

REPORT

TO: Chief Executive

FOR: Council Meeting – 14 October 2020

FROM: Strategy and Policy Planner, Jocelyn Lewes

DATE: 30 September 2020

SUBJECT: PRIVATE PLAN CHANGE 60 – REZONING OF LAND IN KIRWEE

RECOMMENDATION

‘That the Council:

- a. accepts the recommendation of the independent Commissioner in regards to Plan Change 60 from Kirwee Central Properties Limited to rezone land in Kirwee;*
- b. pursuant to Clause 29(4) of the First Schedule of the Resource Management Act 1991, approves Plan Change 60 without modification for the reasons given in the Commissioner’s recommendation dated 25 September 2020;*
- 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. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to recommendation (b) and (c) above; and*
- e. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to make Plan Change 60 operative at the conclusion of the appeal period where no appeals are filed.’*

1. PURPOSE

This report seeks a decision from Council that Plan Change 60 be approved in accordance with the Commissioner’s recommendation dated 25 September 2020 (**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

Kirwee Central Properties Ltd requested a change to the Selwyn District Plan to rezone land in Kirwee from Living 2A to Living 1. The request relies on the existing Living 1

minimum average site sizes in the Operative District Plan, which provide for residential sections with an average minimum allotment size of 800m². The requested change does not seek any amendments to the objectives and policies of the Operative District Plan but does seek to incorporate an Outline Development Plan (ODP) for the area, to provide guidance as to the proposed location of key internal roads and open space connections.

The request relates to land on the eastern side of the Kirwee township, east of School Lane, north of State Highway 73 (West Coast Road) and south of Hoskyns Road, as shown below in Figure 1. The site has a total area of 17.2249 ha and includes 40 land parcels, in various ownership.



Figure 1 - Aerial photograph of site (Source: Selwyn District Council Maps)

Plan Change 60 was formally received by Council on 9 May 2019 and, following review by staff, Council decided to accept the request for notification pursuant to Clause 25(2)(b) of the Act on 11 December 2019. The application was publically notified on 21 January 2020, with the submission period closing on 19 February 2020. Nine submissions were received and there were no further submissions. A hearing took place on 31 July 2020.

The appropriateness of the proposed Living 1 zoning is discussed in the Officers report, (which is available for viewing on Council's website) and referenced in the Commissioner's recommendation.

4. PROPOSAL

An independent Planning Commissioner, Mr Dean Chrystal, 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.

For the reasons set out in the Commissioner's recommendation, the Commissioner recommends that Plan Change 60 be approved without modification and that the matters raised in submissions are accepted, accepted in part or rejected.

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

The Commissioner's recommendation is that Plan Change 60 be approved. Through the Resource Management Act processes, the Commissioner has considered that Plan Change 60 is 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, the Commissioner considered that the plan change will enable people and communities to provide for their economic and cultural wellbeing by providing greater flexibility in residential development in Kirwee in a location which will help in consolidating the urban form of the settlement and where the effects of development can be acceptably mitigated.

b. Approve with modifications

It is considered that modifying the plan change is not necessary as it has been through a rigorous assessment process, as set out in the Act. The Commissioner considered that the plan change will implement the policies, and is appropriate in achieving objectives, of the District Plan, without the need for modification. 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 Plan Change 60.

If the Council accepts the Commissioner's recommendation and approves Plan Change 60 without modification, then Plan Change 60 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. If no appeal is received within this timeframe then Plan Change 60 will be deemed to be operative and the District Plan amended accordingly.

6. 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) Māori implications

Mahaanui Kurataiao Limited, who provide mana whenua environmental services that are endorsed by local Rūnanga, have reviewed the plan change, and this review formed a component of the notified version of the plan change. The review did not identify any wahi tapu or wahi taonga sites of cultural significance within the plan change area. The review concluded that, while the site was appropriate for increased residential development in some respects, there were concerns around both the infrastructure capacity and the road layout, and a number of recommendations were provided. These matters were considered through the plan change process.

(d) Climate Change considerations

Plan Change 60 will assist in responding to climate change by providing for a consolidated urban form, and providing 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.

8. PROPOSED DISTRICT PLAN

Council approved the notification of the Proposed District Plan at the meeting on 23 September 2020. The submission period commenced on 5 October 2020 and will run until 4 December 2020.

As the plan change is not yet approved, the area of the plan change request has been zoned Large Lot Residential under the Proposed District Plan. This proposed zone is inconsistent with the requested plan change. It is anticipated that, should the plan change be approved, the plan change proponent will make a submission to have the plan change area rezoned to reflect a zoning more consistent with the plan change. In this respect, the existing Living 1 zone in Kirwee will be zoned Settlement Zone under the Proposed District Plan.

It is noted that, in the early stages of a district plan change process, the objectives and policies of the Operative District Plan hold greater weight. The Proposed District Plan is afforded greater weight the further through the process it is. It is considered that the private plan change is not inconsistent with the objectives and policies of the Proposed District Plan in that it provides for residential activity, albeit a differing density.



Jocelyn Lewes
STRATEGY AND POLICY PLANNER

Endorsed For Agenda



Tim Harris
GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES

RESOURCE MANAGEMENT ACT 1991

SELWYN DISTRICT COUNCIL

SELWYN DISTRICT PLAN

PROPOSED DISTRICT PLAN CHANGE NUMBER 60

BY

KIRWEE CENTRAL PROPERTIES LIMITED

TO

**REZONE 17.22 HECTARES OF LAND LOCATED SOUTH OF HOSKYNS ROAD, KIRWEE
FROM LIVING 2A TO LIVING 1**

Decision by

Commissioner Dean Chrystal

Hearings held on 31st July 2020

Appearances:

Council:

Ms Jocelyn Lewes, Council Planner

Mr Murray England, Council Asset Manager – Water Services

Mr Andrew Mazey, Council Asset Manager - Transportation

Applicant:

Ms Alex Booker (Legal Counsel)

Mr Murray Boyes (Applicant)

Mr Andrew Carr (Traffic Engineer)

Ms Sally Elford (Planning Consultant)

Submitters

Mr David Jarman

Mr Stuart Pearson for Waka Kotahi - NZ Transport Agency (Planner)

Ms Julie Comfort for Bealey Developments Ltd (Planning Consultant)

Ms Perri Unthank for Fire and Emergency New Zealand (Planning Consultant)

Mr Mike Johns for Fire and Emergency New Zealand

Ms Emily Allan for Christchurch City Council (Planner)

1.0 Introduction

- 1.1 Pursuant to instruction from the Selwyn District Council (the Council) I was appointed to conduct a hearing and make a recommendation on Proposed Change 60 (PC60) to the Selwyn District Plan (District Plan) together with submissions thereon at the Council Offices in Rolleston on the 31st July 2020.
- 1.2 PC60 is a privately initiated plan change by Kirwee Central Properties Limited (KCPL) which seeks to rezone a 17.22ha hectare site located to the south of Hoskyns Road in Kirwee from Living 2A to Living 1. The proposal does not involve any changes to objectives and policies and will utilise the existing Living 1 standards. The plan change includes an Outline Development Plan (ODP) to guide development.
- 1.3 PC60 was publicly notified on the 21st January 2020, to which 9 submissions were received, including one late submission from Christchurch City Council (CCC), which was their second submission. Ms Lewes explained in some detail the situation with the two CCC submissions and there is no need for me to repeat those here other than to say that I accept the reasoning around the late submission and as a result both submissions are to be considered. No further submissions were received.
- 1.4 Of the 9 submissions, seven were opposed in some form, one was in support and one was neutral.
- 1.5 The issues raised in submissions include:
 - Township form and character;
 - Wastewater servicing;
 - Water service, in particular the impact on fire fighting ability;
 - Transport safety, efficiency and connectivity;
 - Land stability and geotechnical risk;
 - Cultural values; and
 - Greater Christchurch Partnership.
- 1.6 Prior to the hearing I undertook a site visit where I was able to view the site from various positions and get an understanding of how it fitted with and linked to the surrounding environment.

2.0 Section 42A Report

- 2.1 Pursuant to s42A of the Resource Management Act (the Act or the RMA) Ms Lewes produced a report addressing the proposed plan change and a range of matters she considered were covered by submitters as set out below.

Township form and character

- 2.2 Ms Lewes outlined the growth anticipated for Kirwee in the Malvern Area Plan (Area Plan) to 2031 with an increase of 187 households and existing capacity to accommodate up to 218 households within the boundary of the township. She also noted the applicants analysis of zoned capacity within the township which sets out that theoretically there is capacity to accommodate 170 residential sites within the current zoning of the

township and that the Living 2 and 2A zones account for approximately 77% of the available residential land in the Kirwee township with the balance of the township zoned Living 1. Ms Lewes noted that the land capacity analysis for the Area Plan included allotments that were to be subdivided but that this consent had since been withdrawn. She also said that large areas of Living 1 zoned land were utilised for civic purposes thus restricting development for residential purposes.

- 2.3 Ms Lewes considered that the plan change area provided a logical expansion to the existing Living 1 Zone in the Kirwee township which it immediately adjoins. She noted that the application site is identified by the Area Plan as undeveloped residential land which could accommodate residential use in the future.
- 2.4 Ms Lewes acknowledged that intensification of the area may result in a change in character from the existing rural residential outlook to one that displays more urban elements such as footpaths and street lighting but that there were no District Plan requirements for the retention of existing visual landscapes and no restrictions on the nature and type of fencing adjacent to the road frontage.
- 2.5 Finally, in response to Mr Dickie's submission Ms Lewes considers that it was not necessary to exclude the existing sections adjacent Hoskyns Road created by the earlier subdivision from the plan change area.

Infrastructure Servicing

- 2.6 Ms Lewes advised that the plan change area, along with all of Kirwee township was not provided with a reticulated wastewater network. While options were being considered for the possible establishment of a wastewater scheme it could be some time before this was available and Ms Lewes considers that there were viable means to dispose of wastewater to ground. She said that if a reticulated wastewater system became available at the time of any future subdivision, connection to this system should be required.
- 2.7 Ms Lewes outlined that while there is sufficient capacity within Kirwee's reticulated water supply to accommodate the plan change area, the required peak flow rate would not be met if each allotment was provided with an 'on demand' connection. Other options included connections being made to the new bore drilled within the plan change area, if consent to abstract water from the new bore was obtained, noting that at the time of the hearing the Council were preparing a resource consent application for this water abstraction. If this consent was not obtained, Ms Lewes said sites within the PC60 area would have to be provided with a restricted water supply connection of 3 units of water per day (3,000 l/day) to ensure that wider network capacity was retained at peak times. Ms Lewes confirmed that detailed design of water supply networks and methods for restrictions to that supply were typically resolved as part of the subdivision consent process. On the advice of Mr England, Ms Lewes confirmed that a good level of protection could be provided to the ground water supply from contamination.
- 2.8 In terms of firefighting water supply, Ms Lewes considered that there were sufficient measures already to ensure that adequate water volumes and pressures were provided.
- 2.9 In terms of stormwater, Ms Lewes said that the detailed design of any stormwater system was a matter to be considered through the subdivision process and through any necessary resource consents from Environment Canterbury but that Mr England considered the discharge of stormwater to ground was appropriate.

Transport safety and efficiency

- 2.10 With regards to roading and traffic, Mr Mazey had reviewed the report prepared by Mr Carr and, on the whole, he agreed with its conclusions. Mr Mazey did not share submitters concerns regarding the lack of roading connectivity. Instead he agreed with the roading and transport layout shown on the ODP which provided for walking and cycling links within the township, an outcome which was encouraged by the Council.
- 2.11 Ms Lewes referred to the potential transport network layer of the ODP which was commented on in the New Zealand Transport Agency – Waka Kotahi (NZTA) and Bealey Development Ltd submissions. Ms Lewes advised that as this layer of the ODP related to land which fell outside of the PC60 area it should only be considered in so far as showing that connections were possible but that it should not be given any further weight and should not be included in the District Plan if PC60 were approved.
- 2.12 In terms of traffic safety Mr Mazey did not raise any issue with the function of the Suffolk Drive/Hoskyns Road intersection and the location of the existing footpath in that location given the low number of vehicle trips likely to be generated by the proposal. While Mr Mazey considered that a section of Hoskyns Road at the Courtenay Road end should be formed, Ms Lewes considers detailed design of any road upgrades was a matter best resolved through the subdivision process.
- 2.13 Ms Lewes concurred with Mr Mazey's view on CCC's submission by saying that matters such as congestion and increased emissions from commuter traffic volumes into Christchurch City are governed by the Greater Christchurch Partnership. In terms of commuter traffic volumes into Christchurch City contributing to congestion and increased emissions Mr Mazey also confirmed that public transport services to and from Kirwee assisting in reducing commuter car trips.

Land Stability and Geotechnical Risk

- 2.14 Mr McCahon of Geotech Consulting Ltd reviewed the information prepared by Davis Ogilvie Ltd in support of the original subdivision (RC135488) and the supplementary assessment by Coffey Services (NZ) Ltd covering the additional area covered by PC60. His advice was that the ground was suitable for residential subdivision and that there was minimal to no liquefaction potential at the site. In light of this advice Ms Lewes said that the risk of liquefaction or lateral displacement associated with future earthquake events could be satisfactorily addressed at the subdivision and building stages and despite findings that the Greendale fault was located closer than originally included in the servicing report, there was no geotechnical reasons to prevent the plan change from being supported.

Cultural Values

- 2.15 Ms Lewes noted that Mahaanui Kurataiao Limited (MKT) reviewed the plan change request and did not identify any wahi tapu or wahi taonga sites of cultural significance within the PC60 area. While MKT concluded that the site was appropriate for increased residential development, they did raise concerns about infrastructure capacity and road layout and provided a number of recommendations along with an accidental discovery protocol to be in place when earthworks were undertaken. Ms Lewes considered cultural values had been appropriately considered and addressed by the applicant.

Greater Christchurch Urban Development Strategy (UDS)

- 2.16 Ms Lewes addressed the submissions of NZTA and CCC which both raised concerns regarding the impact that PC60 may have on the UDS. Ms Lewes considers that these submissions raised matters that were beyond the scope of the plan change. She said that the plan change area currently fell outside UDS the area and was not recognised in the settlement pattern update or considered in the Our Space recommendations for changes to the Canterbury Regional Policy Statement (CRPS). Ms Lewes considered PC60 was consistent with the current, operative, higher order documents and to decline it on the basis that it may not align with future work, the outcomes of which were not currently known was inconsistent with the principles of natural justice.

Statutory Analysis

- 2.17 Ms Lewes went onto undertake a statutory analysis of the District Plan and other relevant planning documents and the purpose and principles of the Act before concluding that PC60 could be approved with no amendments required to the objectives and policies of the Living 1 zone or its provisions with the only inclusion into the District Plan being the outline plan.
- 2.18 Ms Lewes noted that PC60 was to be considered under Chapter 5 of the CRPS and considered that the outcomes required in this chapter could be achieved and that PC60 was able to 'give effect' to the CRPS. She also considered that the plan change could be efficiently and effectively serviced in a manner that maintained water quality and quantity and was consistent with the outcomes sought by the Land and Water Regional Plan (LWRP).
- 2.19 Ms Lewes considered the values set out in the Mahaanui Iwi Management Plan 2013 (MIMP) will not be compromised and noted that MKT and the rūnanga had made a number of recommendations that were more appropriately addressed at the time of subdivision consent.
- 2.20 With regard to the District Plan, Ms Lewes considered that the assessment contained within the application correctly identified the relevant objectives and policies applying to the plan change and she accepted the conclusion reached that PC60 was consistent with the existing objectives and policies of the District Plan. Ms Lewes also concurred with the conclusion that PC60 was consistent with the key actions identified in the Selwyn 2013: District Development Strategy and the Area Plan in that it manages growth within the existing township boundary in an integrated and consolidated manner.

Proposed Amendments

- 2.21 Ms Lewes did not consider any amendments, alterations or additions to the objectives and policies of the Living 1 zone its provisions were required but that the ODP should be included in the District Plan.

Conclusion

- 2.22 Ms Lewes concluded by saying that at a strategic level, PC60 better achieved the District Plans' objectives than the existing provisions, it was consistent with the provisions regarding urban growth management, gave effect to the objectives and policies of higher order documents and was in accordance with the Area Plan. She went onto say that providing for PC60 allowed for a more efficient use of land than the current zoning and did not require the expansion of the township boundary, resulting in a more compact township form. She said that

servicing of the site was technically feasible, and the plan change would not result in unacceptable effects on safe and efficient functioning of the road network.

3.0 Hearing

Applicant

- 3.1 **Ms Booker** set out the applicant's case. As a preliminary matter she advised that a consent notice had been registered on the title of the balance lot of the Kirwee Plains Subdivision preventing it from being used in further density calculations for the purposes of subdivision. She pointed out that if PC60 was approved an application for cancellation of the consent notice would need to be made to the Council to enable development of the balance lot. Similarly, if the PC60 is approved, the adjacent landowners, Bealey Developments Ltd (BDL), will also apply to Council to remove the consent notice recorded on their titles which also prevents lots being used in further density calculations for the purposes of subdivision.
- 3.2 Ms Booker then introduced two new pieces of information. The first, referred to as Exhibit A, was a revised ODP which provided the ability in the future for a road connection to be made through to School Lane. The second, referred to as Exhibit B, was a memorandum from Baseline Group addressing the water supply issue and indicating that there was capacity within the existing water supply to provide restricted potable water to the PC60 area and the adjoining Bealey land should consent not be obtained for the new water bore.
- 3.3 Ms Booker noted positive environmental effects resulting from PC60 being given effect to were the logical intensification of an area within existing township boundaries, the meeting of current and future demand for residential lots, additional community funding via development contributions, adequate provision for servicing and facilities, provision of active transport connections and efficient extensions to existing roading infrastructure. Ms Booker also concurred with Ms Lewes observation that the size of existing subdivided sites within the PC60 area were more consistent within the proposed Living 1 zone than the status quo.
- 3.4 Ms Booker went on to set out the legal tests for a plan change (with reference to relevant case law and the CRPS provisions) identifying that both Ms Lewes and Ms Elford determine that PC60 is able to give effect to the CRPS at a strategic level, was consistent with the outcomes sought by the LWRP, will not compromise the values set out in the MIMP, was consistent with the objective and policies of the District Plan and was consistent with key actions identified in the Selwyn District Development Strategy. She also confirmed that the applicant did not seek to change the established Living 1 provisions rather they are simply sought to change the zone.
- 3.5 In response to a question Ms Booker said that Chapter 6 of the CRPS was not relevant to my consideration of this plan change.
- 3.6 **Mr Boyes** provided a summary on behalf of the applicant company (of which he is a director) setting out their interest in the Kirwee area, the background of their developments, their development considerations and aspirations and demand for residential sections within Kirwee. Mr Boyes also outlined that to develop the Kirwee Plains subdivision to the density consented they were required to register a consent notice on the balance land (which is the undeveloped land in the plan change request area and the adjoining property to the east owned by BDL) restricting further development. This then meant that although the land was zoned for

residential purposes it could not actually be developed. Mr Boyes was of the understanding that removing the consent notice would not be supported by Council under the current district plan zoning.

- 3.7 Mr Boyes explained that the plan change area has residential land on three boundaries, that it was identified by Council as being the direction for future growth, that it was a logical expansion of the existing higher residential densities and that it could be serviced and developed without unacceptable effects.
- 3.8 Mr Boyes said that reticulated wastewater disposal was the preferred method of servicing and that KCPL was lobbying for a reticulated sewage system and would work proactively with the Council to have this in place for this site even if that meant a short term private scheme that could be connected at a later stage.
- 3.9 In responding to my questions Mr Boyes said that a wastewater network could be laid in the ground in anticipation of a reticulated system. He said he was open to discussions with the Council regarding its proposed reticulated system. He also indicated that a driver for development in Kirwee was good sized sections at a good price.
- 3.10 In his evidence, **Mr Carr** advised that he had reviewed updated road safety records and traffic flows and confirmed there were no material changes which would change his analysis or original report conclusions.
- 3.11 In response to submitters concerns and Council officers, Mr Carr outlined that the plan change provided for walking and cycling connections to School Lane and Walter Place but that no roading connections were to be provided nor did he believe that they would be required. He also advised that this was an outcome sought by the Council to support non-car travel. Mr Carr said that while there would be an imperceptible increase in traffic this would not affect the safety of children travelling to Kirwee Model School and also advised that the safety of pedestrians using the Hoskyns Road footpath would not be affected. Mr Carr addressed Mr Mazey's report and while he generally concurred with his views, he considered that the provision of 'give way' signs and road widening was better considered as part of a subsequent subdivision application.
- 3.12 In response to questions Mr Carr explained the offset intersection now proposed on the ODP and said that due to the limited amounts of traffic it was acceptable. In related to the provision for road access through to School Lane Mr Carr supported the allowance of a future connection and had no concerns about traffic passing the school, although he noted that the school might have to consider drop-off points for students. Finally, in relation to an upgrade of Hoskyns Road Mr Carr did not see any necessity for it to occur in relation to this plan change and noted that the Council position was not in line with national standards which had come into effect in 2010.
- 3.13 **Ms Elford** provided an overview of the request outlining the background to the proposal, the suitability of the proposal to support Kirwee's long term housing requirements, options for servicing the application site in terms of water supply, wastewater, stormwater disposal, electricity and telecommunications and non-vehicular connections. She lent support to the conclusions reached by Ms Lewes' including acceptance of the recommendation to include the ODP into the District Plan. She explained that the ODP would provide guidance for any future subdivision of the site. She also considered the proposed change of zoning was consistent with the District Plan and the CRPS.

- 3.14 Ms Elford addressed the key matters raised by submitters which she summarised as the provision of services (water and wastewater); traffic generation, use of existing zoned land and connectivity to the existing township.
- 3.15 In terms of wastewater disposal, Ms Elford acknowledged that reticulated wastewater disposal was the preferred method for any future subdivision of the site and that the applicant was willing to work with Council to provide reticulated sewer to the PC60. However, in the absence of a reticulated wastewater system she was of the view that on-site wastewater treatment and disposal could be achieved without impacting on the existing water supply to Kirwee, including to the school.
- 3.16 Ms Elford said that allowing the application site to develop would ensure housing demand identified by the Area Plan was met and she advised that without a willing developer or landowner existing Living 1 zoned land in Kirwee had not realise its residential potential.
- 3.17 With regard to water supply to meet fire-fighting requirements, Ms Elford concurred with Ms Lewes that there were options to provide water supply to meet fire-fighting requirements and that any future subdivision of the site would need to detail how this supply could be met and show how the development would comply with the Council's engineering code of practice. She said sufficient water supply could be provided to the application site either through the new bore located within the application site or through the existing restricted supply with the use of on-site storage. She noted that details of the fire-fighting water supply would be required to be assessed as part of any future subdivision consent.
- 3.18 In addressing the CCC's submission, Ms Elford said that it was not reasonable for Christchurch City to restrict the development of townships within adjoining Districts to meet their own carbon emission reduction goals. She also pointed to a greater ability and acceptability of certain sectors of the workforce to work from home and that a trial commuter bus service to and from Darfield had been successful and will be kept on a permanent basis thereby offering an alternative mode of transport directly to Christchurch CBD.
- 3.19 Finally, Ms Elford clarified that the "Potential Transport network" map included in the notified application was prepared to help demonstrate to Council that the application site had not been considered in isolation and that connections through the adjoining land could be created but that this map would not be included within the ODP.
- 3.20 In response to my question about whether a policy gap existed in the District Plan in relation to Kirwee (and Darfield) in relation to wastewater servicing Ms Elford agreed that that appeared to be the case. She also confirmed that 164 residential allotments was the figure estimated for the PC60 yield. In terms of the 'appropriate' test in Policy B1.2.1 Ms Elford considered that the stormwater system to ground was appropriate, that sufficient water supply could be provided and that onsite wastewater treatment was appropriate in this location noting that sand was applied to slow down wastewater infiltration.

Submitters

- 3.21 **Mr Jarman** said he was concerned about the logic of rezoning land when other land was available and he considered the development of the site to-date had occurred by stealth with smaller sections and there was

now no ability to develop further due to density restrictions. He also expressed concern about all traffic coming in and out of one road, Hoskyns Road, which he considered needed to be upgraded and he expressed concerns about sunstrike. Mr Jarman went on to note that onsite wastewater disposal took up a lot of space and that a modern subdivision should be looking at a reticulated system.

- 3.22 **Mr Pearson** noted that the applicant had initially approached NZTA about residential development within land included in PC60 but also for land identified as 'Future Subdivision' within Appendix 4 – Preliminary Site Investigations. He referred to the ODP submitted with PC60 which identified the roading network through the site and provided for connections which may be made to the 'Future Subdivision' area. In terms of connectivity, he stated that in reaching a decision on the PC60 it was important to be aware of the potential wider plans for the development of the area.
- 3.23 Mr Pearson emphasised that connections within an urban area can have significant impacts on people's behaviours, liveability and sense of community, and agreed with Mr Mazey's comments regarding the importance of connections such as walkways and cycleways which PC60 provides for. However, he stated that consideration also needed to be given to the potential for roading connections to be made as it could not be assumed that people will walk or cycle everywhere in Kirwee, particularly if growth continues in the same manner promoted by the PC60 and within the area identified as future subdivision.
- 3.24 Mr Pearson went on to note that the existing shape of Kirwee in the vicinity of the site reflects an area that has not anticipated future growth. He said that if provision for a future roading connection via School Lane was not provided for then this would necessitate motorists relying on either Hoskyns Road or in time State Highway 73 (SH73) rather than having a direct internal route. He considered that by not making provision for potential future connections now the result would inevitably be a disjoining separated community.
- 3.25 Mr Pearson advised that NZTA were not generally opposed to a connection to SH73 as part of any future subdivision but the details of such an arrangement still needed to be considered. It was however their preference that further consideration be given to the provision of a future internal road connection from the PC60 area to the existing Kirwee urban area. He said such an internal road may not need to be formed as part of this plan change but provision should be provided for in case the connection is required as part of future subdivision of the area.
- 3.26 Mr Pearson advised that NZTA will generally provide funding for new roading projects and roading improvements to the State Highway network in areas that have been identified for future growth and development and that encouraging development in other areas will potentially compromise their strategic funding decisions on roading projects and roading improvements. Mr Pearson therefore recommended that in reaching a decision that the impacts of PC60 on the wider intentions of the development of the Canterbury area as reflected in the CRPS are considered.
- 3.27 In response to the revised ODP Mr Pearson said that he was supportive of the widened reserve link which could in the future provide a road connection to School Lane. In response to my question he considered Chapter 6 of the CRPS was relevant in terms of the downstream effects but accepted that it was more appropriate to consider Chapter 5.

- 3.28 **Ms Comfort** said that as part of the initial subdivision undertaken by KCPL, BDL land was utilised for the density calculation and a consent notice was registered on the titles of the BDL land to ensure the overall density anticipated by the Living 2A zone would be maintained. The consent notice prevents further development of the BDL property. She said if PC60 was confirmed, BDL would seek the removal of the consent notice through a separate RMA process to enable the BDL land to be developed in accordance with its existing Living 2A zoning.
- 3.29 Ms Comfort outlined that BDL's submission sought clarification of the "Potential Transport Network" (PTN) plan that was included with the ODP. BDL consider that the PTN can provide clarity of the future roading connections possible for development of the BDL land. Ms Comfort outlined that the future development of the unencumbered BDL land should be able to provide connection to the wider roading network, including SH73 in a manner similar to that shown on the PTN plan although the internal roading layout may be different to that shown. She said BDL do not necessarily object to the inclusion of the PTN plan but if it is retained in the PC60 ODP BDL, seek that the internal layout is acknowledged as being indicative, which would be consistent with other ODPs in the District Plan that consist of multiple ownerships.
- 3.30 **Mr Johns** provided a useful background to the role of FENZ and how the volunteer system worked in terms of the time it took to reach and attack a fire, the volumes of water required to fight a fire and the equipment used. He noted the difference between this and professional fire fighting operation. He also provided some details of the Kirwee Tavern fire, noting that the Kirwee water supply had been insufficient, and the nearby water race had to be used.
- 3.31 **Ms Unthank** outlined that Fire and Emergency New Zealand (FENZ) recognises the importance of PC60 to enable additional housing and to manage future development in Selwyn District but that they opposed it in its current form. She outlined that the plan change area was not currently serviced by a reticulated water supply and that Kirwee did not have sufficient capacity to service this area. She highlighted that the inadequacy of the current water supply in Kirwee for firefighting purposes had been recently demonstrated during efforts to extinguish the fire at the Kirwee Tavern.
- 3.32 Ms Unthank noted that while the plan change states that the required services will be installed and will be sized and positioned to meet the requirements of residential potable water and firefighting supplies set out under the Code of Practice, the details of the water supply network remain unknown and therefore there was not enough certainty to verify that full compliance with the New Zealand Firefighting Code of Practice SNZ/PAS 4509:2008 can be achieved. She said that FENZ was concerned that without certainty around the water supply to the plan change area, future growth may impact upon FENZ's ability to protect lives.
- 3.33 In order to provide more certainty, Ms Unthank considered that specific standards for firefighting water supply were needed so that the fire risk from any new development can be managed. She said that FENZ sought the addition of a provision requiring that any new lots or habitable buildings within the PC60 area be provided with a water supply connection that complies with the Code of Practice and that where a reticulated water supply cannot provide adequate water volume and pressure for firefighting as set out in the Code of Practice, an alternative on-site firefighting water supply shall be provided in accordance with the Code of Practice.

- 3.34 Ms Unthank indicated that rule 12.1.4.96 in relation to the Living 3 zone referred to the Code of Practice and that the Code had been adopted by a number of Council's around the country in their District Plans. She said there was less certainty in relying on the subdivision process to address the Code of Practice.
- 3.35 I asked Ms Unthank to provide a list of local authorities where the Code had been included in the District Plan. A letter received on the 5th August 2020 outlined the different ways that Council's usually reference the Code in their District Plans. FENZ outlined that some Councils opt to extract the numbers from the Code and carry them through into the rules. Other Councils such as Queenstown Lakes and Whangarei who have recently been through District Plan reviews choose not to incorporate the provisions of the Code into the District Plan but provide FENZ with certainty that the guidance in the Code is being considered by using other mechanisms within the RMA process. The letter notes that there are no rules requiring water supplies in accordance with the Code of Practice within these District Plans, however, FENZ has a Memorandum of Understanding with these Councils which apply conditions to consents requiring firefighting water supplies.
- 3.36 **Ms Allan** did not provide any additional evidence, however in response to a question I posed around the sustainability of densifying the PC60 site she accepted that from a land development perspective this made sense.

Council Response

- 3.37 In response to my questions Mr England indicated that the consent for the new water supply was expected later in the year and that the Council hoped to have the supply available by the middle of next year. He said all supplies would be UV treated. He also agreed that the preference for the subdivision would be for it to be connected to a wastewater treatment system rather than onsite treatment. He indicated that discussions around such a system, which also included Darfield, was still being progressed.
- 3.38 Mr Mazey acknowledged that the revised ODP protected the option of a road through to School Lane, however he said his concerns regarding 'rat running' and the effects of traffic passing the school remained and he noted that School Lane had a narrow road reserve. With regards the Hoskyns Road he said he would like to see a rule which addressed the upgrading of the road, noting that the section concerned was no longer a rural road.
- 3.39 In response to the FENZ submission Ms Lewes noted that matter of discretion 12.1.4.3 in relation to subdivision referred to "the provision of water for firefighting", which she considered was sufficient to address their concerns. She also noted that Policy B4.2.2 required any allotment created by subdivision to have the services, facilities and characteristics appropriate to the proposed likely use of the land.
- 3.40 In terms of the ODP Ms Lewes said she was comfortable with the amendment but noted Council's concerns regarding a road through to School Lane. She also confirmed that she considered the ODP needed to be included in the District Plan. She said it should be referred to in Chapter 12 in Rule 12.1.3 as 12.1.3.61 and that the wording should be that any subdivision shall be in general accordance with the ODP.

Right of Reply

- 3.41 At the end of the hearing I adjourned to enable the applicant to provide a right of reply. This was received on the 7th August 2020 and included:

- Questions around Part 2 of the Act;
- Outline Development Plan; and
- Response to matters raised by submitters.

3.42 In terms of the questions regarding Part 2, Ms Booker explained that because the District Plan is complete, certain and valid with respect to the matters raised throughout the hearing including clear environmental outcomes which will be achieved for servicing, there is no need to refer back to Part 2. Future subdivision of the PC60 site will be considered against the objectives and policies relating to growth of townships, waste disposal and utilities which promote their efficient use.

3.43 Ms Booker set out the circumstances when it is appropriate and necessary to refer to Part 2 based on the Davidson decision, she also referred to the more recent Environment Court Bunnings decision where the Court endorsed the test introduced by the Court of Appeal in Davidson as being whether “the policies are coherent with clear environmental outcomes”. Ms Booker considered that while there is an option to consider Part 2 at subdivision stage it is unlikely to be required.

3.44 With respect to the ODP, Ms Booker confirmed that the applicant accepts Ms Lewes recommendation that it be included into the District Plan with a new rule to be included as follows:

Rule 12.1.3.61: - In relation to the Living 1 Zone at Kirwee (east of Courtenay Road), any subdivision shall be in general accordance with the Outline Development Plan at Appendix XX.

3.45 Ms Booker said that no party at the hearing disputed the inclusion of the ODP and the use of the words “shall be in general accordance with” provided flexibility for some movement of indicative roads and the reserve area if realignment was required for future integration. She said the purpose of the ODP was to provide guidance, but it was not intended to default to a non-complying activity status if compliance cannot be achieved.

3.46 In response to Mr Jarman’s contention that PC60 should not proceed until all available Living 1 land had been developed or the District Plan reviewed, Ms Booker submitted that unless there were sound resource management reasons why streamlining residential development should not occur then the plan change should be allowed to proceed. She also noted that the evidence of the applicant references the limited capacity within the existing Living 1 zoned areas in Kirwee.

3.47 In response as to whether PC60 should proceed without the future of sewerage treatment for Kirwee being addressed, Ms Booker concurred with Ms Lewes that it was inappropriate to delay a decision on PC60 when wastewater infrastructure for Kirwee may be years away. She also referred to Mr England’s evidence that Environment Canterbury was likely to consent individual wastewater systems as they have done in Darfield.

3.48 In relation to Mr Jarman’s concerns about increased traffic and safety, Ms Booker referred to Mr Carr’s evidence on transport matters as having been carefully expressed and in accordance with the code of conduct.

3.49 Ms Booker responded to Mr Pearson’s concerns by saying that future subdivision consent for the plan change site allows for consideration of roading design, if an internal roading network link was required at subdivision stage, PC60 does not preclude this being considered with the “future proofed” reserve area.

- 3.50 Ms Booker submitted that Chapter 6 of the CRPS did not apply to this plan change request.
- 3.51 In response to Ms Unthank's evidence, Ms Booker acknowledges that water supply for fire-fighting can be considered at the subdivision stage and if sufficient provision of water for firefighting purposes cannot be provided, resource consent can be declined. Ms Booker noted that Mr England confirmed that firefighting requirements can be met.
- 3.52 Ms Booker referred to the additional rule sought by FENZ and submitted that it was not justified on the basis of effects. She noted that all new subdivisions need to be designed and constructed in accordance with the Councils "Engineering Code of Practice" in which there is a specific section applying to Fire Service requirements (and requires compliance with the Fire Service Code of Practice). Finally, Ms Booker referred to Mr England's oral confirmation that there is not an issue with water pressure in Kirwee.

4.0 Statutory Tests

- 4.1 The general approach for the consideration of changes to district plans was initially summarised in the Environment Court's decision in Long Bay¹, which has due to various amendments to the RMA been superseded by the Colonial Vineyards decision². The relevant requirements in this case are set out below:
- (a) The plan change should be designed to accord with and assist the Council to carry out its functions under section 31 and to achieve the purpose of the Act (s74(1)(a) and (b)).
 - (b) The plan change must give effect to any national policy statement, a national planning standard and the operative regional policy statement (s75(3)(a), (ba) and (c)).
 - (c) The plan change shall have regard to the actual or potential effects on the environment of activities including, in particular, any adverse effects (s76(3)).
 - (d) The plan change shall have regard to any relevant management plans and strategies under other Acts (s74(2)(b)(i)) and must 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 (s74(2A)).
 - (e) Finally, section 32 requires that rules are to implement the policies and are to be examined, having regard to their efficiency and effectiveness, as to whether they are the most appropriate method for achieving the objectives of the District Plan taking into account:
 - (i) the benefits and costs of the proposed policies and methods (including rules); and
 - (ii) 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; and

¹ Long Bay – Okura Great Park Society Inc v North Shore City Council A 078/08

² Colonial Vineyards Ltd v Marlborough District Council [2014] NZEnvC 55

- (iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.

4.2 Overall, the s32 test is one of appropriateness (i.e. not necessity) and the requirement is to achieve the objectives of the District Plan.

5.0 Assessment

Actual or Potential Effect on the Environment

5.1 I considered the key effects associated with the PC60 can be broken down into three areas, being the infrastructure servicing (water and wastewater), urban form and capacity and, transportation and connectivity. These have been dealt with in turn below.

1. Infrastructure servicing

Wastewater

5.2 Kirwee is not connected to a reticulated wastewater system at present although I was advised that work is being undertaken to consider options in conjunction with Darfield for the possible establishment of a wastewater scheme, however that it would be some time before this was available. Mr Boyes made it clear that a reticulated wastewater system was the preferred method of servicing the site and that he was prepared to work with the Council to have this in place in the future even if that meant a short term private scheme that could be connected at a later stage. He also said that a wastewater network could be laid in the ground in anticipation of a reticulated system.

5.3 Notwithstanding the above, the only certain option at present is onsite treatment which will necessitate consent from Environment Canterbury, and I accept Mr England's positions that this remains an acceptable means to dispose of wastewater for this plan change area. In this context I note that Environment Canterbury acknowledged in their submission that recent investigations have not detected any adverse effects on human health or the environment from the existing on-site wastewater treatment systems in the area.

5.4 Mr England recommended that a wastewater consent be obtained prior to subdivision consent and that should a reticulated wastewater system be available in time for the subdivision, connection to this system should be made. While through a plan change process it is not appropriate for me to enforce either of these via rules I acknowledge that the Applicant has stated their willingness to work with the Council to provide a reticulated system through any further subdivision should the wider network provision be forthcoming and I can only emphasize the point that this would be a more environmentally acceptable outcome.

Water

5.5 It was clear that the existing Kirwee water supply has insufficient capacity to meet the demand which would be generated from the plan change area if 'on demand connections' were to be provided. However, a restricted connection (limited to 3000 l/day) could be provided to service the whole area.

- 5.6 Notwithstanding the above, the Council were proactively pursuing a new bore (located within the PC60 area) and associated water supply with consent expected later this year and the supply available by the middle of 2021.
- 5.7 Taking into account the above I am satisfied that a sufficient water supply will be able to be provided to the PC60 area.
- 5.8 Turning to the matters raised by the FENZ I consider there is sufficient certainty around the future water supply itself to address their primary concerns. I have also turned my mind as to whether specific provisions should be included in the District Plan to cover the PC60 area and ensure compliance with the New Zealand Firefighting Code of Practice SNZ/PAS 4509:2008 or an alternative on-site firefighting water supply be provided. The Council and Applicants position was that such provision was unnecessary because there was already sufficient provision in the District Plan to enable the matter to be addressed and that new subdivisions needed to be designed and constructed in accordance with the Councils "Engineering Code of Practice" which specifically refers to Fire Service requirements and compliance with the Fire Service Code of Practice.
- 5.9 Given that above and the site specific nature of this plan change I do not consider the inclusion of provisions as sought by FENZ would meet the s32 test of efficiency and effectiveness and I consider the risk of not including them is limited give the existing provisions in the District Plan and the Council's subdivision Code of Practice. While I acknowledge that there is currently a rule in the District Plan for the Living 3 zone relating to the Code of Practice, this appears to be a zone wide rule rather than what would be a site-specific rule in this case. Further, as Ms Unthank acknowledged in her letter there are other methods to address this issue in the form of a Memorandum of Understanding with the Council to apply conditions to consents requiring firefighting water supplies. It would seem to me that this might be a better and more effective option to pursue with the Selwyn District Council than having a site-specific rule.

2. Urban form and capacity

- 5.10 Submitters raised concerns about the urban form of Kirwee and questioned the need for the rezoning given there was existing land available for residential development.
- 5.11 In terms of the former I accept that the PC60 site is a logical location in which to expand the existing Living 1 Zone due to the fact that it adjoins the Living 1 Zone, is close to facilities such as the school and developing pre-school and there is an ability to connect through to the existing built up area.
- 5.12 In terms of existing capacity Ms Elford and Ms Lewes provided useful analysis of the present capacity situation at Kirwee and the projected growth. Based on analysis of 2019 aerial photographs Ms Elford concluded that there were around 365³ dwellings and 29 vacant residential sections in Kirwee. She went onto indicate that the Area Plan estimated 611 houses would be required by 2031 (an increase of 188 households on the existing 423 referred to) and that the later Selwyn Growth Model estimates 699 houses will be required in the next 20 year

³ I note that the Malvern Area Plan refers to 423 households in Kirwee in 2015 based on the 2015 Population Projections and the adoption of the average household size in Selwyn District of 2.8 people per household. Ms Elford's figure is a counted one and therefore likely to be more accurate and I note that the more recent projections indicate 377 households for 2019/20 which is closer to Ms Elford's figure.

period up to 2040/41 (an increase of 276 households on the 423 referred to in the Area Plan)⁴. Based on the above Ms Elford concluded that there was an estimated shortfall of between 217 and 305 houses to accommodate the anticipated growth in Kirwee over the next 20 years.

- 5.13 There is a bit of mixing and matching of figures here⁵ and I have therefore taken the view that the Area Plan figures are somewhat dated. Using the more up to date projection figures from the Selwyn Growth Model and Ms Elford's housing count the figures would be 178 houses to 2030/31 and 334 to 2040/41.
- 5.14 Ms Elford went onto note that the application site is located within the township boundaries, is anticipated for residential use by the Area Plan, immediately adjoins the existing Living 1 Zone, does not share any boundaries with land zoned Outer or Inner Plains and provides active transport connectivity through to the existing township. She said that if the PC60 site were utilised to the full potential of the proposed Living 1 zoning, with an average allotment size of not less than 800m² it was estimated that it could yield up to 164 residential allotments. However, she said that while future subdivision of the existing developable allotments created within Kirwee Plains was not precluded, it was considered unlikely in the near future, due to the placement of the new buildings which tend to be in the middle of the allotments and the requirements of the discharge consent (CRC193116) which restricts each of the existing allotments to a single dwelling only. The estimated yield excluding the existing Kirwee Plains Subdivision was 119 residential allotments and I consider this is more realistic at the present time given the above constraints and associated expenditure in onsite treatment facilities.
- 5.15 I accept that a large proportion of existing Living 1 zoned land at Kirwee is constrained by current land uses which include the Domain and Showgrounds. The land with the greatest potential yield at a Living 1 Zone density is located to the north of Hoskyns Road and west of Courtenay Road and was potentially capable of yielding in the order of 130 allotments although as I was led to understand it a previous consent in 2010 had sought subdivision to create only 16 residential allotments. That consent has now expired.
- 5.16 Beyond this there are large areas of undeveloped Living 2A zoned land on the edges of Kirwee, but even there a large proportion of that land, the BDL land, is constrained by the consent notice registered on the title referred to early and it therefore presently has no development capacity.
- 5.17 It appears to me that there is some level of constraint on the residential capacity in Kirwee which PC60 would help elevate both in terms of providing further Living 1 zoned land which is already identified for residential purposes and ultimately enabling further Living 2A zoned land (the BDL land) to be freed up. In addition to this I accept the evidence of Mr Boyes that there is a reasonable level of demand for sections.

3. Transportation and connectivity

- 5.18 Transportation associated with, and stemming from, the PC60 land and the sites connectivity with the rest of the Kirwee settlement were of concern for various submitters.

⁴ The more recent projections show a lower population growth occurring than estimated in the Area Plan.

⁵ The more recent projections show 543 households by 2030/31 rather than the 611 indicated in the Area Plan

- 5.19 In order to address some of that concern the Applicant produced a revised ODP which widened the connection through to School Lane to enable the potential of a road connection in the future. I consider this is a sensible approach which would enable a higher level of connectivity from the PC60 area and would improve resilience. In this context I note that there is no guarantee of a connection through to State Highway 73 and in this situation the majority of the PC60 area would become a large cul-de-sac with access only to Hoskyns Road. The option of a link to School Lane provides an ability to address this situation and I note the potential connection was supported by both Mr Pearson and Mr Carr. While I acknowledge Mr Mazey's concerns regarding traffic flowing passed the Kirwee School and that part of School Lane has a narrow road reserve, the Council has within its powers the ability to provide various solutions through such measures as threshold treatments, the narrowing of carriageways and provision of drop-off areas and I note that roads passing schools are not an unusual occurrence.
- 5.20 In terms walking and cycling I am satisfied that there are sufficient connections identified on the ODP to effectively link into the wider Kirwee township. I am also satisfied that roading connections to the adjoining Living 2A land to the east have been provided for.
- 5.21 Two matters were raised in relation to Hoskyns Road. The first was that of sunstrike referred to by Mr Jarman and I agree with Mr Carr that there are numerous roads with the same alignment, and drivers will be well used to the phenomena. The second related to the upgrading of Hoskyns Road including its intersection with Suffolk Drive and again I accept Mr Carr opinion that traffic flows at the intersection would be below the threshold at which a formal analysis of queues and delays is required and that no safety issues would arise. Mr Mazey had raised the issue of seal widening of Hoskyns Road between Courtney Road and Suffolk Drive, however I do not consider this is a matter for the plan change process to address and if necessary is more appropriately addressed at the subdivision stage.
- 5.22 In relation to matters raised with regard the wider roading network I accept that PC60 will not lead to any adverse efficiency related effects or capacity issues and with regards to the submissions by CCC regarding commuter traffic in Christchurch I accept the evidence of Mr Mazey that the net effect of any such traffic would be minuscule and I note that a direct express bus service is now provided into the Central City Bus exchange.

National Policy Statement for Freshwater Management 2020

- 5.23 The National Policy Statement for Freshwater Management 2020 came into effect on the 3 September 2020 and I am bound to consider it. Having reviewed the objective and policies I do not consider there is anything specifically in them that PC60 does not give effect to. That is not to say however that matters associated with the NPS might not arise in any subsequent consenting process when details of the discharge regimes in particular are developed.

National Policy Statement for Urban Development

- 5.24 I have considered the interpretation (Clause 1.3) and the definition of 'urban environment' and reached a conclusion that the National Policy Statement for Urban Development is not relevant to these proceedings. In saying that I acknowledge that there is some degree of ambiguity in the definition as to an "area of land" and

what would be considered as part of a “labour market”, however I have taken the view that Kirwee, being outside the Greater Christchurch boundary would not meet that definition.

Canterbury Regional Policy Statement

- 5.25 PC60 is required to give effect to the Canterbury Regional Policy Statement (CRPS) and in my opinion the relevant provisions are those located in Chapter 5. I accept Ms Booker’s submission that Chapter 6 (which relates to Greater Christchurch) does not apply to this plan change request and indeed that is made entirely clear in the Introduction to Chapter 6 which actually identifies the geographic extent of Greater Christchurch by reference to Map A as not extending as far as Kirwee.
- 5.26 The relevant provisions of Chapter 5 provide an overview of significant resource management issues and in particular in relation to PC60, provisions seek to achieve consolidated, well designed and sustainable growth in and around or attached to existing urban areas and promote a coordinated pattern of development and energy efficiency in urban form, transport patterns and site location (Objective 5.2.1 and Policy 5.3.1).
- 5.27 Policy 5.3.2 then sets out the development conditions which include:
1. ensuring adverse effects do not compromise or foreclose options for:
 - accommodating the consolidated growth and development of existing urban areas:
 - the productivity of the region’s soil resources; and
 - the protection of sources of water for community supplies.
 2. avoiding or mitigating natural hazards; and reverse sensitivity effects and conflicts between incompatible activities.
 3. integrating with infrastructure and transport networks.
- 5.28 The principal reasons and explanation state that Policy 5.3.2 establishes the standards to be met for development within the wider region, regardless of whether such development is located within, or outside of, existing urban areas and indicate that the approach in Policy 5.3.1 is to ensure that urban development outside of existing urban areas is to be avoided, so as not to compromise the efficient form and development of existing settlements as the primary focus for meeting the region’s growth needs.
- 5.29 I considered PC60 is entirely consistent with, and gives effect to, these provisions given it consolidates growth within the existing zoned urban area, avoids any natural hazards, does result in any form of reverse sensitivity, integrates with existing infrastructure (including community facilities) and the transport networks and has been designed so as to protect the new community water supply.
- 5.30 Policy 5.3.5 seeks to ensure development is appropriately and efficiently serviced with potable water, and sewage and stormwater disposal, while Policy 5.3.6 seeks the avoidance of development which constrains the on-going ability of these services to be developed and used and discourages them where they will promote development in locations which do not meet Policy 5.3.1.

- 5.31 I accept that PC60 area with the new water supply bore can be efficiently serviced with a water supply which is unconstrained, and that stormwater can be appropriately dealt with. In this context PC60 gives effect to the above policies.
- 5.32 I have looked closely at these provisions in relation to sewage disposal in the knowledge that on-site disposal is a real possibility here and at a higher development density than originally anticipated. I can find nothing in the policies which counts against on-site disposal and indeed Environment Canterbury have been approving such systems at this density within the PC60 site already. I also note that the evidence was that due to the soils present on the application site and depth to ground water, on-site wastewater treatment can be accommodated even with a minimum average allotment size of 800m². I therefore conclude that appropriately designed onsite sewage treatment in this location is not inconsistent with these policies and would give effect to them.
- 5.33 Finally, I accept that PC60 gives effect to Policy 5.3.8 which seeks the integration of land use and transport.

Land and Water Regional Plan

- 5.34 I do not consider the PC60 is inconsistent with the Land and Water Regional Plan, however I note that future subdivision may well generate the need for consents under this plan.

Other Relevant Documents

- 5.35 The other relevant planning documents to be considered in evaluating PC60 under section 74 include:

- (i) Mahaanui Iwi Management Plan 2013
- (ii) Malvern Area Plan

Mahaanui Iwi Management Plan 2013

- 5.36 The application documentation which included an assessment of the Mahaanui Iwi Management Plan (IMP) undertaken by Mahaanui Kurataiao Limited concludes that PC60 is generally consistent with the objectives and policies of the IMP and that there are no specific areas of cultural value identified on the site. On this basis I agree with Ms Lewes that PC60 will not compromise the values set out in the IMP.

Malvern Area Plan (Area Plan)

- 5.37 The Area Plan identifies that for Kirwee there is currently sufficient zoned but undeveloped residential land available to accommodate projected population growth through until 2031 and that the Council will not need to proactively zone additional land through the District Plan Review. The site itself is indicated as Undeveloped Residential Land.
- 5.38 The Area Plan highlights that there are issues that need to be addressed to facilitate additional growth, including:
- *settlement character and function, including the need to protect the current amenity attributed to the village and the absence of the necessary community infrastructure or services required to support additional growth or increased household densities, and*

- *infrastructure constraints relating to integrated stormwater management, access to potable water and the on-site treatment and disposal of wastewater.*

- 5.39 The Area Plan states that the retention of the current township boundary through to 2031 is consistent with the principles contained in Chapter 5 of the CRPS, the District Growth Strategy Directions and the Area Plan Principles, which reinforce the need to manage growth in an integrated and consolidated manner, while avoiding the social, economic and environmental impacts associated with dispersed settlement patterns.
- 5.40 In my opinion PC60 is reasonably consistent with the intentions of the Area Plan in that it is not proposing greenfield growth beyond the township boundaries, it is promoting both integration and consolidation and will not impact of the wider character and function of the settlement and, the potable water and stormwater issues are sufficiently addressed. Further development might also provide an incentive for more services to develop.
- 5.41 The only inconsistency is the potential need for a continuation of on-site treatment and disposal of wastewater. However, it would appear that a solution to this matter is being considered and I note the Applicants willingness to participate in this process.

Conclusion

- 5.42 Having regard to the requirements of ss74 I considered PC60 to be reasonably consistent with the provisions of the above documents.
- 5.43 For the avoidance of doubt, I confirm that I do not consider the Greater Christchurch Urban Development Strategy of any relevance to these proceedings.

Section 32

Proposed Amendments

- 5.44 The proposed amendments to the District Plan are limited to the inclusion of an ODP and associated rule and a change to Planning Maps to show the Living 1 Zone.
1. The Outline Development Plan
- 5.45 I agree with Ms Lewes that if PC60 is to be adopted then the proposed ODP should be included in the District Plan in order to guide development. Having reviewed the revised ODP presented at the hearing I consider it addresses all the necessary matters and it and the associated 'general accordance' rule are consistent with other ODP's contained within the District Plan.
2. Planning Map
- 5.46 I consider the alteration to the Planning would be simply a function of the rezoning.

Objectives and Policies

- 5.47 PC60 does not propose any alterations to the objectives and policies in the District Plan. It is therefore incumbent on me to determine whether the proposal rezoning is the most appropriate means of achieving the relevant objectives of the District Plan and whether it implements the policies having regard to their efficiency and effectiveness and taking into account the benefits and costs and the risks of acting or not acting.

- 5.48 Having considered the objectives and policies identified in the plan change application I consider the following are of particular relevance to my considerations and have I considered them in the order they appear in the District Plan.
- 5.49 The natural resources provisions in particular Objective B1.2.1 and Policy B1.2.1, B1.2.2 and B1.2.4 relate to protecting the quality of, and avoiding effects on, ground or surface water resources from services; ensuring rezoned land can be serviced; and providing protection around water supply bores.
- 5.50 The physical resources provisions in particular Objective B2.1.1 and Policies B2.1.2, B2.1.12, B2.1.13, B2.1.14 and B2.1.15 promote an integrated approach to land use patterns and transport to manage effects, encourage walking and cycling and the impacts on the roading network.
- 5.51 The quality of environment provisions principally Objectives B3.4.3, B3.4.4 and B3.4.5 look to avoid reverse sensitivity effects, promote a compact urban form and provide a high level of connectivity.
- 5.52 In terms of growth of the township Objectives B4.1.1 and B4.1.2 promote a range of living environments and for new residential areas to be a pleasant place to live and add character and amenity.
- 5.53 In terms of growth of the residential and business development provisions, Objectives B4.3.1 and B4.3.2 and policies B4.3.6 seek that township expansion does not adversely effect, amongst other things, natural and physical resources and the amenity values of the township; that it adjoins existing townships at compatible urban densities and is of a compact shape. Policy B4.3.46 is a specific Kirwee policy and the introduction states under the heading the Preferred Growth Option that *the future growth of Kirwee will be met by the development of the extensive zoned areas north of State Highway 73, generally in a compact pattern with higher densities towards the centre of the township.*

Benefits and Costs

- 5.54 I accept that the PC60 provides for a greater density of development and that there are inherent benefits in such an approach in terms of efficiency of land use, greater connectivity and sense of community, increased housing choice and greater support for community facilities and business services.
- 5.55 The costs appear to be limited and relate to those experienced by the applicant in pursuing the plan change and the potential need for minor road upgrading. As the Council were already addressing the water supply issue, I do not consider this can be seen as a cost associated with PC60.

Risk of Acting or Not Acting

- 5.56 The risk associated with PC60 primarily relates to the use of on-site wastewater treatment potentially resulting in contamination of groundwater, which is greater for a higher density of development, although I note to date this does not appear to have occurred through current development. On the other side the risks of not allowing for PC60 is that urban zone land will not be able to be developed due to the present restriction associated with the consent notice registered on the title of the balance lot and adjoining BDL land preventing this land from being used for further residential development.

Conclusion

- 5.57 I consider that overall PC60 is efficient and effective and contains benefits, particularly in terms of providing for denser development, integration, connectivity and increased housing capacity which is achieved without encroaching on rural land. On this basis I consider the plan change will implement the policies of the District Plan and is appropriate in achieving its objectives. Therefore, having reviewed the above objectives and policies and considered the benefits, costs and risks I am of the view that PC60 is the most appropriate means of achieving the objectives.
- 5.58 In relation to the natural resources section however I consider there is a policy gap in the District Plan in relation to sewage treatment and disposal for Kirwee (and Darfield). This is because the District Plan in the case of these townships (unlike other townships) provides no direct policy guidance on this matter. I consider it will be important to address this in my Part 2 considerations.

Sections 31

- 5.59 I consider that in terms of servicing and continuity of development PC60 will achieve integrated management of effects and will ensure that there is sufficient development capacity in respect of housing and that this can be achieved without creating any significant actual or potential effects on the environment.

Part 2 of the RMA

- 5.60 Overall, I consider the objectives of the District Plan will be achieved as a result of the changes proposed as part of PC60. I have evaluated the rezoning as being the most appropriate, in terms of its effectiveness and efficiency, and the benefits that it achieves verses the costs imposed. I have therefore gone onto consider the matters contained in Part 2 of the Act.

Section 6

- 5.61 Section 6 of the Act relates to matters of national importance. I accept that there are no section 6 matters at play in this case.

Section 7

- 5.62 Section 7 of the Act sets out other matters I am to have particular regard to. Of particular relevance are section 7(b) concerning the efficient use and development of natural and physical resources; section 7(c) relating to the maintenance and enhancement of amenity values and section 7(f) in terms of the maintenance and enhancement of the quality of the environment.
- 5.63 While I acknowledge the concerns expressed by Mr Jarman about existing land being available, I consider the PC60 site has already been identified for urban development. What is being considered here is whether a denser form of development is more appropriate for this site. In this context there is a distinction to be made between rezoning urban land to enable a higher density and rezoning rural land. In this case the former represents in my opinion a more efficient use of the land resource given its current zoning and its proximity to the existing urban area. Furthermore, of the competing potential land uses i.e. residential development at Living 2A or Living 1 densities I again consider the latter is the more efficient use.

- 5.64 In terms of the maintenance and enhancement of amenity values and the quality of the environment I consider PC60 would achieve these.

Section 8

- 5.65 Section 8 of the Act requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) be taken into account. I accept that there are no specific section 8 matters at play in this case.

Section 5

- 5.66 The ultimate purpose of the plan change is to achieve the purpose of the Act as defined in section 5. In the case of a plan change that purpose is usually subsumed in the greater detail and breadth of the operative objectives and policies which are not sought to be changed. That is broadly the situation in these proceedings aside from the issue of sewage treatment and disposal where there is no specific policy provision for Kirwee.
- 5.67 I have looked closely at the sewage treatment issue to determine whether the potential of onsite treatment at this level of density meets the sustainable management purpose of the Act. As referred to earlier, Environment Canterbury have acknowledged that recent investigations have not detected any adverse effects on human health or the environment from the existing on-site wastewater treatment systems in the area. I suspect many of those current systems would be older and therefore less effective in treating wastewater than the more modern systems now being installed. I also accept that the soils present on the application site and depth to ground water are relevant factors in this situation which count in favour of on-site treatment. Therefore, while I consider a reticulated system would provide a more sustainable and resilient approach there is no evidence to suggest that on-site treatment will create adverse effects on the environment in this location and therefore not achieve the sustainable management purpose of the Act.
- 5.68 I therefore considered for the reasons set out above that PC60 is 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 providing greater flexibility in residential development in Kirwee in a location which will help in consolidating the urban form of the settlement and where the effects of development can be acceptably mitigated. Overall, I consider PC60 promotes sustainable management in meeting the purpose of the Act.

6.0 Decision

- 6.1 For the foregoing reasons I **recommend** to the Selwyn District Council as follows:

1. **That pursuant to clause 10 of Schedule 1 to the Resource Management Act 1991 the Council approve Plan Change 60 to the Selwyn District Plan as set out in Appendix A.**
2. **That for the reasons set out in the above the Council accordingly either accept, accept in part or rejected the submissions listed in Appendix B.**



APPENDIX A**Changes to the Selwyn District Plan**

Add the following new rule:

Rule 12.1.3.61 In relation to the Living 1 Zone at Kirwee (east of Courtenay Road), any subdivision shall be in general accordance with the Outline Development Plan at Appendix 50.

Outline Development Plan

Add a new Outline Development Plan as Appendix 50 as shown below.

Part E

OUTLINE DEVELOPMENT PLAN – Living 1 Kirwee



Planning Map

Amend the Planning Map by rezoning the area shown below from Living 2A to Living 1.



PC60 – Rezone land at Kirwee from Living 2A to Living 1

APPENDIX B

Recommended Decisions on Submissions

Sub. Point	Name	Oppose/Support	Summary of Submissions	Recommended Decision
1.	Ian Dickie	Oppose in part	Seeks that the already subdivided sections, including Lots 10 to 16 DP 528758 be excluded from the proposed plan change.	Reject
2	NZ Transport Agency	Oppose	<p>Concerned that no provision has been made for roading connection to local roads within Kirwee, such as School Lane or Walter Place, which creates a segregation of areas and could affect the connections within the local community. Recommends that consideration of local roading connections to School Lane, Walter Place or other similar arrangement is included as part of the ODP.</p> <p>Requests that the proposed plan change be considered against any updated Urban Development Strategy (UDS) provisions.</p> <p>Consideration also needs to be given to the Regional Policy Statement (RPS).</p>	<p>Accept in part</p> <p>Reject</p> <p>Accept</p>
3	Christchurch City Council	Support in part		Reject
4	David Jarman	Oppose	<p>PC60 should not proceed until all available Living 1 zoned land has been developed. Reject Development of existing Living 1 land on the corner of Hoskyns Road and Courtenay Road is more central to the Kirwee and would accommodate growth in a more compact pattern than that proposed in the Plan Change.</p> <p>Concern about sewerage disposal and groundwater contamination. The Council should require the applicant to install a reticulated sewerage system and treatment plant as a condition of the zoning, rather than waiting until approval of a subdivision</p> <p>The visual landscape from Hoskyns Road may change significantly and adversely.</p> <p>Concern that the high volumes of traffic generated by the additional sections would create a highly dangerous intersection at Suffolk Drive/Hoskyns Road, especially with the sun angle in peak hour at certain times of the year.</p> <p>Concern that the high increase in traffic at the Suffolk Drive/Hoskyns Road intersection poses a significant safety hazard for pedestrians using the footpath on Hoskyns Road and navigating through the subdivision to School Lane/Walter Place.</p> <p>Concern regarding the additional traffic movements on children's safety and general</p>	<p>Reject</p> <p>Accept in part</p> <p>Reject</p> <p>Reject</p> <p>Reject</p> <p>Accept in part</p>

			road safety in the area.	
			Concerned that the Greendale Fault is not correctly mapped in the application and request confirmation that the information provided is corrected.	Accept in part
5	Bealey Developments Ltd	Support	Support future requirement to amended existing consent notices.	Accept in part
			Concern that the potential transport network may not be conducive to future development of submitters land.	Accept
			Seeks clarification as to the status of the outline development plan layer labelled 'potential transport network'.	Accept in part
6	Fire and Emergency New Zealand	Oppose	Kirwee currently has an insufficient water supply for firefighting purposes and PC60 does not provide FENZ with the certainty to support or remain neutral with respect to the plan change.	Accept in part
			FENZ seeks the addition of provisions as part of PC60 that require any new lots or habitable buildings within the plan change area to be provided with a water supply connection that complies with the New Zealand Firefighting Code of Practice SNZ/PAS 4509:2008 (CoP). Where a reticulated supply cannot provide adequate water volume and pressure for firefighting as set out in the CoP, an alternative on-site firefighting water supply shall be provided in accordance with the CoP.	Reject
7	Ministry of Education	Neutral	Seeks that the Ministry of Education is able to engage with Council and the developer in respect of potential effects on the capacity and growth of Kirwee Model School.	N/A
			Seeks that the Ministry of Education is consulted on the potential traffic effects including the proposed pedestrian and cycle access on Kirwee Model School.	
			Seeks that the applicant establishes that there are no adverse and cumulative effects on the Kirwee Model School in respect of the proposed onsite discharge of wastewater.	
8	Canterbury Regional Council	Oppose in part	Strongly encourages the provision of reticulated wastewater services for new residential development rather than the proposed wastewater servicing method of individual on-site wastewater treatment systems.	Reject
			Concerned that it would be inappropriate to service the plan change area with on-site wastewater systems ahead of any Selwyn District Council decisions on the future of a coordinated approach to wastewater infrastructure serving Kirwee.	Reject
			Would like to see a requirement for the outline development plan to include reticulated wastewater servicing, or a mechanism in place to require a co-ordinated approach to reticulation at the time of subdivision.	Reject
9	Christchurch City Council	Support in part	Seeks that the plan change is accepted in part, with no intensification beyond what is needed to provide for local growth needs as identified in the Malvern Area Plan.	Accept in part
			Concerned about the wider transport effects on Christchurch City from the potential increase in commuter traffic volumes into the City from Kirwee and the implications that this will have in terms of increased emissions, congestion and longer journey times. Would	Reject

			<p>like to see the transport effects assessment consider alternative transport options and the transport effects on the wider region.</p> <p>Concerned regarding the on-site servicing proposed and the implications that this may have on the sustainability of the Greater Christchurch sub-region.</p> <p>Concerned that the release of land beyond the forecast growth models has the potential to undermine the higher order documents, prepared by various agencies, which have been developed to enable growth to occur in the wider Canterbury region in an integrated and consolidated manner.</p> <p>Concerned that there is a risk to the implementation of the Urban Development Strategy from urban development beyond the UDS boundary, and questions whether the Greater Christchurch Partnership has a view on whether the partnership boundary needs to be extended to cover a wider area.</p>	<p>Reject</p> <p>Reject</p> <p>Reject</p>
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