

**BEFORE HEARING COMMISSIONER  
FOR SELWYN DISTRICT COUNCIL**

**UNDER** the Resource Management Act  
1991

**AND**

**IN THE MATTER** of Private Plan Change  
Request 69 (PC69) to rezone  
approximately 190 hectares of Rural Outer  
Plains Zone to Living X, Living Z and Business  
1 (Local Centre) at Lincoln

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Summary of Section 42A Report of Nick Boyes (Planning)

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Dated: 26 November 2021

## Introduction

1. My full name is Nick Boyes. I am a Consultant Planner/Associate at Planz Consultants Ltd in Christchurch and my qualifications and experience are set out in my original section 42A report.
2. I have been asked by the Council to prepare this supplementary report under section 42A of the Resource Management Act (the Act) to summarise and update my planning assessment of the subject private plan change request (PC69) to the operative Selwyn District Plan (the District Plan). The report is to assist the Hearing Commissioner in evaluating the request and deciding on submissions made on PC69, but again it should be emphasised that any conclusions reached or recommendations made in this report are not binding.
3. In preparing this report I have:
  - a) Attended the PC69 hearing and heard the evidence presented and responses to questions;
  - b) Reviewed the various summaries provided by experts for the applicant, evidence/information provided on behalf of and by submitters, and summaries of the Council staff and experts as listed below:

<b>Tim Morris (Tonkin &amp; Taylor Ltd):</b>	Stormwater, Flood Management and Civil Construction
<b>Greg Burrell (Instream Ecology Ltd):</b>	Aquatic Ecology
<b>Murray England (SDC):</b>	Water/Wastewater/Stormwater Servicing
<b>Chris Bender (Pattle Delamore Partners Ltd):</b>	Odour
<b>Hugh Nicholson (Urban Shift Ltd):</b>	Urban Design Assessment
<b>Mat Collins (Flow Transport Ltd):</b>	Transportation
  - c) I rely on that evidence/advice where stated in the assessment below.
4. The purpose of this summary/supplementary report is to provide further comment on matters raised during the course of the hearing and to update the conclusions/recommendations set out in my original section 42A report.

## Summary

5. The matters I intend to cover are as follows:
  - a) NPS-UD and relationship with CRPS;
  - b) Strategic Planning Framework for Urban Growth;
  - c) Matters that contribute to a well-functioning urban environment, including:
    - Land Suitability (Ground condition/soils);
    - Infrastructure Provision;
    - Infrastructure Protection;
    - Connectivity;
    - Traffic Network Impacts;

- Ecological Impacts.
- d) Other Matters:
- Moirs Lane;
  - Submission of Manmeet Singh

## National Policy Statement on Urban Development 2020 (NPS-UD)/Canterbury Regional Policy Statement (CRPS)

6. By way of reference the National Policy Statement for Urban Development 2020 (NPS-UD), was discussed at paragraphs 194 to 226 of my section 42A report; and the relevant provisions of the CRPS in paragraphs 235 to 255.
7. Since preparing that report I have reviewed and heard the evidence of Mr Langman. None of his evidence or supporting CRC/CCC legal submissions has caused me to change my opinions in this regard. I attach a copy of legal advice received by the SDC from Mr Paul Rogers (Adderley Head) on this matter in relation to the Proposed District Plan process, but in my view it is still relevant to this plan change process and makes specific reference to NPS-UD Policy 8 and the relationship with the CRPS.
8. I summarise Mr Langman's position to be that additional land beyond the identified FDA is not required to meet the Council's obligations under the NPS-UD; with PC1 to the CRPS having been the "responsive" planning mechanism undertaken by the Greater Christchurch Partner Councils to give effect to the NPS-UD.
9. I have two concerns as to whether PC1 can be elevated to such status. PC1 was effectively limited to include only the FDA already identified through the Our Space process. Submissions on PC1 seeking to have additional land included were considered to 'not be on the plan change' and therefore determined to be out of scope. Therefore, no merits based assessment of any other land beyond the already identified FDA occurred through that PC1 process. Any reconsideration of Chapter 6/Map A effectively being deferred until the next review of the CRPS scheduled to commence in 2024. I question whether this is an adequate response to the matters included by central government in the NPS-UD.
10. Furthermore, Mr Langman's position assumes that the Our Space/PC1/HCA processes have identified "*sufficient development capacity*" as described in the NPS-UD. The applicant has provided various evidence as to the shortage of residential land available in the Lincoln market. I am also aware of similar evidence extending to other Townships within the Selwyn District, evident by a recent stark increase in land price beyond that experienced in other parts of Greater Christchurch.
11. In terms of currently available development capacity, in my view there is a potential risk of under supply arising from the areas identified in the CRPS, and the effects resulting from such under supply on the efficient functioning of a competitive housing market outweigh the risks associated with over supply; where such land can be adequately serviced and meets the other statutory considerations.
12. In my view if there was sufficient development capacity provided for in Chapter 6/Map A of the CRPS, the position being advanced by Mr Langman would have merit as **Policy 2** of the NPS-UD would be met. However, in the event that it is determined that sufficient development capacity is not available; my view is that the NPS-UD (as the higher order document) sends a clear signal,

and ability, for territorial authorities to rectify that issue without having to go through the traditional planning mechanisms, i.e., to provide that additional capacity by taking a “responsive” planning approach.

13. The CRC/CCC submission is that this ‘responsiveness’ only extends to accepting a privately initiated plan change for processing, and goes no further in terms of the substantive ability to assess it on its merits, does not accord with my plain and ordinary reading of the relevant planning provisions.
14. The outcome sought by Mr Langman is to limit greenfield development in order to facilitate greater up-take of in-fill development within Christchurch City. In my view this outcome runs counter to the NPS-UD in that:
  - **Objective 2** seeks planning decisions that improve housing affordability by supporting competitive land and development markets.
  - **Policy 1** seeks planning decisions that enable a variety of homes that meet the needs, in terms of type, price, and location.
15. Mr Langman assumes the property market for different locations and housing typologies are interchangeable with in-fill development in Christchurch, which based on the present market and increased demand for sections in Lincoln and the Selwyn District generally, does not appear to be the case.
16. In summary, I remain of the view that **Policy 8** of the NPS-UD provides an opportunity to allow consideration of ‘out of sequence’ development proposals that would otherwise be precluded by the CRPS and other planning documents. This reflects the clear central government intention to facilitate greater opportunities for urban growth and housing opportunities in response to the current housing supply and affordability issues. Notwithstanding, the NPS-UD requires such out of sequence development to:
  - a) add significantly to development capacity; and
  - b) contribute to a well-functioning urban environment.
17. These matters must be satisfied before the threshold is met for “particular regard” being given to development relying on **Policy 8**; and must also be weighed against other applicable provisions (including the balance of the CRPS policy framework) to determine whether PC69 is the most appropriate way to achieve the purpose of the RMA.
18. My original report set out various concerns regarding the ability of the proposal to contribute to a well-functioning urban environment, including tension with matters listed within **Objective 6.2.1** of the CRPS, referring to seeking a land use and infrastructure framework that:
  5. *protects and enhances indigenous biodiversity and public space;*
  6. *maintains or improves the quantity and quality of water in groundwater aquifers and surface waterbodies, and quality of ambient air;*
  9. *integrates strategic and other infrastructure and services with land use development*
  11. *optimises use of existing infrastructure; and...*
19. As a result of the changes to the proposal, as reflected in the amended ODP and accompanying text now updated, most of these concerns have now been alleviated, as recorded in the evidence of Mr Phillips. Residual matters are restricted to urban design, versatile soils, transportation and ecology as recorded below.

## Strategic Planning Framework for Urban Growth

20. Mr Nicholson refers to a concern that PC69 is being considered in the absence of a more strategic spatial planning exercise for Lincoln. This also has some implications in terms of the matters raised by Mr Langman for the CRC/CCC in that whether a full review of the CRPS is the more appropriate process to consider future growth options. However, as noted above, I question whether this is sufficiently “responsive” in the context of the present housing supply issues and growth mechanism provided by central government in terms of **Policy 8** of the NPS-UD.
21. In summary, I agree with Mr Phillips and Mr Langman that a comprehensive strategic process looking at a wider spatial scale would be more typical and preferable, but the fact remains that **Policy 8** of the NPS-UD provides for “out of sequence” development proposals to be considered under the RMA First Schedule process. This process includes public consultation through a submission and further submission process. The apparent weakness being the inability to consider better alternative options other than the plan change site. In the context of Lincoln this most obviously relates to the future intentions of the Lincoln University and various Crown Research Institutes with regard to their landholdings (see Figure 3 attached to Mr Compton-Moen’s evidence).
22. Furthermore, the matter of the cumulative impacts of the various private plan changes received by the Council is relevant. However, in my view it is simply a case of assessing the merits of each proposal in the context of the statutory planning framework.

## Land Suitability (Ground condition/soils)

23. Various matters relating to land suitability were discussed in the original section 42A report (paragraphs 48 to 84).
24. Based on the advice received, there are only two matters that require further comment at this time, the ground conditions in terms of water table/flooding and versatile soils.

### Water Table/Flooding

25. Mr Morris has assessed the applicant’s evidence and is satisfied that suitable engineering solutions exist to adequately construct this development. Obviously this will involve further assessment prior to the subdivision consent process, but I rely on his advice that feasible options/solutions are available to appropriately develop this land.

### Versatile Soils

26. One of the matters of significant contention is the quantum of versatile soils on the subject site (which appears to range from 4.6ha to some 80ha minimum). Notwithstanding, it is appropriate to describe the soils of the site as an important natural resource referred to in Part 2 of the RMA. Obviously I am not a soil expert so my comments are limited to the planning matters relating to soil protection and use.
27. As stated in my original report, at this stage there is limited guidance as to how the outcomes sought in the proposed NPS-HPL are to be balanced with the operative NPS-UD in terms of prioritising versatile soils over the pressing need for further urban development to meet housing objectives.
28. It is clear that the pNPS-HPL serves to provide greater weight and recognition to the protection of versatile soils when undertaking this balancing exercise.

29. A matter not referred to by the soil experts that have presented evidence is the practical ability to utilise versatile soils for intensive agriculture and in particular horticultural use in such close proximity to existing residential development, i.e., potential reverse sensitivity effects.
30. In my experience the physical location of these soils relevant to the existing residential areas to the north is an impediment to realise their full productive capability. I appreciate this argument could be said to promote the further incremental and cumulative loss of versatile soils as townships grow, but in my view is a relevant matter to consider in the decision-making process when weighing up the irreversible loss of productive soils.
31. The matter of versatile soils is a matter for all future growth options at Lincoln, so a finding on this matter effectively determines the appropriateness of any future urban growth at Lincoln.

### Infrastructure Provision

32. Mr England has described the servicing (three waters) requirements relating to this development. Based on his advice, I consider that feasible options for infrastructure provision to this land are available. I note that some of these require further upgrades, and consents to support that upgrade. In terms of the matters raised in the NPS-UD in this regard, and in particular whether the proposal is “infrastructure ready”<sup>1</sup>, I agree with the evidence of Mr Phillips that a “pragmatic response” is required to the consideration of the servicing of out of sequence development proposals. I further agree that the key matter is ensuring that development can be integrated with future infrastructure planning and funding decisions.
33. Based on Mr England’s advice I consider that this is the case for PC69.

### Infrastructure Protection

34. The future protection of the Lincoln Wastewater Treatment Plant (LWTP) was a concern raised in the original report (see paragraphs 114 to 123).
35. This concern was informed by the need for the SDC to apply for new regional consents in relation to the LWTP, including an odour discharge consent. These consents will require amendment should PC69 proceed in order to accommodate the additional buffer storage requirement. The change in receiving environment facilitated by this plan change has the potential to impact on how those consents are processed by ECan, particularly in light of the proposed removal/reduction in setback distance.
36. More recently the applicant has amended their proposal from a full exemption from the applicable provision (**Rule 4.9.32**) to a setback reduction from 150m to 100m, with a no-complaint covenant over all residential sites located between 100 to 150m from the Plant. With these setbacks being measured from the inside bank of the pond as opposed to the boundary of the designated site. This change further reduces the impact of the current rule by a minimum of some 20m.
37. Mr England acknowledges that the use of the LWTP is different to that when the 150m setback was included in the District Plan; and on that basis accepts the reduced setback (and other agreed matters) as being an appropriate response to adequately protect the future ability to operate the Council’s asset. In terms of the change in setback origin, the inside of the bank (i.e.,

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<sup>1</sup> NPS-UD, Clause 3.2(2)(b) and Clause 3.4(3).

the maximum operating height), is considered to better represent the source of potential odour effects, so can be supported.

- 38. I understand Mr Bender is satisfied that the proposed changes will result in acceptable levels of odour within the PC69 site to protect the LWTP.
- 39. In summary, the changes proposed are in my view sufficient that the amended proposal adequately protects the LWTP, which forms part of the Pines Treatment Plant at Rolleston, which I consider a strategic asset under the CRPS. Therefore, in my view the amended proposal now accords with the relevant objectives and policies included in both the CRPS and operative District Plan in this regard.

## **Connectivity**

- 40. Mr Nicholson has already described his concerns regarding the connectivity of the development with Lincoln Township and would recommend connections at approximately 400 metre intervals, including four 'primary' street connections.
- 41. The ability to provide connections is limited by those that are available in the adjacent developments. In my view the extent of reserve and indicative pedestrian and cycle routes shown on the northern boundary adjacent to the Te Whāriki development in particular are an appropriate response to the limited opportunities otherwise available.
- 42. The matter of vehicular connectivity is discussed further below.

## **Traffic Network Impacts**

- 43. The remaining concerns relating to the traffic impacts of PC69 are outlined in the summary of Mr Collins.
- 44. I understand that the applicant agrees to the overall development cap in order to account for any difference in the trip generation factor used in the modelling of the AM peak period. This outcome is considered acceptable by Mr Collins.
- 45. Vehicular connectivity (or lack thereof) remains a concern, and I agree with Mr Collins that PC69 includes less than optimal connectivity to Lincoln. However, this needs to be weighed against the adverse impacts on amenity of residents in Te Whāriki that would result through an increase in traffic taking a less than optimal route through that development to reach the Lincoln town centre.
- 46. In terms of the single vehicular connection that is shown, I agree with Mr Collins that the developer shall be responsible for all costs associated with its provision; and Mr England that compensatory stormwater storage will need to be provided on the PC69 site.
- 47. My understanding is that PC69 proposes to simply show the connection, with Council taking the responsibility to actually provide it should the need arise in the future. I do not agree with that approach.
- 48. The matter of pedestrian safety along Springs Road, including to the University, is an existing issue which will be exacerbated by PC69. I understand there are a number of gaps in the existing footpath connectivity along Springs Road north to Gerald Street (on both sides of the road). It would be desirable for PC69 to provide safe pedestrian/cyclist crossing facilities along Springs Road, particularly near the University, but appreciate this is beyond the site and creates some difficulties unless volunteered.

49. Mr Fuller and Mr Collins agree that there will be capacity issues for the existing Shands Road and Springs Road corridors through Prebbleton. Mr Fuller's view is that this would occur irrespective of PC69 and can be solved by capacity upgrades. Mr Collins questions whether the Council can fund and deliver such upgrades.
50. Whilst I agree that growth anywhere in eastern Selwyn will contribute to the existing issues through Prebbleton (Springs Road) and on Shands Road, I consider that the scale of PC69 is such that it goes beyond that otherwise anticipated. For instance growth further afield in Springston, Leeston or Southbridge is unlikely to approach the scale of the development represented by PC69.
51. In my view the impact of PC69 on Shands Road and Springs Road is a matter of residual concern, but acknowledge that it is difficult for the proponent of PC69 to deal with such impacts. However, I understand two options that remain in discussion are:
- a) The earlier delivery of Moirs Lane to make the Ellesmere Road route more attractive; and
  - b) Provision of a Park and Ride facility within PC69 to incentivise use of public transport.
52. In my view such measures are required in order to reduce the effects of PC69 on the existing roading network, primarily Shands and Springs Road. However, it is acknowledged that provision of the passenger transport service is entirely dependent on ECan. Notwithstanding, I still support an indicative Park and Road location being shown on an updated ODP to future proof the development and better meet the statutory considerations regarding climate change response.
53. The changes to the ODP sought by Mr Collins in terms of timing and funding are considered to be minor issues that can be worked through.

### **Ecological Impacts**

54. Dr Burrell has expressed residual concerns around construction impacts on springs due to shallow groundwater levels and the lack of groundwater monitoring data from the site.
55. I consider that construction dewatering impacts on springs and maintenance of spring flows remain as concerns. In particular that pumping into the downstream watercourse to mitigate flow loss in the spring is not considered to be acceptable; and that pumping groundwater into the springhead to restore surface flow generally results in poor success in terms of protecting ecological values.
56. I do agree with Dr Burrell that given the ecological significance of the springs within the site, there should be a high level of confidence that any future urban development can appropriately avoid, remedy or mitigate adverse effects. Dr Burrell raises concern whether this level of confidence has currently been reached.
57. Notwithstanding, this concern needs to be balanced against the advice provided by Mr Morris in regard to the civil construction methodologies available to suitably mitigate such potential adverse effects.
58. Otherwise, the amendments to include the proposed stormwater wetland reserve and 100m setback from the springs identified by AEL are considered to be positive changes and in conjunction with the other matters referred to in the explanatory ODP text relating to the preparation of an ecological management plan in my view adequately address the ecological considerations of this site in the context of this plan change proposal.



### Other Matters:

59. There are two other matters arising that require some clarification.

#### Moirs Lane;

60. The issues relating to the legal width of Moirs Lane are resolved. The original section 42A report relied upon the information on 'Canterbury Maps', which indicates a lesser (inaccurate) width.

#### Submission of Manmeet Singh

61. Having read the original submission and Mr Thomson's evidence, I am still unsure of the relief being sought by the submitter. In my view any suggestion that re-zoning, or any change to **Rule 4.9.32**, can also apply to the Allendale Lane landholdings the subject of the submission is out of scope of this plan change process.
62. The submitters concerns appear to be more aimed at the precedent of any PC69 decision regarding amendment to **Rule 4.9.32** to impact on their position regarding the rezoning sought through their submission on the Proposed District Plan. In that regard I note that Mr England has simply responded to the amended proposal put forward by the applicant for PC69; and the matter of precedent for any future planning process has not been of any particular concern.

### Updated Conclusions and Recommendation

63. My original conclusion (set out in paragraph 296) was that PC69 as put forward not proceed – on the basis that it did not represent a *“well-functioning urban environment”* as required under the NPS-UD.
64. The subsequent changes to the proposal ODP and explanatory text since that time have all been positive, and have addressed the majority of those concerns. I also note that some matters raised are not able to be avoided, such as the loss of versatile soils; and resulting change in the character of Lincoln due to the scale of the proposed development. If you like these are inevitable consequences of any future growth per se.
65. In terms of the proposal's obvious conflict with **Objective B4.3.3/Policy 4.3.1** of the District Plan and **Objective 6.2.1(3)** and **Policy 6.3.1(4)** of the CRPS, I am satisfied that this is overcome by **Policy 8** of the NPS-UD.
66. Therefore, subject to the above matters being included in the final ODP, I recommend that PC69 can be approved and is an appropriate way to achieve the purpose of the RMA.



Nick Boyes  
**Consultant Planner**

26 November 2021