

BEFORE THE SELWYN DISTRICT COUNCIL

UNDER	the Resource Management Act 1991
IN THE MATTER OF	Private Plan Change 74 to rezone approximately 20.687ha of Rural Inner Plains to Living West Melton.
BETWEEN	Hughes Development Limited
AND	Selwyn District Council

**SUMMARY STATEMENT OF CRAIG FRIEDEL
ON BEHALF OF SELWYN DISTRICT COUNCIL**

Planning

27 March 2023

Introduction

1. My name is Craig Friedel, and I prepared the Section 42A Report on Private Plan Change 74 (PC74) to the Selwyn District Plan (SDP), dated 6 March 2023. The purpose of this statement is to summarise my position on the matters arising from the plan change proponent and submitter statements of evidence.
2. There is substantial alignment between most of the plan change proponent and council's experts, which is detailed in the various evidence statements.
3. The following key differences in opinion between the experts initially related to:
 - a. The appropriateness of the minimum net density requirement and whether it needs to be referenced in the PC74 Outline Development Plan (ODP).
 - b. The extent to which the granting of PC74 will support reductions in greenhouse gas emissions.
 - c. Whether the National Policy Statement for Highly Productive Land (NPS-HPL) objective and policies apply to the site.
 - d. The difference in opinion between the economic experts on the timeframe for when the housing capacity shortfall arises under the National Policy Statement on Urban Development (NPS-UD).
4. The following matters have emerged through the preparation of the expert summary statements:
 - a. Mr. Nicholson's Urban Design Summary Statement identifies a potential for a further walking and cycling connection as an alternative to the SH73 aligned pathway.
 - b. Mr. Bishops Infrastructure Summary Statement addresses concerns from Mr. Langman¹ that there is insufficient certainty around the capacity of the Pines Wastewater Treatment Facility to support the rezoning.
 - c. Mr. Collins Transport Summary Statement supports the inclusion of ODP narrative to require that 36 Rossington Drive (Lot 1 DP 557426) is vested in Council to ensure the road connection between the site and Rossington Drive is established.
 - d. Mr. Foy's Economic Summary Statement supports Mr. Langman's position that the location of the plan enabled capacity is broader than West Melton alone, which is important in determining whether PC74 will support development capacity within the **same locality and market** under Clauses 3.6(1)(b) and 3.6(3) of the NPS-HPL. Mr. Foy's position is that the Housing and Business Capacity Assessment (HDCA)² is determinative in evaluating PC74 against the Clause 3.6 pathway. This is because the latest HDCA groups West Melton with Prebbleton as a housing sub-market, which he considers should be the basis for establishing whether there is existing plan enabled capacity to avoid rezoning highly productive land. Mr. Foy estimates that there is long term supply already enabled to support the projected demand across the Prebbleton and West Melton housing sub-market. He concludes that additional capacity through the

¹ Planning evidence of Mr. Langman on behalf of CCC (PC74-059) and ECan (PC74-061).

² Prepared to give effect to the NPS-UD.

granting of PC74 is not required. This revised position is critical in evaluating the merits of the rezoning request against the pathways provided under the NPS-HPL objective, policies and implementation clauses.

- e. Mr. Foy also agrees with Mr. Langman that PC74 does not represent **significant** development capacity under NPS-UD Policy 8 and Clause 3.8(1) in the context of Selwyn District or the Greater Christchurch Area, while establishing that it is significant in the context of West Melton. This position is also critical in evaluating the merits of the rezoning request against the pathways provided under the NPS-UD objectives, policies and implementation clauses.
 - f. Confirmation of the suggested changes to the PC74 schedule of amendments.
5. This summary statement initially focuses on the points of difference between the council and plan change proponent experts. I then note the matters of relevance that have emerged through the review of the submitter evidence and preparation of the expert summary statements and then assess the submitter evidence.
6. In regard to procedure, I appreciate that Mr. Foy's summary statement in particular introduces new evidence that was not previously covered in the DPR Rezoning Request joint witness statements and there is uncertainty around how the SCGM has determined plan enabled capacity. I also acknowledge that the plan change proponent has not been able to directly evaluate and respond to the issues raised. I therefore would appreciate the right to amend my final recommendation on whether PC74 should be declined or granted following the plan change proponent and submitter hearing presentations.

Key points of difference between the council and plan change proponent experts

Minimum net densities

7. Mr. Browns evidence summarises the plan change proponents' position on the minimum net densities and highlights that there is uncertainty in respect to whether an 8hh/ha minimum net density is required to be prescribed in the ODP.³
8. In respect to the minimum net density, I agree with the plan change proponents' experts that the lot size range requirement in the ODP will achieve a minimum net density of 8hh/ha. Mrs. Whites evidence demonstrates that the ODP controls have taken appropriate account of the site context to the extent necessary to maintain the amenity that characterises West Melton. The need to maintain the low-density character of the township is supported by Councils policy position of not applying the RMA-EHS responses to the township under Variation 1 to the Proposed District Plan and the submissions received on PC74. I consider that the density of 8hh/ha represents an appropriate incremental increase from the 6hh/ha densities that are typical in West Melton that will optimise the land, should PC74 be granted.
9. I support Mr. Browns position that 8hh/ha was the preferred net density based on Mrs. White's urban design evidence and that it can be effectively achieved through the lot size range and distribution requirements of the ODP. I agree that it is not necessary to require the minimum net density to be included in the ODP narrative. Its inclusion may improve the administration of the plan by providing certainty on what minimum net

³ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 59 to 71 and para. 156 to 159).

density is required to be met. However, the lot size range rather than density has been prescribed in the SDP West Melton ODPs to achieve the desired character and amenity outcomes.⁴

Greenhouse gas emissions

10. Mr. Browns evidence summarises the plan change proponents' position on the extent to which PC74, and the subdivision and land development it would enable, may contribute to greenhouse gas emissions.⁵
11. I maintain that the granting of PC74 is likely to generate additional greenhouse gas emissions but that this is not sufficient grounds to decline PC74. This is because the required responses are beyond the control of the plan change proponent and the expert evidence establishes that PC74 satisfies the balance of the matters that constitute a well-functioning urban environment under the NPS-UD.

Application of the NPS-HPL

12. Mr. Browns evidence summarises the plan change proponents' position on whether the NPS-HPL applies to the site and whether the acceptance of PC74 would give effect to the objective and policies on the national policy statement.⁶
13. I prefer Council's legal opinion that sets out why the NPS-HPL should be applied to the Rural (Inner Plains) Zone.

Housing capacity shortfall

14. Mr. Browns evidence summarises the plan change proponents' position on development capacity.⁷
15. I am satisfied that the economic evidence establishes that there is a shortfall of plan enabled and infrastructure ready housing capacity to meet projected demand in West Melton. However, this position is premised on my current reliance on Mr. Foy's amended position that this shortfall has been met as PC74 should be evaluated against the plan enabled capacity provided within the combined Prebbleton and West Melton housing sub-markets.
16. The plan change proponent's expert planning and economic evidence raises concerns with the economic evidence presented by Mr. Foy on behalf of Council, which was provided as part of the witness conferencing for the DPR West Melton Rezoning Hearing.⁸
17. I maintain that the latest reporting from the Selwyn Capacity for Growth Model (SCGM) is a relevant consideration and shouldn't be completely disregarded. I acknowledge that the weight that can be placed on the results is reduced due to the uncertainties identified with the assumptions and methodology that have been applied in determining plan enabled capacity and how this influences the estimated housing capacity shortfalls.

⁴ Selwyn District Plan Township Volume Appendices E20 and E20A ODP West Melton.

⁵ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 72 to 95.

⁶ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 102 to 138.

⁷ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 35 to 43.

⁸ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 149 to 154.

Other matters that have emerged through the preparation of the officer summary statements

Additional walking and cycling connection

18. Mr. Nicholson's urban design summary statement identifies a potential alternative walking and cycling connection through the existing utility lots established in the south-east corner of the Gainsborough subdivision (Lots 214 and 219 DP 398852) and neighbouring utility lot proposed under PC74.⁹ This is provided as a possible option to establish an alternative walking and cycling connection to the pathway along SH73 to improve mode shift and accessibility.



Figure 1: Potential alternative route for shared path from southern end of ODP. Source: SDC Officer Urban Design Summary Statement.

19. While I appreciate that this alternative connection would require buy-in from SDC as the asset manager of these utility lots, it may have merit if a safe and efficient connection can be established without compromising the primary use of these sites for utility purposes. I recommend that advice from the plan change proponent and Councils' Assets Team is sought before any amendments to the ODP are formalised.

Capacity of the ESSS

20. Mr. Bishops infrastructure summary statement addresses Mr. Langman's concerns¹⁰ that there is insufficient certainty that there is capacity of the East Selwyn Sewer Scheme to support the PC74.¹¹ In summary, Mr. Bishop establishes that the necessary upgrades to increase the network capacity has been planned and budgeted for within the 2021-2031 Long Term Plan.

Additional ODP narrative – Vesting of the future road connection

21. Mr. Collins transport summary statement supports the inclusion of ODP narrative to require that 36 Rossington Drive (Lot 1 DP 557426) be vested in Council to ensure the

⁹ Officer Urban Design Summary Statement, para. 3.9 & 3.10.

¹⁰ Planning evidence of Mr. Langman on behalf of CCC and ECan, para.130 to 139.

¹¹ Officer Infrastructure Summary Statement, para. 11 to 13.

road connection between the site and Rossington Drive is established.¹² This property contains an established dwelling and sits next to an access leg that connects the PC74 site¹³ to Rossington Drive.

22. I understand that 36 Rossington Drive is owned by the plan change proponent for the express purpose of enabling the through connection to be achieved. As a result, I consider that it is highly unlikely that the developer would not vest this property as road through any subsequent subdivision process if PC74 is granted. This is because if 36 Rossington Drive was sold to a third party, then the subdivision would fail to accord with an operative ODP. An alternative connection point would then need to be established, which would likely require the acquisition of privately owned land with associated costs, time delays and uncertainties to the developer.
23. While I agree that the inclusion of ODP narrative to require 36 Rossington Drive to vest as legal road at the time of subdivision would provide certainty, I do not consider that it is essential based on the context described above.

Does PC74 support capacity within the same locality and market under the NPS-HPL?

24. As identified in the introduction, Mr. Foy¹⁴ and Mr. Langman's¹⁵ positions are that the location of plan enabled capacity is broader than West Melton alone in the context of Clause 3.6(1)(b) of the NPS-HPL. This is because Clause 3.6(3) establishes that development capacity is determined to be **within the same locality and market** where it is identified through a housing capacity assessment prepared under the NPS-UD.¹⁶
25. Mr. Foy considers that West Melton should at least be grouped with Prebbleton for the purposes of applying Clause 3.6(1) as that is a housing sub-market identified in the latest HDCA. He goes on to establish that there is long term plan enabled capacity provided within both townships to meet demand within the housing sub-market.¹⁷ Mr. Foy concludes that PC74 does not pass the NPS-HPL pathway as there is sufficient plan enabled capacity available within the housing sub-market to the extent necessary to avoid the need to rezone highly productive land under Clause 3.6(1)(b).¹⁸
26. While I consider that the application of the MRZ to Prebbleton through Variation 1 to the PDP is likely to make West Melton a distinctly different low density housing sub-market, it is unclear whether that will be acknowledged in the next HDCA. I am aware that the economic evidence of Mr. Colegrave¹⁹ and real estate evidence of Mr. Jones²⁰ for the plan change proponent cover the (in)appropriateness of grouping Prebbleton with West Melton as a housing sub-market. However, I understand that Mr. Foy's position relates to the application of Clause 3.6(1) of the NPS-HPL that has not been specifically covered in the plan change proponent's evidence to date.
27. At this point in time, I am reliant on Mr. Foy's expert economic analysis pending any legal submissions or rebuttal evidence from the plan change proponent on this matter. I

¹² Officer Transport Summary Statement, para. 3.5 to 3.7 & 4.2.

¹³ 163 Halkett Road Lot 2 DP 557426 and Lot 1 DP 34902.

¹⁴ Officer Economic Summary Statement, para. 40 to 44.

¹⁵ Planning evidence of Mr. Langman on behalf of CCC and ECan, para. 101.

¹⁶ NPS-HPL Clauses 3.6(3)(a) & (b).

¹⁷ Officer Economic Summary Statement, para. 29 to 31.

¹⁸ Officer Economic Summary Statement, para. 52.

¹⁹ Economic rebuttal evidence of Mr. Colegrave on behalf of Hughes Developments Ltd, para. 68 to 75.

²⁰ Real Estate rebuttal evidence of Mr. Jones on behalf of Hughes Developments Ltd, para. 16 to 30.

therefore agree that PC74 is unable to satisfy the pathway provided under the NPS-HPL as it will not give effect to Clauses 3.6(1)(b) or 3.6(3) or the supporting objective and policies.

Does PC74 represent significant housing capacity under the NPS-UD?

28. As identified in the introduction, Mr. Foys²¹ revised position following a review of Mr. Langman's²² planning evidence is that the capacity that would be enabled through PC74 is not **significant** in the context of the wider Selwyn District or Greater Christchurch sub-region under Policy 8 and Clause 3.8(1) of the NPS-UD. Mr. Foy substantiates this by identifying that the 124 lots enabled through PC74 represents 0.8% of the total plan enabled capacity and when assessed against other plan changes requests being considered by Council. He considers that PC74 is significant in the context of West Melton, representing an 18% in medium term capacity.
29. Mr. Foy concludes that PC74 does not pass the NPS-UD pathway as the plan enabled capacity that would be enabled through the granting of PC74 would not be significant in the context of the NPS-UD Policy 8 and Clause 3.8(1).²³
30. I note that the economic evidence of Mr. Colegrave²⁴ and real estate evidence of Mr. Jones²⁵ for the plan change proponent cover the extent to which PC74 supports significant increases in capacity for the township. However, I understand that Mr. Foys position is that the additional plan enabled capacity is not significant when considered across the Prebbleton and West Melton housing sub-market, or the wider Selwyn District or Greater Christchurch housing market.
31. At this point in time, I am reliant on Mr. Foys expert economic analysis pending any legal submissions or rebuttal evidence from the plan change proponent on this matter. I therefore agree that PC74 is unable to satisfy the NPS-UD pathway by virtue of it not being able to give effect to Policy 8 and Clause 3.6(3) or the supporting objectives and policies.

Schedule of amendments

32. Mr. Browns evidence identifies an error in Appendix 8 of the s42A report,²⁶ where an incorrect reference to the land use zone that is being sought by the plan change proponent has been included in the schedule of amendments. This is a typographical error and should read:

<u>Township</u>	<u>Zone</u>	<u>Average Allotment Size Not Less Than</u>
West Melton	... Living WM North Medium Density <u>Living WM NorthEast Medium Density</u>	Minimum lot area of 500m ² and maximum lot area of 3000m ² (Appendix 20A) ...

²¹ Officer Economic Summary Statement, para. 28.

²² Planning evidence of Mr. Langman on behalf of CCC and ECan, para. 48 & 49.

²³ Officer Economic Summary Statement, para. 52.

²⁴ Economic rebuttal evidence of Mr. Colegrave on behalf of Hughes Developments Ltd, para. 87 to 90.

²⁵ Real Estate rebuttal evidence of Mr. Jones on behalf of Hughes Developments Ltd, para. 13, 14 & 31.

²⁶ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 29.

33. I support the amendments made to the ODP in response to the submissions received and the recommendations of the various discipline experts, which are usefully listed in Mr. Browns evidence.²⁷ It may also be beneficial to include additional narrative requiring that 36 Rossington Drive is vested in Council at the time of subdivision, while noting that I do not consider it is fundamental.

Submitter evidence

PC74-061 ECan and PC74-059 CCC

34. Mr. Langman's evidence highlights the complexity at play in achieving integrated, high-quality urban environments across the Greater Christchurch sub-region within the current statutory planning context.
35. While Mr. Langman raises several points of concern in respect to whether PC74 is able to satisfy the relevant statutory tests, I am satisfied that the majority of these concerns have been addressed in the evidence.
36. I do not agree that the absence of CRPS criteria for determining what plan changes will be treated as adding significant development capacity under Clause 3.8(3) represents sufficient grounds to decline PC74.²⁸ This is because the NPS-UD places the onus on regional councils to initiate the necessary changes to assist in determining the merits of unanticipated or out of sequence developments.
37. The two critical aspects of Mr. Langman's evidence relating to whether PC74 can give effect to Clause 3.6 of the NPS-HPL (in respect to whether it is required to support capacity within the same locality and market) and Policy 8 and Clause 3.8 of the NPS-UD (in respect to whether it represents significant housing capacity) have been evaluated above. My amended position to support these aspects of Mr. Langman's evidence is directly informed by Mr. Foys expert economic analysis on these two matters pending any legal submissions or rebuttal evidence from the plan change proponent.

PC74-0072 CIAL

38. The CIAL legal submission provides a useful summary of the context of the submission and how the review and updates to the airport flightpath is progressing. I agree that it is critically important to protect the efficient operation of the airport, which is nationally significant infrastructure. However, I maintain that there is insufficient certainty on whether the Air Noise Contour will extend into the site or how it will be implemented through changes to the statutory planning instruments to decline PC74 at this time.

Conclusion

39. There is a general consensus amongst the experts that PC74 has satisfied the majority of the statutory tests to the extent that it will give effect to most of the objectives and policies of the NPS-UD and NPS-HPL, which provide pathways to support unanticipated or out of sequence development to provide development capacity.
40. The only exceptions relate to Mr. Foys position that PC74 will not provide significant development capacity that is required to satisfy NPS-UD Policy 8 and Clause 3.8(1), and that there is long-term capacity within the same locality and market under

²⁷ Planning evidence of Mr. Brown on behalf of Hughes Developments Ltd, para. 54.

²⁸ Planning evidence of Mr. Langman on behalf of CCC and ECan, para. 62 to 64.

Clauses 3.6(1)(b) and 3.6(3) of the NPS-HPL that avoids the need to rezone highly productive land.

41. Consequently, my revised recommendation is that the relevant statutory matters in relation to a plan change requests have not been appropriately addressed (sections 31, 32, 74 and 75), and that PC74 will fail to achieve the overall purpose and principles set out in Part 2 of the RMA. This is on the basis of Mr. Foy's evidence that the granting of PC74 will not give effect to the relevant objectives, policies and implementation clauses of the NPS-HPL and NPS-UD.
42. As identified elsewhere in this summary statement, I appreciate that this is new evidence that has not been previously covered, there is uncertainty around how the SCGM has determined plan enabled capacity and that the plan change proponent has not been able to directly evaluate and respond to the issues raised. I therefore would appreciate the right to amend my final recommendation on whether PC74 should be declined or granted following the plan change proponent and submitter hearing presentations.



Craig Friedel