

## **REPORT**

**TO:** Chief Executive

**FOR:** Council Meeting – 13 September 2017

**FROM:** Senior Strategy and Policy Planner – Craig Friedel

**DATE:** 8 August 2017

**SUBJECT:** **Recommendation of the Commissioner for Plan Change 49 – Tai Tapu Living 3 Zone**

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### **1. RECOMMENDATION**

**That the Council approves:**

- (a) Pursuant to Clause 10 (1) of the First Schedule of the Resource Management Act (RMA), to accept the recommendations contained in the Commissioner's report dated 15 July 2017 as its decision on Plan Change 49.**
- (b) The public notification of Council's decision that establishes that the Selwyn District Plan is deemed to have been amended in accordance with that decision from the date of the public notice in accordance with Clause 10 (4)(b) of the RMA.**
- (c) The Team Leader Strategy and Policy the delegation to take any steps necessary to give effect to recommendations (b) above.**
- (d) The Team Leader Strategy and Policy the delegation to take any steps necessary to give effect to make Plan Change 49 operative at the conclusion of the appeal period where no appeals are filed.**

### **2. PURPOSE**

This report seeks a decision from the Council that Plan Change 49 (PC49) be approved without modification in accordance with the Commissioners recommendation and that it be confirmed for inclusion in the Operative Selwyn District Plan.

### 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This matter has been assessed against the Significance and Engagement Policy. Considering to accept the Commissioner's recommendation as Council's decision is a procedural step that is required to be followed under the RMA.

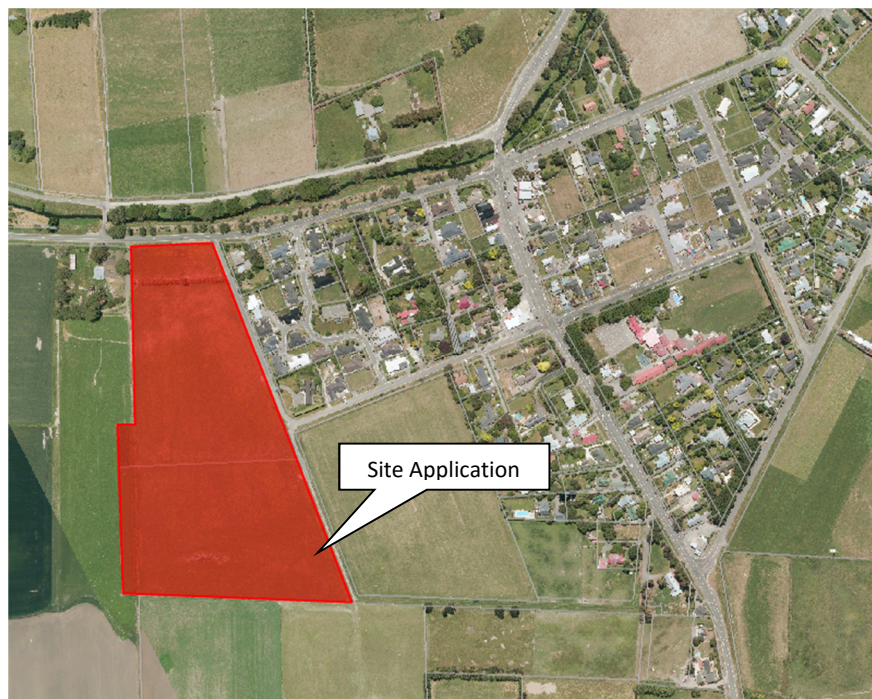
It is recommended that engagement with the community is undertaken at the level of:

- **Informing** the community

### 4. HISTORY/BACKGROUND

Z and S Crofts and J Williams requested a change to the Selwyn District Plan to rezone two rural properties in Tai Tapu from a Rural (Inner Plains) to Living 3 zone. The two sites are located along the western edge of Tai Tapu Township, with the properties being bordered by Lincoln Tai Tapu Road to the north and Hauschields Road to the east (Refer to [Figure 1: Site plan](#)). The site has a total area of approximately 8.1 hectares, is held on two existing titles (537135 and 537136) and is legally described as Lot 1 DP 436571 and Lot 2 DP 436571.

**Figure 1: Site plan**



PC49 seeks to rezone the land to a Living 3 zone to accommodate approximately 16 rural residential households with lot sizes generally between 2,700m<sup>2</sup> to 8,500m<sup>2</sup>, with an average density of 5000m<sup>2</sup> per lot. The rule framework being sought by PC 49 relies on the existing Living 3 zone, with amendments being limited to site specific matters. The request does not propose to make any changes to the operative Living 3 zone objectives or policies. The subject sites are identified

as Preliminary Location Area 14 in Council's adopted Rural Residential Strategy (RRS14).

PC49 was publicly notified on 31 January 2017, with 11 submissions being lodged with Council. The summary of submissions and call for further submissions was publicly notified on 21 March 2017. One further submission was received.

The appropriateness of the rezoning, and the specific rules considered necessary to manage any subsequent effects arising from development occurring within this additional Living 3 zone, are contained in the Officer report, (which is available for viewing on Council's website<sup>1</sup>) and referenced in the Commissioners recommendation (Attachment 1).

## 5. PROPOSAL

An independent Planning Commissioner, David Mountfort, 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.

This hearing took place on 27 June 2017 and heard evidence from the applicant and their representatives, Council experts and submitters'. Supplementary evidence from the applicant to address a number of matters raised during the hearing were circulated to the Commissioner and submitters. Council received the Commissioner's recommendation 15 July 2017.

This recommendation relates to whether the plan change should be: (a) accepted; (b) accepted with modifications (in accordance with the scope provided by the Plan Change); or (c) rejected. 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.

For the reasons set out in the Commissioners recommendation (Attachment 1 of this report), the Commissioner recommends that Plan Change 49 be accepted with modification arising from the hearing process.

## 6. OPTIONS

Council can either **accept** or **reject** the Commissioner's recommendation.

If Council accepts the recommendation, then PC49 will continue along the statutory RMA process, with the decision being publicly advertised, served on all applicants and the 30 working day period provided to submitters to lodge an appeal to the Environment Court. If no appeal is received within this timeframe then PC49 will be deemed to be operative and the District Plan amended accordingly.

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<sup>1</sup> <http://www.selwyn.govt.nz/services/planning/district-plan/plan-changes/plan-change-49-living-3-lincoln-tai-tapu-and-hauschilts-roads>

If Council rejects the Commissioners recommendation, then the plan change must be subject to a new hearing process. It would be inappropriate for the Council to amend any of the findings contained in the Commissioners recommendation in the absence of hearing the submissions and considering the substantive material that has been considered.

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

### **a) Views of those affected**

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.

### **b) Consultation**

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.

### **c) Maori implications**

An evaluation of the request against the outcomes expressed within Mahaanui: Iwi Management Plan was commissioned by the applicant and undertaken by Mahaanui Kurataiao Limited. This assessment was contained in the appendices of the notified version of the plan change request and has informed the subsequent evaluations of the substantive merits of the proposal.

Te Taumutu Rūnanga were served notice of PC49 at the time of public notification.

## **8. RELEVANT POLICY/PLANS**

The rezoning of the land is consistent with the following Policies and Plans:

- Land Use Recovery Plan
- Chapter 6 to the Canterbury Regional Policy
- Selwyn District Council's Rural Residential Strategy

## **9. COMMUNITY OUTCOMES**

Although the plan change was promulgated by the land owner, the development of the land to Living 3 zone densities will provide greater housing choice to people wanting to live within the community of Tai Tapu.



**10. NEGATIVE IMPACTS**

The Commissioner's recommendation addresses any negative impacts, potentially adverse effects and determines what mitigation measures through District Plan controls are necessary to achieve a sustainable Living 3 zone environment.

**11. LEGAL IMPLICATIONS**

Only the applicant and submitters have rights to appeal PC49, and Councils resolution to accept the Commissioner's recommendation as its decision under the RMA.

**12. FUNDING IMPLICATIONS**

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

**13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?**

Council's Assets Department has been involved throughout the private plan change process in respect to the infrastructure servicing requirements, which are addressed in the Officers hearing report and the Commissioners recommendation.

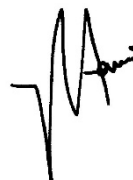


**CRAIG FRIEDEL  
SENIOR STRATEGY AND POLICY PLANNER**

**ENDORSED FOR AGENDA**



**JESSE BURGESS  
PLANNING MANAGER**



**TIM HARRIS  
ENVIRONMENTAL SERVICES MANAGER**

**ATTACHMENT 1: Commissioner's Recommendation on Plan Change 49**

**RESOURCE MANAGEMENT ACT 1991**

**PROPOSED CHANGE 49 TO THE SELWYN DISTRICT PLAN**

**Report and Recommendations of Hearings Commissioner David Mountfort to the Selwyn District Council**

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15 July 2017

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### **Recommendation to the Selwyn District Council**

1. My recommendation to the Selwyn District Council is that pursuant to Clause 10 of the First Schedule to the Resource Management Act:
  1. Proposed Change 49 to the Selwyn District Plan be allowed, subject to the amendments set out in Appendix 1 and 2 below.
  2. That the submissions opposing Plan Change 49 be accepted in part to the extent set out in the changes to the requested plan change set in Appendix 1 below and be otherwise disallowed.

### **Introduction**

2. Plan Change 49 to the Selwyn District Plan is the result of a request to change the Selwyn District Plan under Part 2 of the First Schedule to the Resource Management Act. The parties requesting the plan change are Z & S Croft and J K Williams. Although strictly speaking this is a "request" rather than an "application", for the sake of plain language I will refer to it in this report as an application and the requesting parties as the applicants. I have been appointed by the Council to hear and make a recommendation on this plan change request to the Council.
3. PC 49 requests the rezoning of 8.1 ha of land from Rural Inner Plains to Living 3, on the corner of Lincoln Tai Tapu Road and Hauschids Road, Tai Tapu.
4. The plan change has been publicly notified and submissions received.
5. The site is currently in rural development and is held in 2 ownerships of 4.05 hectares each. Each is used for grazing.
6. The site is located on the western edge of Tai Tapu Township and has frontage to Lincoln-Tai Tapu Rd and Hauschids Rd. Hauschids Rd is currently the edge of the urban development of Tai Tapu. Access to the site is proposed to be from Hauschids Rd only. Across Hauschids Rd to the east are existing residential development and the new Ardrossan subdivision which is under development.
7. The Living 3 zone, once in effect, would permit the development of the site for rural residential living at an average lot size of 0.5 ha per lot.
8. An outline development Plan (ODP) was included with the proposed plan change which outlines;
  - 3 indicative access points from Hauschids Rd
  - Indicative stormwater basins and drainage
  - Indicative overland flow paths.

### **The Selwyn Rural Residential Strategy 2014 (the RRS14)**

9. As discussed in full in Mr Cleese's report to the Council on the plan change, local authorities in Greater Christchurch can only provide new areas for rural residential development in accordance with an adopted rural residential development strategy prepared in accordance with the Local Government Act 2002. This is pursuant Policy 6.3.9 of the Canterbury Regional Policy Statement. The Selwyn District Council is obliged to give effect to this policy under the Resource Management Act 1991. I do not need to repeat Mr Cleese's comments in full, but briefly, the Council has prepared and adopted such a Strategy (known as the RRS14), following a consultation, submissions and hearings process. The Council in that strategy has decided that new rural residential developments should only occur on the periphery of existing towns and townships and has selected a number of sites regarded as suitable on a preliminary basis, subject to further assessment and confirmation under the RMA and the District Plan. The Hauschids Rd site is one of the sites included in the Strategy. In effect, new rural residential proposals must be approved first under the Strategy and then included in the District Plan through a plan change. As Mr Cleese put it;

*Whilst inclusion in the RRS14 satisfies the initial policy test of the CRPS, it does not pre-empt or override consideration of the substantive merits of the proposal, resolution of any site-specific constraints, or matters raised by submitters, as the RRS14 was clear that any identified blocks still needed to have their merit tested in detail through a plan change process.*

## **Submissions**

10. A total of 11 submissions were received, (including one late submission), along with one further submission. Nine of the submissions were opposed to the proposal, with two being in partial support subject to a number of concerns being appropriately addressed. One further submission was received from Mr Tendori (submitter #3), with Mr Tendori's further submission supporting the concerns raised by the other 8 submitters who are also opposed to the plan change. The matters raised by submitters are discussed in more detail below.
11. A late submission was received from Mr Peter Steenson. This submission was received two days late. The submitter subsequently identified that they sent their submission via e-mail within the prescribed time limit but that a fault with their internet service provider resulted in it being received by Council two days later. Given that the submission has not unduly delayed the hearing of submissions and does not raise issues that are not already raised by other parties, I do not consider any party to be directly affected by the late service of this submission. Accepting the late submission is consistent with the public participatory approach of the Act, I therefore accepted this late submission on behalf of the Council.

## **The Hearing**

12. A hearing was held on 27 June 2017. In attendance were

### **Applicant**

Gerard Cleary, legal counsel

Sharon Crofts and Gail Williams (on behalf of Jonathan Williams), applicants

Fiona Aston, Consultant Planner

Jeremy Rees, Consultant Engineer,

Nicole Lauenstein, Consultant Urban Designer

### **Submitters**

John Ryan

Jim McCrosty

Mark Tendori

Peter Cox

Peter Gormley

Pru Buckley,

### **Council**

Jonathan Cleese, Consultant Planner

Liam Foster, Consultant Engineer

## **Assessment of Effects**

13. The issues raised by the application, submitters and Council in this case include the following,
  - Landscape values and visual effects;
  - Effects on the village form and character of Tai Tapu;
  - Infrastructure servicing and stormwater management (including flood risk);



- Transport safety and efficiency;
- Land stability and geotechnical risk;
- Soil contamination risk;
- Potential adverse reverse sensitivity effects;
- Cultural values.

14. I discuss each of these in turn

***Landscape values and visual effects;***

15. The plan change would result in a change in the landscape character from rural pastoral farming land to very low density residential, with houses, likely to be in 3 clusters, and limited spaced tree planting along the boundaries. Submitters were concerned about loss of rural views from the houses on the eastern side of Hauschilds Rd. In response to this, the applicants pointed out that the development would provide a high standard of visual amenity, and that the proposed compensatory flood storage areas would provide wide gaps through which more distant rural views would remain. They also pointed out that most of the existing houses north of the School Rd intersection had very little view across the application site due to fencing, hedging and existing landscape. However the same cannot be said for the properties along Hauschilds Rd in the new Ardrossan subdivision south of School Rd, which are likely to be orientated towards the north and west and are not screened in any way at present.
16. Considerable discussion of this took place at the hearing. The applicant offered to amend the Outline Development Plan to show these indicative compensatory storage areas, and also the spaced planting of trees along the road boundary, and after the hearing submitted an amended Outline Development Plan showing these changes.
17. It is also the case that if the land remains in rural use, the owners would be entitled to plant a dense shelter belt all along the boundary of their land, eliminating views altogether.
18. It is also relevant that, under the Rural Residential Strategy, the Selwyn District Council has adopted a policy of establishing any further rural residential development adjacent to the boundaries of existing towns and townships, and sites have been identified for this purpose here, at Prebbleton, Lincoln, Rolleston and West Melton. Views from conventional residential areas across farmland will be lost at each of these sites and is an effect anticipated by the Strategy.
19. I have considered this matter carefully and concluded that the resulting visual amenity would be different, but attractive in its own right and therefore acceptable.

***Effects on the village form and character of Tai Tapu;***

20. Tai Tapu is a small township consisting largely of low density residential housing on large sites. I consider the proposed development at Living 3 density would be fully consistent with this character. In addition, the new housing will be well linked into the existing village along School Rd. The site will be able to contain no more than about 16 dwellings, which is only a small addition to the size of the existing village. The development will provide a clear defensible edge to the township on this side which is likely to prevent any further expansion to the west of the township. I therefore do not foresee any adverse effects on the existing village character.

***Infrastructure servicing and stormwater management (including flood risk);***

21. Submitters were concerned that the proposal would place unacceptable pressure on the existing water supply and sewage disposal systems of the village. These views were not shared by the applicant, nor the Council. Both Mr Foster and Mr Rees said that it would be perfectly feasible to connect the new development to these services. It would be necessary for each property to have a wastewater holding tank and pump to ensure sewage was discharged at off peak times when flows are lower. It would also be necessary to limit the daily amount of water supplied to each property and that this might result in homeowners having storage tanks. Mr Rees confirmed that the wastewater holding tanks would be fully underground, preventing any adverse appearance.
22. Stormwater drainage is to be to the existing Ryan's Drain on the western boundary of the site. To avoid overloading this drain at times of peak flow, retention basins are proposed, to hold back most of the water until levels in the drain reduce. The rate of discharge will be no greater than the



predevelopment levels of run-off. Building sites will be raised to mitigate any flooding, with equivalent areas of lowered ground (compensatory storage), to prevent any diversion of floodwater onto adjacent properties.

23. Mr Rees and Mr Foster confirmed that these are standard and widely practised techniques, are appropriate in this situation and will prevent any adverse effects occurring to these services in Tai Tapu.
24. Submitters questioned whether the information provided in the application about flooding was up to date. Whether that was so or not, by the time of the hearing Mr Rees had accessed up to date information from Environment Canterbury which confirmed his initial views.
25. Therefore, although I respect the local knowledge of the submitters and their concerns about these services, I accept the expert advice of Mr Rees and Mr Foster and conclude that there are no issues relating to water supply, stormwater management and wastewater services for this proposal

***Transport safety and efficiency;***

26. Hauschilds Rd is sealed from Lincoln-Tai Tapu Rd to a little beyond School Rd. This formation would need to be extended south, at least to the southernmost access into the site. The southern end of the road contains only a gravelled track. The whole road is regularly used at present for recreational walking and riding and is satisfactory for that purpose because of the very limited traffic on it. Direct access to Hauschilds Rd is currently limited to a single dwelling immediately north of the corner with School Rd.
27. I note that there is excellent access into Tai Tapu township and all its facilities along School Road over a short distance, so the site is very well placed to meet one of the key objectives of the RRS14 which is to reduce travel distances and reliance on car travel for all journeys.
28. Hauschilds Road has a legal width of only 10 metres, and therefore has only very narrow grassed berms either side of the sealed formation, which also incorporate the water tables. The Council, through Mr Clease's report requested that provision be made for a footpath, and considered this would not be able to be accommodated within the narrow existing berms and would have to be accommodated within the application site. The submitters generally agreed with his request, as once residential traffic was using the road it would not be safe for pedestrians and cyclists to use as well.
29. This was also debated extensively at the hearing, and the applicant, although not accepting that it would be strictly necessary, eventually agreed to show an indicative pathway on its Outline Development Plan. This has been done. The details of what is eventually provided will be able to be finalised at the time of subdivision. I am satisfied that this path will be required because Hauschilds Rd is too narrow to accommodate vehicle traffic, pedestrians, cyclists and possibly horse riders within its existing boundaries.
30. Other than that one matter, I am satisfied that any traffic related effects would be less than minor.
31. Submitters also raised the issue of whether the intersection with Lincoln-Tai Tapu Rd would be safe to accommodate the turning traffic, citing issues with visibility and sight lines. The applicant provided an expert traffic assessment from Novo Group Ltd in its Assessment of Environmental Effects, concluding the intersection would be safe and the Council's Asset manager (Transportation) Mr Andrew Mazey made no comment on this in his report on the application which was attached to the report of Mr Clease.

***Land stability and geotechnical risk;***

32. The application includes the findings of geotechnical investigations undertaken by Davis Ogilvie Ltd, dated 7<sup>th</sup> April 2016. This geotechnical report has been peer reviewed by Mr Ian McCahon of Geotech Consulting Ltd, whose report was attached to Mr Clease's report. Both experts concluded that the relatively small amount of liquefaction which occurred in the Canterbury earthquakes would not make the land unsuitable for development, and that any effects could be mitigated by standard engineering techniques for building foundations and laying of underground services.
33. There are therefore no geotechnical reasons that make the site unsuitable for rural residential development.



### ***Soil contamination risk;***

34. Mr Clease reported that the site is not currently listed on the Canterbury Regional Council's Listed Land Use Register that records locations where potentially contaminating activities have occurred in the past. Given that the plan change will result in a change of use for the site, the application has nonetheless included a Preliminary Site Investigation ('PSI') prepared by Tasman Environmental Management Ltd in August 2015. This PSI report was then peer reviewed by Tonkin & Taylor Ltd in September 2016. The PSI identified an area in the northwest corner of the site that had experienced contamination as a result of a sheep spray facility located on an adjacent rural property. The peer review identified several matters that will require further investigation and the applicant's response to the Council's request for further information has confirmed that such further investigation could be undertaken as part of the subdivision consent process. The peer review concluded that "whilst areas of contamination may be present at the site, there is no evidence to suggest that contamination issues are of an extent or magnitude that makes the site wholly unsuitable for more intensive residential use.
35. There is therefore no evidence that would suggest that the land is contaminated to such an extent that remediation would not be plausible or that would pose an unacceptable risk to human health. Given the matters raised in the peer review and the PSI identification of an area of contamination, a consequential Detailed Site Investigation and associated Remedial Action Plan will be necessary as part of the subdivision consent process. The District Plan subdivision provisions referred to above provide appropriate scope to enable Council to assess such matters at the time a subdivision consent application is received. Council subdivision consent approval processes are likewise well-used to considering the robustness of proposed Remedial Action Plans to ensure that soil contamination risk is appropriately managed for both construction workers and future residents.

### ***Potential adverse reverse sensitivity effects;***

36. Submitters were concerned that the presence of houses may deter or prevent neighbouring landowners from carrying out certain agricultural activities that may generate adverse effects, such as noise, dust, odours or spraying. There are no intensive activities on neighbouring sites at present, and any proposal to establish for example pig or poultry farms close to the boundary would probably necessitate a resource consent application to the Council. Other than that, owners and occupiers of rural residential properties should be expected to know that a certain number of agricultural activities such as cultivation and harvesting will occur in the vicinity and to be reasonably tolerant of them. I do not consider this is a sufficient reason to decline the application.

### ***Cultural values***

37. Mr Clease reported that there are no wahi tapu or wahi taonga sites of cultural significance identified in either the District Plan or in feedback from local runanga. The local Te Taumutu and Te Ngai Tuahuriri Rūnanga have not lodged a submission on the application. The Rūnanga have however provided feedback on the application as part of the pre-lodgement consultation process undertaken by the applicant. This feedback identifies concerns regarding the management of stormwater quality, quantity, and native riparian planting of the proposed stormwater basins and landscaped areas. It also identifies the need for an accidental discovery protocol to be in place when earthworks are undertaken to ensure appropriate management of any archaeological remains should such be uncovered.
38. Concerns relating to stormwater have been discussed above and in the associated servicing report prepared by Mr Foster. The design and consenting of these systems will necessarily need to take into account effects on water quality and quantity and ensure that the specific design delivers an acceptable outcome in this regard. Water supply will be available through connection to the existing reticulated network, however this supply is likely to be restricted to ensure efficient water use. If a restricted supply system is needed, then this may encourage the use of roof water storage tanks for garden irrigation and water-efficient appliances. Such matters are not considered to be appropriate to mandate through the plan change process but rather are matters that can only be resolved through the subdivision process once specific infrastructure solutions have been designed.
39. The Living 3 rule package was developed with input from Ngai Tahu and includes the following assessment matters to the subdivision section of the Plan, where all Living 3 subdivision is a restricted discretionary activity and where, amongst other matters, the Council is to assess:



12.1.4.92 - The extent to which native species are used as street tree plantings and within vegetated stormwater swales;

12.1.4.99 - The extent to which site analysis using a comprehensive design process and rationale has been undertaken to recognise, and where appropriate, protect, maintain or enhance the following elements:

- Existing water courses, water bodies, wetlands, groundwater, and springs;
- Existing vegetation, such as shelter belts, hedgerows and habitats for indigenous fauna and flora;
- Ancestral land, rivers, wetlands, groundwater, springs, Te Waihora/ Lake Ellesmere and mahinga kai sites and the Wāhi Tapu and Wāhi Taonga of Te Rūnunga o Ngāi Tahu and Te Taumutu Rūnanga;
- View shafts to the Port Hills;

40. Mr Cleese said, and I agree, that the Living 3 Zone assessment matters are considered to adequately address the matters raised by Rūnanga in their pre-lodgement consultation feedback.

### Statutory Framework

41. The matters that must be considered in preparing a change to the District Plan are set out in section 74 of the RMA. Amongst other things, section 74 requires the local authority to:

- comply with its functions under section 31<sup>1</sup>;
- consider alternatives, benefits and costs under section 32;
- ensure the necessary matters are stated in the contents of the district plan under section 75; and
- have regard to the overall purpose and principles set out in Part 2, including the Matters of National Importance (section 6), the Other Matters (section 7) that require particular regard to be had in achieving the purpose, and the Treaty of Waitangi (section 8)

42. When preparing a plan or considering a plan change the Council:

- must give effect to the operative Canterbury Regional Policy Statement (section 75(3)(c));
- any management plans and strategies prepared under other Acts (section 74(2)(b)(i));
- must not take into account trade competition (section 74(3));
- must take account of the Mahaanui Iwi Management Plan 2013 (section 74(2A)); and
- shall have regard to the extent to which the plan is consistent with the plans of adjacent territorial authorities (section 74(2)(c)).

43. In his report Mr Cleese made a full analysis of the requirements of sections 31 and 74-75 of the RMA, and also the provisions of the Canterbury Regional Policy Statement, the Mahaanui Iwi Management Plan and the Rural Residential Strategy. I accept and adopt his conclusions that the proposed plan change would be consistent with these planning documents.

44. It is noted that in a general sense, the purpose of the 'Act' is already reflected in the operative District Plan's objectives and policies as they have already been through the statutory tests and are now unchallenged. Furthermore, PC49 does not seek to amend these objectives and policies. The fundamental question for consideration is therefore whether the re-zoning of the land subject to the Plan Change request more effectively meets the objectives and policies of the District Plan than retaining the current Rural (Inner Plains) zoning. .

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<sup>1</sup> Which broadly are the management and control of the effects of the development and use of land

## Statutory Analysis

45. Section 5 of the RMA contains the well-known purpose of sustainable management of natural and physical resources. Sustainable management includes enabling people to meet their social cultural and economic needs, which this application would do. At the same time adverse effects on the environment must be avoided, remedied, or mitigated, the needs of future generations must be protected and the life-supporting capacity of air, water, soil and natural ecosystems must be safeguarded. Of these only dealing with adverse effects seems relevant, and I have found that any adverse effects can be dealt with. There do not seem to be any issues that have been raised concerning the needs of future.

46. Section 6 specifies a number of matters of national importance but none of those seem to be applicable. Section 7 contains a number of other matters I am to have particular regard to. The ones I consider relevant to this case are;

*(b) The efficient use and development of natural and physical resources:*

*[(ba) the efficiency of the end use of energy:]*

*(c) The maintenance and enhancement of amenity values:*

*(f) Maintenance and enhancement of the quality of the environment:*

47. My comments on those matters are;

- **Efficient use and development of resources.** The opportunity to make use of the land for rural residential development is economically more efficient than requiring that they be retained for lower value agricultural uses. Although the site contains soils capable of productive use, there are other sites throughout the district that are more suitable for such activities. The strategic approach the Council is adopting towards rural residential development is to make limited provision for it in peri-urban areas such as this to free up the rural zones for productive use.
- **Energy.** No rural residential development is going to promote efficiency in end use of energy compared to more intensive residential activity. However the higher order planning documents establish that there is to be a limited amount of rural residential development. The Council policy is to deliberately select peri-urban sites close to townships because of their proximity to community facilities and public transport to minimise the amount of car travel that would result from a more scattered approach.
- **Amenity values.** The developments proposed will almost certainly produce as good or better standard of amenity than activities conforming to the Rural Inner Plains zone.
- **Quality of the Environment.** I do not see this as being adversely affected by the proposals.

48. Under Section 74(2) of the RMA (when preparing or changing a district plan), the Council must give effect to the operative Canterbury Regional Policy Statement. I have discussed this above and concluded that this proposal achieves and complies with its provisions.

49. Other than section 32, which I discuss separately below, the remaining provisions of the RMA relating to plan changes are procedural and have been complied with. I therefore conclude that the plan change complies with the requirements of the RMA.

## Section 32

50. Section 32(2) of the Resource Management Act requires that before these plan changes are approved, I must evaluate them under its provisions. The evaluation must examine

*(a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*



- (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
    - (i) *identifying other reasonably practicable options for achieving the objectives; and*
    - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
    - (iii) *summarising the reasons for deciding on the provisions; and*
  - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
51. The evaluation shall;
- a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
    - (i) *economic growth that are anticipated to be provided or reduced; and*
    - (ii) *employment that are anticipated to be provided or reduced; and*
  - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
  - (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*
52. The request for the plan change contained a full assessment of the proposal under section 32. I have examined that and agree with its conclusions, and except to the extent the change has been modified, which I discuss below, I adopt the section 32 assessment put forward in the request.
53. Four changes are now proposed to the request as it was put forward. Section 32AA of the RMA requires that I carry out a further evaluation of those changes.
54. The first change to the request is simply to a provision setting when the required floor levels would be set. The alternatives are at building consent stage, as proposed by the applicant, or at the earlier subdivision consent stage as preferred by Mr Clease. The applicant agreed with Mr Clease's suggestion at the hearing and amended the plan change accordingly. The other three changes are to the Outline Development Plan, as discussed above. They are
- Inclusion of the flood offset areas and their view shaft/ amenity function as well as flood mitigation
  - Deciduous trees at 12m spacing and rural post & rail fencing along Hauschilds Rd
  - The inclusion of a pathway along Hauschilds Rd to improve its functioning and safety
55. I am satisfied that these changes are appropriate and necessary and reduce any adverse effects of the proposed plan change.
56. Overall the proposed plan changes satisfy the requirements of section 32 and section 32AA of the Resource Management Act. Again I remind myself that the requested change as a whole simply seeks to change a rural zoning to a Living 3 zone in accordance with the strategic outcomes settled through the RRS14 process and to adapt the Living 3 zoning provisions to mitigate site specific issues. The level of detail in the evaluations under section 32 and 32AA is appropriate to the scale and significance of the proposal and its effects.

## Recommendations

57. My formal recommendations to the Selwyn District Council have been set out at the commencement of this report, but briefly I have recommended the plan changes be approved with amendments and the submissions are allowed or disallowed accordingly.



58. The full text of the recommended amendments to the text of the district plan is set out in Appendix 1. The amended Outline Development Plan is set out in Appendix 2.

*D. L. Mountfort*

David L Mountfort

Accredited Hearings Commissioner

1 August 2017

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## **APPENDIX 1**

### **Schedule of Proposed Amendments - Plan Change 49 –**

## 1. PROPOSED AMENDMENTS TO THE DISTRICT PLAN

- 1.1. It is considered that the most appropriate means to achieve the proposed Plan change is to largely adopt the existing provisions of the Living 3 zone of the SDP. No new objectives or policies are proposed as part of this Plan Change request.
- 1.2. The changes sought to the SDP (more specifically the Living 3 zone provisions, appendices and planning maps) in order to enable the proposed rezoning to proceed are outlined in Table 2.1 below.
- 1.3. Text that is proposed to be added is shown **bold italics and underlined** and text to be deleted is shown in bold italics, with a ~~strikethrough~~. Please note that, as only the proposed new and amended provisions to the District Plan are shown in the table below, these should be read in conjunction with the full provisions of the District Plan.

Amendment 1:	Amend the District Plan Planning Maps to identify the zoning of the site as Living 3.
Amendment 2:	Include the Outline Development Plan Living 3 Zone Tai Tapu as attached to this document as a new Appendix 48 to the District Plan.
Amendment 3:	<p><del>Add the following above Rule 4.1.1:</del></p> <p>1.4. Add the following to Rule 4.1.1:</p> <p>1.5. 4.1.1 Erecting any dwelling or other principal building on land located in the Living 1A or 2A zones at Tai Tapu where the minimum floor level is less than 6.93m above mean sea level shall be a restricted discretionary activity.</p> <p><b><u>4.1.1(A) Any dwelling on land located in the Living 3 zone at Tai Tapu shall have a minimum freeboard height of 400mm above the 0.5% Annual Exceedance Probability flood event; and shall be sited on a building platform to be established prior to the issue of the building consent for the dwelling, which is of sufficient size to accommodate a dwelling and associated curtilage, in accordance with any applicable resource consent conditions for subdivision requiring the provision of building platforms in the Living 3 zone at Tai Tapu.</u></b></p>
Amendment 4	<p>Amend Reasons for Rules – Natural Hazards, 1st paragraph as follows:</p> <p>Rules 4.1.1, <b><u>4.1.1(A)</u></b> and 4.1.2 identify Tai Tapu as a township where there is a significant known risk of damage to people or property from flooding and ponding. Rules <del>4.1.1</del> <b><u>and 4.1.1 (A)</u></b> does not necessarily prevent earthworks and building in the township of Tai Tapu, <b><u>and the Tai Tapu L3 zone</u></b> rather, the rule requires a resource consent application for a restricted discretionary activity for <b><u>activities not complying with specified minimum floor level standards</u></b> <del>larger scale activities</del>, so the nature and level of any risk of hazard,</p>

	and any mitigation measures proposed, can be assessed. <u>For the Living 3 Zone at Tai Tapu, the applicable standard meets the relevant regional plan requirement for dwellings to have an appropriate floor level above the 0.5% Annual Exceedance Probability flood event.</u>								
Amendment 5	<p>After Rule 4.5.1 – Buildings and sewage treatment and disposal add the following:</p> <p><b><u>4.5.1A In the case of the Living 3 Zone at Tai Tapu as identified on the Outline Development Plan at Appendix 48, each lot owner shall install, at the time of dwelling construction, a low pressure sewer system with a semi-positive displacement pump, as approved by Council, including a storage tank with a volume no less than 1300 litres. The sewer system must be configured to pump during off-peak hours only, as determined by Council.</u></b></p> <p><b><u>4.5.1B On-site sewer pumps required under 4.5.1A shall be positioned on the building platform required under 4.1.1(A).</u></b></p>								
Amendment 6	<p>Amend existing Rule 4.5.3 as follows:</p> <p>. Any activity which does not comply with <u>Rule 4.5.1,4.5.1A</u> or <u>Rule 4.5.2</u> shall be a non-complying activity</p>								
Amendment 7	<p>Amend Rule 5.1.1.7 as follows:</p> <p>All other Living 3 Zone locations <u>except for Living 3 Zone at Tai Tapu identified on the Outline Development Plan in Appendix 48,</u> shall incorporate the treatments identified in the cross sections shown in <u>Appendix 43 4</u></p>								
Amendment 8	<p>Add after Rule 5.1.1.7 the following:</p> <p><b><u>5.1.1.8 For the Living 3 Zone at Tai Tapu identified on the Outline Development Plan in Appendix 48, any road shall be consistent with Appendix 44 except that the road shall a legal width of 17 metres, with a sealed width of 6m with 5.5m either side incorporating swales and berm. The bermcan be on one side only.</u></b></p>								
Amendment 9	<p>Amend Table C12.1 – Allotment sizes (page C12 – .015) to include the following;</p> <table><tr><td>Township</td><td>Zone</td><td>Average Allotment Size not less than</td></tr><tr><td></td><td></td><td></td></tr></table>			Township	Zone	Average Allotment Size not less than			
Township	Zone	Average Allotment Size not less than							



	<p><b><u>Tai Tapu</u></b></p>	<p><b><u>Living 3 (Appendix 48)</u></b></p>	<p><b><u>The land contained within the Outline Development Plan at Appendix 47 shall be developed with an average allotment size of no less than 5000m<sup>2</sup> with a minimum allotment size of 2,750m<sup>2</sup></u></b></p> <p><b><u>The maximum number of allotments within the area defined by the Outline Development Plan at Appendix 48 shall be 16</u></b></p>
Amendment 10	<p>Amend Clause 12.1.4.81 as follows:</p> <p>12.1.4.81 If the land to be subdivided is located in an area which is identified on the planning maps as being in the Living 1A, <del>or</del> Living 2A <b><u>or Living 3</u></b> zones at Tai Tapu:</p> <p>(a) Whether the subdivision of land or subsequent use of the land is likely to cause or exacerbate potential risk to people or damage to property; and</p> <p>(b) Any measures proposed to mitigate the effects of a potential flood hazard including:</p> <ul style="list-style-type: none"> <li>- Building platforms within each allotment, of sufficient size to accommodate a dwelling and associated curtilage; and</li> <li>- The filling (with inert hardfill) of any low lying area; and</li> <li>- <b><u>For the Living 3 Zone at Tai Tapu as shown on the Outline Development Plan at Appendix 48, proposed methods and locations for flood offset areas</u></b></li> </ul> <p>(c) How adequate and appropriate any such mitigation measures may be, and the mechanisms to secure any such measures.</p>		
- Amendment 11	<p>Add a new assessment matter to 12.1.4.101 as follows:</p> <p><b><u>12.12.1.4.101A: In relation to the Living 3 Zone at Tai Tapu as shown on the Outline Development Plan at Appendix 48, appropriate legal mechanisms proposed to ensure the ongoing maintenance and upkeep of private sewer plant required on individual lots (as required by Rule 4.5.1A).</u></b></p>		
Amendment 13	<p>Include any consequential amendments and renumbering of provisions as required to give effect to this Plan Change request.</p>		





## **APPENDIX 2 – Amendments to Proposed Outline Development Plan**

Amend Proposed Outline Development Plan as set out below.



# REVISED OUTLINE DEVELOPMENT PLAN Living 3 Zone Tai Tapu

