development capacity for housing is enabled in Greater Christchurch in accordance with the targets set out in Table 6.1; Objective 6.2.4 – which prioritises the planning of transport infrastructure so that it maximises integration with priority areas, and Policies 6.3.4 and 6.3.5 which support that objective. He also identified Policy 6.3.5 in relation to the 50 dBA Ldn air noise contour, Policy 6.3.7 in relation to minimum densities, and Policy 6.3.11 which prescribes the monitoring and review methods to demonstrate there is an available supply of residential and business land and provides the circumstances for initiating a review.
269. Mr Bonis' evidence for CIAL focused on the matters relevant to CIAL's concerns. He advised that there was nothing in his evidence that would preclude the remaining households in those areas not subject to the air noise contour from being enabled (and adding to district-wide and Greater Christchurch household capacity), were I to conclude that such were appropriate in terms of the balance between the NPS-UD and the operative provisions of the CRPS as these relate to urban boundaries and the FDA.<sup>72</sup>
270. Mr Bonis identified that the operative 50 dBA air noise contour was inserted into Chapter 6 of the operative CRPS by the Land Use Recovery Plan 2013 which also inserted Policy 6.3.5(4) which includes the avoiding of noise sensitive activities within that contour. He noted that the contours and associated statutory provisions and impediments on noise sensitive activities have been applied in a cohesive and consistent manner within the operative CRPS and the plans of Christchurch City, Waimakariri District and Selwyn District. He considered this recognises the need for a systemic approach to airport operations, reverse sensitivity and amenity effects, which in his view were not appropriately considered in an incremental or disjointed manner. He advised that the historical background to the contours identifies that the planning certainty that they provide is relative, but that the contours in the CRPS are the operative statutory contours and should be able to be relied on to provide planning certainty accordingly until they are reviewed and amended.
271. Mr Bonis identified Objective 5.2.1(f), and Objective 6.2.1(10) noting that that focuses more specifically on reverse sensitivity effects including those that may limit the efficient operation, use and development of regionally significant infrastructure. Again he identified Policy 6.3.5 Clause 4 and the express avoidance provision. Mr Bonis also identified Policy 6.3.11 – Monitoring and review, and then explained that process. He noted that he was not an expert in noise modelling and aviation but from a planning perspective, he noted that the contour

<sup>71</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [56]

<sup>72</sup> Statement of Evidence of Matthew William Bonis 31 January 2022 at para [20]

remodelling process was only partway through and the outcome was unknown. He considered it was not correct to assume that the contours would be fully removed from the PC71 site as that was yet to be determined by a panel of experts. Basically he considered that until the process of review was complete, the operative air noise contours remained.

272. Again Mr Allan addressed the current and proposed planning and legislative framework in so far as it related to the Foodstuffs interest in PC71. I also received detailed submissions from Mr Cleary, Ms Appleyard and Mr Wakefield in relation to the CRPS.

#### Analysis and Findings

273. As with the other private plan changes that I have been addressing that are outside of the FDAs, the issue of whether or not PC71 gives effect to the CRPS is of course complicated by the strong avoidance objectives and policies. I have reached the view that those avoidance objectives and policies do not preclude the approval of PC71. But I consider those objectives and policies and the reasons underlining them remain relevant and are clearly an important part of the overall planning matrix. I did not understand there to be any dispute between Ms Aston, Ms White, Mr Langman, Mr Bonis or Mr Allan, or indeed counsel, in relation to that view.
274. In relation to the objectives and policies seeking a compact urban form, I am satisfied that PC71 is consistent with those. There appeared to be no dispute in relation to that and indeed Mr Langman agreed.
275. I referred to Mr Langman's evidence in relation to the development of greenfield land outside of that planned in the CRPS in paragraph [265]. This is an issue which was touched on in relation to the NPS-UD, particularly on the issue of the impact on intensification targets within Greater Christchurch. I acknowledge that developing greenfield land outside of that planned in the CRPS does result in an increase in the amount of land for greenfield development. I consider that is a consequence recognised and enabled in the NPS-UD.
276. Mr Ballingall noted the different markets. Ms Aston provided extracts from the July 2021 HCA which she considered acknowledged the complexity of the housing market. I consider it is worthwhile including the excerpt in the text of this Recommendation. This provides:

*The dynamics of the housing market are complex, and there are many factors that contribute to why any particular area experiences strong or weak demand and consequently growth. Locational preference may be driven by many reasons, including the availability of sections and houses, lifestyle, job, education, family, financial circumstances, and at least in part, to where people want to go, and how often these trips need to be taken.*

*Many suburbs in Christchurch's older areas are rejuvenating despite strong greenfield growth in recent years, while some are not. Most of the inner city suburbs, and the Central City appear to be functioning well at the present time through providing residential medium density well above the minimum permitted levels, while others have historically struggled, for example Linwood and New Brighton. These patterns are apparent in the HDCA which notes that 'Building consent data continues to show a strong uptake of redevelopment capacity in the*

*Christchurch zones that enable intensification. This is particularly evident in the inner-suburbs, close to the Central City. The Central City has also seen development activity increase in the last two years. Consequently the majority of new homes supply in Christchurch is now from redevelopment rather than greenfield'.<sup>73</sup>*

277. While Mr Langman's concerns are properly raised, Mr Ballingall's evidence, and the excerpts from the HCA, in my view clearly establish that the issue is considerably more complex than one of proportionality. As stated in the HCA, the dynamics of the housing market are complex.
278. In relation to the objectives and policies addressing infrastructure provision, there is a clear direction in relation to the need for integrated management and coordination but other than in respect of potable water (which I consider can be addressed appropriately by a rule), I am satisfied that those objectives and policies are met.
279. Ms Aston's assessment in relation to the area of land contained within the FDA was thorough and given that none of the submitters, nor the reporting officers, raised any concerns in rezoning of the land within the FDA, I accept Ms Aston's evidence in relation to the appropriateness of the rezoning of that land. I accept that is the most efficient and effective use of that part of the site and agree that it would meet the purposes of the RMA and the relevant planning objectives and policies.
280. In terms of traffic and transport infrastructure, I am satisfied that the proposed rezoning is consistent with the CRPS.
281. PC71, in so far as it relates to the land within the 50 dBA Ldn noise contour, clearly does not give effect to the provisions relating to infrastructure protection. For the remainder of the site, I am satisfied that the plan change is consistent with the relevant objectives of the CRPS other than those which are directive of location.

#### **CLWRP and CARP**

282. Pursuant to s75(4)(b) of the RMA the SDP cannot be inconsistent with relevant regional plans. The establishment of activities within the site will either need to meet the permitted activity conditions of those plans or resource consents will be required. I also note, as identified by Ms White, that CRC did not raise any concerns with the incompatibility of development of the site for residential purposes with the provisions of the CLWRP in particular, nor the CARP.

#### **MIMP**

283. The MIMP is a planning document which is recognised and has been lodged with SDC. Pursuant to s74(2A) of the RMA, in considering this plan change, I must take account of the MIMP. The Request included an assessment of the relevant provisions of the MIMP at paragraphs [180] to [186]. That assessment noted that in terms of the general objectives and policies the proposed plan change and application site would not affect landscapes, sites of

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<sup>73</sup> 2021 HCA at page 53

cultural heritage or significance, does not contain any areas of significant biodiversity and seeks to include landscaping within the reserves and in road corridors adding to the overall biodiversity of the Canterbury Plains. It considered the full reticulation of the three waters and was considered to be consistent with the objectives and policies contained in Chapter 5.3 and 5.4 of the MIMP.

284. Ms White agreed with the assessment undertaken. I agree and have taken the assessment and the MIMP into account.

#### **Consistency with Plans of Adjacent Territorial Authorities**

285. Ms White advised that matters of cross-boundary interest are outlined in the SDP (Section A1.5 of the Township Volume). She considered that of relevance to PC71, it included effects on the strategic and arterial road network from people commuting between Selwyn and Christchurch. She identified that the methods state that this is identified as an effect of residential growth in the SDP and notes that CCC can submit on proposals to rezone land for growth. She noted the CCC had submitted on the plan change and identified concerns regarding cross-boundary effects arising from the proposal.

286. I do not consider there are any directly relevant provisions in the district plans for neighbouring territorial authorities that are affected by PC71.

#### **Other Management Plans and Strategies**

287. Ms White identified the RSP as a strategy prepared under the Local Government Act. She considered it to be a relevant matter to have regard to under s74(2)(b)(i). She advised that was developed as part of delivering the UDS and seeks to provide a strategic framework to manage the rapid growth occurring and anticipated within Rolleston. She identified its stated purpose as being *“to consider how existing and future development in Rolleston should be integrated in order to ensure that sustainable development occurs and makes best use of natural resources”*. She noted that the RSP then identified principles for future development rather than detailed planning for individual growth areas.
288. Ms White considered the site to be located outside the area covered by the RSP and noted that the urban design statement accompanying the Request included identification of six development principles from the RSP which were stated as having guided the planning for the site's development.
289. Ms Aston did not agree that the site was located outside the area covered by the RSP. She noted that the RSP identified a green corridor and main road linking the Foster Park Recreation Precinct with the proposed district park. She advised that green link goes directly through the site as an extension of Broadland Drive and considered that leaving the site undeveloped as rural land would continue to block the connection between the recreational precinct and the

district park essentially leaving a 'no man's land' in between.<sup>74</sup> She identified that the RSP was adopted in 2009 and some elements were now out of date and noted that the staging provisions had not been followed with SDC adopting a more flexible approach to enabling infrastructure in response to development needs.<sup>75</sup>

290. She identified that there were other elements of the RSP which had not been followed including the centres hierarchy and provision for higher density residential development around the centres.
291. Ms Lauenstein addressed the RSP in her evidence. She considered it provided the underlying urban form, the overarching connectivity and green network and has guided urban growth for the wider Rolleston township. In that context she considered the proposed development would further consolidate the urban form of the township and ensure a well-functioning urban environment, and in particular she referred to the proposed east-west green corridor extending from Broadlands Drive through the site and connecting the Foster Park recreational areas with the future district park. She considered that to be a significant contributor to the wider green network and urban connectivity with Rolleston.
292. Mr Nicholson, in his evidence and in discussions, talked about the importance of the Broadlands Drive connection which would provide more direct access to facilities including Foster Park, the Selwyn Aquatic Centre, Rolleston College and Clearview Primary School.
293. Mr Collins, in his report forming part of the s42A Report, identified that PC71 was inconsistent with the RSP in that it was outside the anticipated urban areas. Mr England, as noted earlier in this Recommendation, identified that the plan change area was partly within the RSP area and partly outside.
294. Overall, while the RSP is of some antiquity, it is still of some assistance in guiding development. The connection through to the proposed district park is relevant and informative.
295. The Request included an assessment of Our Space 2018-2048 Greater Christchurch Settlement Update 2019 and overall considered it to be out-of-date as it did not reflect or give effect to the new requirements of the NPS-UD 2020 (as was also the assessment in relation to the RPS and the SDP).
296. Selwyn 2031 was also identified. This is Selwyn's District Development Strategy. This was assessed in the Request noting that the key growth concepts included:
- (a) Establishment of a township network, which provides a support framework for managing the scale, character and intensity of urban growth across the whole district;

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<sup>74</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [93]

<sup>75</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [95]

- (b) Establishment of an activity centre network, which provides a support framework for managing the scale and intensity of business areas throughout the district townships; and
  - (c) Encouraging self-sufficiency at a district-wide level.
297. Strategic Direction 1 seeks to ensure that there is enough zoned land to accommodate projected households and business growth, while promoting consolidation and intensification within existing townships. The key objectives support the strategic direction. Growth is concentrated in the Greater Christchurch area. It provides for most of the growth capacity around Rolleston and to a lesser extent Prebbleton and Lincoln.
298. Selwyn 2031 supports a hierarchy of centres including supporting ongoing expansion and retail service activities in Rolleston which has a number of advantages including contributing to improvements of amenity for the Rolleston Town Centre and by contributing to achieving critical mass.
299. Overall I consider the plan change supports the strategic directions and key objectives of Selwyn 2031. Rolleston is identified as a district centre with an estimated population in the range of 12,000+ and it functions as the primary population, commercial and industrial base of the district.

### **Consideration of Alternatives, Costs and Benefits – Section 32**

300. The proposal did not include any new objectives, or changes to the existing objectives contained within the SDP. The assessment required under s32(1)(a) relates to the extent that the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. Assessment is also required of whether the provisions in the proposal are the most appropriate way to achieve the objectives of both the proposal and the existing district plan objectives, having regard to the efficiency and effectiveness of the provisions and having considered other reasonably practicable options (s32(1)(b)).
301. The purpose of the proposal is to enable the residential development of approximately 53 ha of land (the site) at Rolleston bounded by Levi and Lincoln Rolleston Roads and Nobeline Drive. The purpose notes that the land under the CIAL noise contour will adopt a deferred zoning reflecting that it is anticipated the contour will shift off the site, or otherwise contract in the immediate future.<sup>76</sup>
302. The objective was also described in paragraph [7] of the s32 RMA assessment. That states:

*The objective of the application is to change the zoning of the application site in the Operative District Plan from Rural Inner Plains Zone to Living Z Zone in a controlled and managed way through an Outline Development Plan (Area 5) and*

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<sup>76</sup> Request to Change the Selwyn District Plan under Clause 21 of the First Schedule of the Resource Management Act 1991, 1 June 2021 at page 7

*by adopting, as far as possible, planning zones and subdivision, activity and development standards of the operative plan.*

Operative Selwyn District Plan

303. The Request also included, as Appendix 16A, an assessment against the operative district plan objectives and policies. That was a comprehensive assessment in tabular form and occupied some 15 pages.
304. Ms Aston identified in her circulated evidence that four options had been evaluated being:
- Option 1: status quo/do nothing;
  - Option 2: rezone the whole 53.9 ha site for residential use;
  - Option 3: rezone only the FDA/PDP Urban Growth Overlay land as Living Z and retain the existing Rural Inner Plains zoning to land affected by the 50 Ldn noise contour; and
  - Option 4: rezone the entire Site Living Z but require a resource consent for a non-complying activity for any subdivision and/or residential or other sensitive land use activity for that part of the site within the 50 Ldn noise contour.<sup>77</sup>
305. Attached to Ms Aston's summary of evidence as Appendix C was an evaluation of options assuming the peer review of modelling confirms that the 50 Ldn no longer prevents PC71 being developed in its entirety. The options identified were again the status quo; deferred zone until Expert Panel confirms noise contour no longer applies; rule non-complying activity; and rule restricted discretionary activity with discretion restricted to the extent to which the site legally described as x is affected by remodelled CIAL airport noise contours as recommended by the 2022 Expert Independent Review Panel.
306. Ms White referred to the assessment contained in the Request. She agreed with that assessment except in relation to matters which she addressed.<sup>78</sup>
307. Ms White noted the assessment identified that the proposal would not achieve Objective B4.3.3 which seeks that within the Greater Christchurch area, new residential development is contained within existing zoned areas or priority areas identified within the CRPS. She did not agree that the plan change was required to meet the minimum requirements for capacity required under the NPS-UD but confirmed her view that she considered Policy 8 of the NPS-UD allows for consideration of the capacity provided by the proposal, despite it being unanticipated under the current planning framework.<sup>79</sup>
308. Ms White addressed Objective B3.4.3 which seeks reverse sensitivity effects between activities are avoided. She considered this applied to the noise contours and, consistent with

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<sup>77</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [183]

<sup>78</sup> s42A Report 17 January 2022 at para [166]

<sup>79</sup> s42A Report 17 January 2022 at para [167]

her earlier comments, she accepted that the proposed deferred zoning achieved that. She remained of the view that the deferred status was not appropriate when there is no certainty that the criteria for lifting the deferred status will be met.

309. Ms White also identified Policy B4.3.3 which seeks to avoid zoning patterns that leave land zoned rural surrounded on three or more boundaries with land zoned Living or Business. She considered that the Request in its entirety would align with that provided the deferral was lifted, but if that land were to be excluded, as she considered appropriate, it would not meet the policy. Ms White referenced Mr Nicholson's evidence that the site is a small block of rural land surrounded on three sides by proposed residential land uses, with a proposed district reserve on the fourth side. In her view, the present state would not align with the policy either.
310. From an urban form perspective, she considered that overall, it was more appropriate to rezone the northern land outside the noise contour due to its proximity to the centre of Rolleston and adjacency to other residential areas. She noted that while that strictly conflicted with Policy B4.3.3, that was a consequence of the existing and anticipated zoning of the surrounding area and the impact of the noise contour, rather than being a consequence of the Request.
311. Mr Langman also identified Objective B4.3.3 and Policy B4.3.1. He also identified PDP Policy UG-P3 and UG-P13. He considered PC71 to be inconsistent with those as the intent of those provisions was, in his view, to give effect to the relevant provisions of the CRPS. He considered that given there were no amendments proposed to the operative objective and policy, it would be difficult to understand how the proposal for urban development meets the legal requirements for consideration of plan changes.<sup>80</sup>
312. Mr Bonis identified Objective B2.1.5 of the Township Volume and associated Policy B2.1.26. Objective B2.1.5 seeks that the future, unrestricted operation of Christchurch International Airport is not jeopardised by "reverse sensitivity" effects from residential development in the Selwyn District. Associated Policy B2.1.26 is, as Mr Bonis noted, directive. That policy is to avoid new residential development and other noise sensitive activities occurring on land which is located underneath the airport flightpath noise contours shown on Map 013 for 50 dBA Ldn or greater. He also identified Objective B3.4.3 which seeks that reverse sensitivity effects between activities are avoided and Policy B4.3.72 which seeks to directly avoid rezoning for new residential development in areas that are under the airport flightpath noise contours for 50 dBA Ldn or greater.
313. Mr Bonis also addressed the PDP noting that weighting is very limited, noting that there were a number of submissions on it, and no decisions on any of the chapters had been released by the Commissioner Panel. In essence he considered that the PDP covered similar matters to the SDP in relation to the 50 dBA air noise contour and noted that only the portion south of the 50 dBA Ldn air noise contour was contained within the Urban Growth Overlay. Mr Bonis

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<sup>80</sup> Statement of Evidence of Marcus Hayden Langman 31 January 2022 at para [112]



considered that the plan change could not be said to implement Policy B4.3.72 and neither was it effective nor efficient in achieving that policy which seeks to directly avoid rezoning for new residential development under the operative 50 dBA air noise contour. He agreed with Ms White that the land on the proposed ODP identified as Living Z deferred should be excluded.

314. Mr Langman in his summary confirmed his opinion that the “limited new provisions” sought through PC71 were not the most appropriate to achieve the objectives of the SDP and in particular Objectives B4.3.1, B3.3.3, B3.4.5, B3.4.4, B4.3.1, B4.3.3 as they relate to land outside the FDA, and B4.3.72 as it relates to the airport noise contour. He considered the deferred zoning to be contrary to Policy B4.3.72 which seeks to avoid *rezoning* (original emphasis) land for new residential development under the airport noise contour.
315. For completeness, Mr Allan considered Objective B3.4.3 of the SDP to be of particular relevance in terms of reverse sensitivity effects on the proposed supermarket.

Discussions and Findings on the Relevant Objectives and Policies of the SDP

316. I have considered the evidence and submissions in relation to the objectives and policies of the SDP, together with the assessment provided in Appendix 16.
317. There is some tension with Objective B1.1.2. There was no evidence before me that the new residential activity would create a shortage of land or soil resource for other activities in the future. I have addressed Policy B1.1.8 earlier in this Recommendation. The explanation to the policy states that:

*Other sites are only alternatives for erecting buildings if these sites do not have other resource management constraints [sic] to urban expansion such as – flooding or ‘reverse sensitivity’ with surrounding activities. The Act does not recognise adverse effects of activities on soils as having primacy over adverse effects on other parts of the environment.*

318. In relation to the land within the FDA, the issues relating to versatile soils have clearly been considered and addressed through the process leading to the FDAs. I acknowledge there will be some loss in the remainder of the site.
319. Regarding Policy B1.2.2, there is nothing to indicate that servicing in relation to water supply, effluent and stormwater disposal cannot be done without adversely affecting groundwater or surface water bodies. I note the explanation to the policy identifies that the Council “does not think” it promotes sustainable management to rezone land to expand townships if it cannot be serviced with water supplies and effluent and stormwater disposal. Policy B1.2.3 again requires the water supply provided to be to drinking water standard and be reticulated and is not directly relevant. I have addressed the evidence of Mr Mthamo in relation to water supplies earlier in this Recommendation. I do not consider there is anything to establish that the potable water supplies cannot be serviced. Indeed, on the basis of Mr Mthamo’s evidence, and given

the significant capacity in the current Council consents, I am satisfied that water will be available. Ms White's proposed rule addresses that.

320. In terms of Objective B2.1.1 – the integrated approach to land use and transport planning – there is nothing on the evidence to indicate that the efficient operation of the District's roads, pathways and similar will be compromised by adverse effects.
321. Objective B2.1.2 again is not identified as an issue. I am satisfied that the objectives and policies in relation to transportation issues have been appropriately addressed.
322. Objective B2.1.5 is *"The future, unrestricted operation of Christchurch International Airport is not jeopardised by "reverse sensitivity" effects from residential development in the Selwyn District"*.
323. Policy B2.1.26 provides:

*Avoid new residential development and other noise sensitive activities occurring on land which is located underneath the airport flightpath noise contours shown on Planning Map 013 for 50 dBA Ldn or greater.*

324. The objective and policy is critical in relation to the land under that contour. The explanation and reasons notes that it is intended to restrict new residential development at urban densities or other noise sensitive activities in areas subject to aircraft noise. The reasons are to reduce the potential for people trying to restrict the operation of CIAL in the future, as a means of mitigating noise effects, and also to avoid adverse effects on the amenity of persons living within the contours.
325. The objective and Policy B2.1.26 are explained as recognising that reverse sensitivity effects on CIAL must be avoided because of the importance of the unrestricted operation of CIAL to the region's and district's economy.
326. There is clearly an issue in relation to Objective B3.4.3 which is that reverse sensitivity effects between activities are avoided. Policy B4.3.72 is in my view critical. This was a policy which received some focus from Mr Langman and Mr Bonis. Mr Langman considered the rezoning to be directly contrary to Policy B4.3.72 as this is a rezoning of that land. Mr Bonis shared a similar view. Ms Aston did not consider PC71 to conflict with that policy as the proposed deferred zoning is not providing for residential development under the noise contour as such activity would remain restricted discretionary (or non-complying) until such time as the Expert Panel findings are public.
327. Ms Aston, during discussions and in her summary of evidence, clearly recognised the clear issues posed by Policy B4.3.72. She suggested additional wording in essence providing an exception for this land. Ms Aston did not consider there to be any scope issues with that amendment. I am not convinced that there is scope for a change to a policy which was clearly not sought but in any event, I do not consider that such an exception is justified or appropriate at the present time.

328. In terms of community facilities, Objective B2.3.2 is not relevant as that relates to effects from community facilities. Policy B2.3.8 in relation to reserve areas is met.
329. In relation to the objectives and policies relating to natural hazards, I have addressed that issue earlier. Given my findings, I consider the proposal is entirely consistent with those specific objectives and policies.
330. In relation to the quality of the environment, I consider the proposal is entirely consistent with the objective seeking that townships are a pleasant place to live and work in are met. Objective B3.4.4 in relation to the growth of townships in a compact urban form is, on the basis of the evidence, clearly met as is Objective B3.4.5 in relation to connectivity.
331. In relation to the growth of townships objectives and policies, in my view it is generally consistent with the relevant objectives other than those directing residential development to be provided within existing zoned or priority areas. The land outside of the FDA clearly does not meet that but I do not consider that fatal in light of my discussions in relation to the NPS-UD.
332. In my view, the proposal assists in meeting Objective B4.3.5 which is to ensure that sufficient land is available in the District Plan to accommodate additional households. In terms of density, it clearly meets Objective B4.3.6 and exceeds the density requirements. Again it does not meet Policy B4.3.1, other than the area identified in the FDA but as recorded earlier, I am of the view that the NPS-UD allows qualifying plan changes to be assessed on their merits. Policy B4.3.3, I have discussed earlier. In terms of Policy B4.3.6, again clearly this is assisting in encouraging townships expand in a compact shape and it meets the policies relevant to ODPs.
333. It is clearly inconsistent with, and does not implement the objectives and policies relating to development of noise sensitive activities, or rezoning of land for residential activities, under the 50 dBA Ldn contour.

#### Benefits and Costs

334. As noted earlier, Ms Aston identified the four options assessed in the Request and addressed those further.
335. Overall, it was her view, in light of the results of the latest remodelling of the noise contours, that Option 4 was the most appropriate, that being to rezone all of the PC71 area LZ and use a resource consent process to enable residential development once the 50 Ldn restriction had been removed. She considered that to be the most appropriate option for reasons she specified. These can be summarised as follows:
- (a) The LZ zone is in the short, medium and long term the most efficient land use for the site;
  - (b) Retaining a rural zoning over all or part of the land would perpetuate the continuation of low intensity rural lifestyle activity and ongoing interface challenges which she stated

was severely curtailing the existing All Star horse training operation and that more intensive farming options were not feasible. She considered the retaining of the rural zoning was not an efficient use of land, in particular at a time when there is a “severe shortage of land” for housing at Rolleston and that the PC71 site is eminently suitable for urban development, including because it is closer to the existing Town Centre. She considered it to be superior in terms of urban form/accessibility “than any other part of the FDA”;

- (c) The rezoning was consistent with and give effect to the SDP and RPS objectives and policies other than those which are inconsistent with and do not give effect to the NPS-UD;
- (d) That it was a logical extension to the developed and developing residential land adjoining the site while achieving a compact and efficient urban form;
- (e) The proposed method provides certainty of the final form and integration of the rezoned area including its proposals for reserves, roading, future linkages and similar. It was her view that retaining a rural zoning over the airport contour would result in a disjointed ODP in two halves with a gap in the middle; and
- (f) The rezoning would facilitate access to the proposed reserve as depicted in the RSP.<sup>81</sup>

336. Ms Aston considered there was little, if any, risk that the airport contours peer review would reinstate all or part of the site as under the contour. Overall, Ms Aston concluded that the inclusion of the LZ zone for all of the site was appropriate to achieve the long-term sustainable development and certainty for Rolleston. She further considered the economic, social and environmental benefits of the proposal outweighed the potential costs of the proposed rezoning. Her overall conclusion was that the proposed rezoning was the most appropriate, efficient and effective means of achieving the purpose of the RMA.

#### *Consideration*

337. The s32 assessment included with the Request, and the further assessment attached to Ms Aston’s evidence, largely identified the relevant benefits/costs of the four options. I have considered the initial assessment and the update provided by Ms Aston carefully. I note Ms Aston’s benefits/costs assessment attached to her summary of evidence was based on Mr Ballingall’s summary evidence at paragraphs [13] and [14].

338. Section 32(2) provides that in assessing the efficiency and effectiveness of the provisions in achieving the objectives, the assessment must identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provision, including opportunities for economic growth that are

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<sup>81</sup> Evidence of Pauline Fiona Aston 24 January 2022 at para [184]

anticipated and employment that is anticipated to be provided or reduced and, if practicable, to quantify the benefits and costs.<sup>82</sup>

339. Mr Ballingall assessed the economic benefits. These included reducing housing affordability pressures. In terms of direct economic benefits, Mr Ballingall focused on the construction period. He considered the construction of around 660 dwellings would generate substantial economic activity which would promote community well-being. He considered that the proposed development would support an estimated 99 full-time equivalent jobs for a period of eight years. At an average construction income of \$55,805 per annum, that represented \$5.2 million in wages per year for eight years being injected into the local community.
340. In addition, a housing construction project of this scale would require the purchase of around \$47 million per year of immediate inputs and it was reasonable to expect most of those inputs to be sourced locally, providing a further source to the local community. He concluded that the direct impact of the development on the local economy would be around \$13.4 million per year of value-added (or GDP) or \$107 million over an eight year construction period (derived from Stats NZ's input output tables released in December of 2021).<sup>83</sup>
341. Mr Ballingall considered the only quantifiable economic cost associated with the proposed plan change was the potential loss of output from existing uses of the land in question. He outlined his understanding of the current use including the All Stars standardbred horse training facility and a number of lifestyle blocks fronting Lincoln Rolleston Road and Nobeline Drive. By reference to the Stats NZ 2019 regional GDP by industry data and the Agricultural Census 2019, he noted that in the Canterbury region GDP per hectare for all agricultural land types is around \$940 per year, and that that suggested even if all the existing rural zoned land was used for farming purposes, its GDP contribution would be around \$50,500 per year. He noted that the Stats NZ 2019 regional GDP assessment may underestimate the GDP per hectare of productive land but considered that even if his estimate was out by a factor of 10 or 100, the opportunity cost of that land in its current use is still very small.
342. He also identified an analysis of productive land in Selwyn which had been undertaken for the pNPS-HPL. He identified that this concluded that preserving 2,310 hectares of highly productive soils would yield annual economic benefits of \$6.6 m by 2028 which corresponded to a value per hectare of \$2,857. Applying a value of \$2,857/ha, the PC71 parcel would contribute around \$153,500 to GDP per year which he considered, by an order of magnitude, to be "tiny" compared to the potential GDP associated with constructing the dwellings proposed.<sup>84</sup> He noted the horse training facility was not dependent on having highly productive soils and that the pastoral grazing component of the facility could be economically achieved on lower quality soils. He agreed with Ms White's view that the activity could take place elsewhere in the district. If that occurred it would have no material negative impact on district level GDP.

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<sup>82</sup> s32(2)(a) and (b)]

<sup>83</sup> Statement of Evidence of John Stacey Ballingall 21 January 2022 at para [14.0] – [14.4]

<sup>84</sup> Statement of Evidence of John Stacey Ballingall 21 January 2022 at para [1.54]

343. In our discussions during the hearing, Mr Ballingall was reasonably frank in his view of what was the most appropriate outcome from an economic perspective. Mr Ballingall considered there to be a housing crisis while there was no agricultural land crisis. He considered that there was no evidence of demand for the land in its existing use and there was clearly significant evidence of significant demand for housing. He considered that from an economics perspective, it was essentially a “no brainer”.
344. In relation to costs regarding the intensification in Christchurch City versus urban development in Selwyn District, he advised that it was not a direct reference. He advised that it was not a direct trade-off. He advised that if there were 100 multi-unit developments in Christchurch, that did not mean there would be an equivalent number of families who were no longer looking for properties in Selwyn.
345. In questioning, I explored with Mr Ballingall the potential head winds for residential development in terms of increasing interest rates, tighter lending restrictions and similar. Mr Ballingall was very confident, given the capacity/demand equation was so “out of whack in Selwyn”, there is unlikely to be a significant drop in demand.
346. Mr Ballingall’s evidence is clear and undisputed. None of the other parties provided economic evidence. I accept his evidence even if not all the land is rezoned.

#### Overall Assessment of Options

347. In terms of the status quo option – Option 1, I conclude, on the basis of all of the evidence provided by the Applicant, including that of Mr Ballingall, the costs of retaining the status quo would far outweigh any benefits. I consider that Option 1 is clearly not the most appropriate option.
348. In terms of Option 2, the rezoning of the whole site for residential use, that has a number of benefits including the full construction related benefits assessed by Mr Ballingall. It also has the benefit of ensuring that the whole site can be developed in an integrated manner. However, it clearly would not give effect to the relevant objectives and policies of the CRPS and the SDP in particular. It is not an option which was supported by any of the participants, including the Applicant.
349. In relation to Option 3, which was described as the rezoning of only the FDA/PDP urban growth overlay land as Living Z and retain the existing Rural Inner Plains zoning to land affected by the 50 Ldn noise contour, in my view the evidence clearly illustrates that both the land to the north of the contour, and the FDA area to the south, can and should be rezoned. The option of rezoning the land to the north and the south of the contour was carefully considered in the relevant expert evidence, and particularly by Ms Lauenstein and Mr Nicholson, and by Ms Williams and Mr Collins.
350. Ms White considered, subject to inclusion of rules and amendments she proposed, that the PC71 land outside of the noise contour could be appropriately be rezoned.

351. I am satisfied on the evidence, and particularly the analysis undertaken by Ms Aston, that the rezoning of the FDA land is entirely appropriate and meets the relevant objectives and policies. I am also satisfied, on the basis of all the evidence and submissions, that the rezoning of the remainder of the land, excluding that affected by the 50 dBA noise contour, is the most appropriate method for achieving the objectives of the proposal, the SDP and ultimately the purpose of the RMA.
352. The real issue in my view is whether it is more appropriate for the land presently under the contours to remain Rural Inner Plains; whether it should be subject to a deferred zoning; or Ms Aston's Option 4 of rezoning all of the land but including specific non-complying or restricted discretionary activity rules in relation to the 50 dBA noise contour. There are benefits from the inclusion of that land within the overall ODP. However the inclusion of that land, even on a deferred basis, in my view presents some real issues. I accept those issues may be matters of timing, but that is not clear.
353. Deferred zonings are of course an appropriate planning tool. It is one that has been used reasonably extensively in Selwyn (and other district plans). However any deferral must, in my view, be very clear and transparent, and there needs to be some certainty, or at least significant likelihood, that the issue to which the deferral relates can be achieved. The difficulty I have with the mechanism as proposed is that it is uncertain, at this point in time, and I am unable to conclude that it is the most appropriate method of giving effect to the objectives of the CRPS, and the ODP in so far as it relates to the noise contour.
354. I acknowledge the evidence and submissions from CIAL, and also acknowledge Ms White's concerns in relation to efficiency. Rezoning the land under the contour, at this point in time, even on a deferred basis, would in my view create expectations that the lifting of the deferral is only a question of time. Ultimately, the air noise contour and its location are not matters within the control of either the Applicant or SDC. The contour, its location, and ultimately its effect from a planning perspective, is subject to a prescribed process. In my view, a deferred zoning based on the findings of the Expert Review Panel would be inefficient and presumptuous. As identified by Ms Aston, the noise contours and their planning consequences are contentious and potentially could be subject to challenge and cross-challenge and litigation over many years. Until the noise contour issue is finally resolved and incorporated into the relevant planning documents, there is no certainty at all as to what the ultimate outcome will be.
355. I have carefully considered the option of rezoning of the entire site with a non-complying or restricted discretionary activity status for residential development within the areas under the noise contour. In my view, that would give rise to the difficulties which have been identified by the Courts in terms of addressing effects on the operation of the airport on an incremental basis. The contour is shown on the relevant CRPS and SDP planning maps. It is supported by a very strong policy framework, reflecting the national and regional significance of the airport.

356. On balance, I consider the exclusion of the land within the contour from the Living Z Zone, and the retention of its Rural Inner Plains zoning is, at this time, the most appropriate option. This is a finding that I have reached after carefully considering all of the information before me. But for the noise contour, in my view the rezoning to Living Z of that land would have real benefits, including the strategic benefits related to the connection through to the proposed district park and to the overall site's contribution to a compact urban form. I acknowledge this will have some costs for the landowners. I address this land further in paragraph [376].
357. I have carefully considered the option raised by Ms Aston, albeit reluctantly, of delaying the decision on that part of the site affected by the air noise contour. Given the fluid statutory environment we are operating in at the moment, given the prescribed process for the contour review, and given the likely contentious nature of any planning recommendations stemming from the Expert Review Panel's recommendation, I do not consider there is any benefit in delaying my Recommendation and ultimately Council's decision.

#### **Risks of Acting or Not Acting**

358. Overall I am satisfied that I have sufficient information before me to identify the risks associated with acting or not acting and those risks have been addressed in the Recommendation and in the s32 report and evidence.

#### **Section 32AA**

359. Section 32AA requires a further evaluation for any changes that have been made to the proposal since the evaluation report was completed. I note and have had regard to Ms Aston's updated s32 analysis provided with her summary of evidence. Most of the proposed changes have been identified and discussed in the body of this Recommendation. I have considered the efficiency and effectiveness, the risks of acting and not acting and the benefits and costs of the changes proposed.
360. I have considered the changes proposed by Ms White in her s42A Report and in her summary presented at the hearing. I have considered Ms White's assessment, Ms Aston's evidence and assessment, and the matters raised in Ms Lauenstein's evidence in reply and Mr Cleary's closing submissions. I note that a number of the changes proposed by Ms White have been incorporated into the reply version of the ODP text.

#### *ODP Development Plan Area 4*

361. A number of amendments were proposed by Ms White in relation to the text to the ODP in Area 4 as identified in Ms White's Appendix 1. Ms Aston provided an amended overall plan for Area 4 which clearly identifies the indicative primary route and pedestrian/cycle link in relation to the Broadlands Drive extension including a note that the exact location of the indicative primary route be determined at the time of subdivision consent.



362. A number of changes that were proposed by Ms White were adopted in Ms Aston's Appendix 2 and I consider those changes are appropriate. Other than the connection through the site to enable the Broadlands Drive extension, there did not appear to be any particular issues of contention remaining from the Foodstuffs submission. I have addressed the importance of the Broadlands Drive extension earlier in this Recommendation.

*ODP for Area 14*

363. In relation to ODP for Area 14, Ms White made a number of changes to the text. These were provided in Attachment 1 to her Summary of Evidence.
364. A number of the changes to the ODP text simply reflected Ms White's view in relation to the status of the area under the noise contour. Given my conclusion in relation to that issue, I consider they are largely appropriate.
365. One of the changes proposed was the removal of the deferral on the land along the Lincoln Rolleston Road frontage which is not directly under the air noise contour. That was proposed by Ms Aston. Ms White considered there were benefits with that approach but did raise the issue of scope.
366. Mr Cleary addressed that scope issue in his reply. Overall I accept his submissions in that regard. The change can be said to fairly relate to the submission of Ivan and Barbara Court (PC71-0005) in terms of the questions identified relating to the timing of the deferral. Mr Court was very clear in his views that a deferral was not needed from an effects perspective.
367. Ultimately that amendment alters nothing, other than timing. It does lead to some landholdings having a split zoning which I would generally not consider to be appropriate. However, given my findings in relation to the retention of the Rural Inner Plains zoning over the land identified as within the 50 dBA Ldn noise contour, there are, in my view, real benefits in including the land fronting Lincoln Rolleston Road in ODP 14 at this time. In particular, it will assist in addressing connectivity issues between the northern and southern areas.
368. The other changes largely reflect matters addressed at the hearing including the separated shared pedestrian/cycle ways, the upgrades to the Lincoln Rolleston Road and Levi Road frontages, the roundabout at the intersection of Levi Road and Ruby Drive, and the roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive and its extension over ODP 14.
369. Ms White's amendments also included the following:

*In the event that a supermarket is established to the east of this ODP, in ODP Area 4, residential development should be designed to appropriately manage this interface and avoid potential reverse sensitivity effects arising. This may include minimum setbacks for residential dwellings from this interface and acoustic insulation standards.*

370. In my view, and in light of Mr Cleary's closing submissions, I do not consider that is necessary or indeed appropriate.
371. In the right of reply version, further amendments were included. These were helpfully explained in the commentary. In relation to comment A1, given my findings in relation to the land under the contour, the amendments proposed are not appropriate and Ms White's wording should be incorporated.
372. In terms of comment A2, that removed the reference to the supermarket being established on ODP 4. I consider that appropriate.
373. In comment A3, the text incorporated the staging to align with the formation of a roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive, and the extension of Broadlands Drive over ODP Area 4 to ODP Area 14, and that it be formed to an urban standard.
374. It included additional wording which reflected Ms Lauenstein's reply evidence. I prefer the approach supported by Mr Collins and Mr Nicholson in relation to the 'development line' and associated rule. The words "construction of any part ..." through to "... ODP 4" can be deleted. I do however consider that the following wording remains appropriate even with the adoption of the development line approach:
- Should the main connection west across ODP 4 to Lincoln Rolleston Road not yet be available, a temporary walking and cycle connection is to be provided to Lincoln Rolleston Road via the shortest possible alternative route.*
375. In relation to the pocket park in the northern portion, the ODP needs to be amended to show that as a neighbourhood park for the reasons that I have addressed.
376. Ms White was of the view that the area under the noise contour should not be incorporated into the ODP because it remains rural. In my view there are benefits in that land remaining within the ODP, notwithstanding that it remains, at this time, rural. But for the existing contour issues, it is in my view ideally suited for residential development. From a strategic perspective, I consider it appropriate that the land under the contour remain within the ODP. It could be identified as potential future residential or similar. I consider that this is a more integrated approach. If there are any unforeseen consequences of that, then I reserve leave for that to be addressed by way of Memoranda.
377. Other than where expressly stated, I consider the changes by Ms White are appropriate.

### **Section 31**

378. There are some issues in relation to servicing. These relate to potable water. On the evidence of Mr Mthamo I am satisfied that it is likely that water will be available. I consider that PC71 as amended by this Recommendation can achieve integrated management of effects. As noted

it will enable additional residential capacity and choice in a manner which in my view can be achieved without the creation of any more than minor potential effects on the environment.

## **Part 2**

379. I have considered the relevant Part 2 matters. There are no matters of national importance identified in terms of s6. In relation to s7, and the matters to which I am to have particular regard, I consider it is an efficient use and development of natural and physical resources which will enable the maintenance and enhancement of amenity values and the quality of the environment.

380. I of course acknowledge that there will be some loss of productive or versatile soils as I have addressed. But overall I consider the proposal as amended to be an efficient use and development of the natural and physical resources.

381. In terms of s8, it requires that I take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). I accept that there are no explicit s8 matters in play in this particular application and nothing has been identified in relation to this site which raises any flags.

382. In terms of s5 and the ultimate purpose, I accept that in general terms the purpose can be largely assessed in the detailed breadth of the operative objectives and policies, notwithstanding the PDP. Overall I am satisfied that the purpose of the RMA is achieved, subject to the finalisation of the plan provisions to give effect to this Recommendation.

## **Overall Conclusion**

383. Subject to my following direction, I consider that PC71, as amended by this Recommendation, is efficient and effective. It provides a number of benefits as outlined above. It provides additional supply and choice in the residential housing market. It has economic benefits that I have discussed above. It contributes to a compact urban form and ultimately it is my view that PC71 as amended is the most appropriate means of achieving the objectives and ultimately the purpose of the RMA.

384. I have had particular regard to the wider strategic planning framework and in particular the CRPS. In my view, in the wider context of a housing crisis, and the more localised issues of capacity and demand which were addressed by Mr Ballingall in particular, and my conclusions that it will add significant development capacity and contribute to a well-functioning urban environment, the rezoning of the site, other than that land located underneath the 50 dBA Ldn noise contour, is the most appropriate option.

## **Further Direction**

385. While my findings are final, given the various changes proposed in the evidence and submissions, and the various ODP versions which have been provided, I consider it is appropriate, and more efficient to have the Applicant, in consultation with the Reporting Officer and the other parties who provided planning evidence (should they wish to be involved), to

provide a final version of the changes to be included into the SDP to give effect to this Recommendation. I stress that this is not an opportunity to make further submissions or provide further evidence on my findings. Rather, that is to give effect to those.

386. The Applicant will be anxious to have this Recommendation finalised. I also wish to ensure that it is finalised as soon as possible. While I do not make any directions in relation to the timing for the Applicant to engage and provide the final proposed package, it needs to be with me as soon as is possible. If there are any difficulties with finalising that package, or any uncertainties arising from my Recommendation, I reserve leave for those issues to be raised by way of Memorandum.
387. On receipt of the amended provisions, and if I am satisfied that they meet the intent of this Recommendation, then I will issue a Final Recommendation, including the summary of decisions in relation to submissions and further submissions.

A handwritten signature in blue ink, appearing to read 'D Caldwell', is written over a horizontal line.

**David Caldwell**  
Hearing Commissioner

Dated: 7 June 2022

**BEFORE THE SELWYN DISTRICT COUNCIL**

**IN THE MATTER OF** Clause 21 of the First Schedule of the  
Resource Management Act 1991

**AND**

**IN THE MATTER OF** Four Stars Development Limited and  
Gould Developments Limited, Private  
Plan Change 71

**Applicant**

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**FINAL RECOMMENDATION BY COMMISSIONER DAVID CALDWELL**

**Dated 29 July 2022**

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1. I have been appointed to hear and determine submissions and make a Recommendation on Private Plan Change 71 (**PC71**) to the Operative Selwyn District Plan (**SDP**).

### **Background**

2. I issued an Interim Recommendation dated 7 June 2022 and this Final Recommendation is to be read in conjunction with that.
3. My overall conclusion in my Interim Recommendation was that PC71, as amended by that Recommendation, is efficient and effective, provides a number of benefits, provides additional supply and choice in the residential housing market, has economic benefits, contributes to a compact urban form and ultimately as amended is the most appropriate way of achieving the objectives and ultimately the purpose of the RMA.<sup>1</sup>
4. While my findings were final, given the various changes proposed in the evidence and submissions, and the various ODP versions which were provided, I recorded my view that it was appropriate and more efficient to have the Applicant, in consultation with the reporting officer and any other party who had provided planning evidence (should they wish to be involved), to provide a final version of the changes to be included into the SDP to give effect to the Recommendation.<sup>2</sup>
5. I noted the Applicant would be anxious to have the Recommendation finalised and that I also wished to have it finalised as soon as possible. While I did not make any directions in relation to the timing for the Applicant to engage and provide the final proposed package, I advised that it needed to be with me as soon as possible and that if there were any difficulties in finalising it or uncertainties arising from my Recommendation, leave was reserved for those issues to be raised by way of Memorandum.<sup>3</sup>
6. I received a Memorandum from Mr Cleary on behalf of the Applicant requesting clarification as to the location of the development line, which was proposed by Mr Nicholson during the hearing. The Applicant sought clarification as to where the development line should be located on the ODP.
7. I addressed that by Minute dated 22 June 2022 (Minute No 6).
8. On 17 July 2022 I was provided with the proposed amendments to the District Plan rules, proposed ODP 14 diagram and proposed ODP 14 narrative. I issued a further Minute (No 7) regarding changes to ODP Area 4. That information was provided on 21 July 2022. I issued a Minute (No 8) on 25 July 2022 confirming receipt of that information and advising that I was satisfied that the documents provided do give effect to my Interim Recommendation, noted that I proposed to issue my Final Recommendation, and advised that if any party had any matters they wished to raise in relation to whether or not the documents provided gave effect

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<sup>1</sup> Interim Recommendation at [383]

<sup>2</sup> Interim Recommendation at [385]

<sup>3</sup> Interim Recommendation at [386]

to my Interim Recommendation, they could do so by way of Memorandum no later than 3pm Thursday 28 July 2022. Again, I advised that if there were other issues arising from that Minute, they could be raised through Ms Carruthers/[submissions@selwyn.govt.nz](mailto:submissions@selwyn.govt.nz). I did not receive any further Memoranda.

#### **Additional Changes and s32AA**

9. I have undertaken the further evaluation required by s32AA in my Interim Recommendation. The following paragraphs relate to further changes.
10. I have made some final changes to the ODP for Plan Area 14 which are shown in red. The purpose of these changes is to make it clear that the Potential Future Residential areas as marked on the ODP are to indicate potential development should the CIAL noise contour be removed from the planning maps, as well as illustrating potential connectivity. I have slightly amended the wording in relation to the final sentence of the introductory narrative to avoid creating any unrealistic expectations and to record that there will still need to be further assessment. I consider those changes are effective and efficient and are more appropriate.
11. I have made a very minor change to the narrative for ODP Area 4. This is simply the addition of the word 'following'.
12. I have carefully considered the additional rules and assessment matters provided with the final package. They record the changes to Section C12 LZ Subdivision. I have addressed the potable water supply issue and the development restriction pending the formation of a roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive and the extension of Broadlands Drive over ODP Area 4 in my Interim Recommendation. I am satisfied that each of the rules and assessment matters now finally proposed are efficient and are the most appropriate method of achieving the objectives of the proposal, implementing the relevant policies of the SDP and ultimately the purpose of the Act.

#### **Overall Conclusion**

13. I have undertaken a detailed assessment in my Interim Recommendation and that assessment and findings remain. I confirm my finding that PC71, as amended through the hearing process, is the most appropriate method of achieving the objectives of the proposal and giving effect to the objectives and policies of the relevant statutory documents including the NPS-UD, the CRPS and the SDP. It will provide significant development capacity in a location which in my view is ideally suited for residential development and includes areas already identified as FDAs. I consider that the effects and concerns raised by the submitters have been appropriately addressed.
14. My Recommendation maintains the protection of Christchurch Airport in accordance with the relevant objectives and policies. It recognises that the air noise contours are currently being reviewed but that there is no finality of outcome. The identification of the land within the contour as Potential Future Residential does not in any way purport to predetermine the

outcomes of the separate review process. On the evidence and information available to me, I consider that if the CIAL noise contour is removed from the planning maps, and subject to further assessment, the land identified as Potential Future Residential is suitable for residential development.

15. Overall, and for the reasons recorded in this Recommendation and in my Interim Recommendation, I confirm that PC71 as amended is the most appropriate means of achieving the purpose of the proposal, the relevant objectives and policies of the SDP and ultimately the purpose of the RMA.

#### **Recommendation**

16. For the reasons set out above, and in my Interim Recommendation of 7 June 2022, I **recommend** that the Selwyn District Council:
  - (1) **Pursuant to Clause 10 of Schedule 1 of the Resource Management Act 1991 the Council approves Plan Change 71 to the Selwyn District Plan as set out in Appendix A.**
  - (2) **That for the reasons set out in the body of my Interim Recommendation, and summarised in Appendix B, the Council either accept, accept in part or reject the submissions as identified in Appendix B.**



**David Caldwell**  
Hearing Commissioner

Dated: 29 July 2022



## APPENDIX A

### **PC71 Commissioner Decision – Amendments to District Plan**

- a) Amend the District Planning Maps to rezone and identify the 53ha Site Living Z and Rural Inner Plains ~~in the location identified in Appendix 1B. in the locations shown on the Rolleston Outline Development Plan attached in Appendix 1.~~
- b) Amend ODP Rolleston Area 4 and supportive narrative as set out in **Appendix 1A**
- c) Add Rolleston Outline Development Plan Area 14 and supporting narrative attached in **Appendix 1B** for the Site to ensure a coordinated and consistent approach to land development;
- d) Add additional rules to the Operative Selwyn District Plan as below (rule numbering to be confirmed).

Section C12 LZ Subdivision

Add additional rules:

12.1.3.52A In the Living Z Zone within ODP Area 14 as shown in Appendix 38:

(a) no subdivision of land shall take place until a potable water supply is available which is capable of serving any lots within the subdivision that are identified within ODP Area 14 as 'Water Supply Required Area'

(b) Within that part of the northern portion of ODP Area 14 and south of the 'Development Line' in ODP Area 14, no allotments shall be created prior to the formation of a roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive, and the extension of Broadlands Drive over ODP Area 4. This shall not include any reserve allotment or utility allotment created.

Restricted Discretionary Activities — Subdivision – General

12.1.5.2B

Any subdivision subject to Rule 12.1.1 which does not comply with Rule 12.1.52A(b)

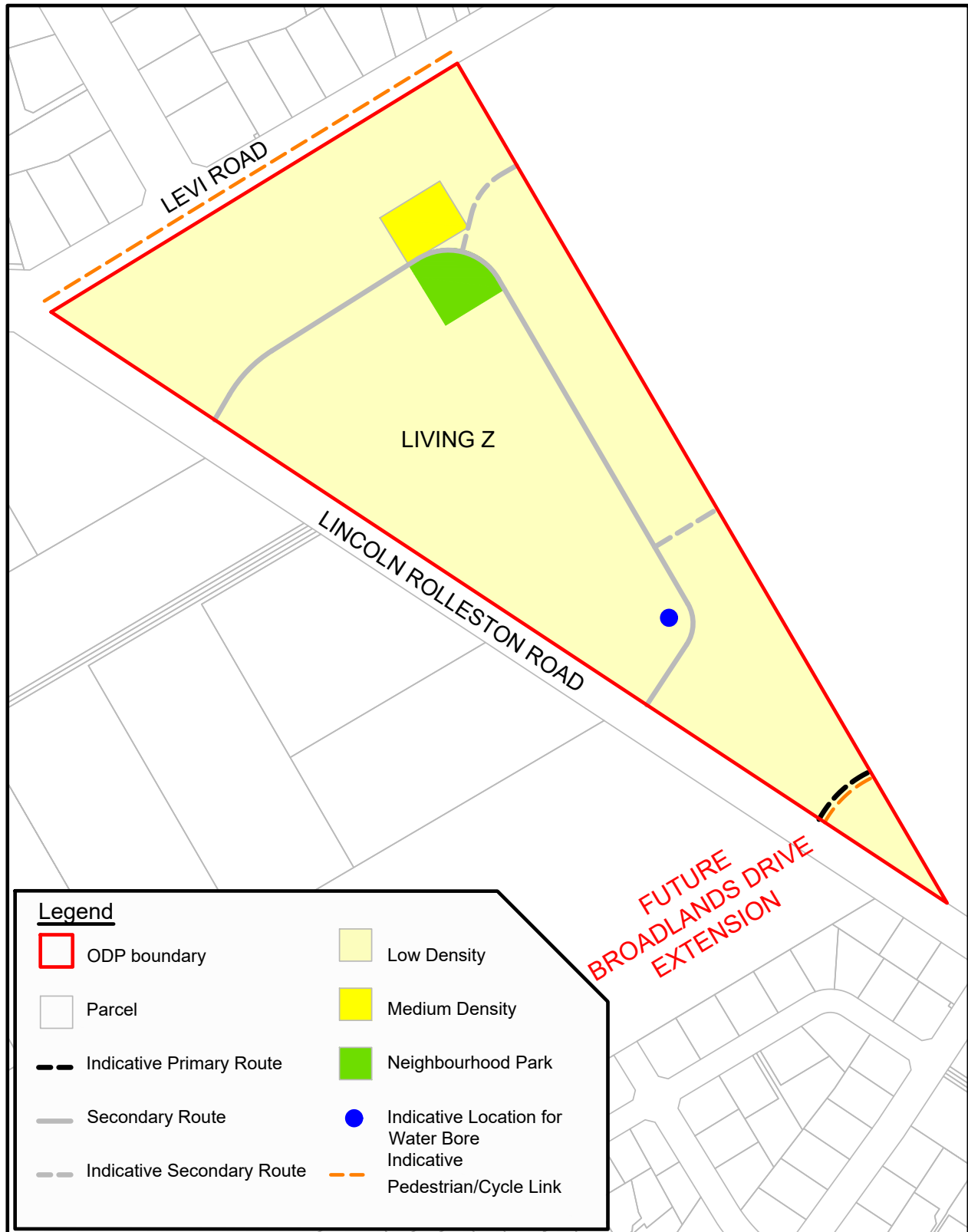
Insert after 12.1.5.10:

**Rolleston**

12.1.5.11 In relation to the northern portion of the Living Z Zone within ODP Area 14 south of the Development Line:

(a) connectivity between the proposed new residential development in this area, local green spaces, and Lincoln Rolleston Road including by way of alternative walking and cycling links;

(b) alignment between the proposed development including staging and overall road layouts, and the provision of infrastructure.



**Note:**

Exact location of indicative primary route i.e. future Broadlands Drive extension, to be determined at time of subdivision consent in consultation with Selwyn District Council.

Provisions for additional bores might be determined at the time of subdivision.

**Outline Development Plan**

OVERALL Plan

Area 4 - Rolleston



## OUTLINE DEVELOPMENT PLAN AREA 4

### INTRODUCTION

This Outline Plan (ODP) is for Development Area 4. ODP Area 4 comprises approximately 7.2ha and is bound by Levi Road to the north-west and Lincoln Rolleston Road to the south-west. The area is identified by the Land Use Recovery Plan (LURP) as a greenfield priority area.

The ODP embodies a development framework and utilises design concepts that are in accordance with:

- The Land Use Recovery Plan (LURP)
- Policy B4.3.7 and B4.3.77 of the District Plan
- Canterbury Regional Policy Statement
- The Rolleston Structure Plan
- The Greater Christchurch Urban Development Strategy (UDS)
- The Ministry for the Environment's Urban Design Protocol
- 2007 Christchurch, Rolleston and Environs Transportation Study (CRETS)
- 2009 Subdivision Design Guide.

A consolidated ODP shows the key features of the development

### DENSITY PLAN

The ODP area shall achieve a minimum of 10 household lots per hectare. ODP Area 4 supports a variety of allotment sizes within the Living Z framework to achieve this minimum density requirement. Should this area be developed in stages, confirmation at the time of subdivision of each stage, and an assessment as to how the minimum density of 10hh/ha for the overall ODP can be achieved, will be required.

The area's proximity to the town centre of Rolleston, and the associated services and facilities contained within it, supports some Medium Density Housing within the centre of ODP Area 4 and in proximity to the identified Neighbourhood Park.

- ~~Medium Density areas have been identified in accordance with the design principles of Policy B3.4.3. Minor changes to the boundaries of medium density areas will remain in general accordance with the ODP provided such changes meet the criteria below: Ability to access future public transport provisions, such as bus routes~~

**Medium Density areas have been identified in accordance with the design principles of Policy B3.4.3. Minor changes to the boundaries of medium density areas will remain in general accordance with the ODP provided such changes meet the following criteria:**

- Ability to access future public transport provisions, such as bus routes;
- Access to community and neighbourhood facilities;
- Proximity to Neighbourhood Parks and/ or green spaces;
- North-west orientation, where possible, for outdoor areas and access off southern and south-eastern boundaries is preferred;
- Distribution within blocks to achieve a mix of section sizes and housing typologies;
- To meet the minimum 10hh/ha density requirement and development yield.

- Existing dwellings and buildings shall be taken into account when investigating subdivision layout and design.

## MOVEMENT NETWORK

For the purposes of this ODP, it is anticipated that the built standard for a Primary Road will be the equivalent to the District Plan standards for a Collector Road standard, and a Secondary Road will be the equivalent to the District Plan standards for a Local-Major or Local-Intermediate Road, subject to confirmation of compliance with Council's Engineering requirements

The ODP provides for an integrated transport network incorporating a secondary loop road that includes two primary connections to access the development area from Lincoln-Rolleston Road, which have been offset from the primary route required in the adjoining ODP Area 9. The secondary loop road could either be developed to the District Plan standards of a Primary or Secondary Road.

A new primary road link in the form of an extension of Broadlands Drive will cross the southern part of the ODP Area to connect up with ODP Area 14 providing direct east-west access to the proposed District Park. **The intersection of Broadlands Drive with Lincoln Rolleston Road shall be formed as roundabout.**

No new Primary connections into the development block from Levi Road have been shown to reflect Levi Road's arterial function, to minimise the number of new intersections and connection points, and to maintain appropriate spacing between intersections. The secondary route focuses on providing ample access throughout the site to deliver a residential streetscape.

The remaining internal roading layout must be able to respond to the possibility that this area may be developed progressively over time. Road alignments must be arranged in such a way that long term inter-connectivity is achieved once the block is fully developed. An integrated network of tertiary roads must facilitate the internal distribution of traffic, and if necessary, provide additional property access. Any tertiary roads are to adopt a narrow carriageway width to encourage slow speeds and to achieve a residential streetscape.

The transport network for ODP Area 4 shall integrate into the overall pedestrian and cycle network established in adjoining neighbourhoods and the wider township. Cycling and walking will be contained within the road corridor and incorporated in the roading design of the secondary and (future) tertiary roads. Adequate space, as well as safe crossing points, must be provided to accommodate cyclists and to facilitate safe and convenient pedestrian movements.

Lincoln-Rolleston Road forms part of the wider arterial network connecting to the south of Christchurch and is proposed to include a future cycleway between Rolleston and Lincoln. The intersection of Lowes, Levi and Lincoln-Rolleston Roads and Masfield Drive is planned in the Long Term Plan to be upgraded with a larger roundabout or traffic signals in 2025-2026.

It is anticipated that roads with a current speed limit over 70km/h will be reduced to support urban development by delivering a safe and efficient transport network.

Lincoln Rolleston Road and Levi Road frontages are to be upgraded to an urban standard in accordance with the Engineering code of practice.

## GREEN NETWORK

A single Neighbourhood Park is to be established within ODP Area 4. In addition, a range of local reserves that vary in size and function are also required. The location of the neighbourhood park has been determined based on the **amount number** of reserves established in the wider area and to ensure people living within the development block have access to open space reserves within a 500m walking radius of their homes. The neighbourhood park and provision of local reserves will

provide passive recreation opportunities, with the Foster Recreation Park providing access to active recreation opportunities.

There is an opportunity to integrate the collection, treatment and disposal of stormwater with open space reserves where appropriate. Pedestrian and cycle paths will also be required to integrate into the open space reserves and green links to ensure a high level of connectivity is achieved, and to maximise the utility of the public space. Council's open space requirements cited in the Long Term Plan and Activity Management Plans should be adhered to during subdivision design.

## BLUE NETWORK

### Stormwater

The underlying soils are relatively free-draining that generally support the discharge of stormwater via infiltration to ground. There ~~are~~ is a range of options available for the collection, treatment and disposal of stormwater.

Detailed stormwater solutions are to be determined by the developer in collaboration with Council at subdivision stage and in accordance with Environment Canterbury requirements. Systems will be designed to integrate into both the road and reserve networks where practicable. The public stormwater system will only be required to manage runoff generated from within the road reserve.

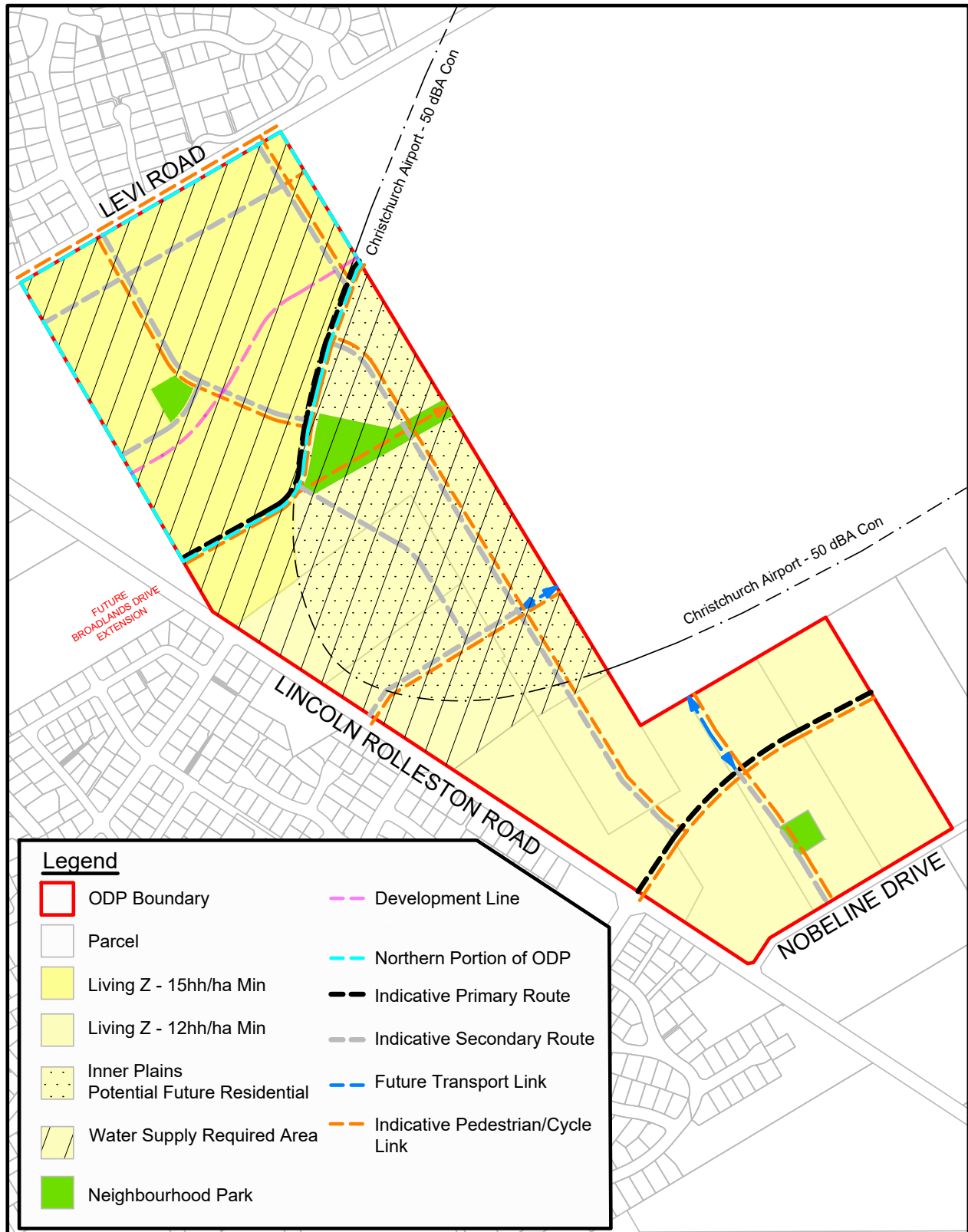
### Sewer

A gravity sewer connection will be required through an extension to the existing sewer network to the boundary of the ODP area. Sewage from this ODP area will be reticulated to the existing Helpet sewage pumping station.

### Water

The water reticulation will be an extension of the existing water supply in Rolleston. The ODP indicates the requirement for an additional water bore to be commissioned in accordance with the upgrades identified for the township.

The provision of infrastructure to service ODP Area 4 shall align with the Council's indicative infrastructure staging plan, unless an alternative arrangement is made by the landowner/developer and approved by Council.



**Note:**

The location of medium density sites will be determined at the time of subdivision in accordance with the ODP guidance under 'Land Use and Density'

**Outline Development Plan  
OVERALL Plan  
Area 14 - Rolleston**



## OUTLINE DEVELOPMENT PLAN AREA 14

(Post Interim Recommendation Version)

### INTRODUCTION

ODP Area 14 comprises approximately 53 ha of land at the eastern edge of Rolleston. The Area is split into three portions. The northern portion is bound by Levi Road to the north west and ODP Area 4 to the west. The southern portion is bound by Lincoln Rolleston Road to the south west and Nobeline Drive to the south. The north and south portions and the Lincoln Rolleston Road 'end' of the mid portion (outside the Christchurch International Airport 50 dBA Ldn noise contour – the CIAL noise contour) are zoned Living Z. The balance of the middle portion is within the CIAL noise contour and is zoned Rural Inner Plains. It is notated 'Potential Future Residential' on the ODP to indicate development potential should the CIAL noise contour be removed from the planning maps, and to illustrate potential connectivity. This recognises in recognition that if the CIAL noise contour constraint is removed from the planning maps, but for the current CIAL noise contour constraint, and subject to further assessment, that this land is ideally suited for residential development.

### DENSITY PLAN

The ODP area shall achieve a minimum net density of 15 households per hectare, averaged over the northern portion area; and 12 households per hectare averaged over the mid and southern portions of the area.

The zoning framework supports a variety of site sizes to achieve this minimum density requirement. Should this area be developed in stages, confirmation at the time of subdivision of each stage, and an assessment as to how the minimum net density of 12 or 15 households per hectare respectively for each overall area can be achieved, will be required.

The development will be shaped by these key design elements:

1. The extension of Broadlands Drive across the site to create a green link between Foster Park and the future District Park to the east of the area;
2. Diverse living environments supported by open green spaces;
3. A high amenity for all internal connections to support pedestrian and cycle movement;
4. A strong interface and new connections with the immediate residential neighbourhoods to the north and west;
5. Active integration with the adjacent potential future District Park to the east; and
6. Building on the close walkable connection to the town centre.

The area's proximity to the town centre of Rolleston, and the associated services and facilities contained within it, supports some medium density housing including within the centre of the ODP area, in proximity to the identified reserve area and adjacent to the future District Park.

### MOVEMENT NETWORK

Lincoln Rolleston and Levi Road form part of the wider arterial network connecting to Christchurch and south and includes a cycleway between Rolleston and Lincoln. The intersection of Lowes, Levi and Lincoln Rolleston Roads, and Masfield Drive is planned to be upgraded to a roundabout or traffic lights in 2025-2026.

Primary connections into the area from Levi Road shall be restricted to reflect Levi Road's arterial function, to minimise the number of new intersections and connection points and to maintain appropriate spacing between intersections. The intersection with Levi Road and Ruby Drive shall be formed as a roundabout.

A primary road connection is proposed as an extension to Broadlands Drive across ODP Area 4, providing a direct link to the future reserve to the east and schools and other destinations to the west. A primary road connection is also proposed as an extension of Branthwaite Drive extending east to cater for future development links.

An indirect secondary road connection is provided between the Branthwaite Drive extension and Levi Road to encourage traffic flow to remain on the Lincoln-Rolleston Road and Levi Road arterial routes.

The primary and secondary roads will provide a structure for the remaining internal and local road layout to provide inter-connectivity, walkable blocks and additional property access. The remaining internal road layout must be able to respond to the possibility that this area may be developed progressively over time including that part of the ODP presently under the CIAL noise contour, should the contour be removed or reduced over this area. An integrated network of roads must facilitate the internal distribution of traffic, and if necessary, provide additional property access.

Development will be staged to align with the formation of a roundabout at the intersection of Lincoln Rolleston Road and Broadlands Drive, and the extension of Broadlands Drive over ODP Area 4 to ODP Area 14. This Broadlands Drive extension will be formed to an urban standard.

Should the main connection west across ODP 4 to Lincoln Rolleston Road not yet be available, a temporary walking and cycle connection is to be provided from south of the Development Line shown on ODP 14 to Lincoln Rolleston Road via the shortest possible alternative route. The Development Line is intended to be a 'trigger point' for consideration of matters which ensure development of the northern portion of ODP14 is consistent with good urban design principles, including connectivity to community facilities and services, and green spaces.

Future transport links are shown to identify possible future connections between the northern and southern portions and in to adjoining blocks to the east, and from Nobeline Drive.

The transport network for the area shall integrate into the pedestrian and cycle network established in adjoining neighbourhoods and the wider township. Cycling and walking will be contained within the road corridor and incorporated in the design of any roads.

A shared path is proposed between the shared path on Lincoln Rolleston Road and the future reserve and cycling and walking will otherwise be contained within the road corridor and incorporated in the design of any roads. Adequate space, as well as safe crossing points, must be provided to accommodate cyclists and to facilitate safe and convenient pedestrian movements.

Separated shared pedestrian/cycle ways are to be included in

- the primary east-west routes
- the Levi Road frontages upgrade
- the Lincoln Rolleston Road frontage upgrade, including that part of Lincoln Rolleston Road that connects the northern and southern portions of this ODP area; and,
- key north-south routes

~~Where over~~ Wherever possible these shared paths are to be routed through open space and reserve to activate these public spaces. Crossing points for pedestrians and cyclists will be provided on Levi Road



and Lincoln Rolleston Road, along the site frontages, to align with key desire lines. A safe crossing point is not required to connect with the temporary pedestrian and cycleway shown on the ODP.

Lincoln-Rolleston Road and Levi Road frontages are to be upgraded to an urban standard in accordance with the Engineering Code of Practice.

Nobeline Drive including at the intersection with Lincoln Rolleston Road is to be upgraded, including vesting of frontage where needed, to a Local Major Road standard in accordance with the Engineering Code of Practice.

## **GREEN NETWORK**

Three public open spaces are included in the ODP in order to add amenity to the neighbourhood, provide relief for more compact residential clusters and provide residents with the opportunity for recreation.

The proposed reserve in the middle portion of the site located within the current CIAL noise contour forms a part of the green corridor linking Foster Park with the future District Park, the two primary reserves and the largest green spaces and recreational destinations in Rolleston. This neighbourhood park will function as the green heart of the development and offers a 'spatial break' and 'meeting place' for the medium density development and potential aged care living environments in close proximity. It promotes social interaction between a diverse range of residents and creates a hub for the local community.

The cycle and walk ways on the Broadlands Drive extension will be routed through this green space bringing the wider Rolleston community into this the heart of this new neighbourhood and allowing further opportunities for engagement.

The green reserve in the southern part of the site creates a similar focal point, albeit much smaller in scale. Here the green space functions as a local park for the neighbourhood and a break in the built environment to balance out the more built up environment.

All residents within the ODP area are able to access open space within a 400m walking radius. To provide easy access and adequate passive surveillance all reserves have minimum of two road frontages.

Council's open space requirements cited in the Long Term Plan and Activity Management Plans should be adhered to during subdivision design.

The ODP does not identify a specific area for new education facilities, but some land may be required within the ODP area for such facilities. This will be determined in conjunction with the Ministry of Education.

A number of mitigation measures can, taking into account future urban growth locations, address the interfaces of new residential development adjoining reserves or rural land. These may include compliance with operative district plan fencing rules, private covenants, consent notices or LIM notes, and street tree planting.

## **BLUE NETWORK**

Potable water capacity is only available from the existing Rolleston Water Supply to the southern portion of the ODP Area. Development of the balance of this ODP Area is subject to the provision of additional potable water supply.

The underlying soils are relatively free-draining, and generally support the discharge of stormwater via infiltration to ground. There are a range of options available for the collection, treatment, and disposal of stormwater.

Detailed stormwater solutions are to be determined by the developer in collaboration with Council at subdivision stage and in accordance with Environment Canterbury requirements. Systems will be designed to integrate into both the road and reserve networks where practicable. The public stormwater system will only be required to manage runoff generated from within the road reserve.

The provision of infrastructure to service the area shall align with the Council's indicative infrastructure staging plan unless an alternative arrangement is made by the landowner/developer and approved by Council.

## Summary of Submissions and further submissions

Submitter ID	Submitter Name	Point #	SDP Topic	Position	Summary	Decision Requested	Commissioner's Recommendation
PC71-0001	Paula	001	Transport Networks	Neither Support Nor Oppose	Concerned that Nobeline Drive is narrow and could not safely accommodate two way traffic and a footpath. Considers there is a need for a wide road to accommodate truck parked on submitter's property.	Not stated	Reject. However it is noted that the ODP provides: <i>Nobeline Drive including at the intersection with Lincoln Rolleston Road is to be upgraded, including vesting of frontage where needed, to a Local Major Road standard in accordance with the Engineering Code of Practice.</i>
PC71-0001	Paula	002	Residential and Business Development	Neither Support Nor Oppose	Previously advised that the area would not be subdivided in 20 years. Queries why has this been bought forward.	Not stated	Reject. Not a matter relevant to the Recommendation on PC71.
PC71-0001	Paula	003	Quality of the Environment	Neither Support Nor Oppose	Concerned that new residents will be affected by noise from motorbike riding on the submitter's property.	Not stated	Reject for the reasons addressed in the Interim Recommendation at paragraph [96].
PC71-0001	Paula	004	Water	Neither Support Nor Oppose	Queries effect of housing on submitter's water well.	Not stated	Reject – no evidence of direct negative impacts on submitter's well.
PC71-0001	Paula	005	Transport Networks	Neither Support Nor Oppose	Queries ability to safely continue to ride horses on the road and whether they can be ridden on the footpath.	Not stated	N/A
PC71-0001	Paula	006	Community Facilities	Neither Support Nor Oppose	Requests consideration of more houses on car parking in township.	Not stated	Reject. I accept the evidence that parking external to PC71 can be managed by landowners and existing Council processes (8.2 Transportation Hearing Report, December 2021).
PC71-0001	Paula	007	Utilities	Neither Support Nor Oppose	Queries if increased housing will impact submitter's internet.	Not stated	Reject. No evidence that plan change will impact on the submitter's internet. Matter for subdivision and not relevant at plan change.
PC71-0001	Paula	008	Transport Networks	Neither Support Nor Oppose	Concerned about ability for traffic to exit Nobeline Drive during peak hours.	Not stated	Reject. Traffic evidence from Ms Williams for the Applicant and Mr Collins that the intersection will perform adequately as an urbanised priority intersection.
PC71-0002	Alistair Grant	001	Transport Networks	Oppose	Concerned about the impact the plan change will have on traffic safety and safe access to the submitter's property on Levi Road as a motorist, pedestrian and cyclist. Notes that at peak times traffic is already backed up from the roundabout with Masefield Drive beyond the planned exit opposite Ruby Drive. Considers that Levi Road is already too narrow for the volume and speed of traffic and that cars cannot be safely parked on the roadside.	Reject or amend the plan change	Reject. Traffic effects considered and addressed in expert evidence. Accept the expert evidence that Levi Road has an approximate carriageway width of 8m which is likely to be extended to around 9-11m (subject to engineering design at subdivision stage). Should parking controls be required, such as no stopping at all times markings, that can be addressed at that stage.
PC71-0002	Alistair Grant	002	Community Facilities	Oppose	Concerned about impact on wellbeing due to the increase in population, with no reasonable size parks or green space in this area as compared to other areas in Rolleston.	Reject or amend the plan change	Reject. Issue addressed in Interim Recommendation. Note changes in relation to park and the proximity to the proposed district park.
PC71-0004	Christchurch International Airport Limited (CIAL)	001	Residential and Business Development	Oppose	Considers that any deferred zoning and / or further residential zoning in such close proximity to the Air Noise Contour would be inappropriate and undermine the integrity of the Selwyn District Plan and the Canterbury Regional Policy Statement in relation to the establishment of noise sensitive activities in proximity to the Airport. Considers that the current Air Noise Contour, as shown on Map A in the CRPS, remains applicable	Delay any decision on the Plan Change until completion of the remodelling process, and incorporation of the new contours into the planning framework	Reject. Land within the air noise contour remains as Inner Plains. Any potential future residential will be subject to further application and assessment. Delay in overall decision is unnecessary/inappropriate.
PC71-0012	Mark Chambers	FS002	Residential and Business Development	Support	<i>The proposal needs to be refused at this point, pending consultation by the developers with CIAL</i>	<i>Accept the submission point</i>	<i>Reject.</i>
PC71-0005	Ivan & Barbara Court	001	Utilities	Support In Part	Requests clarification of ODP services and roads and of deferral timeframe for Living Z Zone (deferred).	Not stated	Accept in part and note the clarification in relation to ODP services and roads has been provided through evidence. Deferral addressed in Interim Recommendation.
PC71-0006	Waka Kotahi NZ Transport Agency	001	Residential and Business Development	Neither Support Nor Oppose	The rezoning of the application site should be considered against the updated provisions of the Urban Development Strategy and the Canterbury Regional Policy Statement.	Give consideration to the implications of the Urban Development Strategy and the Canterbury Regional Policy Statement.	Accept in part. Issues in relation to the UDS and CRPS considered.

Submitter ID	Submitter Name	Point #	SDP Topic	Position	Summary	Decision Requested	Commissioner's Recommendation
PC71-0006	Waka Kotahi NZ Transport Agency	002	Transport Networks	Neither Support Nor Oppose	Considers that additional opportunities for multi-modal transport, particularly for walking and cycling, through and adjoining the site, should be considered to promote internal connections within plan change areas and connections to wider network.	Incorporate opportunities for multi-modal transport through and adjoining the site	Accept in part. Multi-modal transport issues identified and addressed in evidence and Interim Recommendation.
PC71-0006	Waka Kotahi NZ Transport Agency	003	Transport Networks	Neither Support Nor Oppose	Considers that the plan change is likely to contribute to transport associated carbon emissions due to a reliance on private vehicle use as a consequence of limited job opportunities and local amenities in the Rolleston township, resulting in private commuter traffic into the city. Notes that as the site is outside the Projected Infrastructure Boundary there is limited planning for the provision of improved public transport to support future residents of this plan change area.	Assess the Plan Change against the objectives and policies of the National Policy Statement for Urban Development Capacity 2020 and other documents relating to carbon emissions. Consider what improvements could be made to reduce the contribution of carbon emissions from the site.	Reject in part. Assessment has been undertaken in the evidence and Interim Recommendation. Contribution to compact urban form in Rolleston assists in public transport provision. Agree with reply submissions that the benefits of the land's location in terms of proximity to Rolleston Centre and its proximity to employment areas are such that it represents consolidated development of Rolleston supporting minimising energy use and provision of greater modal choice.
PC71-0012	Mark Chambers	FS003	Community Facilities	Support	<i>The proposal needs to be refused at this point, pending consultation by the developers with Waka Kotahi</i>	<i>Accept the submission point</i>	<i>Reject for reasons recorded above.</i>
PC71-0006	Waka Kotahi NZ Transport Agency	004	Transport Networks	Neither Support Nor Oppose	Considers that an increase of road capacity, public and active transport coverage, as well as ongoing operations and maintenance may be required to provide a good range of sustainable transport options for the future population.	Consider these matters as part of the design of the development, with the Council and Waka Kotahi.	Accept in part but agree with Applicant that consolidated development in Rolleston assists.
PC71-0012	Mark Chambers	FS004	Community Facilities	Support	<i>The proposal needs to be refused at this point, pending consultation by the developers with Waka Kotahi</i>	<i>Accept the submission point</i>	<i>Reject.</i>
PC71-0007	Christchurch City Council	001	Residential and Business Development	Oppose	Considers that the significance of the development capacity and the appropriateness of the proposal needs to be considered in a broader context of the Greater Christchurch sub-region, the direction in the NPS UD as a whole, and the CRPS framework.	Reject plan change unless concerns outlined in submission are addressed.	Reject. Significant development capacity in the context of the Greater Christchurch sub-region would require plan changes to meet an unreasonable threshold, risk undermining competitive land markets and a more nuanced approach is available. The direction of the NPS-UD and CRPS framework properly assessed and considered.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS008	Residential and Business Development	Support	<i>CIAL supports this for the reasons set out in its submission</i>	<i>Accept the submission point</i>	<i>Reject for reasons summarised in relation to primary submission.</i>
PC71-0007	Christchurch City Council	002	Residential and Business Development	Oppose	The plan change does not give effect to the CRPS as the site is outside of the areas identified for development in the CRPS, and in the submitter's view must be declined.	Reject plan change unless concerns outlined in submission are addressed.	Reject for reasons recorded in the Interim Recommendation and consideration of the NPS-UD.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS009	Residential and Business Development	Support	<i>The CRPS requires that the location and design of rural residential development shall avoid noise sensitive activities within the 50dBA Ldn Air Noise Contour. Development should not occur in areas under the Air Noise Contour.</i>	<i>Accept the submission point</i>	<i>Accept in part Area within the 50dBA Ldn noise contour remains Rural Inner Plains while identifying potential for residential development should the 50dBA Ldn noise contour be removed from the planning maps.</i>
PC71-0007	Christchurch City Council	003	Transport Networks	Oppose	Concerned that the proposal relies on a future public transport network which has not been planned or funded to provide connections. Considers that the distance from the site to bus stops will discourage public transport use and that location of the site does not provide sufficient local employment to meet the needs for potential residents and will promote reliance on car based transport, resulting in increased emissions, congestion and longer journey times. Considers that reducing private motor vehicle dependency is important for improving sustainability by reducing emissions and the significant adverse effects of downstream traffic within Christchurch City.	Reject plan change unless urban form and development controls are applied to ensure a funded and implemented public transport system is provided to service the site, including connections to Christchurch City, prior to any residential development.	Reject. The compact urban form and consolidated growth in Rolleston supports the provision of public transport.
PC71-0007	Christchurch City Council	004	Residential Density	Oppose	Considers that a higher minimum density of 15 households per hectare would better achieve efficiencies in coordination of land use and infrastructure, support mixed land use activities, support multi-modal transport systems and protect the productive rural land resource.	Reject plan change unless a minimum level of density for the development of 15 households per hectare is provided, and the relevant recommendations of the review of minimum densities undertaken under	Reject but note increase in density to 15 hh/ha in northern part of the site. Action 3 requires a number of steps prior to increase in density. The density proposed is the most appropriate.

Submitter ID	Submitter Name	Point #	SDP Topic	Position	Summary	Decision Requested	Commissioner's Recommendation
						Action 3 of Our Space are incorporated in the Plan Change.	
PC71-0004	Christchurch International Airport Limited (CIAL)	FS010	Residential Density	Support	<i>CIAL opposes any residential density increase under the 50dB Ldn Air Noise Contours. If the plan change is granted and the higher density of households per hectare granted, this relief will result in adverse reverse sensitivity effects on strategic infrastructure.</i>	Accept the submission point	Accept in part.
PC71-0007	Christchurch City Council	005	Residential and Business Development	Oppose	Notes that the Greater Christchurch Partnership are working on developing a Social and Affordable Housing Action Plan.	Incorporate the relevant recommendations of the Social and Affordable Housing Action Plan into the Plan Change.	Reject. The Action Plan not appropriate for incorporation into this private plan change.
PC71-0008	Canterbury Regional Council (Environment Canterbury)	001	Residential and Business Development	Oppose	The plan change is inconsistent with the policy direction in the Canterbury Regional Policy Statement and the strategic sub-regional land use and infrastructure planning framework for Greater Christchurch; including in relation to the anticipated settlement pattern.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject. Infrastructure and wastewater disposal considered and addressed in Interim Recommendation.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS001	Residential and Business Development	Support	<i>CIAL considers that the plan change should be rejected because it is inconsistent with the CRPS and Greater Christchurch planning framework. It would result in adverse reverse sensitivity effects on the operations of the Airport. CIAL does not consider that a deferred zoning would be appropriate as it creates expectations that may not be realised and which pre-empt a variety of technical processes which are yet to occur.</i>	Accept the submission point	Accept in part. Land under the air noise contour remains Rural Inner Plains but indicates potential residential development should the air noise contour in relation to the land be removed from the planning maps.
PC71-0008	Canterbury Regional Council (Environment Canterbury)	002	Transport Networks	Oppose	The plan change is inconsistent with the policy direction in the Canterbury Regional Policy Statement and the strategic sub-regional land use and infrastructure planning framework for Greater Christchurch; including in relation to the protection of the airport, as strategic infrastructure. Considers that a deferred zoning for urban development under the air noise contour is presumptuous and would be more appropriately considered as part of the full review of the CRPS.	Reject the plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Accept in part. Land under the air noise contour remains Rural Inner Plains but indicates potential residential development should the air noise contour in relation to the land be removed from the planning maps.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS002	Transport Networks	Support	<i>CIAL considers that the plan change should be rejected because it is inconsistent with the CRPS and Greater Christchurch planning framework. It would result in adverse reverse sensitivity effects on the operations of the Airport. CIAL does not consider that a deferred zoning would be appropriate as it creates expectations that may not be realised and which pre-empt a variety of technical processes which are yet to occur.</i>	Accept the submission point	Accept in part. Land under the air noise contour remains Rural Inner Plains but indicates potential residential development should the air noise contour in relation to the land be removed from the planning maps.
PC71-0008	Canterbury Regional Council (Environment Canterbury)	003	Waste Disposal	Oppose	The plan change is inconsistent with the policy direction in the Canterbury Regional Policy Statement and the strategic sub-regional land use and infrastructure planning framework for Greater Christchurch; including in relation to wastewater disposal.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject. Infrastructure including wastewater disposal adequately addressed and considered in the Interim Recommendation.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS003	Waste Disposal	Support	<i>CIAL considers that the plan change should be rejected because it is inconsistent with the CRPS and Greater Christchurch planning framework. It would result in adverse reverse sensitivity effects on the operations of the Airport. CIAL does not consider that a deferred zoning would be appropriate as it creates expectations that may not be realised and which pre-empt a variety of technical processes which are yet to occur.</i>	Accept the submission point	Accept in part. Infrastructure including wastewater disposal adequately addressed and considered in the Interim Recommendation.
PC71-0012	Mark Chambers	FS005	Community Facilities	Support	<i>The proposal needs to be refused at this point, pending consultation by the developers with Environment Canterbury</i>	Accept the submission point	Reject. CRC appeared and matters raised by it fully considered. Inappropriate to reject on the basis of pending consultation.
PC71-0008	Canterbury Regional Council (Environment Canterbury)	004	Transport Networks	Oppose	The plan change is inconsistent with the policy direction in the Canterbury Regional Policy Statement and the strategic sub-regional land use and infrastructure planning framework for Greater Christchurch; including in relation to public transport.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject. Issues addressed and considered in the Interim Recommendation.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS004	Transport Networks	Support	<i>CIAL considers that the plan change should be rejected because it is inconsistent with the CRPS and Greater Christchurch planning framework. It would result in adverse reverse sensitivity effects on the operations of the Airport. CIAL does not consider that a deferred zoning would be appropriate as it creates expectations that may not be realised and which pre-empt a variety of technical processes which are yet to occur.</i>	Accept the submission point	Reject in part. Issues addressed and considered in the Interim Recommendation.

Council 10 August 2022

Submitter ID	Submitter Name	Point #	SDP Topic	Position	Summary	Decision Requested	Commissioner's Recommendation
PC71-0008	Canterbury Regional Council (Environment Canterbury)	005	Land and Soil	Oppose	The submitter wishes to draw attention to the emerging national direction strengthening measures to protect highly productive land from development.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject for reasons addressed in paragraphs [75] to [86] of the Interim Recommendation.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS005	Land and Soil	Support	CIAL agrees that versatile soils and highly productive land are important considerations when looking at urban growth.	Accept the submission point	Reject for reasons addressed in paragraphs [75] to [86] of the Interim Recommendation.
PC71-0013	Sam Carrick	FS001	Land and Soil	Support	<p>1. The proposed subdivision is located on a large area of highly versatile soils.</p> <p>2. Highly versatile soils are a finite and rare resource in NZ.</p> <p>3. The availability of highly versatile soils has already been significantly affected by urban and peri-urban development at both the district, regional and national level</p> <p>4. Highly versatile soils are currently protected from development in both the Selwyn District Plan and the Canterbury Regional Policy statement</p> <p>5. Central Government is currently developing a National Policy Statement on Highly Productive Land, with the intent of providing stronger protection from development on Highly versatile soils. I note that whilst the NPS-HPL is still under development, the High Court has held that regard may be had to non-binding national policy documents, as relevant background material, even if those documents do not have any status under the RMA</p> <p>6. Alternative locations do exist for the township of Rolleston to grow, that are not located in an area dominated by Highly versatile soils</p>	Accept the submission point	Reject for reasons addressed in paragraphs [75] to [86] of the Interim Recommendation.
PC71-0013	Sam Carrick	FS002	Land and Soil	Support	<p>1. The proposed subdivision is located on a large area of highly versatile soils.</p> <p>2. Highly versatile soils are a finite and rare resource in NZ.</p> <p>3. The availability of highly versatile soils has already been significantly affected by urban and peri-urban development at both the district, regional and national level</p> <p>4. Highly versatile soils are currently protected from development in both the Selwyn District Plan and the Canterbury Regional Policy statement</p> <p>5. Central Government is currently developing a National Policy Statement on Highly Productive Land, with the intent of providing stronger protection from development on Highly versatile soils. I note that whilst the NPS-HPL is still under development, the High Court has held that regard may be had to non-binding national policy documents, as relevant background material, even if those documents do not have any status under the RMA</p> <p>6. Alternative locations do exist for the township of Rolleston to grow, that are not located in an area dominated by Highly versatile soils</p>	Accept the submission point	Reject for reasons addressed in paragraphs [75] to [86] of the Interim Recommendation.
PC71-0013	Sam Carrick	FS003	Land and Soil	Support	<p>1. The proposed subdivision is located on a large area of highly versatile soils.</p> <p>2. Highly versatile soils are a finite and rare resource in NZ.</p> <p>3. The availability of highly versatile soils has already been significantly affected by urban and peri-urban development at both the district, regional and national level</p> <p>4. Highly versatile soils are currently protected from development in both the Selwyn District Plan and the Canterbury Regional Policy statement</p> <p>5. Central Government is currently developing a National Policy Statement on Highly Productive Land, with the intent of providing stronger protection from development on Highly versatile soils. I note that whilst the NPS-HPL is still under development, the High Court has held that regard may be had to non-binding national policy documents, as relevant background material, even if those documents do not have any status under the RMA</p> <p>6. Alternative locations do exist for the township of Rolleston to grow, that are not located in an area dominated by Highly versatile soils</p>	Accept the submission point	Reject for reasons addressed in paragraphs [75] to [86] of the Interim Recommendation.

Submitter ID	Submitter Name	Point #	SDP Topic	Position	Summary	Decision Requested	Commissioner's Recommendation
PC71-0008	Canterbury Regional Council (Environment Canterbury)	006	Residential and Business Development	Oppose	Considers that the desirability of growth at Rolleston is best considered as part of a future spatial planning exercise rather than ad-hoc and individual assessments prompted by private plan change requests.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject. Part of the plan change area has already been identified as an FDA. It satisfies the criteria in Policy 8 of the NPS and the rezoning, as amended, is the most efficient and appropriate method of achieving the objectives and purpose of the Act.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS006	Residential and Business Development	Support	<i>CIAL opposes any further residential density increase under the 50dB Ldn Air Noise Contours. This will result in adverse reverse sensitivity effects on strategic infrastructure. Considering growth at Rolleston as part of a future spatial planning exercise rather than on an ad hoc and individual basis (with the exception of those activities which meet the criteria in Policy 8 of the NPS-UD) would be more efficient and achieve better outcomes, including the protection of the Airport.</i>	<i>Accept the submission point</i>	<i>Reject in part. The plan change, as amended, meets the criteria in Policy 8 of the NPS-UD and is efficient and achieves better outcomes. The protection of the airport is addressed.</i>
PC71-0008	Canterbury Regional Council (Environment Canterbury)	007	Residential and Business Development	Oppose	Does not consider it has been demonstrated that the proposed plan change will add significantly to development capacity or contribute to a well-functioning urban environment, nor has it been demonstrated that the proposal is, or will be, well connected, and therefore does not give effect to various provisions in the NPS-UD.	Reject plan change; or If the plan change is not rejected, amend the plan change to address issues raised in the submission.	Reject for reasons recorded in the Interim Recommendation. The plan change adds significantly to development capacity, contributes to a well functioning urban environment, will be well connected and gives effect to the various provisions in the NPS-UD.
PC71-0004	Christchurch International Airport Limited (CIAL)	FS007	Residential and Business Development	Support	<i>CIAL supports this for the reasons set out in its submission. Enabling activities which generate adverse reverse sensitivity effects on strategic infrastructure does not amount to a well-functioning urban environment.</i>	<i>Accept the submission point</i>	<i>Reject. The plan change adds significantly to development capacity, contributes to a well functioning urban environment, will be well connected and gives effect to the various provisions in the NPS-UD. As amended potential reverse sensitivity effects addressed.</i>
PC71-0009	Foodstuffs (South Island) Properties Limited	001	Residential and Business Development	Oppose	Concerned that the site is not anticipated for future urban development and will result in adverse effects, including reverse sensitivity and traffic effects, on the intended use of the submitter's property. Considers that the proposed Outline Development Plans are not feasible, based on the submitter's intended use of their land and will not be able to be given effect to.	Reject Plan Change and/or Any alternative, additional or consequential amendments, deletions or additions that are necessary or appropriate to give effect to the matters raised in this submission	Reject. Reverse sensitivity and traffic effects addressed. Record the position addressed in Applicant's reply. Note the critical road connection and extension is outside of the area proposed for supermarket development and accords with the Rolleston Structure Plan.
PC71-0010	Ministry of Education (the Ministry)	001	Community Facilities		Concerned about the potential effects of the proposed rezoning on various schools within the district, particularly Rolleston Primary School, Rolleston College, Clearview Primary School and Te Rohutu Whio. Considers that the plan change is inconsistent with the CRPS including that it does not show any site for a school in the ODP and does not include an assessment of whether a new school is required due to the increase in residents arising from the rezoning and consequent development. Notes that the applicant has not undertaken any consultation with the Ministry or had any regard to the capacity of education infrastructure.	Only approve the plan change if the applicant consults with the Ministry and sufficient provision is made to accommodate additional school age children which could include amending the ODP to provide for a new school site.	Reject. Note ODP specifically records that some land may be required within the ODP area for new education facilities which will be determined in conjunction with the Ministry of Education.
PC71-0012	Mark Chambers	FS001	Community Facilities	Support	<i>The proposal needs to be refused at this point, pending consultation by the developers with the Ministry</i>	<i>Accept the submission point</i>	<i>Reject for reasons summarised in relation to the primary submission.</i>
PC71-0010	Ministry of Education (the Ministry)	002	Residential and Business Development		Considers that the plan change may set a precedent for development outside of existing planned areas, making planning for school capacity and networks increasingly difficult. Considers that Policy 8 of the NPS-UD should be balanced against other parts of the NPS-UD including requirement to ensure additional infrastructure, including schools, is provided.	Only approve the plan change if the potential inconsistencies between Policy 8 of the NPS-UD and the CRPS are satisfactorily resolved as it relates to development capacity and well-functioning urban environments.	Reject. Plan change does not set a precedent and possible provision of land for educational facilities identified in ODP.
PC71-0011	Blaine Morch	001	Transport Networks	Oppose In Part	Concerned Levi Rd is already dangerously narrow, without sufficient space for traffic to pass a parked vehicle, particularly between Masefield Drive and Goldrush Lane, and will be further impacted by the proposed development.	Require Levi Road to be widened to provide sufficient width for vehicles to be parked safely on both sides of the road.	Reject. Traffic effects considered and addressed in expert evidence. Accept the expert evidence that Levi Road has an approximate carriageway width of 8m which is likely to be extended to around 9-11m (subject to engineering design at subdivision stage). Should parking controls be required, such as no stopping at all times markings, that can be addressed at that stage.

## REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Jocelyn Lewes – Strategy and Policy Planner

**DATE:** 28 July 2022

**SUBJECT:** **REQUEST TO MAKE OPERATIVE PRIVATE PLAN CHANGES 75, 76 AND 78 – ROLLESTON**

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## RECOMMENDATION

*‘That Council:*

- a) approves Private Plan Changes 75, 76 and 78 to the Selwyn District Plan, under Clause 17(2) of Schedule 1 of the Resource Management Act 1991;*
- b) delegates the Team Leader Strategy and Policy to complete the necessary statutory processes to publicly notify the date on which the private plan changes become operative, being as soon as possible after the Clause 34 variation is notified (20 August 2022), in accordance with the requirements in Clause 20(2) of Schedule 1 of the Resource Management Act 1991.’*

### 1. PURPOSE

To make operative Private Plan Changes 75, 76 and 78 to the Selwyn District Plan.

### 2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This is a procedural matter under the Resource Management Act 1991 and as such does not trigger the Council's Significance Policy.

### 3. HISTORY/BACKGROUND

Private Plan Changes 75, 76 and 78 are privately initiated plan changes in Rolleston, seeking to collectively rezone approximately 100ha of Rural (Inner Plains) zoned land to Living Z. Each plan change also seeks to introduce an outline development plan for each area to coordinate the future development of the areas and integrate this into the wider environment.

The private plan changes were accepted by Council in March and May 2021. They were publicly notified in May and June 2021 and were considered by an independent hearing commissioner in November 2021. The Council accepted the commissioner's recommendations and approved the plan changes in April 2022 and these decisions were subsequently publicly notified.

However, due to the complexities of the Resource Management (Enabling Housing Supply and Other Matters) Act, which came into force on 21 December 2021, Council resolved not to make these plan change requests operative, rather it noted the need to



vary these plan changes as per Clause 34 of the Amendment Act and approved their inclusion in the Council's Variation of the Proposed District Plan, consistent with the resolution of Council on 23 February 2022.

#### 4. **PROPOSAL**

Schedule 1 of the Resource Management Act 1991 sets out the statutory process for plan changes.

Clause 17(2) states that "*a local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of*". Clause 20 of Schedule 1 sets out the process that is required to be undertaken for the notification of the operative date of the plan change.

No appeals were received in relation to the three private plan change requests covered by this report. Usually, at this point, with the delegation of Council, staff would take the necessary steps set out in Clause 20 to make the plan change operative and amend the Selwyn District Plan as appropriate. However, in light of the requirements of Clause 34 of the Amendment Act, Council previously resolved not to take this step, rather holding these plan changes at the decision stage, while allowing the appeal period to roll through. The reason for doing so is that Clause 34 of the Amendment Act required Council to notify a variation to the plan change to incorporate the Medium Density Residential Standards (MDRS) and a variation process cannot be initiated to an operative plan.

Following further discussions, and consideration of the Resource Management Act, this approach has been updated, the result being that once the private plan changes are varied to incorporate MDRS, these variations become separate entities to the original private plan changes, thereby allowing each to progress through their relevant processes. This approach stems from a closer reading of the relevant clauses of the First Schedule. Essentially, Council is required to vary the private plan changes and can only do this prior to approving the private plan changes. However, once the variation is notified, Clause 17(1A) allows Council to approve a private plan change to which it has initiated a variation, and Clause 17(1B) provides for a 'transformation' of the Clause 34 variation, from a variation, to an independent plan change.

In essence, the decision to make the private plan changes operative comes down to timing. Once the variation to the private plan changes seeking to incorporate MDRS is notified, it becomes a plan change in its own right. This then allows the original private plan change to be made operative, and for it to become part of the Selwyn District Plan, thereby enabling it to be taken into account when processing a resource consent.

#### 5. **OPTIONS**

There are two options available to Council:

##### **(a) Option 1: Status Quo**

This option would continue the approach adopted by Council at its meeting on 23 February 2022 and would continue to hold Private Plan Changes 75, 76, and 78 until such time as decisions on the variation to incorporate MDRS are made, which is not likely to be before August 2023.

This option is not recommended as it is contrary to more recent advice from legal counsel.

**(b) Option 2: Approve the private plan changes and make them operative (recommended option)**

This option would result in Private Plan Changes 75, 76 and 78 being approved, as all submissions or appeals have been disposed of in accordance with Clause 17(2) and, once the Clause 34 variation has been notified, being made operative, with the Selwyn District Plan being amended accordingly

This option is recommended as it is in line with more recent consideration of the Resource Management Act and, as the plan changes are beyond challenge, there is little risk in making them operative once the variation has been notified.

**6. VIEWS OF THOSE AFFECTED / CONSULTATION**

**(a) Views of those affected and Consultation**

As a procedural step, the views of any affected parties have not been sought or considered. Consultation has previously occurred in accordance with the processes required under the RMA.

**(b) Māori and Treaty implications**

As a procedural step, there are no impacts on Māori associated with the approval of these private plan changes.

**(c) Climate Change considerations**

As a procedural request, impacts on climate change are not relevant to this recommendation.

However, it is worth noting that the private plan changes will assist in responding to climate change by enabling development in Rolleston that is a logical extension to the existing township boundary; provides for a consolidated urban form; and provides pedestrian and cycle linkages to community infrastructure.

**7. FUNDING IMPLICATIONS**

There are no financial implications associated with making the private plan changes operative. Approving private plan changes and amending the Selwyn District Plan is a statutory requirement and any associated costs incurred are on-charged with the private plan change proponents.



Jocelyn Lewes  
**STRATEGY AND POLICY PLANNER**

***Endorsed For Agenda***

A handwritten signature in black ink, appearing to read 'Tim Harris', with a stylized flourish at the end.

Tim Harris  
**GROUP MANAGER – DEVELOPMENT AND GROWTH**

## REPORT

**TO:** Council

**FOR:** Council Meeting – 10 August 2022

**FROM:** Personal Assistant to Mayor

**DATE:** 28 July 2022

**SUBJECT: REGISTER OF DOCUMENTS SIGNED AND SEALED**

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### RECOMMENDATION

*'That the following transactions and the fixing of the Common Seal under authorised signatures have been approved.'*

#### 1. PURPOSE

To advise Council of legal documents approved for signing and sealing.

### REGISTER OF DOCUMENTS SIGNED AND SEALED

1	Name of other party	Andre Johnathon Brocherie
	Transaction type	Deed of Licence to occupy to 30 June 2020 (licence has been rolled over)
	Transaction description	Transfer of Deed of Licence from Trekessa J Nesbitt to Andre Johnathon Brocherie following the sale of Hut 15 Upper Selwyn Huts
2	Name of other party	Rolleston Investments Limited
	Transaction type	Deed of Variation of Lease (Rent Review)
	Transaction description	837 Jones Road Rolleston – Warehouse facility leased by Civil Defence
3	Name of other party	Thomland Farms Limited
	Transaction type	Deed Incorporating Additional Premises and Variation of Lease
	Transaction description	Raeburn Farm 354 Creyke Road The tenant at Raeburn Farm has now agreed to take a tenancy of the house and 9ha at the above site and this will be added to the existing lease by variation.

4	Name of other party	Adrienne Mary Goodeve, Philip Dean Thomas, Rural Business Trustees (2018) Limited
	Transaction type	Licence to Occupy Road Reserve (CPW – Small Block Water Access)
	Transaction description	Road reserve of Tramway Road and Kimberley Road, Darfield

5	Name of other party	Orion NZ Ltd
	Transaction type	Agreement to grant electricity easement
	Transaction description	Kirwee Reserve - 38 High Street, Kirwee

6	Name of other party	SDC
	Transaction type	Signing of Authority & Instruction – right to drain sewage and convey water
	Transaction description	Recreation Reserve, Iris Taylor Avenue, West Melton

7	Name of other party	Stephen Philip Hillson and Peggy Anne Hillson
	Transaction type	Licence to Occupy Unformed Legal Road
	Transaction description	Off Milnes Road, Hororata

8	Name of other party	Max Colin Duncan and Adrienne Laura Duncan
	Transaction type	Deed of Licence
	Transaction description	Off Ryelands Drive, Lincoln adjacent to the Liffey Stream

Bernadette Ryan  
**PERSONAL ASSISTANT TO MAYOR**

***Endorsed For Agenda***

David Ward  
**CHIEF EXECUTIVE**

**Notice of Motion**

**Councillor Alexander**

*‘That the Chief Executive Officer be instructed to ensure that a needs assessment / business case for a Rolleston Gymnastics facility be completed forthwith, no later than December 2022 – to honour the commitment Council made in its 2021/31 Long Term Plan.’*

**RESOLUTION TO EXCLUDE THE PUBLIC****Recommended:**

*'That the public be excluded from the following proceedings of this meeting. The general subject matter to be considered while the public is excluded, the reason of passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:*

General subject of each matter to be considered		Reasons for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution	Date information can be released
1.	PX Minutes	<i>Good reason to withhold exists under Section 7</i>	<i>Section 48(1)(a)</i>	
2.	Withdrawal of council report re private plan changes			
3.	Expenditure approval for Hughes Development Agreement			
4.	Leasing of tenancy at Rolleston Fields			
5.	Springfield Stormwater Property Purchase			

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

2	To protect all communications between a legal adviser and clients from being disclosed without the permission of the client	Section 7(2)(g)
1 - 5	Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or	Section 7(2)(h)
1 - 5	Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or	Section 7(2)(i)

2 *that appropriate officers remain to provide advice to the Committee.'*

**PUBLIC EXCLUDED MINUTES OF AN ORDINARY MEETING  
OF THE SELWYN DISTRICT COUNCIL  
HELD IN THE COUNCIL CHAMBERS AND VIA ZOOM  
ON WEDNESDAY 27 JULY 2022  
COMMENCING AT 5.25pm**

**PRESENT**

Mayor S T Broughton, Councillors, M A Alexander, J B Bland (via Zoom), S N O H Epiha, D Hasson, M P Lemon (via Zoom), M B Lyall, S McInnes, G S F Miller, R H Mugford and N C Reid

**IN ATTENDANCE**

Messrs. D Ward (Chief Executive), K Mason (Group Manager Organisational Performance), M Washington (Group Manager Infrastructure & Property via Zoom), S Hill (Deputy Electoral Officer), T Harris (Group Manager Development and Growth), M England (Asset Manager Water Services), R Love (Team Leader Strategy & Policy), and R Allen (Acquisitions, Disposals and Leasing Manager); Mesdames D Kidd (Group Manager Community Services & Facilities), B White (Acquisitions, Disposal and Leasing Officer), K Johnston (Senior Communications Advisor) and N Smith (Executive Assistant to the Chief Executive), and Ms T Davel (Committee Advisor)

**APOLOGIES**

An apology was received in relation to Councillor Gallagher.

**Moved** – Councillor Epiha / **Seconded** – Councillor Alexander

*‘That the Council receives the apology from Councillor Gallagher, for information.’*

**CARRIED**

**CONFLICTS OF INTEREST**

None.

**CURRENT MATTERS REQUIRING ATTENTION**

See last page.

**IDENTIFICATION OF EXTRAORDINARY BUSINESS**

None.



## CONFIRMATION OF MINUTES

### 1. Public excluded minutes of an Ordinary meeting of the Selwyn District Council held in the Council Chamber on Wednesday 6 July 2022.

Staff noted they will include an actual date for information to be released in future. Councillor Miller said the minutes around the Rolleston Town Centre matter did not adequately show his point of view and would welcome the opportunity for additions to be made. He would send it through to staff to add.

**Moved** (as amended) – Councillor Lyall / **Seconded** – Councillor McInnes

*'That Council confirms the unconfirmed public excluded minutes of an ordinary Meeting of the Selwyn District Council held on Wednesday 6 July 2022, as amended.'*

**CARRIED**

Councillor Miller raised the issue of a vote of no confidence in the leadership of LGNZ. Councillors agreed that should this matter come up Council will discuss it at that time.

### 2. Strategy and Policy Planner

*Plan Change 72 – Appeal Mediation*

**Moved** – Councillor Lyall / **Seconded** – Councillor Hasson

*'That Council:*

- a) Receives the Public Excluded Report on the Private Plan Change 72 Appeal;*
- b) Agrees to attend Environment Court conducted mediation on the Private Plan Change 72 Appeal to Environment Court to mediate the following topics for the purposes of resolving and settling the appeal;*
  - i. Stormwater drainage*
  - ii. Re-zoning additional land*
- c) Notes that settlement at mediation of the stormwater drainage issue would be consistent with the substantive decision, and so sits within existing delegations to staff*
- d) Delegates to the Team Leader - Strategy and Policy or Planning Manager the authority to settle at mediation including signing a mediation agreement covering the topics in paragraph b)ii. to resolve and settle the appeal subject to the approval of Council Asset Managers and Council Experts retained to provide expert opinions and advice on both the topics and the means by which issues related to those topics can be resolved at the mediation in accord with the purpose of the Resource Management Act 1991.*
- e) Acknowledges that any potential mediation outcome outside of the scope of the above will be brought back to Council for resolution.*
- f) Agrees that the results of the Environment Court mediation will be reported back to the Council at the first available opportunity.'*

**CARRIED**

**3. Group Manager Infrastructure and Property**

*Property Transaction Update – 30 June 2022*

Staff said they would be considering whether there was scope for in-house management of the Health Hub but otherwise they would look at commercial property agents.

The Chief Executive confirmed that the SAC deficiencies was an Audit and Risk workstream. He would share information regarding the matter with the Council. Staff added they had received a response from Warren Mahoney and will be reviewing the offer in the next week.

**Moved** – Councillor Mugford / **Seconded** – Councillor Reid

*‘That Council receives the Property transactions update, public excluded report, as at 30 June 2022, for information.’*

**CARRIED**

**EXTRAORDINARY BUSINESS**

**RESOLUTION TO MOVE FROM PUBLIC EXCLUDED**

**Moved** – Councillor Hasson / **Seconded** – Councillor McInnes

*‘That the meeting move out of public excluded business at 5.40pm and resume in open meeting.’*

**CARRIED**

The meeting closed at 5.40pm

DATED this                      day of                      2022

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**MAYOR**

**PX MATTERS UNDER INVESTIGATION**

Item	Meeting referred from	Action required	Report Date
Dunweavin Ltd		Report back to Council on progress with the matter	24 August 2022
Processing Private Plan Change requests in response to the Resource Management (Enabling Housing Supply and other matters) Amendment Act 2021	6 July 2022	Report back to Council after a workshop and further analysis	24 August 2022

## PUBLIC EXCLUDED REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Group Manager Infrastructure & Property

**DATE:** 4 August 2022

**SUBJECT:** **Canterbury Water Management Strategy Zone Committee Member Refresh – selection panel update and appointments**

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## RECOMMENDATION

1. *Receives the overview of the 2021 Canterbury Water Management Strategy Zone Committee Refresh;*
2. *Approves the following appointments to the Selwyn Waihora Zone Committee: Matt Dodson, Allanah Kidd and Tayla Nelson Tūhuru*
3. *Notes the reappointment of the following to the Christchurch West Melton Zone Committee: Annabelle Hasselman with new appointment: Clare Piper and Cailin Richardson Hall*
4. *Agrees to the public release of the names of these CWMS Zone Committee members once Christchurch City and Environment Canterbury Regional Councils have also approved the appointments*

## PUBLIC EXCLUDED REASONING

This report is excluded for the following reason provided under Section 7 of the Local Government Official Information and Meetings Act (LGOIMA):

<i>To protect the privacy of natural persons, including that of deceased natural persons;</i>	<i>Section 7(2)(a)</i>
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### 1. PURPOSE

This paper seeks Council approval to appoint ~~these~~ Canterbury Water Management Strategy (CWMS) Zone Committee members.

### 2. HISTORY/BACKGROUND

In 2021 the CWMS Zone Committee Refresh cycle was moved from the previous timing of September – November 2021 to April – July 2022. There were several

benefits from this move including aligning the refresh cycle with Council's LTP cycle and also to avoid any overlap with the Local Authority elections.

At the December meeting Council approved extensions to the following community representatives through to August 2022 in order to provide for the refresh process.

**1) Christchurch West Melton**

Kevin Brown, Abbie Wilson and Annabelle Hasselman

**2) Selwyn Waihora**

Annie McLaren, Fiona McDonald and Simon Hay

This year's CWMS Zone Committees Refresh was advertised by Environment Canterbury between Monday 2 May and Monday 30 May. In total, 41 applications were received across the nine Zone Committees, compared with 56 applicants in 2021. Selection Panel workshops and decisions on appointments are now completed for all nine Zone Committees being refreshed this year.

For each zone committee active in the District an overview of the selection process is provided including the selection panel participants, a short bio on the recommended appointments and the composition of the refreshed 2022 Zone Committees.

**Christchurch West Melton**

**Selection Panel**

Independent Chair: Jane Demeter

Christchurch City Council: Emma Norrish

Selwyn District Council: Murray Washington

Te Rūnanga o Taumutu: Les Wanhalla

Environment Canterbury: Councillor Phil Clearwater

**Recommended Appointments**

**Annabelle Hasselman** – has been a member of the Christchurch West Melton Zone Committee since 2019 and is the current Chair of the Zone Committee. Annabelle is Chair of the Opāwaho Heathcote River network, which seeks to improve the ecological health of the river and work with communities to help achieve this. She is passionate about effecting change for the health of our unique urban rivers in the Christchurch West Melton Zone.

**Clare Piper** – Clare has an interest in being actively involved in enhancing and supporting both our urban water supplies, and the water quality of our urban waterways/bodies. She has a degree in Social Science (Resource and Environmental Management) and a Masters in Environmental Policy. Clare is a resident of Central Christchurch and has a desire to see her children continuing to see fish in the urban rivers and play in the waterways. Clare works in the Planning and Consents team at the Christchurch City Council.

**Cailin Richardson Hall** – has a role as an Outdoor Educator in Ōtautahi, and has a strong connection to our environment. Cailin would love to help develop actions to sustain our environment and waterways for future generations to come. She supports the Zone Committee's vision for its urban waterways to be healthy and for its communities to have a potable supply of untreated groundwater into the future.

## **2022 Refreshed CWMS Christchurch West Melton Zone Committee**

Christchurch City Council: Community Board Member Emma Norrish  
Selwyn District Council: Councillor Sophie McInnes  
Te Taumutu Rūnanga: Les Wanhalla  
Te Ngāi Tūāhuriri Rūnanga: Arapata Reuben  
Te Hapū o Ngāti Wheke: Kakati Te Kākākura Royal  
Environment Canterbury: Councillor Phil Clearwater  
Youth Representative: Oscar Bloom

### **Community Representatives:**

Mike Patchett  
Helen Rutter  
Shona Sluys  
Brynlea Stocks  
*Annabelle Hasselman*  
*Clare Piper*  
*Cailin Richardson Hall*

## **Selwyn Waihora**

### **Selection Panel**

Independent Chair: Jane Demeter  
Christchurch City Council: Emma Norrish  
Selwyn District Council: Councillor Sophie McInnes  
Te Taumutu Rūnanga: Les Wanhalla  
Te Rūnanga o Koukourarata: Karaitiana Taiuru  
Environment Canterbury: Councillor Vicky Southworth

## **2022 Recommended Appointments**

**Matt Dodson** – is a hydrogeologist with 10 plus years’ experience in working in local government and providing information for policy development. Matt is familiar with the Selwyn Te Waihora zone and often visits the zone for recreational opportunities. Matt was a technical lead for part of the Waimakariri Zone Implementation Plan Addendum process.

**Allanah Kidd** – has a Masters degree in environmental management and is familiar with the Resource Management Act and the principles and processes in place for managing natural resources in New Zealand. Allanah lives in rural Canterbury with her husband and son and has a particular interest in long-term water quality and management of the local environment.

**Tayla Nelson-Tūhuru** – currently studies Environmental Management at Lincoln University, majoring in Water Management. Tayla has several hobbies including marching, and volunteers cleaning up Whakaraupō/Lyttelton harbour. Tayla’s whakapapa is to Te Rūnanga o Ngāti WaeWae and Te Hapū o Ngāti Wheke

## **2022 Refreshed CWMS Selwyn Waihora Zone Committee**

Christchurch City Council: Councillor Anne Galloway

Selwyn District Council: Councillor Nicole Reid  
Te Rūnanga o Taumutu: Les Wanhalla  
Te Ngāi Tūāhuriri Rūnanga: Vacant  
Ōnuku Rūnanga: Rik Tainui  
Wairewa Rūnanga: Benita Wakefield  
Te Rūnanga o Koukourārata Karaitiana Taiuru  
Te Hapū o Ngāti Wheke: Mishele Radford  
Environment Canterbury: Councillor Vicky Southworth

Community Representatives:

James Booker  
Helen Troy  
Khan McKay  
Simon Bryant  
*Matt Dodson*  
*Allanah Kidd*  
*Tayla Nelson-Tūhuru*

**3. FINANCIAL IMPLICATIONS**

This Zone Committee Refresh process is part of the annual CWMS programme and supported by ECan (Environment Canterbury) Communications in terms of promotion and advertising.

**4. ENGAGEMENT, SIGNIFICANCE AND MĀORI PARTICIPATION**

Selection panels were composed of Elected Members from Environment Canterbury and respective Councils for each Zone Committee alongside representatives from Paptipu Runanga for each zone committee. Jane Demeter was the Independent Chair for all selection panels.

**5. NEXT STEPS**

Once all CWMS Zone Committee appointments and re-appointments are approved by Territorial Authorities, this will be confirmed publicly by Environment Canterbury, hopefully by September 2022.



Murray Washington  
**GROUP MANAGER INFRASTRUCTURE & PROPERTY**

## PUBLIC EXCLUDED REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Robert Love – Team Leader - Strategy and Policy

**DATE:** 22 July 2022

**SUBJECT:** **WITHDRAWAL OF COUNCIL REPORT FROM COUNCIL MEETING HELD 06 JULY 2022**

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### RECOMMENDATION

*That Council:*

- a) *Receives the Report seeking to withdraw the Publicly Excluded Council Report brought to Council on 06 July 2022 covering how Private Plan Changes are to be processed in response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Amendment Act);*
- b) *Endorses the withdrawal of the Publicly Excluded Council Report as described in 'a' above;*
- c) *Notes the revised process for making Private Plan Changes operative.'*

### 1. PUBLIC EXCLUDED REASONING

7(2)(g)	The withholding of the information is necessary to maintain legal professional privilege	To protect all communications between a legal adviser and clients from being disclosed without the permission of the client.
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### 2. PURPOSE

The purpose of this report is to seek Council endorsement to withdraw the Council Report brought to Council on 06 July 2022 covering how Private Plan Changes (PPC) are to be processed in response to the Amendment Act, and to note the revised process for making Private Plan Changes operative.

### 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This is a procedural matter under the Resource Management Act 1991 and as such does not trigger the Council's Significance Policy.

### 4. HISTORY/BACKGROUND

In response to the provisions of the Amendment Act, relevant PPCs were effectively halted from becoming operative due to the need to incorporate the mandatory Medium Density Residential Standards (MDRS). This resulted in a delay of up to 12 months for the land to be available for development.



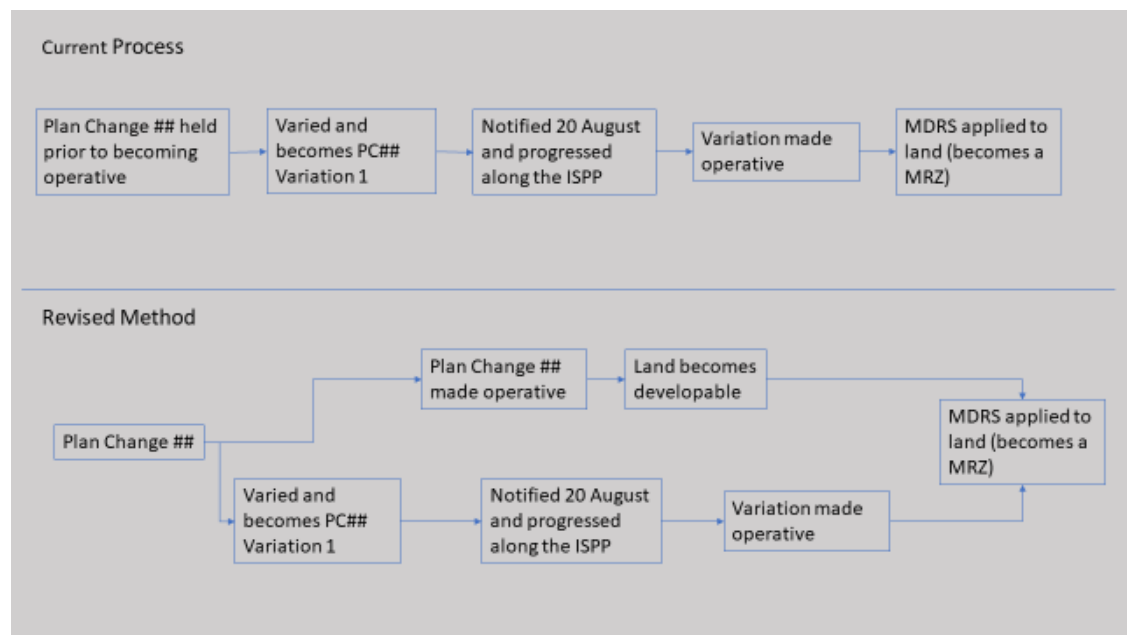
In response to this situation Council requested that staff investigate the situation and attempt to find a pragmatic approach to overcome this delay.

The Council Report dated 06 July 2022 described a potential pragmatic pathway to making the PPCs operative while still keeping Council in alignment with intent of the Amendment Act. However, as identified in the Report, a legal risk was associated with this pathway due to a mis-alignment with the strict wording of Amendment Act. This was largely surrounding the terminology used in the Act rather than a complete disregard the requirements of the Act.

Due to the associated legal risk reservations to this pathway being expressed during the Council Meeting on 06 July 2022, the Council Report was 'left on the table' subject to further discussions with legal counsel and the Minister for the Environment.

Since that Council Meeting, further discussions have occurred with the Ministry for the Environment which has resulted in an additional method of making the PPCs operative prior to the Variations becoming operative. This approach has been discussed with legal counsel and they support the approach (**Appendix A**).

The updated approach takes the stance that at the moment the PPC is varied to incorporate MDRSs, as required by the Amendment Act, it becomes a separate entity to the original PPC. This results in a procedural split of the PPC, the original and the new variation. Once this occurs, it allows the original PPC to be progressed and made operative.



## 5. PROPOSAL

To withdraw the Council Report brought to Council on 06 July 2022, and for Council to note the revised method of making PPCs operative.

## 6. OPTIONS

Option 1: Endorse the Recommendation as described above (recommended option)

This option is recommended as the outstanding matters raised at the Council Meeting of 06 July 2022 which resulted in the Report being 'left on the table' have been resolved via the revised method of making PPCs operative. This means that the option proffered in the Report is no longer required.

Option 2: Do not endorse the Recommendation as described above

This option is not recommended as the options included in the Council Report (06 July 2022) are no longer required, and to follow the pathway described in them would result in unnecessary legal risk to Council when an alternative (lower risk) pathway has been found.

**7. VIEWS OF THOSE AFFECTED / CONSULTATION**

**(a) Views of those affected**

Given this Report is seeking to withdraw a previous Council Report, no parties were considered affected.

**(b) Consultation**

We have spoken with MfE about the issue of 'holding back' land from development which has been subject to the plan change process. In response to this they have recently suggested this potential pathway to making the PPCs both operative and varied.

**(c) Māori implications**

The recommendations contained in this Report do not have any implications on Māori. All implications on Māori were considered as part of the merits based assessment each PPC has progressed through.

**(d) Climate Change considerations**

This is a procedural matter and as such there are no climate change considerations. All climate change considerations were considered as part of the merits based assessment each PPC has progressed through.

**8. FUNDING IMPLICATIONS**

There are no funding implications resulting from the recommendation.



Robert Love

**TEAM LEADER - STRATEGY AND POLICY**

*Endorsed For Agenda*

A handwritten signature in black ink, appearing to read 'Tim Harris', with a stylized, jagged initial 'T'.

Tim Harris

**GROUP MANAGER – DEVELOPMENT AND GROWTH**

**Appendix A: Legal Opinion Reviewing the Revised Method of Making PPCs Operative**



## MEMO

**DATE:** 20 July 2022

**TO:** Robert Love Tim Harris Emma Larsen Jocelyn Lewes Justine Ashley.

**FROM:** Paul Rogers/Kate Rogers

**CLIENT:** Selwyn District Council

**OUR MATTER:** 038777\433

**SUBJECT: SPLITTING PRIVATE PLAN CHANGES (PPC) TO OPERATIVE DISTRICT PLAN (ODP) FOLLOWING VARIATION**

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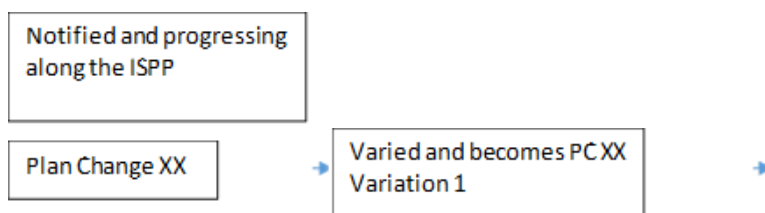
### Introduction

- 1 You have asked below if it is possible to 'split' a private plan change (PPC), so that that part of the PPC is made operative (and provides a basis to support a resource consent by the plan change proponent), and part of the PPC is varied under clause 34 using the ISPP process.
- 2 We understand that MFE have suggested that potentially we could take a PPC, vary and notify the Clause 34 Variation, and at that point the Clause 34 Variation becomes its own entity (being a change to the ODP) which then proceeds through the ISPP process, while leaving the original PPC to be made operative under the Schedule 1 process. Once the Clause 34 Variation completes its ISPP process it will then change the zoning of the subject land from general residential to medium density.
- 3 The context of this decision making is we have a range of PPC to the Operative District Plan (ODP), which will need to be varied under clause 34 (Clause 34 Variation). As well, we have the Proposed District Plan (PDP), which is being varied by the IPI (PDP Variation) and will include new residential land in the PDP Variation (which will be the same as the land in the PPC). To date, we have primarily been considering the obligation to notify the variation under clause 34, which does not provide for the ongoing treatment of PPCs after the variation is notified.
- 4 The below does not change our view that the PPC must be put on hold until the Clause 34 Variation is notified, but we agree with MFE that there is an option following notification of the Clause 34 Variation to make the PPC itself operative, while the Clause 34 Variation goes through the ISPP process. This is not an option which has been raised by MFE or other Councils before, but, on review of clause 17, we agree it is available.

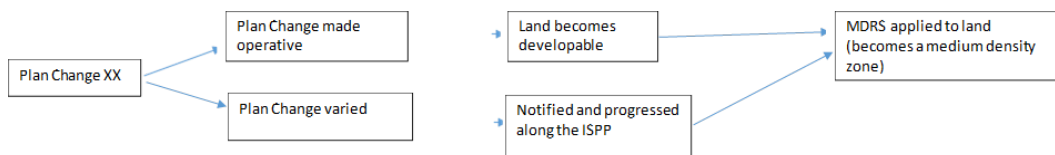
## Question

- 5 The key question you have asked is: Does a PC when varied become a separate process to the original PC, leaving the original PC to be treated as we wish, or does varying a PC only mean the PC changes but stays as a single process.? Put another way, we understand the question is whether the PPC and Clause 34 Variation can be separated and processed independently (ultimately using separate processes - Schedule 1 versus ISPP, and effectively being treated as separate changes).
- 6 You have provided the below diagrams:

*Current:*



*Proposed (MfE suggestion):*



## Current process

- 7 In terms of the current process for PPC (expressed in the first diagram), we understand that this will be:
- 7.1 Council issues clause 10/29(4) decisions for the PPCs (not issuing clause 17 decisions or making the PPCs operative under clause 20).
  - 7.2 Council notifies a Clause 34 Variation to the PPC.
  - 7.3 The Clause 34 Variation is determined in parallel with the PDP Variation.
  - 7.4 A clause 10/29(4) decision is issued on the Clause 34 Variation.
  - 7.5 The Clause 34 Variation merges with the PPC.
  - 7.6 A clause 17 and 20 decision is issued on the PPC (including the Clause 34 Variation), and it becomes part of the ODP, and can be taken into account when processing resource consents.

## Clause 17

8 In terms of an alternative process, our initial concern is whether you can have a variation to a PPC which has been made operative and part of the ODP, given a variation is only to a 'plan change' (an amendment to an operative plan is a plan change, rather than a variation).

9 The critical section is clause 17 of Schedule 1, which states:

### **17 Final consideration of policy statements and plans other than regional coastal plans**

A local authority shall approve a proposed policy statement or plan (other than a regional coastal plan) once it has made amendments under clause 16 or variations under clause 16A (if any).

(1A) However, a local authority may approve a proposed policy statement or plan (other than a regional coastal plan) in respect of which it has initiated a variation.

(1B) A variation to a proposed policy statement or plan approved under subclause (1A) must be treated as if it were a change to the policy statement or plan unless the variation has merged in and become part of the proposed policy statement or plan under clause 16B(1).

A local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.

...

10 On review of clause 17, we consider that:

10.1 Clause 16A allows for a variation to be made at any time before the 'approval' of the plan change. Our prior advice is that this 'approval' is a clause 17 decision. So, the clause 17 decision would have to be made after the variation is notified. We note that our view is that clause 17 applies to these PPCs through virtue of clause 29(1).

10.2 It is clear that you can approve part of a plan change. Clause 17(2) allows that: 'A local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.' Clause 20 doesn't specifically allow for parts of a plan change to become operative, but (based on the fact that clause 17 allows that division), we consider it reasonable to assume that clause 20 also allows such a division.

10.3 Clause 17(1A) then states that '...a local authority may approve a proposed policy statement or plan (other than a regional coastal plan) in respect of which it has initiated a variation.' This means that a PPC can be 'approved' after a variation has been notified (i.e. the variation does not prevent approval).

- 10.4 Clause 17(1B) goes on to state that: 'A variation to a proposed policy statement or plan approved under subclause (1A) must be treated as if it were a change to the policy statement or plan unless the variation has merged in and become part of the proposed policy statement or plan under clause 16B(1)'.
- 11 Our view is that clause 17(1B) means that the Clause 34 Variation can be treated as its own independent plan change, provided it has not reached the same stage as the base PPC. Clause 17(1B) essentially provides for a 'transformation' of the Clause 34 Variation, from a variation, to be treated as an independent plan change.
- 12 We have not located any caselaw on point (the only case (attached) we have identified deals with a transitional point on the matter. It does confirm that other Councils have looked to make a plan operative in part, and that in 2005, clause 17 was amended to allow for a plan to be made operative in part without the approval of the Environment Court). However, from a pragmatic point of view, it does seem reasonable that a variation might be able to be converted to a plan change, given the other option is to place the original plan change on hold until the variation is resolved, or to initiate a further plan change.
- 13 In terms of the application of clause 20, it does not refer to a 'part' of a plan in the same way that clause 17 does. However, it seems pragmatic that once there is an approval to part of a PPC under clause 17, a clause 20 decision can also be issued on that part of the PPC – we cannot see any reason to hold the clause 20 decision until all parts of the PPC have 'caught up', and in any event, that would undermine the intention of clause 17(1A) and (1B).

### **Possible process**

- 14 Given this, the Council could follow the following process:
  - 14.1 Council issues clause 10/29(4) decisions for the PPCs (not issuing clause 17 decisions or making the PPCs operative under clause 20).
  - 14.2 The appeal period closes (or appeals are resolved). NB this step could happen before or after (3), but must happen before (4).
  - 14.3 Council notifies a Clause 34 Variation to the PPC.
  - 14.4 A clause 17 and 20 decision is issued on the PPC (excluding the Clause 34 Variation), and it becomes part of the ODP, and can be taken into account when processing resource consents
  - 14.5 The Clause 34 Variation is now treated as a 'plan change', and is determined in parallel with the PDP Variation.
  - 14.6 A clause 10/29(4) decision is issued on the Clause 34 Variation.

- 14.7 A clause 17 and 20 decision is issued on the Clause 34 Variation, and it becomes part of the ODP, and can also be taken into account when processing resource consents.
- 15 We do not see any reason why the Council could not pursue this option. We also understand from discussions with you that the Clause 34 Variation will be able to be practically severed in this way. Timing is critical, to make sure the Clause 34 Variation does not merge with the PPC, and to make sure the various requirements can be met – i.e. the PPC cannot have a clause 17 decision until the Clause 34 Variation is notified, and a clause 17 decision cannot be made until all submissions and appeals are resolved.

### **Purpose of EHS**

- 16 We have considered whether this approach is inconsistent with the purpose of the EHS, as it will provide for new residential land, which does not incorporate MDRS and Policy 3. Our view is that the obligation under clause 34 is to notify a variation to the PPC, so given this, we consider that the Council is meeting its strict obligations under EHS. Clause 16A requires that the clause 17 and 20 decisions not be issued until after the variation is notified, as under clause 16A a variation must be made prior to 'approval' of the PPC. In addition, whilst the PPC will be providing for more residentially zoned land without MDRS/Policy 3, there is also currently land zoned in this way, which is also waiting for change following the ISPP process, so this land is not being provided with any special avoidance of MDRS/Policy 3 – it is working through the same process as other residentially zoned land.
- 17 While it is not an answer, we have assessed the risk to Council of this approach, and it also appears to us to be relatively low risk – the clause 17/20 decision can only be made after 'all submissions or appeals relating to that part have been disposed of' (as per clause 17(2)), so all parties will have had an opportunity for involvement.
- 18 We are happy to discuss.



## PUBLIC EXCLUDED REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 10 August 2022

**FROM:** Asset Manager Water Services

**DATE:** 1 August 2022

**SUBJECT:** **EXPENDITURE APPROVAL FOR THE HUGHES DEVELOPMENTS LIMITED DEVELOPMENT AGREEMENT PHASE 2**

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### RECOMMENDATION

*‘That Council:*

- a) Receive this report ‘Expenditure approval for the Hughes Developments Limited Development Agreement Phase 2’ for information.*
- b) Endorses the proposed development agreement with Hughes Developments Limited (**Development Agreement**) and confirms the Chief Executive's delegation to make any amendments necessary to finalise and execute the Development Agreement.*
- c) Approve the 2022/23 budget addition of \$1,334,900 (exclusive of GST) for the phase 2 construction cost of the Rolleston South West Pump Station and Rising Main to be funded by Selwyn Sewage Scheme (**SSS**) development contributions.”*

### 1. PUBLIC EXCLUDED REASONING

<p>This report is excluded for the following reasons provided under Section under 7 of the Local Government Official Information and Meetings Act 1987:</p>	<p>(h) Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities, or</p> <p>(i) Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>
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## 2. PURPOSE

The purposes of this report are for Council to:

- approve, in principle, the Development Agreement with final signoff by the Council's Chief Executive; and
- 2022/23 budget addition of \$1,334,900 (exclusive of GST) for the phase 2 construction costs of the Rolleston South West Pump Station, Rising Main and reticulation over and above costs to be funded by SSS development contributions. This additional budget is being brought forward due to earlier timing of development.

## 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The matters set out in this report have been assessed against Council's Significance and Engagement Policy as low significance because the assets which these budget items will fund are set out in the schedule of assets for which development contributions will be used in the Council's Development Contribution Policy (**section 201A Schedule**).

This issue and decision that is the subject of this report has been assessed against the Significance and Engagement Policy. Provision has been made within the 2021/31 Long Term Plan (**LTP**) and the section 201A Schedule for the staged upgrade of the Pines Wastewater Treatment Plant and connecting infrastructure to meet growth demands.

The LTP states that the level of significance of a decision will determine the process used by the decision maker considering Council's commitment to constructive community engagement.

It is recommended that the proposal is considered of **low significance** in terms of further consultation requirements.

## 4. HISTORY/BACKGROUND

The SSS was developed to meet the existing and future needs of the towns of Prebbleton, Lincoln, Springston, Rolleston, West Melton and recently Darfield and Kirwee. The purpose of this scheme is to ensure a staged and managed approach to the development of wastewater bulk conveyance, treatment and disposal infrastructure.

Hughes Developments Limited successfully obtained resource consent (August 2021) through the COVID-19 Recovery (Fast Track Consenting) Act 2020 process to progress the Farringdon South West and South East Development, Selwyn Road, Rolleston. 968 residential and several commercial allotments, of which 682 residential and one commercial allotment discharge to the new pump station facility.

At this time (DATE) Council entered into a development agreement to develop Phase 1 of the South West Pump Station including land purchase.

Hughes Developments Limited has now in the process of apply again through the COVID-19 Recovery (Fast Track Consenting) Act 2020 for an addition 1050 properties, labelled Farringdon Oval (current Private Plan Change 70). Farringdon Oval is a 69ha

block of land bounded by Dunns Crossing Road and Goulds Road. The development will achieve a minimum density of 15 households per hectare. The application has been granted referred project status and an Order in Council has been signed. The full application is now being drafted which includes the necessary consents to construct the development from both Selwyn District Council and Environment Canterbury. The application will be lodged in the coming weeks.

Where mutually beneficial, Council enters into development agreements with developers to provide for cost effective and efficient infrastructure. This normally involves the developer constructing infrastructure with capacity not only for the developer's purposes but for a greater development area.

In this instance, on the request of Council, Hughes Developments Limited will construct the wastewater pump station and rising main to cater for a significantly larger catchment 2662 lots (total) versus 682 lots (Farrington South West) + 1050 lots (Farrington Oval) + 930 lots (future residential development). All numbers are subject to the approval or otherwise of private plan changes.

Council staff have been in discussions with Hughes Developments Limited regarding a development agreement for the pump station. The Development Agreement which is the product of these negotiations is **attached** in **Appendix 1**.

## **5. PROPOSAL**

That Council endorses the proposed form of Development Agreement and confirms the Chief Executive's delegation to make any amendments necessary to finalise and execute the Development Agreement.

That Council approve the 2022/23 budget addition of \$1,334,900 (exclusive of GST) for the construction of the Rolleston South West Pump Station phase 2 and Rising Main to be funded by SSS development contributions.

## **6. OPTIONS**

The options open to Council are to accept all or some of the recommendations, amend the recommendations or to reject the recommendations.

## **7. VIEWS OF THOSE AFFECTED / CONSULTATION**

### **(a) Views of those affected**

No implications have been identified.

### **(b) Consultation**

No specific consultation has been conducted in relation to this matter.

Consultation occurred on the Development Contribution Policy and the section 201A Schedule as part of the LTP process. Following consideration of submissions received on the LTP Council approved and adopted the LTP

including funding for upgrade works at the ESSS WWTP and connecting infrastructure to allow for growth.

**(c) Māori implications**

No implications have been identified.

**8. FUNDING IMPLICATIONS**

With the exception of bringing capital expenditure forward, the proposed recommendation has no funding implications. It is confirmed that this work will be funded through the SSS Development Contribution Policy as the assets in question are identified in the section 201A Schedule.

On a triannual basis, Council reviews and develops the ESSS wastewater strategy as part of the long term plan process. The last long term plan to be adopted by council was the LTP which is for the period 2021 – 2031. The Development Agreement and the other expenditure proposed by this report aligns with the Development Contribution Policy and the section 201A Schedule.

A summary of costs anticipated by the agreement are provided in **Appendix 3** along with this year's budget allocation.

Subject to the number of private plan changes approved, additional or upsized infrastructure will be required with DC population and costs increasing. On this basis, the development contribution models will need to be reviewed following the plan change hearings.



Murray England  
**ASSET MANAGER WATER SERVICES**

*Endorsed For Agenda*



Murray Washington  
**GROUP MANAGER INFRASTRUCTURE AND PROPERTY**

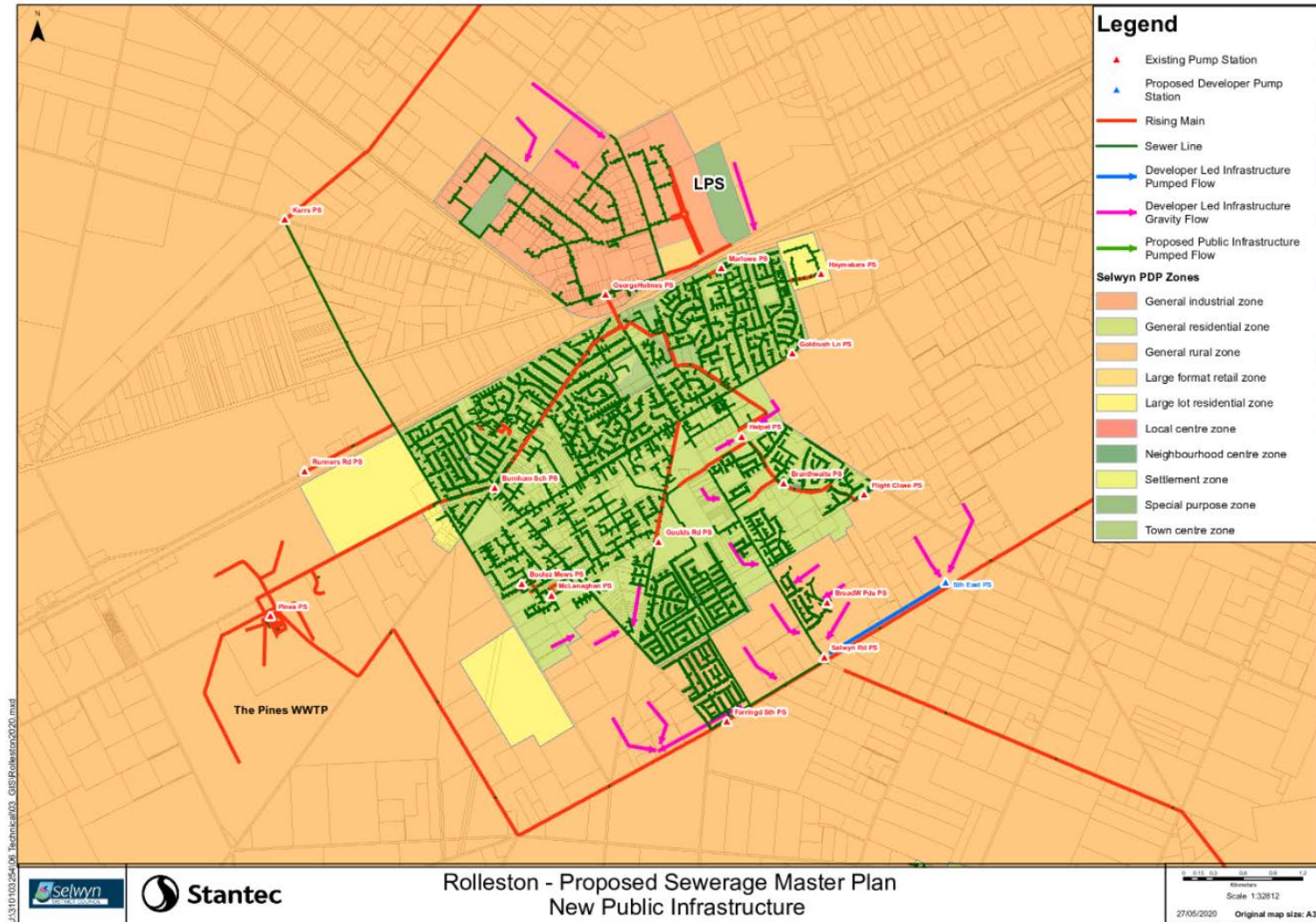
**APPENDICES**

- Appendix 1 – Hughes Developments Limited Development Agreement
- Appendix 2 – ESSS Master Planning
- Appendix 3 – Summary of costs anticipated by the agreement

## **Appendix 1 – Development Agreement**

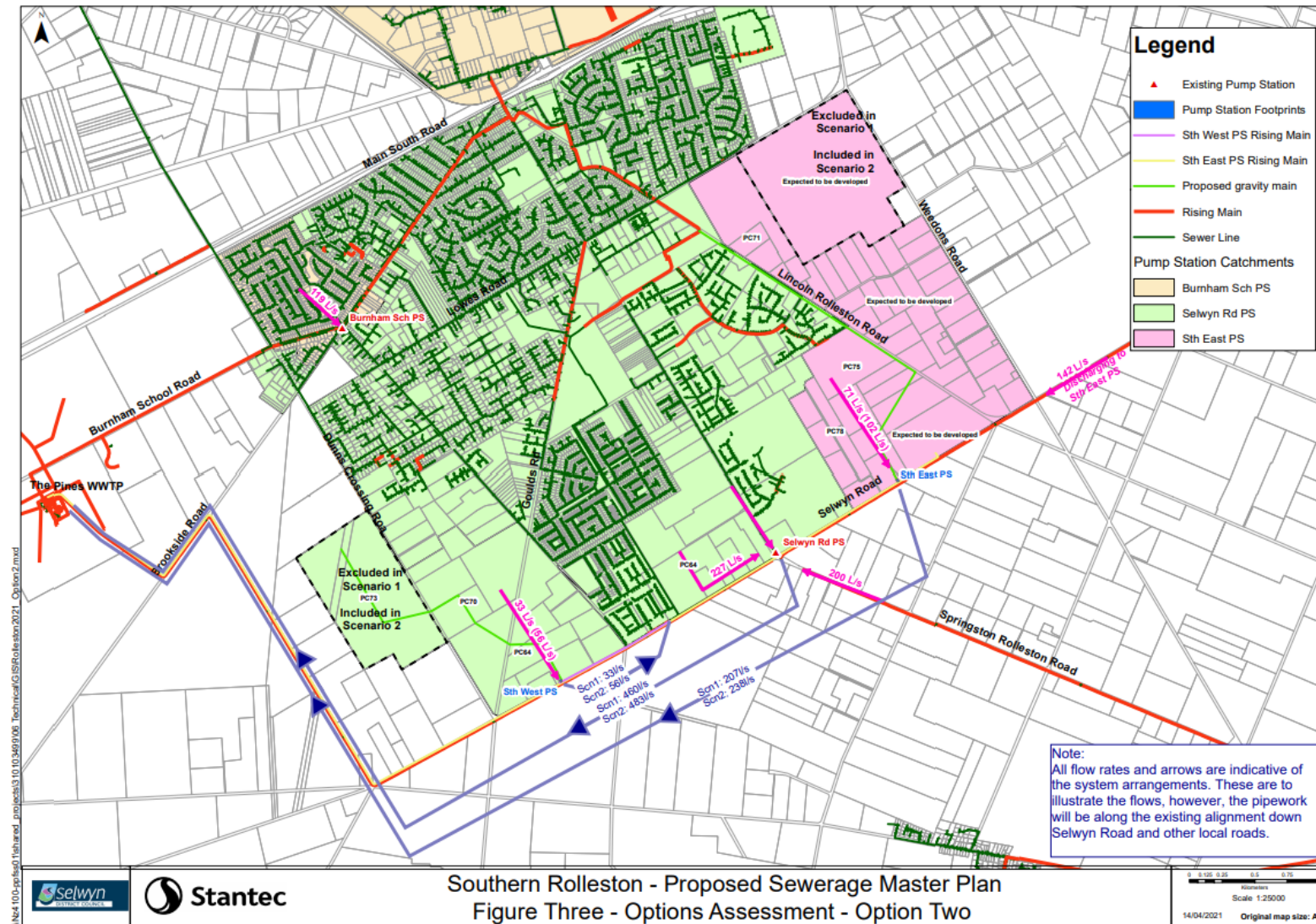
## Appendix 2

### Rolleston Wastewater Master Plan (2021 LTP)





# Rolleston South Wastewater Master Plan



**Appendix 3**

Summary of costs anticipated by the Development Agreement

Preliminary and General (Phase 2)	\$106,473.21
Generator and Acoustics	\$201,599.00
Odour Control	\$285,495.00
Housing Structure (Estimate)	\$755,699.32
Electrical - Phase 2 Installation (Nairn Quote)	\$173,491.82
Pump Station - Phase 2 Upgrades	\$91,672.09
Rising Main - E/O cost to upsize for future flow directed by SDC	\$160,505.08
Consulting Fees - Phase 2 works	\$25,000.00
Contingency Phase 2 (20%)	\$359,987.10
	\$2,159,922.62

Funding is through 466790031 with a total budget of \$2,500,000.00

Budget	+\$2,500,000.00
Agreement	-\$2,159,922.32
Other commitments	-\$1,675,000.00 (from last 2021/22 year)
Shortfall	-\$1,334,9200.00 (rounded)



**DEVELOPMENT AGREEMENT**  
**(Network Infrastructure and Pump Station)**

BETWEEN

**SELWYN DISTRICT COUNCIL**

AND

**HUGHES DEVELOPMENTS LIMITED**

**THIS AGREEMENT** is dated

**2022**

## **PARTIES**

- (1) **SELWYN DISTRICT COUNCIL** (the **Council**)
- (2) **HUGHES DEVELOPMENTS LIMITED** (company number 2318954) (the **Developer**)

## **BACKGROUND**

- A The parties have previously entered into a development agreement dated 17 November 2021 in respect of a previous development undertaken by the Developer.
- B The Developer is undertaking the Development.
- C As part of the Development, the Developer will:
  - i. install a rising main and associated reticulation at Selwyn Road in South West Faringdon (the **Network Infrastructure**) to accommodate a greater capacity than that generated by the Development; and
  - ii. construct the Rolleston South West Pump Station (as more particularly described in clause 1.1(j), **Pump Station**) on the Land connecting to the Network Infrastructure and the Council's water supply network.
- D The parties agree that the Council will pay the Developer the Agreed Sum in respect of the Network Infrastructure and the construction of the Pump Station on the terms set out in this agreement.

## **THE PARTIES AGREE:**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions:** In this agreement, unless the context requires otherwise:

- (a) **Agreed Sum** means the lesser of:
  - (i) the sum expressed as the Grand Total in **Schedule 1**; and
  - (ii) the sums invoiced to the Developer in respect of the items listed in **Schedule 1**;
- (b) **Construction Contract** means any contract and associated documentation to be entered into between the Developer and the Contractor, and the Developer and the Engineer, for the design and construction of the Works;
- (c) **Contractor** means the construction contractor to be engaged by the Developer (or subcontracted by the Contractor) under the Construction Contract with the Council's prior approval (such approval not to be unreasonably withheld);
- (d) **Development** means the subdivision of land at Selwyn Road in South West Faringdon, Rolleston (as more particularly detailed in drawing H.20256 set out in **Schedule 2** undertaken by the Developer;
- (e) **Engineer** means Davie Lovell Smith Limited or such other person, who is a Chartered Professional Engineer, as the Developer appoints as the engineer to contract under the Construction Contract with the Council's prior approval (not to be unreasonably withheld or delayed);

- (f) **Final Instalment** means the lesser of:
  - (i) 10% of the Agreed Sum; and
  - (ii) the balance of Contractor's and Engineer's invoice which would otherwise be reimbursable under clause 3.1 but have yet to be so reimbursed;
- (g) **Land** means the land described 836 Selwyn Road, Rolleston being lot 25 DP 568215;
- (h) **Network Infrastructure** has the meaning given to it in Background paragraph C and is further detailed in **Schedule 2**;
- (i) **Plans** means the detailed design drawings necessary for the construction of the Works to be prepared by, or on behalf of, the Developer in accordance with this agreement, as further detailed in **Schedule 2**;
- (j) **Pump Station** means the wastewater pump station to be designed, constructed and located on that part of the Land shown on the plan attached as **Schedule 2**, including all related structures, equipment, pipes and cables up to the point of connection with the Network Infrastructure and the part of the Land on which the wastewater pump station is situated;
- (k) **Specifications** means the full specification necessary for the design and construction of the Works to be prepared by, or on behalf of, the Developer in accordance with this agreement; and
- (l) **Works** means the design and construction of the Network Infrastructure and Pump Station in accordance with the Plans and Specifications and in accordance with this agreement.

1.2 **Interpretation:** In this agreement:

- (a) the word including and other similar words do not imply any limitation;
- (b) a person includes any individual, company, corporation, firm, club, partnership, joint venture, association of persons (incorporated or not), trust or Governmental agency (in each case, whether or not having separate legal personality);
- (c) the plural includes the singular and vice versa;
- (d) a reference to a statute includes all regulations and other subordinate legislation made under that statute;
- (e) a reference to a statute, regulation or other subordinate legislation includes that statute, regulation or subordinate legislation as amended or replaced from time to time;
- (f) an obligation not to do something includes an obligation not to allow or cause that thing to be done; and
- (g) all financial amounts are exclusive of goods and services tax (if applicable).

**2. CONSTRUCTION AND VESTING**

- 2.1 **Construction:** The Developer shall construct the Network Infrastructure and Pump Station in accordance with the Plans and Specifications.

- 2.2 **Vesting:** The Developer shall take such steps as are reasonably required for the Network Infrastructure, Pump Station and all easement rights reasonably required to reasonably use the Network Infrastructure and Pump Station for the Council's purposes, to vest in the Council.

### 3. SETTLEMENT

- 3.1 **Agreed Sum:** The Council agrees to reimburse the Developer for progress payments made by the Developer to the Contractor or the Engineer under a Construction Contract, upon the Developer providing (in respect of each progress payment claim) the following to Council's reasonable satisfaction:

- (a) a signed certificate from the Developer's Engineer confirming that the construction of the Network Infrastructure and Pump Station as at the date of each progress claim made by the Developer:
  - (i) is commensurate with progress claimed under any invoice issued by the Developer; and
  - (ii) have been designed and constructed in accordance with, and in satisfaction of, the requirements of:
    - (1) resource consents RC215485, RC215538 and CRC220807 insofar as they apply to the Development;
    - (2) any building consent requirements; and
    - (3) the SDC Engineering Code of Practice at the time of construction;
  - (iii) copies of the relevant invoices from the Contractor and the Engineer; and
- (b) a tax invoice for the portion of the Agreed Sum as relates to the progress payment, provided always that the sums reimbursed under this clause 3.1 shall not exceed 90% of the Agreed Sum.

- 3.2 **Final Instalment:** Payment of the Final Instalment, shall be subject to:

- (a) written confirmation from the Council's engineer (acting reasonably) that:
  - (i) the Network Infrastructure and Pump Station meets the requirements of clause 3.1(a); and
  - (ii) he or she has sighted the relevant invoices from the Contractor and the Engineer; and
- (b) production of a tax for the Final Instalment.

- 3.3 **Vesting:** Immediately on payment of the Final Instalment, title to the Network Infrastructure and Pump Station shall (to the extent not already vested) pass unencumbered to the Council.

- 3.4 **Variations:** If, and to the extent that, the Council varies its requirements in relation to any aspect of the Network Infrastructure or Pump Station (including requiring additional or fewer infrastructure items) and such variation is agreed in writing by the Developer:

- (a) the relevant line items in **Schedule 1** shall be amended or deleted; or
- (b) additional line items shall be added to **Schedule 1**,

so that the subtotal in **Schedule 1** is a reasonable estimate of the cost of the Network Infrastructure and Pump Station to be constructed in accordance with the Council's requirements (as agreed by the Developer) and the Agreed Sum shall be varied accordingly.

#### 4. DEVELOPMENT CONTRIBUTIONS

- 4.1 **Liability to pay development contributions remains:** For the avoidance of doubt, nothing in this agreement shall excuse the Developer from the requirement to pay development contributions (including in relation to the Selwyn Sewerage Scheme) in respect of residential lots created within the Development in accordance with the Council's operative development contributions policy.

#### 5. REPRESENTATIONS

- 5.1 **Acknowledgements:** Subject only to any variation pursuant to clause 3.4, the Developer acknowledges and agrees that the Agreed Sum is full and final, and that no further amount shall be payable by the Council in respect of the matters dealt with in this agreement.

- 5.2 **Warranties:** The Developer warrants that:

- (a) the Network Infrastructure and Pump Station will be constructed in accordance with all legal requirements and the SDC Engineering Code of Practice, and otherwise to a good workmanlike standard;
- (b) all information provided by the Developer in relation to the Network Infrastructure and Pump Station, including specifications and construction costs, will be accurate as at its provision, and in the case of construction costs represent fair market value; and
- (c) the Network Infrastructure and Pump Station will be, as at payment of the Agreed Sum (and to the extent not already vested in the Council), the absolute property of the Developer and not subject to any security interests, and there will be no legal restrictions on access, use or transfer to the Council by the Developer.

- 5.3 **Other obligations:** Nothing in this agreement limits any other obligations of the Developer, including under any resource consent.

#### 6. GENERAL TERMS

- 6.1 **Dispute resolution:** The parties agree to use reasonable endeavours to resolve any dispute or difference arising out of or in connection with this agreement in good faith and on a commercially realistic basis by negotiation between the appropriate people from each party. Failing resolution, the parties may agree to mediation before an independent mediator. Nothing in this clause will prevent either party from taking immediate steps to seek relief before an appropriate court.
- 6.2 **Further assurances:** Each party must sign, execute and do all deeds, schedules, acts, documents and things as may reasonably be required by any other party effectively to carry out and give effect to the terms and intentions of this agreement.
- 6.3 **No assignment:** Each party acknowledges that it may not assign all or any part of its respective rights or obligations under this agreement without the prior written consent of the other parties.
- 6.4 **Notices:** Each notice or communication to be given, delivered or made under this agreement (a **Communication**) is to be in writing but may be sent by personal delivery, post or email, and is to be

sent to the address or email address of the relevant party designated for that purpose in writing by that party. A Communication will only be effective:

- (a) in the case of a personal delivery, when delivered;
- (b) three days after posting; and
- (c) if by email, when acknowledged by the receiving party by return email or otherwise in writing, except that return emails generated automatically shall not constitute a Communication.

- 6.5 **Amendments:** No amendment to this agreement will be effective unless it is in writing and signed by all parties.
- 6.6 **No partnership or agency:** Nothing contained in this agreement is deemed to constitute the parties as partners or, except as otherwise expressly provided in this agreement, constitute any party the agent or legal representative of the other party. No party has authority to act or assume any obligation on behalf of the other party except as expressly provided in this agreement.
- 6.7 **Entire agreement:** This agreement constitutes the entire understanding and agreement of the parties relating to the matters dealt with in this agreement, and supersedes and extinguishes all prior agreements, statements, representations and understandings whether verbal or written given by or made between the parties relating to matters dealt with in this agreement.
- 6.8 **No waiver:** No party will be deemed to have waived any right under this agreement unless the waiver is in writing and signed by that party. A failure to exercise or a delay in exercising any right under this agreement will not operate as a waiver of that right. Any such waiver will not constitute a waiver of any subsequent or continuing right or of any other provision in this agreement.
- 6.9 **Severability:** Any unlawful or voidable provision in this agreement shall be read down so as to be valid and enforceable or, if it cannot be read down, will be severed from this agreement without affecting the validity, legality or enforceability of the remaining provisions, provided the reading down or severing does not materially affect the purpose of or frustrate this agreement.
- 6.10 **No merger:** The warranties, covenants, undertakings, agreements or other obligations of a party shall not merge or be extinguished on any settlement in terms of this agreement but shall remain in full force and effect.
- 6.11 **Costs and expenses:** The parties shall each bear their own costs and expenses incurred in connection with the preparation and implementation of this agreement.
- 6.12 **Counterparts:** This agreement may be executed in any number of counterparts (including facsimile or scanned PDF counterpart), each of which shall be deemed an original, but all of which together shall constitute the same instrument. No counterpart shall be effective until each party has executed at least one counterpart.

**EXECUTED**

**SIGNED** for and on behalf of )  
**SELWYN DISTRICT COUNCIL** by: )

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position

**SIGNED** for and on behalf of )  
**HUGHES DEVELOPMENTS LIMITED** )  
by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position

**SCHEDULE 1**

<b>10 - Preliminary and General (Phase 2)</b>					
10.01	Contract Works Insurance	1	ls	\$ 7,327.45	\$ 7,327.45
10.02	Setting Out and As-building	1	ls	\$ 41,496.36	\$ 41,496.36
10.03	Site Security and Health and Safety Requirements	1	ls	\$ 4,212.60	\$ 4,212.60
10.04	Project Management	1	ls	\$ 39,876.00	\$ 39,876.00
10.05	Supply QA including operations and maintenance manual to council standards	1	ls	\$ 13,560.80	\$ 13,560.80
					\$ 106,473.21
<b>11 Generator and Accoustics</b>					
11.01	Genset Supply and Installation	1	ea	\$ 67,239.00	\$ 67,239.00
11.02	Supply / install fire shut-off valve, remove end panel and supply fit flange for transition gasket, PDI and load test genset	1	ls	\$ 2,526.00	\$ 2,526.00
11.03	Delivery of Genset to site and bolt down	1	ls	\$ 6,397.00	\$ 6,397.00
11.04	Supply and Install acoustic hardware comprising inlet and discharge acoustic louvres, inlet and discharge attenuators, + transition between genset and discharge attenuator	1	ls	\$ 62,568.00	\$ 62,568.00
11.05	Exhaust system – supply and install inclusive of secondary A-150 muffler and weathershield to flue. External components 316L s/s. Internal pipework BSP. Includes spring AV hangers (8) + flange isolators + uinstrut braces etc	1	ls	\$ 33,427.00	\$ 33,427.00
11.06	50% lagging room interior	1	ls	\$ 25,944.00	\$ 25,944.00
11.07	Commissioning attendance, initial fuel fill and documentation	1	ls	\$ 3,498.00	\$ 3,498.00
	<b>Generator and Accoustics Subtotal:</b>				\$ 201,599.00
<b>12 Odour Control</b>					
12.01	Armatec Microscrubber MSL-120	1	ls	\$ 125,000.00	\$ 125,000.00
12.02	H2S meter. Per unit plus accessories and installation	1	ls	\$ 11,950.00	\$ 11,950.00
12.03	Upgraded controls. Integrated PLC & HMI, incl electrical integration, software, signal integration	1	ls	\$ 59,000.00	\$ 59,000.00
12.04	Exhaust stack through roof of structure	1	ls	\$ 6,940.00	\$ 6,940.00



12.05	Silencer on stack exhaust	1	ls	\$ 1,890.00	\$ 1,890.00
12.06	Temporary active GDOF-72 (provisional)	1	ls	\$ 50,715.00	\$ 50,715.00
12.07	Installation of odour control device as per Armathec installation manual (Estimate)	1	ls	\$ 30,000.00	\$ 30,000.00
	<b>Odour Control Subtotal:</b>				<b>\$ 285,495.00</b>
<b>13 Housing Structure (Estimate)</b>					
13.01	Design and construction of the Generator and switchboard housing structure	1	ls	\$ 750,000.00	\$ 750,000.00
13.02	Foundation preparation for housing structure, incl 100mm compacted AP40	1	ls	\$ 5,699.32	\$ 5,699.32
					<b>\$ 755,699.32</b>
<b>14 Electrical - Phase 2 Installation (Nairn Quote)</b>					
14.01	Nairn electrical cost for design, install and commissioning	1	ls	\$ 173,491.82	<b>\$ 173,491.82</b>
<b>15 Pump Station - Phase 2 Upgrades</b>					
15.01	Phase 2 pump upgrades to NP3202-180 HT458 37 kW	1	ls	\$ 84,449.00	\$ 84,449.00
15.03	Reinstate footpath after completion of all site works	1	ls	\$ 7,223.09	\$ 7,223.09
					<b>\$ 91,672.09</b>
<b>16 Rising Main - E/O cost to upsize for future flow directed by SDC</b>					
16.01	Supply and install 250mm Tee and BEC within Selwyn Road	1	ea	-\$ 870.94	-\$ 870.94
16.02	Supply and install 280mm ODPE PN12.5 rising main between pump station and Selwyn Road 525mm gravity main. All costs incl pavement reinstatement to SDC standards	937	m	\$ 108.54	\$ 101,701.98
16.03	Traffic Management for the rising main installation	1	ls	\$ 68,877.21	\$ 68,877.21
16.04	Install 1050mm diameter sewer manhole on existing gravity sewer pipe to accommodate the rising main outfall	1	ls	\$ 1,446.16	\$ 1,446.16
16.05	Install gravity sewer pipe between new inline manhole and existing manhole at rising main discharge point. All costs incl gravity system shutdown, manhole connections, 375mm PVC pipe, pavement reinstatement	1	ls	-\$ 10,649.33	-\$ 10,649.33
					<b>\$ 160,505.08</b>

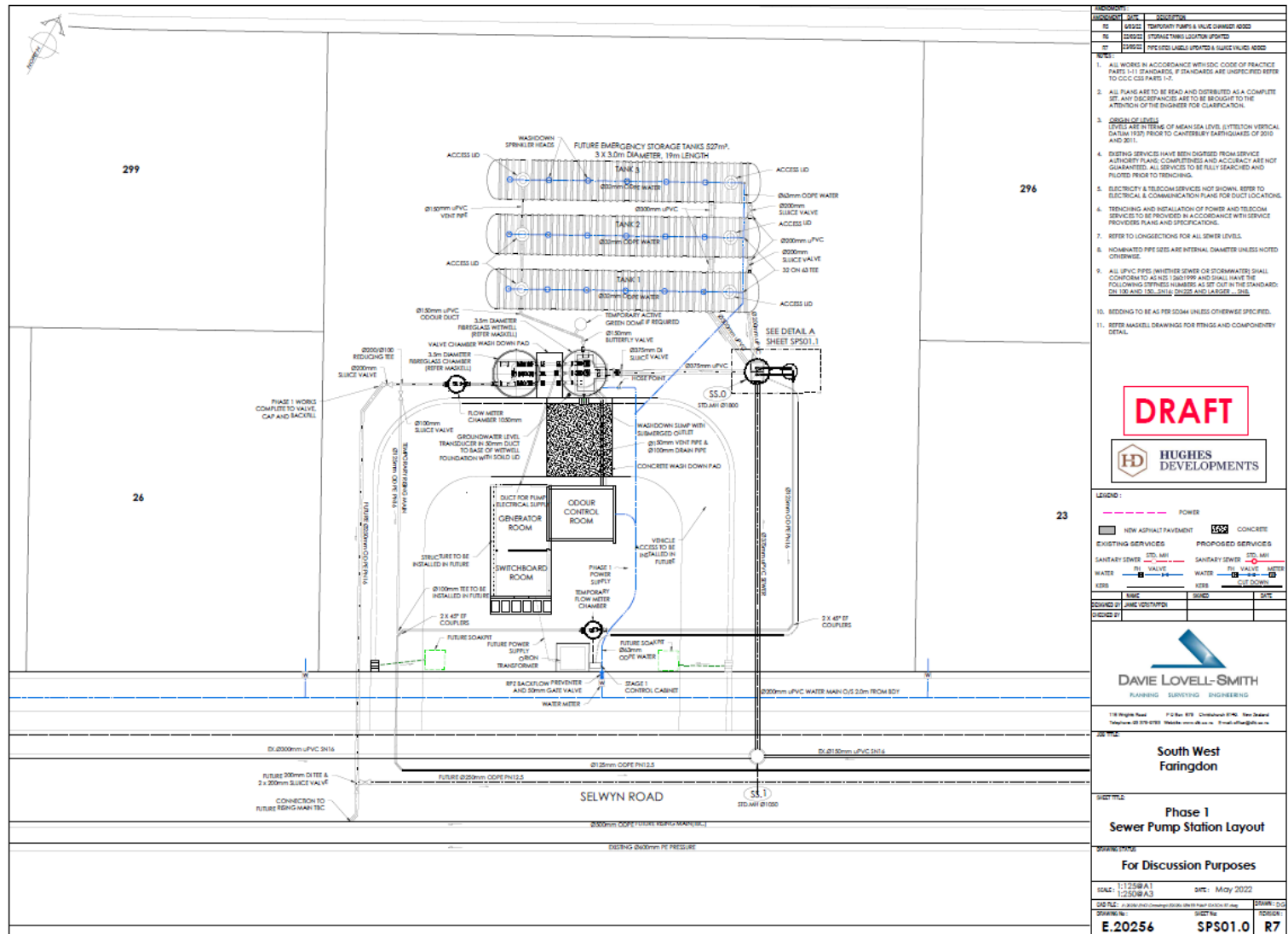
<b>17 - Consulting Fees - Phase 2 works</b>					
17.01	Davie Lovell-Smith Ltd <b>pump station</b> design and coordination fees	1	ea	\$ 20,000.00	\$ 20,000.00
17.02	Davie Lovell-Smith Ltd <b>pump station</b> construction monitoring, QA review, as-builts, certification	1	ea	\$ 5,000.00	\$ 5,000.00
					\$ 25,000.00
<b>Subtotal</b>					\$ 1,799,935.52
<b>Contingency @20%</b>					\$ 359,987.10
<b>Grand Total</b>					\$ 2,159,922.62

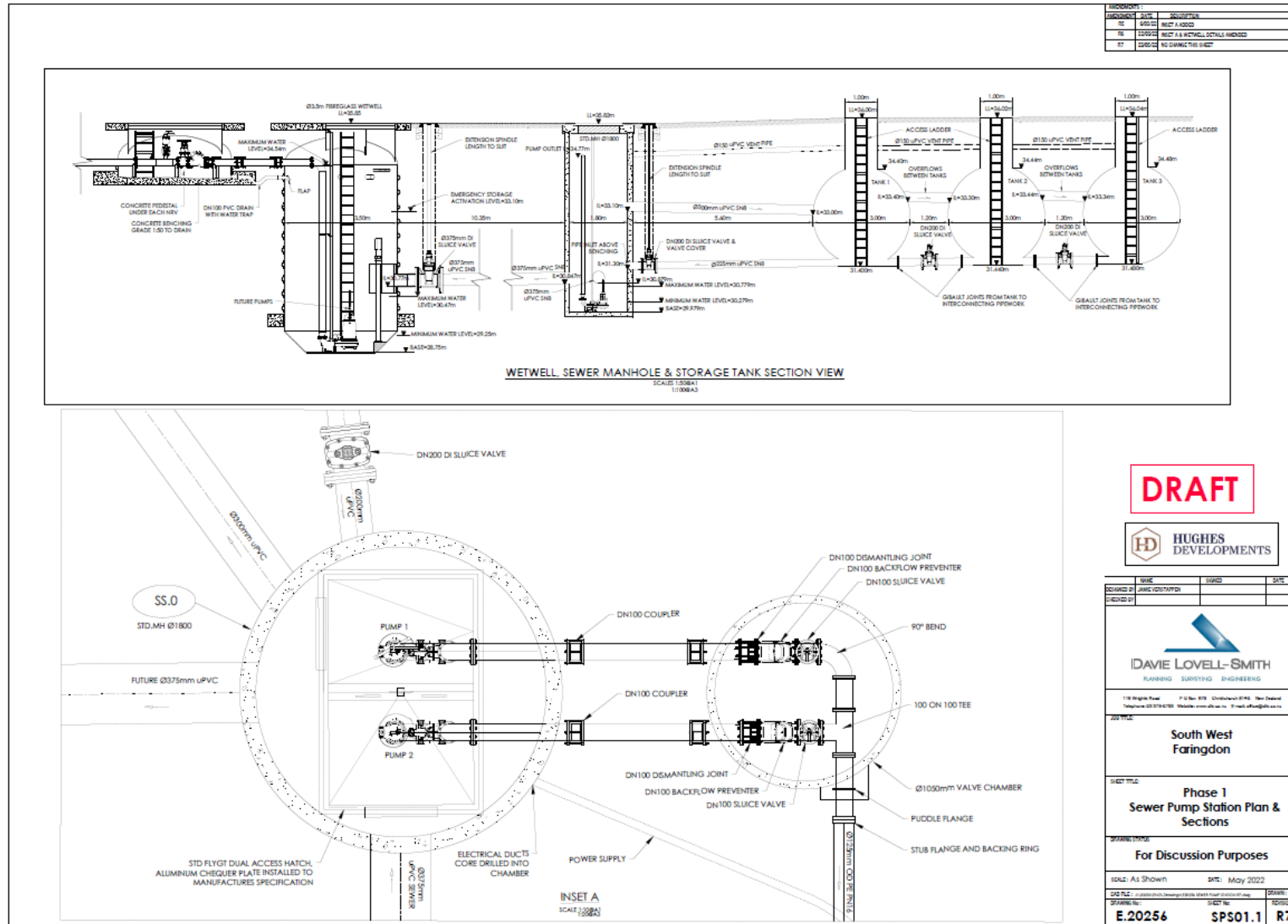
All sums GST exclusive

draft  
02 Aug 2022

**SCHEDULE 2**  
(see attached)

**draft**  
02 Aug 2022







## PUBLIC EXCLUDED REPORT

**TO:** Councillors

**FOR:** Council Meeting – 10 August 2022

**FROM:** Group Manager Enabling Services

**DATE:** 3 August 2022

**SUBJECT:** Leasing of tenancy 10, 11 and 12 in building I at Rolleston Fields.

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### RECOMMENDATION

*'That Council:*

- (a) receives the Public Excluded "Leasing of tenancy 10, 11 and 12 in building I at Rolleston Fields" report; and*
- (b) approves the lease of tenancy 10, 11 and 12 (totalling 340.19m2) in building I with Tennyson (2021) Ltd for a two-year term from practicable completion and delegates to the Group Manager Enabling Services to execute the lease; and*
- (c) notes the commitment provided by Cooper Developments and Council staff to continue to actively market these tenancies for longer term tenants.'*

### 1. PUBLIC EXCLUDED REASONING

<i>The withholding of the information is necessary to enable the Council to conduct, without prejudice or disadvantage, commercial negotiations.</i>	<i>LGOIMA 7(2)(h)</i>
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### 2. PURPOSE

The purpose of this report is to seek the Council's approval of a lease with Tennyson (2021) Ltd for three spaces on first floor of building I.

### 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report is seeking approval to enter a lease with Tennyson (2021) Ltd that will support the development of the Rolleston Fields Development that is a component of the Council's Town Centre strategy. This has been assessed against the Council's Significance and Engagement Policy as medium significance.

#### **4. BACKGROUND**

Cooper Development's through their company Tennyson (2021) Limited are the Council's development partner for the development of the Rolleston Town Centre. The agreement between the Council and Tennyson (2021) Ltd sets the obligations of both parties in relation to the Rolleston Fields retail development. Where the Council sells land to Tennyson on which they develop buildings that will be leased for entertainment, hospitality, retail, and business.

Tennyson (2021) Ltd have commenced the development of buildings A and D and intend the next stage of the development being the construction of Buildings B and I. The design of Building I (on the Tennyson Street frontage of the development) has changed significantly from what was first proposed, with the most material change being the addition of a second floor. This change was in response to feedback received from Councillors.

On completing the first two stages of the Rolleston Fields development the construction of Buildings A, B, D, and I, that are estimated to be valued at \$38.7 million.

#### **5. LEASE OF TENANCY 10, 11, AND 12 IN BUILDING I**

Tennyson (2021) Ltd are nearing the point to commence construction of Buildings B and I. A condition of their funding agreement is that they must reach a certain level of confirmed tenancy before funds can be drawn down from their financing partner.

During the negotiation with Tennyson (2021) Ltd on the design of Building I the Council requested that Building I include second floor office space. At the Council meeting on 6 July 2022 there was a discussion that the second floor of Building I is proving difficult to lease, with only one of the four spaces leased.

Tennyson (2021) Ltd are now seeking the Council's commitment to lease the three unleased spaces (tenancy 10, 11, and 12 totalling 340.19m<sup>2</sup>). This is required to allow them to draw down funds from their lender and proceed with construction. Tennyson (2021) Ltd will continue to actively market and seek tenants during the term of the Council lease.

Following the 6 July 2022 Council meeting the Group Manager Enabling Services has negotiated the terms of the lease to reduce the Council's risk. The lease is appended to this report and includes the following material changes:

- removal of the complex marketing contribution (reducing overall cost by 6%)
- removal of the requirement to have a bank guarantee (while the Council is a tenant)
- inclusion of rights for the Council to assign the lease should a suitable tenant be found
- clause relating to continued marketing of the spaces included in the lease.

The lease term is for a two-year period following practicable completion. The lease cost is estimated to be \$329,985 over two-years and is made up as follows:

- Basic Annual Rent \$375 per m<sup>2</sup> x the lettable area per annum: \$127,571



- Operating expenses to be \$110 per m<sup>2</sup> per annum: \$37,421

At this time the Council does not intend to undertake any fitout of the spaces being leased. On approval of this lease staff will actively seek suitable parties to lease these spaces, this will allow around twelve months for tenants to be found. There have been informal discussions with several organisations that have shown interest in establishing a presence in Rolleston.

## 6. OPTIONS

**Recommended option:** Approve the two-year lease of for tenancy 10, 11, and 12 of building I at Rolleston Fields.

**Alternative option 1:** Decline to approve the lease. The potential consequence of this will result in delays to the Rolleston Fields development due to the Tennyson (2021) Ltd not able to draw down on funding. This may lead to Tennyson (2021) Ltd revising their plans and consents to remove the second floor. It may also have a negative impact on the Council's relationship with the Coopers.

**Alternative option 2:** To request staff to undertake further negotiations with Tennyson (2021) Ltd. This will impact the timing of the development depending upon what changes are desired by Councillors. It may also have a negative impact on the Council's relationship with the Coopers.

## 7. VIEWS OF THOSE AFFECTED / CONSULTATION

There is no consultation required on these matters at this time.

## 8. FUNDING IMPLICATIONS

The level of funding implications will range from nil to an unbudgeted \$165k per annum for a two-year period from practical completion (targeted for August 2023). This would require funding from general rates and would be included in the 2024 annual plan.



Kelvin Mason  
**GROUP MANAGER ENABLING SERVICES**

## Tennyson (2021) Limited

Date

Selwyn District Council  
2 Norman Kirk Drive  
Rolleston

Attention:  
– BY EMAIL

### **Lease of premises: Tenancy 10,11 & 12, Rolleston Fields**

Dear Kelvin

Tennyson (2021) Limited ("the Lessor") grants the Selwyn District Council ("the Lessee") the opportunity to take, a lease of tenancy 10, 11 and 12 ("the Premises") in "Rolleston Fields" on the terms and conditions set out in this Agreement to Lease. This Agreement shall be accepted when signed by both parties, and it is in all respects subject to the satisfaction of conditions in clause 2.10.

The Lessor and the Lessee agree that the form of lease to be used shall be the latest version of the Property Council Retail Lease ("Deed of Lease"), subject to the amendments contained in this Agreement.

The Lessor and Lessee agree that the attached plan and the Deed of Lease form part of this Agreement. In the event of any inconsistency between this Agreement, any attachments and the Deed of Lease, then the provisions of this Agreement shall prevail. Notwithstanding that the formal Deed of Lease may not have been duly executed and delivered by the Lessee to the Lessor, the Lessee shall be bound by the terms contained in this Agreement and in the Deed of Lease as if the Deed of Lease had been duly executed.

The Lessee shall execute the Deed of Lease without amendment (except for incorporation of the specific arrangements made in this Agreement) and deliver the same to the Lessor before the earlier of 14 days following receipt of the Deed Lease from the Lessor's solicitors or the handing over of the Premises for the Lessee to commence its fitout.

**1.0 THE LEASE**

**(Basic Terms)**

**1.1 The Lessor** **Tennyson (2021) Limited**

**1.2 The Lessee** **Selwyn District Council**

**1.3 Guarantee** Bank guarantee of six months' rent and outgoings provided that while Selwyn District Council is the lessee this will not be required.

**1.4 Description of Complex and Land** The Shopping Complex to be known as "Rolleston Fields" ("Complex") located at 56 Tennyson St, Rolleston, and as generally reflected on the location plan annexed hereto.

**1.5 The Premises** That part of the Complex comprising tenancy 10, 11 and 12 of Building I being shown outlined on the plan annexed hereto an estimated area at Commencement Date of 340.19 square metres (being approximately 91.40m<sup>2</sup> in tenancy 10, 148.74m<sup>2</sup> in tenancy 11 and 100.05m<sup>2</sup> in tenancy 12) subject to final measurement in accordance with the Property Council guide for the measurement of Rentable Areas.

**1.6 The Term** 2 years from the Commencement Date

**1.7 Lessor's Works and Handover Date** The Handover date will be at a time when the Lessor's base build is completed to a stage where the Lessee's contractors could have access to the Premises for Fitting Out purposes without the Lessor's contractors or Lessee's contractors creating undue disturbance to each other and so that the Fitting Out of the premises by the Lessee could be completed at or about the time of practical completion of the Lessor's base build of the building in which the Premises are situated.

Alternatively, the Handover Date will be upon practical completion of the premises, estimated to be (but in no way binding on the Lessor) 1 August 2023.

Subject to any arrangement under which Lessor's contractors and Lessee's contractors may agree to complete

their respective builds at the same time, the Lessor agrees to hand over the Premises to the Lessee on the Handover Date in the following condition:

- Standard gib interior linings on internal perimeter walls, stopped to a Level 4 Finish ready for the Lessee's paint.
- Bare Concrete Floor ready for the Lessee's floor coverings
- Water and waste connection supplied to a demarcation point nominated by the Lessor
- Power distribution board installed, 3 phase, 120 amps
- Roof penetration where required for the Lessee intended extraction ducting
- Glazed shop front installed
- Air conditioning to an open plan layout
- Compliant WC's (if required)
- Electricity cabling
- Data connection to a demarcation point agreed by the Lessor and Lessee
- Ceiling installed
- Basic Lighting installed throughout
- Premises handed over in a clean shell state ready for the Lessee's fitout.

While the Lessor's works will be materially completed by the Lessor prior to handover date, it is acknowledged by the Lessee that some minor parts of the Lessor's works may have to be completed after Handover Date, but in such case the Lessor will use all reasonable endeavours not to impede the Lessee's contractors in the completion of the Lessee's works.

**1.8 Fitting Out Period**

Following the practical completion of the Lessor's Works as detailed above, the Lessor grants the Lessee a period of Six (6) weeks to fitout the Premises prior to opening.

The Lessor is to provide access to the Premises for this purpose and the Fitout Period shall be rent and outgoings free. The Lessee shall however pay utility costs including water and power from the Handover Date. For the avoidance of doubt, the Lessee is not obliged to undertake any works or fitout of the Premises.

**1.9 Commencement Date**

Upon the expiry of the Fitout Period or the commencement of trade by the Lessee, whichever is earlier.

1.10	<b>Expiry Date</b>	One (1) day prior to the second (2 <sup>nd</sup> ) anniversary of the Commencement Date.
1.11	<b>Initial Base Rent</b>	<p>\$375 per square metre x the lettable area per annum plus GST.</p> <p>Total Base Rent: Approximately \$127,571.25 + GST (subject to final measure)</p>
1.12	<b>Lessee's Share of Operating Expenses</b>	<p>In addition to the Base Rent the Lessee is to pay for their share of Operating Expenses for the Premises and the building in which the Premises are located, along with a fair proportion of the Operating Expenses relating to the Complex, such amount payable to be advised.</p> <p>In relation to Operating Expenses the Lessee shall pay:</p> <ul style="list-style-type: none"> <li>• for Operating Expenses that solely relate to the Premises, the Lessee shall pay the whole sum;</li> <li>• for Operating Expenses that relate to the building of which the Premises form part, the Lessee shall pay that proportion of the Operating Expenses of the building that the Rentable Area of the Premises bears to the Total Rentable Area of the building; and</li> <li>• for Operating Expenses that relate to the Complex as a whole, the Lessee shall pay that proportion of the Operating Expenses of the Complex that the Rentable Area of the Premises bears to the Total Rentable Area of the commercially rentable buildings comprising the Complex.</li> </ul> <p>Operating expenses are currently estimated to be \$110 per m<sup>2</sup> per annum.</p> <p>The Lessor may at its election require the Lessee to pay some or all of the Operating Expenses payments directly to any Manager of the Complex where the Lessor deems that appropriate.</p>
1.13	<b>Lessee's Share of Marketing Expenses</b>	Not applicable.

1.14	<b>Percentage Rent</b>	Not applicable
1.15	<b>Rent Review Interval</b>	Not applicable.
1.16	<b>Lessor's Fixtures and Fittings</b>	WC facilities (if any)  Glazed shopfront  Distribution board  Electricity and data cabling  Light Fittings  Ceiling tiles
1.17	<b>Initial Public Risk Insurance to be taken by Lessee</b>	\$5,000,000
1.18	<b>Permitted Use of Premises</b>	For the use of office space. It is agreed that the Lessees' trading name shall not be changed without the Lessor approval which shall not be unreasonably withheld or delayed.
1.19	<b>Non Trading Radius (Retail Restriction Limit)</b>	Not applicable.
1.20	<b>Trading Hours</b>	Trading hours for the Complex will be set by the Lessor (in conjunction with the manager appointed for the Complex if one has been appointed) from time to time and the Lessee shall at a minimum conform to the hours set.
1.21	<b>Smoke Free Policy</b>	For reasons of public health and comfort the Complex is to be smoke free inside the various buildings. Accordingly an appropriate rule forms part of the Lease document.
1.22	<b>Occupational Safety</b>	The Lessee shall have a Health and Safety plan which complies with the Health and Safety in the Workplace Act

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	<b>&amp; Health</b>	2015 and the Lessee shall provide a copy of such plan to the Lessor prior to Commencement Date.
1.23	<b>Utility Costs</b>	The Lessee shall be responsible for its own utility costs including electricity, water, waste, phone, data, gas and other associated costs that may be separately charged to the tenancy.
<b>2.0</b>	<b>ADDITIONAL TERMS</b>	
2.1	<b>Legal Costs</b>	Each party shall pay their own costs in the negotiation, preparation and execution of this Agreement to Lease and the Deed of Lease.
2.2	<b>Agreement Personal to Lessee</b>	The Lessee's rights conferred under this Agreement may be assigned subject to the Lessor's written consent (such consent not to be unreasonably withheld) provided always that the Lessee may use the Premises as serviced offices and can licence their use accordingly. The Lessor's rights conferred under this Agreement are assignable.
2.3	<b>Exclusivity of Agreement and no representations</b>	The obligations of the Lessor are exclusively set forth in this Agreement and the Lease. The Lessee and the Guarantor (if any) enter into this Agreement entirely in reliance on their own judgment and not in reliance upon any statement representation or warranty made by the Lessor or any agent of the Lessor or any other person. No warranty is made by the Lessor as to the structural or physical suitability of the buildings forming part of the Complex to accommodate the Lessee's works.
2.4	<b>Deposit</b>	Two months net rental payable in advance to Nexia Trust Account upon this Agreement becoming unconditional.
2.5	<b>The Guarantor</b>	<p>In consideration of the Lessor entering into this Agreement the Lessee shall provide a trading bank guarantee on the terms set out in the lease, such guarantee being for a total sum in the aggregate equal to six months' Rental and Outgoings.</p> <p>The guarantee need not be provided while Selwyn District Council is the Lessee but will need to be provided by any</p>

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assignee prior to the date of assignment.

- 2.6      **Access to Premises**      The Lessee shall not be entitled to access to the Premises until the Lessee has:
- (a)    delivered to the Lessor duly executed originals of the the Deed of Lease, the certificate of Insurance showing the Lessee's public risk insurance cover; and
  - (b)    fulfilled observed and performed all the terms and covenants of this Agreement (such as are required to be fulfilled by Handover Date).
- 2.7      **Non-Merger**      None of the terms and conditions, covenants and warranties expressed or implied in this Agreement shall be deemed to merge and be extinguished by the execution of the Lease or upon the happening of any other event whatsoever.
- 2.8      **Confidentiality**      No disclosure of the contents of this document may be made to any third party without the Lessor's prior written approval.
- 2.9      **Continued Marketing**      Notwithstanding entry into this Agreement, the Lessor shall continue to market the different tenancy areas to prospective tenants. Should the Lessor execute an unconditional agreement to lease with an alternative tenant before the Commencement Date for any tenancy area(s), it shall immediately release the Lessee from this Agreement in respect of the tenancy area(s) and return any Deposit paid in relation to the tenancy area(s) to the Lessee.
- 2.10     **Condition – Lessor/Lessee Approval**      This Agreement is conditional upon:
- A.    The Lessor obtaining (on terms and conditions entirely satisfactory to the Lessor in its absolute and unfettered discretion) by 1 November 2022 the following:
    - a.    all necessary consents and approvals for the construction of the Premises including, but without limitation land use consents, resource consents and building consents; and
    - b.    consent from the Selwyn District Council to complete the staged development of the



underlying land on which the premises will be constructed pursuant to the development agreement the Lessor has entered into with that Council.

- B. The Lessee obtaining formal approval from the Selwyn District Council to enter into this Agreement by the 12<sup>th</sup> of August 2022. This condition is for the sole benefit of the Lessee and may only be waived by it.

If the above conditions are not satisfied by their respective dates for fulfilment, or such later date(s) as the parties may agree, then this Agreement is to be avoidable at the option of either party and neither party is to have any right or claim against the other, save that any Deposit is to be repaid to the Lessee as soon as is reasonably practicable thereafter. The Lessee shall however not be entitled to avoid this Agreement for non-fulfilment of the condition in clause 2.10B without first notifying the Lessor of its intention to so avoid and allowing the Lessor a reasonable opportunity of at least five working days to either fulfil the condition or waive it.

**2.11 Attachments**

1. Plan of Premises
2. Deed of Lease – Property Council Retail Lease 2013
3. Rolleston Fields Special Conditions - Schedule of amendments to be included in the Lease

**2.12 Common Areas etc  
(Possible  
Subdivision)**

The Lessee's customers shall have the benefit of shared use of the car parking areas, access areas and other common areas of the Complex as shown on the (provisional) plan, such use being non-exclusive and to be shared with other parties in common including with the Lessor and customers of other Lessees of the Complex and other local amenities. All costs of operating and maintaining the said common areas, as set out in the Lease and including (but not limited to) maintenance, management, gardening, security, replacement of fittings and fixtures, resurfacing and car park marking, shall form part of the Operating Expenses of the Complex. The Lessor retains the option to subdivide the land comprising the complex by the deposit of either a conventional deposited plan or a unit plan.

The Lessee specifically agrees that its staff will not be entitled

to park in the common areas.

- |      |  |   |
|------|--|---|
| 2.13 | <b>Sale of underlying lots by Lessor</b>     | The Lessee acknowledges that the Complex is being developed in stages by the Lessor from land to be acquired from the Selwyn District Council. It may be that different underlying lots comprising the Complex will be owned by different lessors. Notwithstanding that, the Complex (of which the premises form part) is likely to be run as a single development with a common manager and common rules for the operation of the Complex. The lessor shall seek the Lessee's consent to any reasonable amendments (such consent not to be unreasonably withheld) required to tailor the final deed of lease and to make reasonable amendments as a consequence of such a structure. |
| 2.14 | <b>Changes to Property Council Schedules</b> | The Lessee acknowledges that the standard schedules to the Property Council Retail Lease 2013 are altered as per the attached Schedule of Amendments for Rolleston Fields.  |
| 2.15 | <b>Improvements Rent Percentage</b>          | Improvements Rent Percentage is 4% above the Lessor's Bank's base rate for lending applicable as at the date of expenditure on the improvements.  |
| 2.16 | <b>Shop Area Certification:</b>              | The precise lettable floor area of the specialty shop to be certified by the Landlord's surveyors and to be measured in accordance with the BOMA / PMI recommended method of measurement and the base rent as above and other calculations to be correspondingly adjusted on a \$/m <sup>2</sup> rate as appropriate. The measurement shall be done by the Landlord as soon as practicable after the Landlord is satisfied that practical completion of the premises has occurred.  |
| 2.17 | <b>Covid 19:</b>                             | <p>The Lessor and Lessee agree as follows:</p> <ol style="list-style-type: none"> <li>1. As at the date of this Lease New Zealand is subject to a Covid-19 Alert System ("Alert Level") as a result of the Covid-19 pandemic ("Pandemic"). Depending on the Alert Level in place from time to time, personal movement associated with the Tenant's use of the premises may be affected.</li> <li>2. The parties acknowledge that the New Zealand Government may change the Alert Level if there is a</li> </ol>   |

change to the public health risks in New Zealand as a result of the Pandemic. Any change to the Alert Level may apply nationally or in specified regions.

3. The parties agree that in circumstances where the Alert Level alters due to an order made by the Director-General of Health under the Health Act 1956 (or other legislative instrument, if applicable) so that it is increased to such a level that it would be unlawful for the Tenant to trade in any capacity from the Premises, then during that period the parties agree as follows:
  - a. Rental payable by the Tenant shall be reduced to 50% of the full rental normally payable under the terms of the Lease; and
  - b. Operating Expenses and Outgoings shall remain payable in full under the terms of the Lease; and
  - c. Contributions payable by the Tenant to the marketing fund operated by the Landlord shall be reduced to 50% of the sum normally payable under the terms of the Lease.
4. Upon the Alert Level reducing to a level where it becomes lawful for the Tenant to trade in any capacity from their premises again, all discounted payments shall immediately return to the sums provided for in the Lease.

**2.18 Fitout approval:**

In addition to any other obligations that apply to the Lessee's fitout or to alterations under the Property Council Retail Lease Schedules, the Lessee must at all times comply with the following requirements:

1. The Lessee must obtain the Lessor's written approval to the concept plans for any proposed fitout or alterations prior to commencing plans for detailed designs. The Lessor shall not be responsible for any costs incurred by the Lessee for failing to obtain Lessor's consent at this stage if the concept later needs modification in order to obtain Lessor's approval under this clause.
2. The Lessee must obtain the Lessor's written approval to the detailed design plans for any fitout or alterations prior to submitting them to the Selwyn District Council for consent and commencing construction. The Lessor shall not be responsible for any costs incurred by the Lessee for failing to obtain Lessor's consent at this stage if the detailed plans later need modification in order to obtain Lessor's approval under this clause.

3. Where the Lessor is required to review and provide an approval to plans presented to it by the Lessee then the Lessor shall provide that answer within 5 working days of receiving copies of the plans.
4. Where the Lessor is giving approval to plans presented to it by the Lessee, the Lessor shall be entitled to take into account the overall effect of the plans on the building in which the premises are located and shall be satisfied that the plans will be consistent with, and of a standard that will work with, the fitouts of other tenants occupying the same building as the Lessee.
5. Upon completion of the Lessee's fitout, the Lessee cannot commence trading until the Lessor has reviewed the completed fitout to ensure it has been constructed in accordance with the approved concept plans and detailed design plans. The Lessor shall not be responsible for any costs incurred by the Lessee for failing to construct their fitout in accordance with the approved concept plans and detailed design plans if the fitout later requires modification in order to obtain Lessor approval under this clause.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**SIGNED** for and on behalf of the Lessor )  
**TENNYSON (2021) LIMITED** )  
 By two of its directors )

**SIGNED** for and on behalf of the Lessee )  
**SELWYN DISTRICT COUNCIL** by: )

Signature

Print Name \_\_\_\_\_

Position

### Details of the Lessee's Lawyer:

Mark Odlin  
Buddle Findlay  
PO Box 322  
Christchurch

## ROLLESTON FIELDS, ROLLESTON, CANTERBURY

### SCHEDULE OF AMENDMENTS TO PROPERTY COUNCIL LEASE

#### 1. SECOND SCHEDULE AMENDMENTS

##### 1.1 Clause 2.1 is deleted and replaced with the following:

“2.1 If the Lessor permits the Lessee to continue to occupy the Premises beyond the Expiry Date or the Final Expiry Date as the case may be, that occupation shall be a periodic tenancy terminable by 20 working days notice at the rent payable monthly in advance, the first payment to be made on the day following the Expiry Date or the Final Expiry Date as the case may be and being equal to the average total monthly payment payable to the Lessor in the year immediately preceding the Expiry Date or the Final Expiry Date as the case may be. The periodic tenancy will otherwise be on the same terms and conditions (so far as applicable to a periodic tenancy) as set out or implied in this Lease (including payment of Operating Expenses and other money)”.

##### 1.2 Clause 3.6.5: insert at the end of this clause:

“nor less than the existing Base Rent increased by a percentage equal to the aggregate of the annual increases in the Consumer Price Index (all groups) since the last quarter preceding the Commencement Date or the last Base Rent Review Date as the case may be which said percentage increase shall be deemed to apply as a minimum increase in the Base Rent on each Base Rent Review Date.”

##### 1.3 Clauses 4.1.1, 4.1.2 and 4.1.4 are deleted and replaced with the following:

“4.1.1 Subject to obtaining the Landlord's written consent (such consent not to be unreasonably withheld), the Tenant shall be entitled to sublet the Premises or any part thereof.

“4.1.2 In any case where the Tenant wishes to sublet the Premises, the Tenant shall arrange for the subtenant to execute a deed of covenant in a form to be agreed between the parties.

...

4.1.4 Subject to obtaining the Landlord's written consent in accordance with clause 4.1.5. (such consent not to be unreasonably withheld), the Tenant shall be entitled to assign or transfer the Lease or part with possession of the Premises or any part thereof at any time during the first 24 months of the Lease Term and at any time thereafter.”

##### 1.4 A new clause 4.1.11 is added as follows:

“4.1.11 The Lessee acknowledges that it is essential for the overall viability of the Complex that the Lessor(s) of buildings comprising the Complex, in compiling an appropriate mix of overall tenants, may need to agree to restrict certain businesses from having competitors either in their building or in the Complex. In such circumstances it is a legitimate reason for a Lessor to decline an assignment of this Lease where the Lessee attempts to assign the Lease to an Assignee whose business use would breach a restrictive obligation that the Lessor has previously agreed to with another tenant”.

##### 1.5 A new clause 4.3 is added as follows:

“4.3 For the avoidance of doubt the provisions of clause 4.1 shall apply mutatis mutandis as to its

*requirements including provision of a Deed of Covenant in the event of a deemed assignment within the meaning of clause 4.2”.*

**1.6 A new clause 5.8.6 is added as follows:**

*“5.8.6 If the Lessor is obliged by any such legislation or requirement to expend moneys on any improvement addition or alteration to the Complex then the Lessor shall be entitled to charge up to the next rent review date in addition to the Rent an annual sum equal to the Improvements Rent Percentage of the amount so expended by the Lessor and the monthly payments of rent shall increase accordingly from the first day of the month in which such improvement addition or alteration is completed. In the case of a multi tenancy building, the annual sum payable shall be assessed in respect of a fair proportion of the amount so expended.”*

**1.7 A new clause 5.8.7 is added as follows:**

*“5.8.7 The Lessor warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the Commencement Date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any ‘building work’ (as defined in the Building Act 2004) relating to the fit-out of the Premises by the Lessee”.*

**1.8 A new clause 5.8.8 is added as follows:**

*“5.8.8 The Lessee, when undertaking any building work to the Premises, shall comply with all statutory requirements including the obtaining of all building consents and code compliance certificates and shall not allow the Premises to be open to members of the public or allow use of the Premises by members of the public if that would be in breach of section 363 of the Building Act 2004”.*

**1.9 A new clause 5.8.9 is added as follows:**

*“5.8.9 During the Term and any renewal, the Lessor shall not give consent to or carry out any building work in any part of the Lessor’s property which may cause the Lessee to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the Premises by members of the public”.*

**1.10 Clause 6.1.2 is deleted and a replacement clause 6.1.2 is added as follows:**

*“6.1.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that to the extent of any excess payable regarding any insurance policy held by the Lessor, the excess will represent an amount for which the Lessor has not insured, or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to. If the Lessor makes any claim against its insurance for any destruction or damage because of any act or omission of the Lessee, the Lessee will pay the Lessee the amount of the excess in proportion that the Rentable Area of the Premises bears to the Total Rentable Area of the Complex from time to time.*

**1.11 A new clause 6.7 is added as follows:**

*“6.7 Without prejudice to the Lessor’s rights against the Lessee, on the occurrence of any event (from time to time) which is insured under clause 6.2, the Lessee shall make a claim under the relevant insurance policy as soon as possible following the occurrence of the event and shall apply all monies received towards making good the damage in respect of which the insurance proceeds are received as soon as possible following receipt of the proceeds”.*

**1.12 A new clause 6.8 is added as follows:**

*“6.8 The rights and obligations in this Section 6 are subject to sections 268 to 272 of the Property*

*Law Act 2007 to the intent that the rights and obligations in this Section 6 only apply so far as the law allows”.*

**1.13 Clauses 8.10 and 8.10.1 are deleted and replaced by the following:**

***“Lessor Supplying Electricity***

8.10 *The Lessor reserves the right (if permitted by law so to do) to elect to supply the whole of the Lessee’s requirements of electricity normally supplied by a public statutory or semi-government utility or authority in respect of the Lease Premises, and in the event of the Lessor so electing, the Lessee shall purchase the whole of its requirements of such electricity exclusively from the Lessor.*

8.10.1 *The Lessee shall pay to the Lessor such price for the supply of electricity as the Lessor may from time to time determine, provided always that such price shall not exceed the price which the Lessee would be required to pay if it were then taking its supply direct from the person, body or authority from whom the Lessee would, but for this cause, have taken its supply.”*

**1.14 Clause 8.12 is amended by adding the following to the end of the clause:**

*“If the Lessee shall not remove the signs and make good any damage then the Lessor may remove and store such signs as the Lessee shall have failed to remove and the Lessee shall pay on demand all costs and expenses incurred by the Lessor. The Lessor may alternatively elect not to effect such removal and notify the Lessee that unless the Lessee shall have effected such removal within 14 days then such signs as have not been removed shall be forfeited to the Lessor. Where the Lessee fails to comply with such notice the signs shall at the end of such period become the property of the Lessor and no compensation shall be payable by the Lessor to the Lessee. No such forfeiture shall derogate from the Lessor’s right to proceed against the Lessee if the value of such signs shall be insufficient to offset the cost of repairing any damage caused either by removal of the signs or by the Lessee generally”.*

**1.15 Clause 10.1 is deleted and replaced with the following:**

- “10.1 The Lessor may (in addition to the Lessor’s right to apply to the Court for an order for possession), cancel this Lease by re-entering the Premises at the time or at any time thereafter:*
- (a) if the Rent shall be in arrear 10 working days after any of the rent payment dates and the Lessee has failed to remedy that breach within 10 working days after service on the Lessee of a notice in accordance with section 245 of the Property Law Act 2007;*
  - (b) in case of breach by the Lessee of any covenant or agreement on the Lessee’s part herein expressed or implied (other than the covenant to pay rent) after the Lessee has failed to remedy that breach within the period specified in a notice served on the Lessee in accordance with section 246 of the Property Law Act 2007;*
  - (c) if the Lessee shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Lessee’s creditors;*
  - (d) in the event of the insolvency, bankruptcy, administration, receivership, or liquidation of the Lessee;*
  - (e) if the Lessee has any of its assets seized (whether by a security holder or not); or*
  - (f) if the Lessee shall suffer execution to issue against the Lessee’s property goods or effects*

*under any judgment against the Lessee in any Court for a sum in excess of five thousand dollars (\$5,000.00);*

*and the term shall terminate on such cancellation but without prejudice to the rights of either party against the other”.*

**1.16 Clause 11.3 is amended by adding the following to the end of the clause:**

*“The rights and obligations in this clause are subject to sections 268 to 272 of the Property Law Act 2007 to the intent that the rights and obligations in this clause only apply so far as the law allows”.*

**1.17 A new clause 13.13 is added as follows:**

**“13.13 Mortgagee’s Consent**

*The Lessor shall not be required to obtain the consent of any mortgagee of the property to the grant of this Lease.”*

**1.18 A new clause 13.14 is added as follows:**

**“13.14 Bank Guarantee**

**13.14.1** *At any time other than when the Lessee is Selwyn District Council, the Lessee is to provide to the Lessor an unconditional and irrevocable undertaking by a registered major New Zealand trading bank approved by the Lessor, and otherwise in a form and substance satisfactory to the Lessor for an amount equal to six months’ Base Rent plus Operating Expenses plus marketing costs plus GST in respect of the Lessee’s obligations under the Lease (“Bank Guarantee”). Subject to clause 13.14.4 below, the Bank Guarantee is to remain in place until that date which is six (6) months after the Final Expiry Date of the Lease provided that the Lessee has performed all of its obligations under this Lease.*

**13.14.2** *As at each Renewal Date, the amount covered by the Bank Guarantee is to be updated by the Lessee to an amount equal to six months’ Base Rent plus Operating Expenses plus marketing costs plus GST in respect of the Lessee’s obligations under the Lease payable as at the relevant Renewal Date.*

**13.14.3** *In the event that the Lessee is in default of any of its obligations under this Lease, then the Lessor may without prior notice to the Lessee call on the Bank Guarantee to cover making good any loss or damage sustained by the Lessor as a result of such event or to remedy any such default. Such use of the Bank Guarantee shall be without prejudice to any other rights of the Lessor arising as a result of the Lessee breaching any of the provisions of this Lease.*

**13.14.4** *If the Lessor calls on the Bank Guarantee, or on each Renewal Date, or if the Lessor expressly gives written notice after the amount of the Base Rent is increased, then the Lessee must deliver to the Lessor within fourteen (14) days a replacement or additional Bank Guarantee so that the amount guaranteed is the amount equal to ~~six~~ months’ Base Rent plus Operating Expenses plus marketing costs plus GST. For the avoidance of doubt, the Lessor records that where an increase in Rent occurs on an agreed percentage basis, or a market rental increase is not overly material, and the Lessee has otherwise been in compliance with its lease obligations generally, then the Lessor is unlikely to request a replacement or additional Bank Guarantee until a Renewal Date.*

**13.14.5** *No action by the Lessor under this clause 13.14 will operate as a waiver of the Lessor’s other rights under this Lease in respect of Lessee’s breach of Lease.*

**13.14.6** *If at any time during the term of this Lease or any renewal period the Lessor transfers its*



*interest in the Premises, the Lessee shall at the request and cost of the Lessor provide to the Lessor a replacement Bank Guarantee in favour of the transferee. “*

**1.19 Clauses 5.1 and 5.7.1 to 5.7.4 are deleted and replaced with the following:**

- “5.1 *The Tenant shall at all times keep the Premises (including the Landlord's fixtures and fittings) in good repair and condition (having regard to their condition at the Commencement Date with respect to the Landlord's fixtures and fittings).*
- 5.1.1 *Prior to the expiration or sooner determination of this Lease (or any renewed term) time being of the essence:*
- (a) *the Tenant may remove such of the Tenant's property and improvements (including any internal partitioning and chattels of the Tenant) from the premises as it wishes; and*
- (b) *the Tenant shall have no obligation to reinstate any surface of the Premises.*
- 5.1.2 *Should any property or improvements of the Tenant not be removed from the Premises (because the Tenant did not make an election to do so under clause 5.1.1(a) such assets will, without payment of any compensation, vest in the Landlord who will be deemed the owner.*

**1.19 Clauses 9.2.1 to 9.5 are deleted and replaced with the following:**

- “9.2.1 *The Tenant shall have no obligation to contribute to the Landlord's Marketing Fund or participate in any promotional, marketing or public relations programmes.*
- 9.2.2 *The Landlord shall not levy or demand payment from the Tenant for any marketing or promotional costs. For the avoidance of doubt, the Tenant's contribution to operating expenses shall exclude any expenses relating to marketing and /or promotion.*

**1.20 Clause 13.1 is deleted and replaced with the following:**

- “13.1 *The parties shall be solely liable for their own costs (including legal costs, GST, and expenses) in respect of the negotiation, preparation and completion of this Lease or any extension or variation and any costs of obtaining any consents or approvals associated with the granting of this Lease.*

**1.21 A new clause 13.14 is added as follows:**

*"No Access in Emergency*

- 13.14 *If there is an emergency and the Lessee is unable to gain access to the Premises to fully conduct the Lessee's business from the Premises because of reasons of safety of the public or property or the need to prevent, reduce or overcome any pandemic, hazard, harm or loss that may be associated with the emergency including:*
- (a) *a prohibited or restricted access cordon applying to the Premises;*
- (b) *prohibition on the use of the Premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the Premises are fit for use;*
- (c) *restriction on occupation of the Premises by any competent authority,*
- then a fair proportion of the rent and outgoings shall cease to be payable for the period*

*commencing on the date when the Lessee became unable to gain access to the Premises to fully conduct the Lessee's business from the Premises until the inability ceases.*

13.15 *This clause 13.15 applies where clause 13.14 applies and the Premises or building of which the Premises form part are not totally or partially destroyed or damaged as provided for in clause 7.1 or 7.2. Either party may terminate this Lease by giving ten (10) working days written notice to the other if:*

- (a) the Lessee is unable to gain access to the Premises for a period of three (3) months; or*
- (b) the party that terminates this Lease can at any time prior to termination establish with reasonable certainty that the Lessee is unable to gain access to the Premises for a period of three (3) months.*

*Any termination in accordance with this clause 13.15 shall be without prejudice to the rights of either party against the other.*

## **2. THIRD Schedule amendments**

### **2.1 A new clause 23.4 is added as follows:**

*"23.4 Any signs installed by the Lessee must be installed in a good and workmanlike manner, using construction methods and materials approved by the Lessor, and in accordance with law and with the requirements of all relevant authorities. The Lessee must at its own cost obtain and maintain the consent of all relevant authorities from time to time required in connection with the installation and operation of the signage. The Lessee will maintain and keep in good order and repair all signage erected by the Lessee and persons under the control of the Lessee."*

### **2.2 Clause 31 is varied as follows:**

In clause 31 the words "*or any canopy area of the Complex or any public square situated in the Complex*" are added after the word "*Property*".

### **2.3 A new clause 31.1 is added as follows:**

*"31.1 The Tenant shall also ensure that persons under the control of the Lessee do not smoke in any part of the Complex or any canopy area of the Complex or any public square or car park situated in or adjacent to the Complex.*



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**DEVELOPED DESIGN**

**FLOOR PRESENTATION  
PLAN**

SCALE: 1:200 @ A2

DATE: 27-Jan-22

PROJ. No: 20008

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**A2.01**

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