

**BEFORE THE SELWYN DISTRICT COUNCIL  
HEARING BEFORE INDEPENDENT COMMISSIONER**

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of a request by GW Wilfield  
Limited for a plan change  
(Private Plan Change 67 -  
West Melton) under the First  
Schedule to the Resource  
Management Act 1991

---

**LEGAL SUBMISSIONS FOR CHRISTCHURCH CITY COUNCIL AND  
CANTERBURY REGIONAL COUNCIL**

**14 September 2021**

---



**Simpson Grierson**

Barristers & Solicitors

J G A Winchester / M G Wakefield

Telephone: +64 3 365 9914

Facsimile: +64-3-379 5023

Email: [mike.wakefield@simpsongrierson.com](mailto:mike.wakefield@simpsongrierson.com)

PO Box 874

CHRISTCHURCH

## **CONTENTS**

	<b>PAGE</b>
<b>1. INTRODUCTION</b>	<b>1</b>
<b>2. RELEVANT STATUTORY TESTS</b>	<b>3</b>
<b>3. THE RELIEF SOUGHT BY PC67 AND WHY IT MATTERS TO CCC AND CRC4</b>	
<b>4. THE RELATIONSHIP BETWEEN THE NPSUD AND CRPS</b>	<b>5</b>
<b>5. ASSESSING PC67 ON ITS MERITS: DOES PC67 SATISFY THE RESPONSIVE PLANNING FRAMEWORK, AND MEASURE UP IN SECTION 32 TERMS?</b>	<b>10</b>
<b>6. PRECEDENT / CUMULATIVE EFFECTS</b>	<b>13</b>
<b>7. CONCLUSION</b>	<b>14</b>

## 1. INTRODUCTION

- 1.1 These legal submissions are made on behalf of Christchurch City Council (**Council or CCC**) and Canterbury Regional Council (**CRC**) in relation to Private Plan Change 67 (**PC67**) to the Selwyn District Plan (**SDP**), which has been requested by GW Wilfield Limited (**GW Wilfield**).
- 1.2 CCC and CRC both made submissions in opposition to PC67. The submissions raise a number of issues, many of which are common to both councils. It is for this reason that a joint case is being presented, with evidence presented by Mr Keith Tallentire dated 6 September 2021.
- 1.3 The central concern for both CCC and CRC is that PC67 is either inconsistent with or contrary to a number of important policy directions contained in the Canterbury Regional Policy Statement (**CRPS**). This includes policy relating to the following matters:
- (a) The approach to, and spatial extent of, urban development within the Greater Christchurch urban environment;
  - (b) The strategic sequencing and provision of key infrastructure, including transport and public transport; and
  - (c) The loss of highly productive land and versatile soils, which the CRPS directs should be maintained.
- 1.4 In relation to all of these matters, CCC and CRC contend that PC67 does not give effect to the direction provided by the CRPS, and that it should therefore be declined by SDC.
- 1.5 From a legal perspective, at the core of this request is a contest between the CRPS and the National Policy Statement on Urban Development 2020 (**NPSUD**). The planning evidence for GW Wilfield is that PC67 gives effect to the NPSUD,<sup>1</sup> and in particular that SDC should be responsive to PC67 based on the “significant” development capacity that the rezoning will contribute towards any shortfall in housing capacity. Mr Tallentire, and

---

<sup>1</sup> Statement of evidence of Kim Seaton for GW Wilfield, at paragraph [2.5].

Ms Liz White for SDC, have a different view,<sup>2</sup> with both concluding that PC67 will not add “significant” development capacity, such as to warrant SDC being responsive towards the request. The frame of reference for what constitutes “significant” is a key point of disagreement, and discussed further below.

- 1.6** There is a clear difference in opinion in relation to how the NPSUD and CRPS should interact with each other, namely whether the NPSUD – through its ‘responsive planning framework’ – should provide flexibility that allows approval of requests for plan changes that do not give effect to the CRPS.
- 1.7** The case for CCC and CRC is that the NPSUD and CRPS can be read and applied together, with no reasonable interpretative grounds for suggesting that the NPSUD should take precedence over the CRPS. This is elaborated on further below.
- 1.8** The approach taken by GW Wilfield, through its planning evidence, has been to adopt a narrower approach to evaluating PC67, by placing greater emphasis on the NPSUD’s ‘responsive planning framework’ over the direction provided by the CRPS. It is submitted that characterising this request as a contest between the NPS-UD and CRPS is incorrect, and that the proper approach is to attempt to reconcile these two planning instruments in a manner that accords with the wider statutory context and the hierarchy of planning documents outlined in *Colonial Vineyards*.
- 1.9** In effect, if the GW Wilfield approach is accepted it will mean that Change 1 to the CRPS, and the core urban growth strategy in the CRPS, is ignored. This outcome would be entirely at odds with the decade of strategic planning undertaken by the Greater Christchurch Partnership (**GCP**), which includes SDC, and the recent housing capacity assessments completed and endorsed by the GCP that informed Change 1 to the CRPS. This context, and the CRPS itself, should not be disregarded in favour of isolated policies in the NPSUD that (properly understood) provide an

---

2 Section 42A Report of Ms White, at [115], evidence of Mr Tallentire for CCC and CRC at [134].

administrative pathway only, rather than a direction that must be applied to all lower order planning documents.

**1.10** In short, it is submitted that:

- (a) there is no sound legal interpretation available that allows for the 'responsive planning framework' to be given greater weight, or even precedence, over a CRPS framework that engages with the core objective of the NPSUD;
- (b) evaluating PC67 in a manner that places emphasis on one set of policies within the NPSUD, over all others (including those within the CRPS), amounts to an incorrect approach to the interpretation and application of planning instruments;
- (c) to effectively disregard the significance of the recent Change 1 to the CRPS would make it an empty exercise – which cannot be accepted given that it squarely engages with the same urban growth issues that are before the Commissioner, and was approved by the Minister following the required evaluation; and
- (d) the statutory requirement to give effect to the CRPS engages the "avoid" framework provided by the CRPS, with all plan change decisions required to confirm with that direction.

## **2. RELEVANT STATUTORY TESTS**

**2.1** The now widely accepted *Long Bay* test for plan changes, which was more recently updated in *Colonial Vineyard Limited v Marlborough District Council*,<sup>3</sup> requires consideration of *all* the relevant issues for the purposes of assessing plan changes, including the "higher order directions" of sections 72, 74 and 76 of the RMA.

**2.2** In this instance, there are relevant issues emerging from the "higher order" planning documents, which are discussed above. PC67 is required by section 75(3) of the RMA to give effect to both the

---

3 *Colonial Vineyard Limited v Marlborough District Council* [2014] NZEnvC 55.

NPSUD and CRPS. When interpreting these documents, case law has established that the correct approach is to read the document as a coherent whole.<sup>4</sup>

**2.3** When considering the request by GW Wilfield against the avoid framework in the CRPS, it is submitted that PC67 cannot achieve the section 75(3) test in relation to the CRPS, without the CRPS being amended in a manner that can provide for PC67. Whether PC67 can be adequately justified on its merits, in section 32 terms, is also a live issue for determination.

**2.4** It is CCC and CRC's position that the evaluation relied on by GW Wilfield is light, and relies on the NPSUD over the CRPS. This focus is incorrect, with the proper evaluation requiring an assessment of appropriateness more broadly – in light of the statutory planning framework.

### **3. THE RELIEF SOUGHT BY PC67 AND WHY IT MATTERS TO CCC AND CRC**

**3.1** In simple terms, PC67 is a request that seeks to rezone land that is currently zoned as Rural Inner Plains for urban development.

**3.2** The subject land is near to, but not adjoining the existing West Melton urban area. It is within the Greater Christchurch urban environment, but outside the Projected Infrastructure Boundary (**PIB**), as shown on Map A of the CRPS. The combination of these factors directly engages with the urban growth provisions in the CRPS, particularly those in Chapter 6, which establishes – as its dominant purpose - how to provide for urban growth within Greater Christchurch into the future.

**3.3** As addressed in the evidence of Mr Tallentire, Chapter 6 of the CRPS has recently been amended, by Change 1. Change 1 was initiated by CRC and was progressed and approved pursuant to the Streamlined Planning process under Schedule 1 to the RMA.

---

<sup>4</sup> Environmental Defence Society Incorporated v The New Zealand King Salmon Co Ltd [2014] NZSC 38; Auckland Council v Auckland Council [2020] NZEnvC 70.

- 3.4** Change 1 built on existing strategic growth planning by the GCP (and the actions agreed through Our Space<sup>5</sup>), and identified additional land for future urban growth within Greater Christchurch to address identified shortfalls across certain periods (Future Development Areas (**FDAs**)). These FDAs were identified on the basis that they were the most suitable areas for future urban development from a strategic standpoint, if additional land is required to meet medium term needs.<sup>6</sup>
- 3.5** Change 1 was supported by an evaluation, by CRC, which (relevantly) assessed the extent to which it would give effect to the NPSUD. This evaluation determined, and the relevant Minister agreed, that Change 1 would give effect to the NPSUD.<sup>7</sup>
- 3.6** It is submitted that, against this background, the Commissioner should be very cautious to disregard or place less weight on this recent policy amendment, particularly because it relates to and provides direction on essentially the same subject matter as is raised through PC67 (ie. the approach to strategic growth for Greater Christchurch). It is submitted for CCC and CRC that it would be inappropriate to do so, given the sub-regional development capacity issues that were carefully considered and tested against updated capacity data.

#### **4. THE RELATIONSHIP BETWEEN THE NPSUD AND CRPS**

- 4.1** As discussed above, the CRPS is engaged due to the highly directive framework that it establishes for urban growth, as well as other policies which provide direction on certain resource management issues.
- 4.2** The NPSUD is engaged as it is a higher order planning document that applies to planning decisions made by SDC. While a planning instrument of this nature is to be read as a whole, of particular relevance to PC67 are the following provisions of the NPSUD:

---

<sup>5</sup> Evidence of Mr Tallentire for CCC and CRC, at [40].

<sup>6</sup> At [42].

<sup>7</sup> At [41].

- (a) Objective 1: to achieve a “well-functioning urban environment”;
- (b) Objective 6: to ensure that decisions on urban development are integrated with infrastructure planning and funding, strategic over the medium and long term, and responsive to significant development capacity proposals;
- (c) Policy 2: for local authorities to provide at least sufficient development capacity to meet expected demand for housing capacity over the short term, medium term and long term;
- (d) Policy 6: that decision makers have particular regard to the planned urban built form anticipated by RMA documents; and
- (e) Objective 6(c) / Policy 8: that decisions are *responsive* to plan changes that would “add significantly to development capacity” and contribute to well-functioning urban environments, even if the development capacity is unanticipated or out-of-sequence with planned land release.

**4.3** Objective 6(c) and Policy 8 establish the ‘responsive planning framework’, which provides a pathway for the consideration of out of sequence plan changes.<sup>8</sup> Clause 3.8 elaborates on this framework by requiring that local authorities have particular regard to the development capacity provided by the plan change if that development capacity:

- (a) would contribute to a well-functioning urban environment; and
- (b) is well-connected along transport corridors; and
- (c) meets the criteria set and included in a regional policy statement, that determine what plan changes will be treated as adding significantly to development capacity.

---

<sup>8</sup> RMA, s43AA defines “change” as one either proposed by a local authority under clause 2, or requested under clause 21, of Schedule 1.



- 4.4** As set out in Mr Tallentire's evidence, CRC has not yet included any criteria in the CRPS. This does not however mean that SDC cannot make a decision on PC67.
- 4.5** Instead PC67 will need to be considered against other relevant factors, including those discussed in the Guidance published by the Ministry for the Environment,<sup>9</sup> and the relevant objectives and policies concerning urban growth in both the NPSUD and CRPS.
- 4.6** Other than the 'significant development capacity' criterion – which will be the subject of specific provisions included in the CRPS (at a later date) – the other criteria set out in clause 3.8(2) engage with the expectation that urban environments are well-functioning and well-served.<sup>10</sup> The overlapping nature of these criteria with other NPSUD objectives and policies indicate that - while the responsive planning framework provides a pathway - it remains part of the wider scheme of the NPSUD and is required to deliver on its overarching objectives.
- 4.7** There are several reasons why CCC and CRC support this interpretation:
- (a) First, there is nothing expressly stated in the NPSUD that gives Policy 8 any elevated significance over other objectives or policies.
  - (b) Second, the parent objective for Policy 8 - Objective 6 - puts three different matters on an equal footing, all of which have to be satisfied (note the conjunctive use of "and"). The implication of this is that the responsive planning framework cannot be treated as a process isolated from the remainder of the NPSUD (for that to be the case, it is submitted that this would need to be expressly stated in the NPSUD). Instead, local authority decisions affecting urban environments are required in all cases to remain integrated

---

9 Understanding and implementing the responsive planning policies: <https://www.mfe.govt.nz/sites/default/files/media/Towns%20and%20cities/Understanding-and-implementing-responsive-planning-policies.pdf>;  
Responsive Planning Fact Sheet: <https://www.mfe.govt.nz/sites/default/files/media/Towns%20and%20cities/Responsive-Planning-Factsheet.pdf>.

10 NPS-UD, Objective 1, 3, 6 and 8; Policy 1, 5, 6 and 10.

with longer-term infrastructure decisions, and to be strategic across the medium and long term, even when out-of-sequence proposals are being considered.

- (c) Third, the Guidance prepared by the Ministry for the Environment (**Guidance**)<sup>11</sup> is consistent with this interpretation,<sup>12</sup> by noting (emphasis added):

The responsive planning policies **complement** the future development strategy process by recognising urban areas are dynamic and complex systems, which continually change in response to wider economic and social conditions. Local authorities need to anticipate and plan for growth while **remaining open to change and being agile and responsive to development opportunities**.<sup>13</sup>

The responsive planning policy in the NPS-UD limits a local authority's ability to refuse certain private plan-change requests without considering evidence.<sup>14</sup>

The responsive planning policy will reassure the development sector that local authorities will consider opportunities consistently and transparently.<sup>15</sup>

The responsive planning policies seek to ensure flexibility to enable development that may not be currently in council infrastructure plans.<sup>16</sup>

- (d) It is submitted that this Guidance aligns with the interpretation preferred by CCC and CRC, in that it operates as a pathway for the consideration of requests to release land for development capacity out of sequence, but only where it can be demonstrated that early release is warranted on the merits, and in a manner that complements existing strategic planning.

---

11 Above n 9.

12 We note that the Guidance does not form part of the NPS-UD, is not legal advice and has no legal effect in terms of the application and / or interpretation of the NPS.

13 Guidance, page 3.

14 Guidance, page 3.

15 Guidance, page 3.

16 Guidance, page 5.

- (e) Fourth, there is nothing stated (either expressly or implicitly) in the NPSUD to suggest that the responsive planning framework provides innate flexibility for urban development, or that it amounts to a stand-alone merits test for unanticipated development. Instead, it may be considered entirely appropriate – as a means of achieving Objective 6 – to develop a restrictive framework that enables growth or provides for responsiveness in certain areas, and restricts growth elsewhere. While contextual, it is submitted that this would be a valid approach to give effect to the NPSUD,<sup>17</sup> and that the CRPS cannot be said to be non-compliant with Policy 8 as a result.
- (f) Finally, if precedence were given to being “responsive” (on development capacity alone), without engaging the other criteria, the end result would be a proliferation of ad hoc (and potentially insignificant and speculative) developments being approved (which the Guidance suggests should be filtered out). This could potentially result in urban growth that is not properly integrated, and potentially inconsistent, with existing growth strategies, which would be plainly at odds with the forward looking objective of the NPSUD.

**4.8** In the event that the Applicant argues that the responsive planning framework provides a way to release land for development capacity in a manner that can depart from the CRPS framework (ie. it softens the avoid framework), it is submitted that it would undermine the intent of the NPSUD if ‘responsiveness’ could come at a potential cost to pre-existing strategic planning decisions. SDC must not overlook its obligation to give effect to the strong ‘avoid’ framework set out in the CRPS, particularly in circumstances where the NPSUD and CRPS are not at odds with each other.

**4.9** It follows that CCC and CRC disagree with Mr Ben Baird when he notes that “hard line” policies are what the responsive planning provisions of the NPSUD are seeking to work around.<sup>18</sup> There may

---

<sup>17</sup> The overall objective of the NPS-UD is to ensure that urban environments are well-functioning and that they meet the changing needs of communities, as per Objective 1.

<sup>18</sup> Growth Planning Report of Mr Baird for SDC, at [19].

be circumstances that warrant such an approach, where that approach can be justified in section 32 terms. The key focus remains however the achievement of a well-functioning urban environment, and there are good reasons to conclude that the CRPS framework achieves exactly that, by aligning urban growth with the strategic provision of infrastructure.

**5. ASSESSING PC67 ON ITS MERITS: DOES PC67 SATISFY THE RESPONSIVE PLANNING FRAMEWORK, AND MEASURE UP AGAINST THE CRPS?**

**5.1** In her section 42A report (**s42A**) dated 23 August 2021, Ms Liz White recommends that PC67 should be declined. This is based on her assessment of the purpose of the RMA, and the requirements of the NPSUD and the CRPS. Mr Tallentire agrees with that assessment, particularly in relation to strategic planning matters.

**5.2** CCC and CRC are concerned that PC67 has been prepared on the basis that that the responsive planning framework acts as a positive or enabling mechanism for additional urban growth (put another way, GW Wilfield has approached Policy 8 as a substantive direction, rather than a procedural one).<sup>19</sup> For the reasons outlined above, it is submitted that this is a flawed approach.

**Satisfying the responsive planning framework**

**5.3** The first issue to address is whether PC67 will add “significant development capacity”. In reliance on Ms White’s s42A and Mr Tallentire’s evidence, it is submitted that the proper frame of assessment for what constitutes “significant” development capacity is the Greater Christchurch urban area.

**5.4** Allowing significance to be assessed at a local scale (i.e. West Melton, as proposed by GW Wilfield) would not align with the definition of urban environment, or the overall intent of the NPSUD (which is to ensure that *urban environments* have enough homes to meet the needs of their communities: Policy 1). The reason for this

---

19 Attachment 3 to Private Plan Change Request Application: Section 32 Evaluation.

is that it would potentially allow for the approval of requests that do not materially add to overall development capacity, but collectively / cumulatively impact on strategic planning decisions made by the GCP.

- 5.5** Ms Seaton, for GW Wilfield, acknowledges that the frame of reference for ‘significance’ is a matter left to CRC, or in the absence of criteria “the decision-maker”.<sup>20</sup> Here, there is no need to defer to the decision-maker. CRC’s evidence and submission on PC67 identifies that the relevant urban environment is Greater Christchurch. While this has not yet manifested in criteria included in the CRPS, it can be reasonably expected that this is the approach that CRC will adopt. As a result, it is submitted that the Commissioner should place weight on the CRC position and evidence on this matter.
- 5.6** In response to Ms Seaton’s suggestion that “Neither Policy 8 nor clause 3.8 ... require that the significance of the development capacity provided by the plan change is only determined relative to that “urban environment””<sup>21</sup>, it is submitted that this is an incorrect interpretation that does not seek to read the NPSUD as a whole. When read holistically, it is clear that the focus of the NPSUD is on achieving well-functioning *urban environments*, not enabling small-scale developments assessed against a local, rather than sub-regional frame of reference.
- 5.7** In reliance on Mr Tallentire’s evidence, PC67 should not be found to add “significantly to development capacity”, and therefore SDC is not required by Policy 8 to be responsive to PC67.
- 5.8** In addition, and as identified in both the s42A report and Mr Tallentire’s evidence, even if PC67 was found to provide significant development capacity, it does not satisfy the requirement to contribute to a well-functioning urban environment, nor satisfy the policy direction taken by the CRPS.

---

<sup>20</sup> Planning evidence of Ms Seaton, at [7.13].

<sup>21</sup> At [7.14].

## The CRPS

**5.9** While CCC and CRC accept that a degree of inconsistency with higher order policies may be acceptable, in this case PC67 falls foul of a highly directive “avoid” framework that cannot be overlooked. The Chapter 6 avoid framework has been intentionally developed by the GCP to guide the location of future urban development, so that it achieves a well-functioning urban environment. It is a framework that allows for flexibility, but only insofar as any urban growth is contained within the PIB. If plan change requests are made outside the PIB, then there should be questions asked as to how that is aligning with strategic planning decisions.

**5.10** Turning to the case for GW Wilfield, it is submitted that there is no compelling evidence to suggest that PC67 will achieve the objectives of the NPSUD. More specifically, and in reliance on Mr Tallentire’s evidence:

- (a) At [89] and [90], there is no real and demonstrable provision for appropriate infrastructure to service or accommodate PC67, and it is not enough to seek to demonstrate that feasible servicing options exist. In order to satisfy the NPSUD the evidence must show how PC67 will ‘integrate with infrastructure planning and funding decisions’;
- (b) At [101] to [103], PC67 is not commensurate with the efficient provision of public transport and the level of accessibility already existing or planned; and
- (c) In considering the proposed density, Mr Tallentire has formed the view that the requirements of CRPS Policy 6.3.7 to efficiently utilise land and create a compact urban form that can be served efficiently by infrastructure, have not been met by the proposal. This is due to a low proposed average density, of 3.9 hhs/ha, which does not justify greater urban amenities such as enhanced public transport services.<sup>22</sup>

---

22 Evidence of Mr Keith Tallentire, at [112] and [116].

- 5.11** The conclusion reached by Mr Tallentire, at [129] to [134], and by Ms White, is that PC67 will not contribute to a well-functioning urban environment.
- 5.12** As a result, it is submitted that on its merits PC67 fails to satisfy the requirements of the responsive planning framework under the NPSUD, and does not warrant approval in broader terms under the CRPS. It follows that CCC and CRC seek that the request is declined.

## **6. PRECEDENT / CUMULATIVE EFFECTS**

- 6.1** As the Commissioner may be aware, there are a number of other similar requests currently being processed by SDC. A number of these seek plan changes for urban development outside of the PIB, which has prompted both CCC and CRC to make submissions in opposition. In the event that PC67 is approved, on the basis that it satisfies either the NPSUD or CRPS, this will create a significant precedent, which could give greater weight to these other requests.
- 6.2** If PC67 and these other requests are granted, then there will be a cumulative effects issue in play. Of most concern to CCC and CRC is the potential cumulative impact on strategic planning and infrastructure, with each out-of-sequence request creating additional, and unanticipated, demand for necessary services, roading and public transport. As these requests are all situated outside of the PIB, this is an issue that will affect not only SDC, but the other GCP member councils and partners.
- 6.3** There is clearly jurisdiction for considering cumulative effects at the plan-making stage,<sup>23</sup> but what is perhaps unique here is that cumulative effects may need to be considered at an individual request level, and in light of the other requests that are in train for SDC. There is authority for this approach, with the wider implications of future development in particular locations relevant considerations.<sup>24</sup>

---

<sup>23</sup> *Auckland Council v Cabra Rural Developments Ltd* [2019] NZHC 1892, referring to *Dye v Auckland Regional Council* [2002] 1 NZLR 337.

<sup>24</sup> *Brown v Dunedin City Council* [2003] NZRMA 420.

- 6.4** Given that the focus of the NPSUD is on achieving well-functioning urban environments, and integration with existing infrastructure planning, it is submitted that it would undermine the intent of the NPSUD to consider the effect of these requests in isolation from each other. This is particularly so given that each will (if approved) place demand on infrastructure in parallel to, or in competition with, each other.

## **7. CONCLUSION**

- 7.1** The Commissioner is obliged to apply the relevant statutory tests. Correctly applied, this cannot involve a contest between the NPSUD and CRPS, and giving preference to one over the other.
- 7.2** Giving effect to Chapter 6 of the CRPS demands that PC67 is declined. There is no flexibility to decide otherwise. Such an outcome is also entirely consistent with an interpretation of the NPSUD as a whole, in accordance with well-established legal principles.
- 7.3** Given the context that had led to the inclusion of Map A in the CRPS, and the new FDAs, it is submitted that this outcome is neither unfair nor inappropriate. Chapter 6 provides a tested, and directive, urban growth strategy that aligns with strategic planning decisions at a sub-regional level. In any event, the applicant has elected to take on the risk of pursuing PC67 in the knowledge of the CRPS framework, and bears that risk.
- 7.4** A contingent approval of PC67 pending resolution of a later, consequential change to the CRPS is neither legally available, nor would it be an appropriate option. Even if it was legally possible, it is submitted that it would be inappropriate.
- 7.5** Adopting that approach would involve an approval that is meaningless until another significant statutory decision is adopted by another local authority (CRC), with no certainty that PC67 could



ever be implemented. It would also create a significant degree of uncertainty and confusion in that:

- (a) it would create a perception that development of PC67 is appropriate, in circumstances where that development relies on a separate statutory process being completed;
- (b) it would result in unnecessary and undesirable uncertainty for the community, landowner and SDC;
- (c) it would create confusion and a precedent for SDC, and other Independent Commissioners / Panels, when determining the various other requests for plan changes involving a similar context;
- (d) it would fail to satisfy section 75(3) of the RMA; and
- (e) it could be taken as support for a legal interpretation that elevates a procedural pathway in the NPSUD into a merits test, and in a manner which prevails over a clear and directive approach to strategic urban growth and infrastructure for Greater Christchurch.

**7.6** The only other option available would be to recommend to SDC that it request a change to the CRPS, but as noted above, that will not provide any substantive outcome as it relies on a statutory decision by SDC that is not within the scope of clause of clause 10 of Schedule 1.

**DATED** this 14<sup>th</sup> day of September 2021



---

**J G A Winchester / M G Wakefield**  
Counsel for Christchurch City Council