

Before an Independent Commissioner
Appointed by the Selwyn District Council

Under	the Resource Management Act 1991
In the matter of	a hearing on Plan Change 79 to the Operative Selwyn District Plan
	Birchs Village Limited
	Proponent

Summary Statement of Sally Elizabeth Elford

1 May 2023

Proponent's solicitor:
Alex Booker | Samantha Gardner
Anderson Lloyd
Level 3, 70 Gloucester Street, Christchurch 8013
PO Box 13831, Armagh, Christchurch 8141
DX Box WX10009
p + 64 3 379 0037
alex.booker@al.nz

**anderson
lloyd.**

Summary of evidence

- 1 My name is Sally Elizabeth Elford.
- 2 I prepared a statement of evidence dated 17 April 2023 in relation to planning aspects of the PC79 application for a change of zoning from rural to residential and commercial. My qualifications and experience are set out in that statement of evidence.
- 3 While this is not an Environment Court proceeding, I confirm I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court.
- 4 My role in relation to PC79 was to prepare the original plan change request application; the updated version of the application (inclusive of the intensification requirements) and the response to Council's Request for Further Information.

Summary

- 5 There are a number of considerations and experts who have provided evidence in support of PC79. As so succinctly stated in the s42A report the issue distils down to a question of whether the application site should become urban, allowing for residential use, with a supporting component of commercial or remain rural.
- 6 PC79 will have significant positive effects (economic, social and cultural) and can adequately address potential adverse effects on the environment as a result of the eventual development, which outweigh the loss of land identified as highly productive but with low productive capacity.
- 7 From a policy framework perspective, the hierarchy of applicable planning legislation is clear, National Policy Statements and regional policy statements are required to be given effect to, with lower hierarchy documents required to align with higher order direction. In this case there is an interplay between a recent National Policy Statement seeking intensification of existing urban areas and the Canterbury Regional Policy Statement. I will discuss this later in my summary statement in response to the planning evidence provided by the Canterbury Regional Council.

NPS-UD

- 8 The NPS-UD allows for consideration of future expansion of urban areas, in certain specific circumstances.
- 9 Objective 1 of the NPS-UD seeks well-functioning urban environments, the elements of which are prescribed in Policy 1 of the NPS-UD and have been assessed in Appendix 13 of the application and addressed in my evidence in chief. In my opinion the elements of a well-functioning urban environment as defined by the NPS-UD are met.

- 10 Policy 2 requires “at least” sufficient development capacity to be provided at all times. A shortfall in development capacity has been identified for Selwyn and Prebbleton specifically in both the medium and long term, in the evidence of Mr. Colegrave. Mr Christie identifies an unmet need for Māori values and aspirations for urban development.
- 11 Policy 6 directs decision makers to have particular regard to the planned urban form of RMA documents which have given effect to the NPS-UD, as discussed previously the CRPS has not yet been updated to align with the NPS-UD in term of areas for future growth. This policy also requires consideration of the benefits of urban development consistent with well-functioning urban environments. Benefits of PC79 have been assessed in terms of economic benefits and the ability to provide housing for an unmet demand (Mr. Colgrave); social benefits (Ms. Konigkramer); cultural benefits (Mr. Christie and Ms. Lauenstien). Environmental effects have also been addressed through the evidence of Mr. Farrelly with respect to reduction of GHG emissions relative to other greenfield sites, due to density, proximity to Christchurch City and the presence of both public and active transport routes.
- 12 As has been discussed throughout the expert evidence, Policy 8 of the NPS-UD allows decision-makers consideration of out of sequence development areas so long as they contributing to a well-functioning urban environment and provide significant capacity. I recognise the development is out of sequence, being a new urban area outside of any of the previously considered expansion areas for Prebbleton; however, it adds significant capacity and meets the requirements of a well-functioning urban environment. It is adjacent to Kakaha Park which is also a new area and outside of any previously considered expansion areas for Prebbleton.
- 13 I also note no additional significant land areas are recommended to be rezoned in the Proposed District Plan, only existing identified areas carried through, nor am I aware of any Council initiated plan change to create residential land in the lifetime of the Operative District Plan. Instead, Council appears to be relying on the steady stream of privately initiated plan changes to provide new residential areas. The Council has driven the direction of these through strategic directions such as township structure plans and the rural residential strategy etc. As I have concluded in my evidence in chief, and based on the evidence supporting this plan change, these documents now need to be considered in the context of the more recent national thinking of NPS-UD.
- 14 As discussed in the s42a report the delivery of significant capacity also relies on the supporting development infrastructure and the conveyance of wastewater was identified as a potential constraint. Given this matter was recognised within the s42A report as “not insurmountable” and has now been further addressed by the

evidence of Mr Simon Marshall with a range of feasible options proposed for the wastewater conveyance, in my opinion PC79 can pass the Policy 8 test, and gives effect to the NPS-UD.

NPS-HPL

- 15 Land based primary production of the PC79 site is currently enabled through the Inner Plains zoning, however much like the enablement of intensification this does not necessarily make it so. The current use of the site is residential lifestyle (which is also enabled at a rate of 1 dwelling per 4 ha) rather than primary production, the existing low productive use and fragmentation through legal property ownership alone would make land assembly for a farming economic unit untenable. Legal submissions have addressed the use of the Site and whether the NPS-HPL applies.
- 16 If the NPS-HPL applies, it provides for the urban use of productive land, in certain specific and prescriptive circumstances. I have been asked to consider the evidence against these circumstances.
- 17 Mr Colegrave, Mr Mthamo and Mr Everest have all considered the various requirements of the NPS-HPL exemptions. Specifically Clause 3.6(1)(a)-(c) and Clause 3.6(5) (which Ms Lauenstein has also considered) .
- 18 Based on the evidence provided, I conclude the exemption requirements of the NPS-HPL Clause 3.6(1),(2), (3) and (5) are met, and rezoning of the application site may be allowed, as per Policy 5 which states urban rezoning is to be avoided, except as provided in the NPS-HPL. The tie to the NPS-UD from the NPS-HPL, in terms of rezoning land is Clause 3.6(1)(a).
- 19 I consider PC79 meets the exemption criteria of both the NPS-HPL (if it applies, as has been addressed in legal submissions) and the NPS-UD and is appropriate given the low productive capacity of the application site, its contribution to a well-functioning urban environment and ability to provide supply for an unmet demand in housing in the medium and long term.

Response to submissions

- 20 I have read the statement of Mr. Benjamin Love, dated 24 April 2022.
- 21 Mr. Love focuses on the issue of urban sprawl and low density residential use, identifying the inefficiency of both, which in principal I agree with. The most inefficient zones, in terms of the cost of infrastructure provided verses the number of ratepayers currently in Prebbleton is the serviced large lot living zones (L3, L2A

and the Kingcraft EDA), which comprise around 43%¹ of the land area of Prebbleton. As discussed in the evidence of Ms. Lauenstien these areas are considered unavailable for intensification and the CRPS more generally does not support the intensification of rural residential areas².

- 22 Mr. Love points out the critical importance of locating density near public transport routes. In this case a higher density is proposed (minimum of 15hh/ha) than typical greenfield development (12hha/ha) and within 800 m or so of an existing public transport route, with connectivity provide throughout the site to the commercial area and Kakaha Park.
- 23 Mr Love also points out the value of mixed use areas and benefits of reducing car dependency. Both of which are provided for within the PC79 area and location.
- 24 I have read the statement of Mr Kirk Lightbody, dated 24th April 2023, on behalf of Christchurch City Council.
- 25 The CCC submission and evidence considers PC79 does not give effect to the NPS-HPL, primarily due to sufficient development capacity being provided for within Prebbleton.
- 26 As Mr. Lightbody has identified Clause 3.6(1)(a) of the NPS-HPL can only be used to provide sufficient demand capacity to give effect to the NPS-UD. Policy 2 of the NPS-UD requires territorial authorities to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.
- 27 Mr Colegrave has provided analysis and evidence there will still be a shortfall in the medium term housing supply for Prebbleton. Mr. Colegrave has identified issues with the estimates provided by Council with respect to supply and demand for housing going forward, no further evidence in response to Mr Colegrove's concerns has been submitted. Therefore, based on Mr. Colegrove's evidence there is insufficient medium and long term supply, which under the NPS-UD Policy 2 must be provided at all times.
- 28 I have read the statement of evidence of Mr Thomas Fraser dated 23rd March 2023.
- 29 While the evidence provided by Mr Fraser is predominantly to do with matters addressed by the expertise of by Mr. Mthamo and Mr. Everest, he has also raised

¹ PC79 Application, dated 13/04/202, page 8.

² Policy 6.3.9(7) of CRPS A rural residential development area shall not be regarded as in transition to full urban development.

question regarding alternative locations for future urban expansion for Prebbleton. While I can appreciate Mr Fraser is looking at this from a System Scientist perspective, there appears to have been little analysis given to the planning context of the area suggested, with the exception of noting the powerlines. This area has the same zoning as the application site (Inner Plains), fairly similar uses (4 ha rural lifestyle blocks) and approximately 30 different land owners.

- 30 Shands Road has developed as the western extent of Prebbleton, this is supported in the evidence of the various experts involved in PC79. In order for the urban extent of Prebbleton to jump this road, a similar process of investigation and assessment as for PC79 would have to be undertaken. While Mr. Fraser has suggested the presence of the powerlines is not insurmountable, it would lead to fragmentation of an urban form, and inefficiency in terms of servicing and likely economic feasibility issues due to land which could not be used. I consider it highly unlikely Selwyn District Council would initiate such a zoning change and issues arise where not all of the landowners in an expansion area are willing to develop. Land assembly for large scale development is difficult and can take many years, the biggest point of difference between jumping Shands Road into the area suggested by Mr. Fraser and PC79, is the presence of Kakaha Park, a willing developer (Ngai Tahu) and the predominant existing residential use as summarised in Table 5-3 of Ms. Konigkramer's evidence.
- 31 Mr Fraser suggests the alternative location would be closer to Prebbleton School and the motorway for ease of access. I presume this would be based on private vehicle movements as there are no public transport links or cycle routes to this locality presently. The location would equally be outside of the 1,600 m walkable area identified in the Urban Design evidence of the s42A report and so would have no greater advantage than the application site in terms of compactness. I would also suggest the proximity of Prebbleton School and the motorway would represent two different pull factors, i.e. if one were to be driving a child to Prebbleton School on the way to work in Christchurch City it would seem unlikely they would then double back to go to the motorway rather than use Springs Road, which also provides a direct connection.
- 32 Taking into consideration the above factors, the application site offers a point of difference from the land suggested by the submitter. The site is currently used for

rural lifestyle³ rather than rural production⁴, has low productive use, challenges to economically viable land based primary production, a willing developer, multi-model connectivity and a brand new recreational facility adjoining.

- 33 I have read the statement of evidence provided by Ms Serena Orr on behalf of the Canterbury Regional Council dated 21 April 2023.
- 34 I have already discussed the elements of the NPS-UD and NPS-HPL exemptions which I believe PC79 meets. However, I acknowledge there remains tension with some of the objectives and policies identified by Ms. Orr. The objectives and policies are not necessarily superseded by the NPS-UD but they need to be read in the context of the changing national direction. The tension with the objectives and policies as identified by Ms. Orr can only be relieved through alignment and consistency with the higher order documents (NPS-HPL and NPS-UD), which I believe PC79 achieves, otherwise no new urban areas could ever be considered. I do not believe it is the intent of either Policy Statement to prevent any future urban expansion, rather it is to give decision makers the opportunity to pause and carefully consider any potential expansion.
- 35 Ms. Orr considers PC79 will not give rise to a well-functioning urban environment, adding the qualifiers of cohesive and consolidated, which are not necessarily elements identified in the prescription of a well-functioning urban environment as identified in Policy 1 of the NPS-UD. Matters of cohesion and consolidation have been addressed in the evidence of Mr. Compton-Moen and Ms. Lauenstien who have given consideration to the long term form of Prebbleton, given the presence of Kakaha Park.
- 36 New areas for expansion may only ever be located on the edges of townships, however Objective 6.2.1 does not allow for consideration of new urban areas, period. My understanding is this was primarily to focus on rebuild efforts after the earthquakes to ensure the urban form did not end up with pockets of new development, resulting in challenges to infrastructure servicing, or the creation of unconsolidated sprawl. With respect to Prebbleton, approach has been successful as nearly all areas previously identified for any future urban development have now been taken up. As previously presented there is now a supply shortfall. This is

³ Rural lifestyle as defined by the National Planning Standards means: Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.

⁴ Rural production zone as defined by the National Planning Standards means: Areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

where the NPS-UD I believe is intended to come in and provides further guidance on this very matter. As with District Plan, it is no easy task to undertake a review of Regional Policy Statements. If we accept the premise no new urban areas are to be created ever, then yes PC79 is inconsistent with the objectives and policies identified by Ms. Orr. However, given the practical challenges this presents in a long term scenario for urban form, I do not believe this to be the case.

- 37 Objective 6.2.2 also directs avoiding unplanned expansion of urban areas, again if we are to accept the premise no new areas are ever to be created then PC79 would be considered inconsistent. However, the detail of this objective also seeks to achieve development in locations where there is demand and to provide self-sufficient growth for townships, including Prebbleton. There are almost no greenfield areas left for Prebbleton and there continues to be demand, Objective 6.2.2 does not allow for consideration of this circumstance, except under Policy 6.3.12, which Ms. Orr has suggested does not apply.
- 38 With respect to Objective 6.3.1, again the focus is specifically on Map A, which does not have any additional areas identified for Prebbleton and there is uncertainty as to when this may be updated. There is no allowance in this Objective for the situation Prebbleton is currently facing, with a supply shortfall and increasing housing prices. Again, I believe this is where the NPS-UD allows for more responsive consideration and for the reasons discussed previously PC79 meets.
- 39 Ms. Orr has raised concerns with the flood modelling presented for the site – noting this was provided by CRC – and is subject to patches of High Hazard Area. I agree this is a relevant consideration at the time of subdivision and further add it is adequately provided for both at the time of subdivision (when more detailed design takes place) and further mitigation provided at the time of building consent when Finished Floor Levels are typically determined. These processes will ensure updated modelling is taken into account once the final land use and layout is determined. Council has the policy and discretion means to address this risk at the time of subdivision. The flooding risk identified on the site is not so significant that standard subdivision design and use of Finished Floor Levels cannot adequately mitigate the risk to an acceptable level. In addition, areas of the greatest risk will likely be utilised for stormwater retention and disposal as identified on the proposed ODP.

Urban Growth

- 40 Commentary on PC81 and 82, which were recently declined, raised an issue of strategic growth, questioning the value of amending the Operative District Plan verses rezoning through in a more strategic manner through the Proposed District Plan process.

- 41 It is noted prior to the most recent RMA update to require local authorities to prepare a spatial plan with a 30 year horizon, there was no such requirement. The District Plan was effectively the only document that determined where urban growth was enabled. Selwyn prepared area structure plans, outside of the District Plan process, to provide additional guidance. As already discussed these are well out of date.
- 42 The Operative Selwyn District Plan was notified in two volumes (Rural Volume in 2000 and Township Volume in 2001), with the majority of provisions being made operative in 2008 and the entire plan becoming fully operative in 2016. This illustrates the long-time frames associated with a District Plan Review, despite the requirements under s79(1) of the RMA for a review every 10 years, over 15 years transpired from notification to becoming fully operative. It is also noted the current District Plan review was started in 2015 (a year before the current operative plan became fully operative), was notified in October 2020 and now in May of 2023 heading towards hearings. There is no requirement for all of the developable land to be used before introducing an updated District Plan, this would be impractical and would cause a significant delay in providing for unmet demand if owners of urban zoned land were simply not willing to develop.
- 43 Incorporating rezoning on a long term horizon within the District Plan update process in my view would add significant complexity cost, and in the interim uncertainty, to a process which has already had significant delays. Selwyn has not typically proposed zoning changes, rather they have relied on private developers to make the appropriate investigations, investment and application for private plan changes, guided by the District Strategic growth documents. Private plan changes, offer the opportunity to react and provide for unmet demand in a shorter timeframe than an entire District Plan review, supported by a willing developer.
- 44 I understand the question of whether changes to the Operative Selwyn District Plan are appropriate, with respect to new directions for growth, given its imminent end. However, based on the timeline associated with the current District Plan becoming operative, the suggest replacement of the Operative Plan in 18 months might be optimistic. I am aware of other District Plan going through review where operative chapters remain with legal effect and new chapters operate concurrently.
- 45 In my opinion District Plans are not easily updated as a whole - it is a process which takes significant cost and time. These are not documents which can easily pivot with changing circumstances; however, plan changes (private or council initiated) do allow changes to be made, without requiring a whole review.
- 46 This is not to say the private plan change process is easy or undertaken on a whim, as we have seen there is a considerable amount of evidence and expertise that goes into establishing whether a site is appropriate for the proposed zoning. Mr.

Compton-Moen and Ms. Lauenstien have provided considerable assessment of the long term urban form of Prebbleton, taking into consideration the current context, and policy direction from both the Operative and Proposed District Plans. The presence of Kakaha Park has extended the urban limit south already.

- 47 Until recently there was no spatial or long term strategic planning requirement of Council's or District Plans, the contents which must be included in a District Plan are specified in s75 of the RMA, namely: the objectives for the district; the policies to implement the objectives; and the rules (if any) to implement the policies. The preparation of a spatial plan with a 30 year horizon, the Greater Christchurch Spatial Plan is underway – a process separate to the District Plan Review.
- 48 Background documents and high level maps have been released as part of the spatial plan process – these show a wrapping around of Prebbleton, essentially incorporating it into the City of Christchurch. The plan so far, is light on detail with the results of consultation anticipated some time in May 2023.
- 49 Given the uncertainty of timeframes and the level of detail to be provided in the Greater Christchurch Spatial Plan and the urban form analysis provided by Ms. Lauenstien aided by Mr. Compton-Moen, amendment of the Operative District Plan, coupled with a submission on the Proposed District Plan is in my opinion the appropriate process for PC79.

Conclusion

- 50 On balance, based on the evidence provided with respect to unmet demand and low productive potential of the application site, PC79 can meet the exemption requirements of both the NPS-UD and the NPS-HPL (if it is considered applicable).
- 51 Further to this the elements of a well-functioning urban environment as prescribed by the NPS-UD, can also be meet.
- 52 Constraints have been identified to future expansion of Prebbleton to west, north and east. The presence of Kakaha Park to the south of the township provides a corner anchor and the application site adjacent to this, being relatively free of constraints, provides a new direction for growth, not previously anticipated. Ms Lauenstein and Mr. Compton-Moen have provided an analysis of the constraints and offered an alternative for the future expansion of Prebbleton to the south. This direction is consistent with, and is adjacent to, the SDC advanced urban park (Kakaha Park) already partially completed and in use.
- 53 In conclusion, based on the evidence provided, the proposed zoning represents the highest and best use of the application site, given the location, constraints on productive use and contribution to addressing a shortfall in housing supply. It is more appropriate than the existing zoning.

Sally Elizabeth Elford

Dated this 1st day of May 2023