

RESOURCE MANAGEMENT ACT 1991

SELWYN DISTRICT COUNCIL

SELWYN DISTRICT PLAN

PROPOSED DISTRICT PLAN CHANGE NUMBER 61

BY

R & C WRIGHT

TO

**REZONE 30.76 HECTARES OF LAND LOCATED EAST OF DARFIELD ON WEST
COAST ROAD (SH73) FROM RURAL OUTER PLAINS TO A MIX OF BUSINESS
2 AND LIVING 1 (DARFIELD EAST) ZONE**

Decision by

Commissioner Dean Chrystal

Hearings held on 16th April 2021

Appearances:

Council:

Mr Jon Trewin, Council Planner

Mr Murray England, Council Asset Manager – Water Services (by phone)

Mr David Smith, Consultant Transport Engineer

Applicant:

Mr Gerard Cleary (Legal Counsel)

Mr James Hopkins (Consultant Engineer)

Mr Andrew Carr (Consultant Traffic Engineer)

Ms Anna Bensemman (Consultant Planner)

Submitters

Mr James Long for Waka Kotahi - NZ Transport Agency (Safety Engineer)

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

1.0 Introduction

- 1.1 Pursuant to instruction from the Selwyn District Council (the Council) I was appointed to conduct a hearing and make a recommendation on Proposed Change 61 (PC61) to the Selwyn District Plan (District Plan) together with submissions thereon at the Library/Service Centre in Darfield on the 16th of April 2021.
- 1.2 PC61 is a privately initiated plan change by R & C Wright which seeks to rezone a 30.76ha hectare site located on the south-west corner of West Coast Road (SH73) and Creyke Road in Darfield from Rural Outer Plains to a mix of Business 2 and Living 1 (Darfield East) zone. The proposal does not involve any changes to objectives and policies but includes a number of changes and additions to rules. The plan change also includes an Outline Development Plan (ODP) to guide development.
- 1.3 PC61 was publicly notified on the 1st of July 2020, to which 8 submissions were received. No further submissions were received. I note here that the submission of Nancy and Peter Boyes has subsequently been withdrawn and that by W.D Boyes and Sons Ltd T/A Canterbury Clay Bricks has been partially withdrawn.
- 1.4 Of the remaining 7 submissions, five were opposed in some form, one was in partially in support and one was neutral.
- 1.5 The issues raised in submissions generally include:
 - The need for the change in zoning to cater for growth
 - Reverse sensitivity effects from adjacent existing industrial and intensive farming activities
 - Transport safety, connectivity and efficiency including the upgrading of the State Highway 73 (SH73) / Creyke Road intersection
 - Three waters servicing, including wastewater reticulation
 - Flooding
 - Site Contamination
 - The use of highly versatile soils
 - Amenity and buffering and
 - Lack of consultation
- 1.6 A pre-hearing meeting was held on the 11th of March 2021 to discuss transport related issues associated with walking and cycling connectivity, the SH73/Horndon Street intersection, the SH73/Creyke Road intersection and posted speed limits.
- 1.7 Prior to the hearing I undertook a site visit where I was able to view the site from various positions and get an understanding of how it fitted with and linked to the surrounding environment including SH73.

2.0 Section 42A Report

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

Reverse Sensitivity

- 2.2 In terms of reverse sensitivity effects, Mr Trewin considered, based on specialist input, that the air discharge effects of the clay brick plant were likely to be less than minor on the plan change area and that odour effects associated with the poultry farm were also likely to be minor given that the residential component of the PC61 site was outside the 300m buffer required in the District Plan. However, he considered that while a buffer had been provided internally within the Plan Change this was not consistently applied on the ODP and that further work was needed to demonstrate that an adequate buffer would be in place between the immediately adjacent business and residential zones in the north-east of the site. He considered that the standard setback requirement for a dwelling in the Living Zone of 4m from a road boundary should be increased to 10m, where bordering a road that is bounded by the landscape strip for the Business 2 zone.

The Need for and Appropriateness of the Change in Zoning

- 2.3 Mr Trewin noted that the Malvern Area Plan (Area Plan) anticipated growth of 440 households for Darfield over the 15 year period to 2031 but identified that there was existing capacity to accommodate up to 2,274 households within the township boundary. In addition, he said the Area Plan identified that there was 59ha of industrial zoned land of which 23ha was vacant. The Area Plan concluded that there was sufficient available land to accommodate the projected growth without the Council proactively zoning additional residential or business 'greenfield' land before 2031.
- 2.4 Mr Trewin went on to say that Area Plan also identified a number of sites where development may be appropriate before 2031 as part of a private plan change process and that this site was one such site (DAR 6), identified as suitable for low density residential development and potentially a Business 2 zone as an alternative use. He said PC61 was not necessarily a departure from the Area Plan which suggests these uses could co-exist. He also noted that the Proposed District Plan (PDP) identified the site as being part of an 'Urban Growth Overlay' which largely reflected the intent of the Area Plan and signalled that rezoning will be considered in principle.
- 2.5 Mr Trewin agreed that there was a surplus of business and residential land in the township but noted that the Area Plan's relevance, which dated from 2016, would inevitably decrease over time and that it was important not to be bound to its assumptions given the pace of change in the district. He also said the lack of demand for new sections in existing developments was not in-itself a reason to decline the plan change, noting that Ascot Park was a potential competitor to PC61, and the issue may be raised about whether their point about 'oversaturation' of residential zoned land strayed into trade competition. Regardless, he considered there were no sound policy reasons to decline PC61 on the basis of a lack of existing demand for development.
- 2.6 Mr Trewin expressed concern that the lack of a minimum residential lot size with an average density of 1,950m² was problematic as it could lead to inconsistencies in site size. He considered that a minimum size should be

required to maintain amenity. In this context he emphasised that the different sizes to the anticipated average size of 650m² had the potential to undermine the integrity of the 'Living 1' zoning in Darfield and was not ideal. Overall, however he considered there was a balance to be struck between maintaining zone integrity and managing potentially competing uses (business and living) and other site constraints by allowing a flexible approach, utilising larger allotments to allow sufficient setbacks and siting of residential uses in relation to business land. He considered this balance was able to be struck, by increasing the setbacks and ensuring the Business 2 zone standards were met.

Transport Safety, Connectivity and Efficiency

- 2.7 Mr Smith considered the lack of walking and cycling facilities was inconsistent with the District Plan and the Canterbury Regional Policy Statement (CRPS) and it is noted that Mr Trewin agreed with this. Mr Smith was particularly concerned that the potential use of Creyke Road and SH73 for walking and cycling was unsafe given the high speeds and lack of dedicated facilities. He considered a more comprehensive assessment of the impacts on SH73 should be undertaken including consideration of safety effects along the corridor between Creyke Road and Matthias Street, noting that crash analysis and a potential increase in traffic of 23% above the baseline increase indicated that there may be an underlying safety issue which could be exacerbated as a result of PC61. Mr Smith also agreed that there was merit in reviewing speed limits as this corridor became more urbanised including the introduction of a 'buffer zone' of 80 km/h, as opposed to the current change from 50 to 100 east of Matthias Street.
- 2.8 He also considered that the subdivision plan for Ascot Park did not explicitly account for a connection from the PC61 area and any connection for traffic through this subdivision was likely to be somewhat circuitous and unlikely to be substantial in terms of improved vehicular connectivity to the wider network. However, he did support a walking and cycling link in this vicinity to encourage uptake of these modes and provide a safer, lower speed alternative to SH73. He also considered connection to the site to the west was needed to provide safe and direct walking and cycling connectivity to Darfield Township.
- 2.9 In terms of the SH7/Creyke Road intersection, Mr Smith agreed that the subsequent assessment by Mr Carr to address the cumulative effects of approved subdivisions showed a priority intersection had sufficient capacity for the expected traffic flows. However, he considered that the full improvement works should be undertaken prior to development (or subject to an agreed trigger rule) rather than a piecemeal upgrade so as to minimise the effect on the state highway network. In this regard he did support in principle a trigger rule where the full suite of upgrades would be undertaken prior to any business development but after residential development

Three Waters Servicing

- 2.10 With regards to water supply, Mr England considered there was capacity for some growth in Darfield (with restrictions in place on water use). He noted that if a resource consent from Environment Canterbury (ECan) for a new water supply was granted, water could be supplied on-demand to the PC61 area, otherwise each individual lot would need to be provided with a restricted water connection limited to 3 units (3000 litres a day).

- 2.11 Turning to wastewater, Mr Trewin noted that concerns of ECan and the Canterbury District Health Board around on-site treatment and the potential for reticulated system coming forward but felt that the application could only be considered under the current infrastructure constraints on site and that given the lot sizes proposed there was sufficient land area to provide for an onsite discharge subject to regional consents. Mr England said that should a reticulated wastewater system be available in time for the subdivision, connection to this system should be insisted on.
- 2.12 In terms of stormwater, Mr England said that there was a viable means to dispose for the plan change area.

Flooding

- 2.13 Mr Trewin noted that the District Plan would need to give effect to the CRPS in terms of requiring floor levels suitably above the 1:200 year flood. He noted that the information supplied by ECan showed that the maximum predicted flood depths do not exceed 0.5m across the site area and therefore the maximum floor level height need not be above 0.8m above ground level. He also noted that the flood risk was not spread evenly across the site and that most of the site was not in fact identified as being flood susceptible.
- 2.14 Mr Trewin considered a rule requiring an assessment of flood risk and proposed mitigation measures for subdivision and future land uses on the PC61 site was required, however subject to this, he was satisfied overall that the issue of flooding could be adequately addressed through any future resource consents process.

Site Contamination

- 2.15 In terms of site contamination, Mr Trewin noted that ECan's concerns related to the possum pit and another pit which are relatively self-contained, rather than raising the possibility of any wider contamination issues. He was satisfied, based on investigations, that the overall risk from contamination appears to be minor over the majority of the site, but that a detailed site investigation and remediation action plan over the risk area would be necessary. He agreed that this could be adequately addressed through future resource consent processes.

Highly Versatile Soils

- 2.16 In response to concerns around the loss of high versatile soils, Mr Trewin said that the CRPS was only concerned with Class I and II soils, not Class III which the application site contained. He said that while the Proposed National Policy Statement on Highly Productive Land is a future national policy statement it had not been finalised and had no legal effect. He said that whilst soil quality was a relevant issue across the district, in his opinion, the specific issue of highly versatile soils (as currently defined in the CRPS) does not apply to the Plan Change area.

Amenity

- 2.17 Mr Trewin in addressing the concerns of Ascot Park Ltd regarding a buffer along Creyke Road, considered that the Plan Change application would maintain amenity by providing an adequate buffer from the rural zone and, with amendments, between the Business and Living zones internally within the Plan Change area.

Statutory Analysis

- 2.18 Mr Trewin undertook an analysis of the District Plan and other relevant planning documents. He considered PC61 was consistent with the intent of Objective 2 and Policy 1 of the National Policy Statement on Urban Development (NPS-UD) by increasing the availability of land for housing and business in the Darfield area. He also considered the plan change area could be efficiently and effectively serviced in a manner that maintained water quality and quantity and was consistent with the outcomes sought by the Land and Water Regional Plan (LWRP) and that it would not compromise the values set out in the Mahaanui Iwi Management Plan 2013 and was consistent with the Malvern Area Plan and the Selwyn District Development Strategy 2031.
- 2.19 In terms of the CRPS Mr Trewin noted that PC61 was to be considered under Chapter 5 and said that while it achieves some of the outcomes sought by this chapter rules were necessary in relation to flooding and buffering of incompatible activities. Further, with reference to Objectives 5.2.1 and 5.2.2 and Policy 5.3.7, which address the integration of land use and regionally significant infrastructure and the strategic transport network, he considered that PC61 was unable to fully 'give effect' to the CRPS.
- 2.20 Turning to the District Plan, Mr Trewin accepted that PC61 was consistent with a number of existing objectives and policies. However, he did not consider that it had been adequately demonstrated that it met Objectives B2.1.1 and B2.1.2 and Policies B2.1.2 and B2.1.3 which relate to integrating land use and transport planning to ensure the safe and efficient operation of transport infrastructure and avoiding adverse effects from surrounding land use and; requiring that reverse sensitivity effects on the operation of transport networks are avoided and requiring protection of the function of key road corridors. In particular Mr Trewin considered that the potential use of the State Highway to access the site by pedestrians and cyclists without dedicated facilities in a high-speed area was inconsistent with objectives and policies in the District Plan.

Proposed Amendments

- 2.21 Mr Trewin addressed the proposed amendments to the District Plan agreeing with most of the changes but noting that a trigger rule for the upgrade of Creyke Road/SH73 was necessary; that a further setback of 10m for a dwelling from any road boundary bordering the landscape strip attached to the Business Zone was required; that the internal boundary setbacks should be amended to an effective 40m buffer between a dwelling in the Living Zone and the boundary of the Business Zone; that a trigger rule be provided to restrict development until such time that convenient and safe walking and cycling access is secured; and that a rule be provided to ensure that flood risk is assessed and measures are identified that mitigate any identified flood risk prior to the granting of subdivision or land use consents.
- 2.22 Mr Trewin concurred with the amendments to the planning maps but said it may be appropriate for the area proposed to have allotments of a minimum size of 5,000m² to be zoned as Living 2 rather than Living 1. In terms of the ODP he considered it should be amended to specify a minimum allotment size for the area specified as having an average allotment size of 1,950m²; that the status of emergency access be clarified; that an identifiable buffer between business and dwellings be included; and that should a solution be arrived at an amendment to demonstrate that there will be convenient and safe access to the site from Darfield Township for pedestrians and cyclists be provided for.

Conclusion

- 2.23 Mr Trewin said that PC61, to some extent, better achieved the District Plans' objectives than the existing provisions however in its current form it was not consistent with the provisions regarding urban growth management and did not give effect to some of the objectives and policies of higher order documents.
- 2.24 He went onto say that the rezoning was a more efficient use of land given its proximity to the Darfield township boundary and resulted in appropriate concentric development and that servicing was technically feasible through on-site management of stormwater and wastewater and connection to the Council's reticulated water network. However, he considered that it was not clear that the proposal would not result in unacceptable effects on the safe and efficient functioning of the road network which was therefore inconsistent with objectives and policies in the CRPS and the District Plan. In his opinion PC61 would not achieve the purposes of the Act without further assessment and amendments to address this matter. He also said amendments were required to the ODP and rule suite to avoid reverse sensitivity effects within the site boundary and to assess and mitigate the effects of flooding.
- 2.25 Mr Trewin recommended that Plan Change 61 be **declined** unless the applicant was able to provide:
- a) a demonstration that safe and convenient access to the site from Darfield township by walking and cycling in a manner that avoided adverse effects on the State Highway would be in place prior to development.
 - b) a demonstration that the application would not impact the safe operation of the State Highway network, and
 - c) amendments to the proposed ODP and rule suite as set out above.

3.0 Hearing

Applicant

- 3.1 **Mr Cleary** set out the applicant's case noting that the site was identified in the Malvern Area Plan as suitable for growth and more recently had been included within an Urban Growth Overlay in the PDP. He further noted that the plan change did not seek to change any objectives and policies in the District Plan.
- 3.2 Mr Cleary identified that the specific matter that remained in contention between the experts related to walking and cycling access between the site and Darfield township prior to development occurring, noting that the Applicant had proposed some additional amendments on this issue; and the upgrading of the Creyke Road/SH73 intersection.
- 3.3 Mr Cleary went on to identify the statutory framework for assessing the plan change and addressed the management of effects including reverse sensitivity where he submitted that there was an absence of evidence that any nearby existing uses are causing an environmental impact on the site but noted that PC61 was designed to ensure that benign residential development was appropriately separated from potential odour/dust emanating industries on the north side of SH73.

- 3.4 Turning to the road safety issues Mr Cleary outlined the various expert positions on the intersection upgrade but submitted that it was inappropriate at this point in time to mandate that a roundabout (preferred by Waka Kotahi - NZ Transport Agency) be provided as a precondition to development of the PC61 area. He said a flexible approach where an upgrade solution could be determined in consultation with Waka Kotahi - NZ Transport Agency (Waka Kotahi) through a formal Corridor Access Request was preferable and that at this stage the incorporation of a mechanism within the plan change framework to ensure the most appropriate solution is developed is the appropriate approach. He also said that if a roundabout were ultimately agreed and it is confirmed that it would result in identifiable additional benefits to the wider transport network a cost sharing approach between the Applicant and Waka Kotahi may be agreed.
- 3.5 Mr Cleary then considered the objective and policy framework, particularly in relation to the multi-modal connectivity issue. In terms of the CRPS he submitted PC61 was unequivocally consistent with Objective 5.2.1 of the RPS and; that by any realistic interpretation Objective 5.2.3 was not a particularly directive provision and one which contemplates the setting of pre-development bottom lines and that it was important to take into account the fact that the amended ODP positively identifies a range of potential connections. He submitted that taken together the proposed request goes further than what is required by the objectives and policies of the CRPS in terms of the promotion of multi-modal connectivity. He also emphasised in response to Mr Pearson's reference to Objectives 5.2.1, 5.2.2 and 5.2.3 that the amended framework proposed by PC61 sets out a regulatory process whereby the outcomes sought by these objectives could be achieved.
- 3.6 Finally, Mr Cleary submitted that the amendments to PC61 were such that it would implement the existing objectives and policies of the District Plan.
- 3.7 In his evidence, **Mr Carr** said that subject to the matters relating to the upgrading of the SH73/Creyke Road intersection, he considered that the conclusions of his initial Transportation Assessment remained valid; and that the proposed plan change could be supported from a traffic and transportation perspective.
- 3.8 In response to submitters concerns Mr Carr noted that the matter of speed limits on the state highway was not within the control of the plan change proponent and that traffic generated by development of the PC61 area would not adversely affect the SH73/Horndon Street intersection.
- 3.9 In response to the Council officers report Mr Carr noted there were here were a number of areas on which he and Mr Smith agreed, and he therefore focused on the areas of disagreement around the safety of the state highway, and walking/cycling connectivity.
- 3.10 On the issue of safety of the highway between Creyke Road and the urban boundary Mr Carr analysed the crash history and did not consider that the records indicated that there was a significant road safety concern on this section of highway. He also said it was relevant to the safety of the highway that an intersection upgrade was proposed which would be linked to development triggers including no residential development permitted until such time as the southern approach of Creyke Road was 'straightened up' so that the carriageways met at 90 degrees (plus or minus 20 degrees) and no business development permitted until the intersection was upgraded. In his view there was no need to specify exactly what upgrade was required because any upgrade could only be carried out with the approval of Waka Kotahi under a Corridor Access Request.

- 3.11 Mr Carr noted that notwithstanding the existing safety-related deficiency at the intersection, it had not been raised by either the Council or Waka Kotahi when considering Plan Changes 24 or 48, both of which would increase traffic flows through the intersection.
- 3.12 Mr Carr noted that Mr Smith supported his proposed arrangement in principle but recommended that all intersection improvements (seemingly including the auxiliary turning lanes) were carried out in one stage in order to minimise disruption to traffic on the highway. Mr Carr disagreed with this approach, firstly because the majority of works associated with the initial upgrade would not affect the main carriageway of the highway, and secondly, because the provision of the full intersection upgrade in order to simply accommodate the traffic generation associated with 35 residences was not, in his view, reasonable to address the effects. He went on to say that while he agreed with Mr Smith that the speed environment around the site should be addressed, and speed limits reduced, his analysis was not based on such a reduction because the plan change proponents could not implement such a change.
- 3.13 In terms of the connectivity issue, Mr Carr was of the view that the core matter for Mr. Smith was one of timing. He noted that once plan change area and the areas to the south and west were developed there would be appropriate connectivity for walking and cycling and that Mr Smith specifically supports the proposed connections to these areas.
- 3.14 While he acknowledged that Waka Kotahi did not wish to see any direct connection onto the highway from the north-western corner of the site, Mr Carr noted that there was a separation of 7m between the southern edge of the state highway carriageway and the legal road reserve which was easily sufficient to construct a shared walking and cycling route (which would typically be a maximum of 4m wide) and as such, there was a design solution to the concerns that had been raised.
- 3.15 Notwithstanding the above, Mr Carr questioned whether it was reasonable to anticipate that development of the plan change area would proceed when development to the south and west was not progressing. He suggested that if demand were sufficiently high such that the residential aspects of PC61 progresses, it could be expected that this same demand would also mean that the areas to the south and west were also being developed. This would then create the ability to form the linkages shown in the ODP. Conversely, if there was little demand for residential development in areas to the south and west, he would not expect that there would be significant demand for residential development in the proposed plan change area and the need for any walking/cycling links was therefore minimised.
- 3.16 Mr Carr acknowledged that the same argument could not be made for the non-residential activities, because demand for business use and residential use were not the same. However, he said that the plan change provisions already set out that no business development could proceed until the SH73/Creyke Road intersection was upgraded and that it would be straightforward to slightly amend this to also include that business activities cannot develop until the intersection is upgraded and a suitable walking/cycling link was provided towards Darfield.
- 3.17 In his conclusion Mr Carr said the 'trigger' for the upgrading of the highway could be simplified, such that:

- (a) No residential development can occur until the southern approach to the intersection is 'squared up' (that is, the existing acute angle that the road meets the highway is eliminated and Creyke Road (south) meets at 70 to 110 degrees.
- (b) No non-residential development can occur until such time as auxiliary left-turn and right-turn lanes are provided for vehicles turning to/from the highway.
- (c) No non-residential development can occur until such time as a suitable walking/cycling link is provided between the plan change area and the existing urban area of Darfield.

3.18 In response to questions Mr Carr agreed that the form of the intersection upgrade itself was not a matter I could decide upon but emphasised that in his view the Applicant in this case should not be required to pay for the whole upgrade. He also said that connectivity in this area of Darfield was uncoordinated at present, but that he was comfortable with the future connections proposed and that there was no risk of this site developing as an island.

3.19 **Mr Hopkins** said that, with respect to three-water services it would be practicable to develop the PC61 area in accordance with the proposed zoning and that water supply, wastewater disposal and stormwater disposal solutions exist that will not generate adverse effects on the receiving environment. In response to my question, he considered the wastewater pipeline to Rolleston was likely to be established before any development took place on this site.

3.20 **Ms Bensemann** provided an overview of the plan change request and amendments proposed since it had been lodged. She said she agreed with aspects of the s42A report and disagree with others, noting that the key matters of disagreement related to Mr Trewin's assessment of issues raised by submitters and assessment of Objectives and Policies in both the CRPS and the District Plan.

3.21 Ms Bensemann considered the key issues associated with the plan change were reverse sensitivity with existing activities, and between future activities within the site; demand for growth; transport safety, connectivity and efficiency; wastewater servicing; flooding; highly versatile soils; and amenity effects. She went onto address each of these. Of particular note were:

- A 40m setback within the Proposed Business Zone was now provided along the eastern boundary of the Business Zone to create the same sense of separation between activities in different zones.
- To address the issue of walking and cycling links a further assessment matter specific to the application site could be included seeking that residential development did not progress until such time external walking/cycling connections were in place, either through Ascot Park, or via other suitable means.
- While an additional site specific rule on the flood hazard risk was not considered necessary, it could be included as a rule along the lines of that recommended in the Section 42A report.
- That residential allotment sizes with a minimum of 5,000 m² combined with the width of Creyke Road itself, would provide a sense of larger allotments fronting this road boundary and ensure the avoidance of adverse amenity effects with the transition to a Rural - Outer Plains zone.

- 3.22 Ms Bensemann disagreed with Mr Trewin's assessments of the transport related provisions of the CRPS and District Plan. She considered, on the basis of Mr Carr's evidence, that the future development of the site, including the proposed intersection upgrade was consistent with the objectives and policies of the District Plan. She concluded that the proposal clearly fitted with the intended patterns of development for the district, maintained a compact urban form, and on the basis that it was not the intention of the planning framework to foreclose any development that might utilise the State Highway network, the proposal was not inconsistent with relevant objectives and policies, but rather gave effect to the overall framework in a positive manner.
- 3.23 In response to my question Ms Bensemann considered that subdivision could be staged.

Submitters

- 3.24 **Mr Long** outlined Waka Kotahi's Safe System Approach to Road Safety which he said creates a transport system which is safe and forgiving, and overall prioritises the safety of its users above all else. He went on to consider the proposed Creyke Road/SH73 upgrade, stating that the proposed intersection layout had several geometric deficiencies which would affect both the safe operation and efficiency of the intersection following implementation. In his opinion the proposed intersection layout was not aligned with safe systems principles. He said a roundabout should be provided as the primary safety treatment at the intersection to manage the traffic and safety issues as a result of PC61. In response to my question, he considered such a measure was appropriate now given existing vehicle movements and noting that the percentage of heavy commercial vehicle movements was high. In response to a follow up question Mr Long said it was unlikely the proposed design put forward by Mr Carr would be approved by a formal Corridor Access Request at the moment.
- 3.25 Mr Long agreed that any intersection upgrade should ideally be constructed as one project and not split into separable portions. He said this approach limits disruption to the network and results in an overall shorter construction period, exposing construction works and the travelling public to less risk.
- 3.26 In commenting on the speed limit on SH73, Mr Long agreed that a technical assessment could be used as the basis for any speed limit review such that the speed could be reduced at an appropriate point in the future, in line with the development of PC61. However, he said that Waka Kotahi could not commit to acting upon that technical review or reducing the speed limit based on the applicant's timeline due to the national nature of the speed management programme. In answer to my question Mr Long said any assessment would likely get to an 80k/h limit, but that the current limit could stay if a roundabout were built as that would have the effect of slowing traffic down.
- 3.27 In terms of connectivity, Mr Long accepted that that this was essentially a timing issue associated with adjoining developments but agreed with Mr Smith concerns regarding walking and cycling on SH73 and outlined what would be necessary in developing a shared path along the state highway.
- 3.28 Overall, Mr Long said PC61 should only be accepted if the matters of the trigger rule, multi modal connections and intersection safety were appropriately addressed.
- 3.29 **Mr Pearson** provided some background on Waka Kotahi's response to previous plan changes in this area, namely PC24 and PC48 which also rely on the Creyke Road intersection. He said Waka Kotahi did not submit

on either of these Plan Changes. He was unable to confirm the reasons for this by way of records but provided a number of assumptions as to why this might not have occurred. He noted that both plan changes had been through a formal assessment process and regardless, it had been identified that PC61 would have an impact on the existing intersection and any historical differences did not mean or take away from the need for the impacts on the intersection to be appropriately assessed and addressed.

- 3.30 Mr Pearson considered the updated trigger rule was easier to be implemented and enforce, however, he did not agree that the intersection should only be upgraded prior to the Business 2 Zone being developed, as this would allow residential development to occur without any intersection improvements. He considered the intersection should be upgraded prior to any development of residential or business zoned land and noted that Mr Carr had since indicated that an upgrade to the SH73/Creyke Road intersection would occur prior to residential development occurring by squaring up Creyke Road with SH73.
- 3.31 Mr Pearson went on to say that the second part of the question was the scale of improvements and in his opinion a balance was required where the general nature of any improvements required should be determined as part of a plan change. He said it was not appropriate to leave this matter to a later date based on Waka Kotahi's Corridor Access Request requirements and that I needed to turn my mind to the scale of works required and how such works were incorporated into any plan change provisions. He said the issue to determine was how the effects on the state highway intersection were suitably addressed through a combination of intersection design and the point at which such improvements are required. He agreed there was the ability to be flexible as to the appropriate methodology to achieve this, but that any rules needed to provide the assurance that the necessary improvements would occur at the appropriate time and to the appropriate standard.
- 3.32 Mr Pearson considered that the walking and cycling links identified in PC61 to Ascot Park and Development Area 5 were appropriate, but further consideration needed to be given to the timing of development so that these connections could be made after the other sites were developed. This, he said, would reduce the risk of people walking or cycling in high-speed environments using either Creyke Road or the state highway.
- 3.33 In terms of the relevant objectives and policies Mr Pearson considered that PC61 could achieve the District Plan provisions if the connections were made through Ascot Park and possibly Development Area 5 or an agreed approach with Waka Kotahi was made to provide a safe connection within the state highway corridor; and if an appropriate design for the Creyke Road/SH73 intersection was agreed upon to ensure safe access to and from the state highway. In addition, Mr Pearson considered PC61 currently was unable to fully 'give effect' to the CRPS at a strategic level in respect of Chapter 5.

Council Response

- 3.34 In response to my questions Mr England indicated that he was confident consent could be obtained for a new water supply. He also noted that once a wastewater conveyance scheme was in place the Council would require new development to connect to this system. I was subsequently advised by Mr Trewin post the hearing that the Council had now approved the scheme in a staged fashion but will require that all new developments be connected to it immediately.

- 3.35 In his response Mr Smith said the speed environment issue was a chicken and egg scenario where urbanisation builds a case for reducing speed and this then mitigates the effect. He reiterated that the highway was not appropriate for walking and cycling and that he would like to see a safe connection provided prior to development occurring. In terms of the intersection upgrade Mr Smith said that ideally it should be done as a single works but that squaring up the intersection would be a quick win and provide immediate safety benefits. He agreed that in the context of a safe network a roundabout was the ideal solution, however practically the upgrades proposed by the Applicant would improve safety.
- 3.36 Mr Trewin provided a table showing dwelling increases over the period 2008-2020. He went onto address the revised provisions associated with the plan change stating that it may be more appropriate to have Amendment 11 as a standalone discretionary activity rule and that Policy 2.1.15 of the District Plan gives some qualitative attributes of walking and cycling that could be used in the amendment.

Right of Reply

- 3.37 At the end of the hearing, I adjourned to enable the applicant to provide a right of reply. This was received on the 11th of May 2021 and included:
- The status of notations on the ODPs;
 - Establishment of potentially sensitive activities in the Business 2 Zone; and
 - The Creyke Road/SH73 intersection upgrade.
- 3.38 In term of bullet point one Mr Cleary submitted that to the extent that the notations on the ODP form part of the rules in the Operative Plan there should be no concern as to their lawfulness noting that Rule 12.1.3.16 provided that the subdivision of land within named ODPs: *shall comply with the layout and contents of that Outline Development Plan and shall comply with any standards referred to in the Outline Development Plan.*
- 3.39 Mr Cleary clarified that the range of activities that may establish in the Business 2 Zone, in particular those which could be potentially sensitive to discharges from activities on the northern side of SH73. Of note were visitor accommodation and hospitality activities which are discretionary activities within the zone. Mr Cleary noted that as fully discretionary activities, any relevant consent application would be required to address potential reverse sensitivity effects. He also noted that the erection of dwellings for custodial or security purposes was a controlled activity but beyond that any other dwelling was a fully discretionary activity.
- 3.40 In terms of the SH73/Creyke Road intersection upgrade Mr Cleary indicated that the extent of area that may be required for a roundabout had now been identified on the ODP as a Restricted Development Area with an associated rule and a further rule in the subdivision section to ensure that subdivision design does not foreclose the opportunity for intersection improvements. A consequential amendment to address the potential reduction in yield through having the Restricted Development Area was, at Mr. Trewin's suggestion, made to the ODP to reduce the minimum average and minimum allotment sizes for the easternmost portion of the Site to 4000m² and 3000m² respectively. Mr Cleary indicated that Mr Pearson on behalf of Waka Kotahi had advised that the agreed Rules Package addresses their concerns as to the Plan Change process.

- 3.41 Mr Cleary said that the Applicant acknowledged further processes will be required to confirm the design of the intersection upgrade, and it was possible there would be disagreement as to the most appropriate solution. Ultimately, he said there were a range of engineering solutions available that can improve the performance of the intersection from a safety perspective, and which can be designed to comply with the appropriate technical standards. He submitted that if a particular solution was advanced which achieves those objectives, a developer was entitled to expect that the solution will be considered in a rational and principled manner by NZTA and/or the Council as road controlling authority for Creyke Road.
- 3.42 Finally, Mr Cleary noted that Mr Long accepted that there were deficiencies with the current intersection. He submitted therefore that implicitly Waka Kotahi agrees with Mr Carr that the intersection needs to be upgraded as a consequence of the development of PC24 and PC48 and it should therefore be recognised and accepted that the declining of Plan Change 61 removes the only realistic opportunity for these necessary upgrades to be undertaken.

4.0 Statutory Tests

- 4.1 The general approach for the consideration of changes to district plans was initially summarised in the Environment Court's decision in Long Bay¹, which has due to various amendments to the RMA been superseded by the Colonial Vineyards decision². The relevant requirements in this case are set out below:
- (a) The plan change should be designed to accord with and assist the Council to carry out its functions under section 31 and to achieve the purpose of the Act (s74(1)(a) and (b)).
 - (b) The plan change must give effect to any national policy statement, a national planning standard and the operative regional policy statement (s75(3)(a), (ba) and (c)).
 - (c) The plan change shall have regard to the actual or potential effects on the environment of activities including, in particular, any adverse effects (s76(3)).
 - (d) The plan change shall have regard to any relevant management plans and strategies under other Acts (s74(2)(b)(i)) and must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district (s74(2A)).
 - (e) Finally, section 32 requires that rules are to implement the policies and are to be examined, having regard to their efficiency and effectiveness, as to whether they are the most appropriate method for achieving the objectives of the District Plan taking into account:
 - (i) the benefits and costs of the proposed policies and methods (including rules); and
 - (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and

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

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

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

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

5.0 Assessment

Actual or Potential Effect on the Environment

5.1 I considered the key effects associated with the PC61 can be broken down into four key areas, being reverse sensitivity, infrastructure servicing (water, stormwater and wastewater), urban form and capacity and transportation and connectivity. These have been dealt with in turn below.

1. Reverse Sensitivity

5.2 Reverse sensitivity issues were raised by submitters on the north side of the state highway, while Mr Trewin raised concerns about similar issues internally within the site.

5.3 In terms of the potential external effects, the expert evidence was that air discharge effects from the clay brick plant were likely to be less than minor on the PC61 site and that odour effects associated with the poultry farm were likely to be minor given that the residential component of the plan change site was beyond 300m, which is a buffer required by the District Plan for sensitive activities in the rural zone to be setback from intensive farming activities. I consider in this context the potential for reverse sensitivity effects to arise as a result of residential development on the PC61 site is limited.

5.4 Turning to the internal issue, the Applicant has made changes to the provisions and the ODP so that a 40m separation distance between business activities and residential activities will now be provided for, which I consider is appropriate.

5.5 Finally, I accept that the establishment of any sensitive activities within the proposed Business 2 Zone can be appropriately managed by a discretionary activity status.

2. Infrastructure servicing

Wastewater

5.6 Darfield is not presently connected to a reticulated wastewater system although I was advised post hearing that the Council had now committed to doing so and would require that all new developments connected to it immediately. How this would impact on the subject site is not entirely clear, however a reticulated wastewater system is clearly a preferred method of servicing the site and it would now seem to be highly likely that such a system will be available in the not-too-distant future. Whether this was able to coincide with potential development of the site remains to be seen, however I note that Mr England referred to the Applicants letter of the 22 January 2021 which concludes that it is *“likely that coordination with Councils reticulated system is feasible at the time of design and construction”*. Given the Council’s statement of requiring that all new developments connect to the system I suspect that consenting onsite treatment systems, while still an available

option, will become more difficult in Darfield and developers are on the whole more likely to await the reticulated system before proceeding.

- 5.7 On the basis of the above, I accept that the wastewater issue is appropriately addressed.

Water

- 5.8 Mr England's evidence was that the ODP area could be adequately serviced with potable water initially via a restricted supply and ultimately by on-demand metered supply once a new bore was drilled and consented. He also said that firefighting requirements could be met. On this basis, I am satisfied that the water supply can be adequately catered for.

Stormwater

- 5.9 The plan change anticipates that stormwater will discharge to ground via sumps to soakholes which is considered by the experts to be an appropriate solution. As noted by Mr England a Ground Water Protection zone is required over a small portion of the plan change area and I note this is 100m from the location of the new water bore and as such any future stormwater discharge (or wastewater discharge) would not be able to occur within this area without obtaining resource consent pursuant to Rule 5.8, or Rule 5.94A of Land and Water Regional Plan. On this basis I consider that stormwater discharges are able to be acceptably managed.

3. Urban form and capacity

- 5.10 Submitters raised concerns about the urban form of Darfield and questioned the need for the rezoning given there are already large areas of existing land available for residential development. To the extent that there are significant areas of land available the submitters are correct. As noted by Mr Trewin the Malvern Area Plan (Area Plan), which was adopted in 2016, identified that that there was existing capacity to accommodate up to 2,274 households within the boundary of the township along with approximately 23ha of the industrially zoned land being vacant. The residential capacity is well in excess of the actual growth anticipated by the Area Plan of 440 households to 2031, which is an average of 29 households per annum. To-date, based on the table provided to me by Mr Trewin at the hearing, Darfield has been averaging 23 new houses per annum over that first 5 years of the 15 year period to 2031. At this rate it would take over ninety years to utilise the existing residential capacity available and on the face of it I agree that there is little need for further residential rezoning.
- 5.11 Notwithstanding the above, I consider there are other matters at play. Firstly, and more broadly, the Council's decision to provide for reticulation of wastewater is likely to have a positive impact on growth in Darfield. In relation to the site, I accept that it is a logical location in which to expand the urban area of Darfield and provides for a compact and concentric urban form. The land is bound on two sides by zoned residential land and on the other two sides by roads, including SH73, it is a relatively small parcel of land and its soils are not of highly versatile quality. Its future therefore as part of a farming operation is in my opinion highly questionable and I note that Creyke Road is now a logical boundary between the Darfield urban area and the wider rural area.
- 5.12 In addition to the above, the additional residential component of the development is limited to only 35 lots and the additional business land will provide opportunities for ongoing growth of Darfield's employment base.

5.13 Further, the Area Plan identified the site as DAR 6 and stated that it had potential as a low-density residential growth area or alternatively could be used as a Business 2 zone to accommodate industrial growth. As identified by Mr Trewin this has been carried over into the PDP in the form of an Urban Growth Overlay.

5.14 Based on the above, I am comfortable that the plan change is appropriate in terms of the urban form it creates and while I accept that there is extensive zoned residential capacity within the existing Darfield township, I consider that both the limited number of lots provided for and the business land enabled along with the other factors identified above, including the sites identification in the Area Plan and PDP, make the rezoning acceptable in this context.

4. Transportation and connectivity

5.15 Transportation issues associated with the SH73/Creyke Road intersection, safety and connectivity with the Darfield township were key matters of contention between the various experts.

5.16 Concerns around connectivity were expressed by Mr Smith and supported by Mr Long and Mr Pearson. The difficulty appears to relate to one of timing in that unless the development of the adjoining Ascot Park subdivision proceeded to the PC61 boundary to enable a connection back through this development into the Darfield town centre or the Darfield Development Area 5 proceeds, residents and workers within the PC61 area might be encouraged to utilise the SH73 which was considered an unsafe option.

5.17 While I agree to some extent with Mr Carr's comment as to whether it was reasonable to anticipate that development of the plan change area would proceed when development to the south and west was not progressing, I consider there is a case for ensuring that appropriate and safe connections are provided for. The provisions now proposed require that adequate provision for walking and cycle access from the site to Darfield is made prior to any development within the Business 2 Zone and that the provision of adequate walking and cycling access between the site and Darfield is taken into account at subdivision stage. Essentially this is a belts and braces approach and on that basis, I am satisfied that there is the ability to provide the connections identified on the ODP so as to effectively link into the wider Darfield township.

5.18 In terms of the speed limit on the State Highway outside the PC61 site, while I accept that a reduction in speed would be beneficial from a safety perspective, I agree that the matter is not something I can consider as part of this plan change.

5.19 In terms of the SH73/Creyke Road intersection upgrade, while there was agreement that an upgrade was necessary, there was clearly some difference in views as to the appropriate form that upgrade should take and when it would take place. Further, Mr Pearson in his evidence had suggested that it was not appropriate to leave this matter to a later date based on Waka Kotahi's Corridor Access Request requirements and that I needed to turn my mind to the scale of works required and an appropriate design and how this was able to be incorporated into the plan change provisions.

5.20 I do not entirely agree with Mr Pearson's summation as the actual scale of works and design of the intersection is not something upon which I can or need to make a decision. In my opinion the decision is required to focus

on the mechanism(s) for enabling the upgrade not on the upgrade itself. I made this point clear during the hearing and I understood it was accepted.

5.21 In terms of the development itself my understanding was that the residential component, if developed first, would create the need for some form of intersection improvements and that the business development would necessitate further improvements beyond what was necessary for the residential component. Mr Carr in his evidence said that the plan change had been amended so that:

(a) No development of the residential area was permitted until such time as the southern approach of Creyke Road was 'straightened up' so that the carriageways met at 90 degrees (plus or minus 20 degrees). This was now as a result of further discussions to be achieved via a Note: on the ODP rather than a specific rule.

(b) No development of the business use within the site would be permitted until the intersection was upgraded, which the rule stated was to be done in consultation with Waka Kotahi.

5.22 The debate between the experts centred around whether any upgrade should be undertaken as one project or in two phases, the latter being proposed by the Applicant, and the extent of the actual intersection upgrade where Mr Long was promoting a full roundabout solution. In terms of the former, I note that Mr Pearson stated: *"that if the development only consisted of the residential allotments an upgrade generally in line with what the applicant has proposed by squaring up Creyke Road with SH73 could be appropriate"*. This gives me some confidence that if only the residential component eventuated in the short-medium term then a solution, subject to Waka Kotahi approval, is available and is reflected in the now proposed plan change provisions.

5.23 In terms of any subsequent intersection upgrade I am comfortable with the rule associated with business development i.e., that no such development occurs until the intersection is upgraded. Further, during and post the hearing further consideration has been given to the intersection upgrade issue by the various experts, which has resulted in the Applicant providing further changes to include an area to be shown as a Restricted Development Area on the ODP for the provision of a roundabout should that be required, along with associated rules. I am now satisfied that this meets the concerns of Waka Kotahi.

5.24 Finally, I note that Mr Carr considered the need for an intersection upgrade also arises as a consequence of development permitted by PC24 and PC48 and that Mr Cleary noted that despite this future deficiency not being attributed to PC61, the required upgrade forms part of the present request. I have some sympathy for these sentiments as it seems to me that the Applicant in this case is being asked to bear the full costs of an upgrade of the intersection, in whatever form that might take, where other relatively recently enabled developments which will in time contribute in a major way to the traffic utilising the intersection are not. The onus is now falling on a small part of this wider recently urbanised area to fund it.

5.25 I was not overly convinced by Mr Pearsons explanation as to why Waka Kotahi had not been involved in the PC24 process. In this context I note that in the s42A report for PC24 Mr Mazey for the Council noted that *"whilst the NZTA have advised the Applicant that they have no objections to the proposed development relating to the highway, I have been aware of concerns from a more operational perspective in the past with the alignment of the intersection of Creyke Rd and SH73 which intersects with the Highway at an angle. It would be my opinion*

that the safety and efficiency of the intersection could be improved with realignment, and that this is incorporated (subject to confirmation by the NZTA) into the overall upgrade of Creyke Rd required by the Applicant". As pointed out by Mr Cleary, Mr Long also accepted that there were deficiencies with the current intersection, and I accept that PC61 represents a realistic opportunity for any necessary upgrades to be undertaken.

- 5.26 It seems to me that the safety and efficiency of the intersection was at least identified in the PC24 process but as it evolved any consideration of that is not required. While it is beyond my jurisdiction to provide any direction in terms of funding of the intersection upgrade and acknowledge Mr Pearson's comment that "funding was tight", I do consider that there is now an element of responsibility on both the Council and Waka Kotahi to consider their respective positions on funding given the past and the fact that the Applicant is willing to provide the required land for solutions to be achieved.

5. Other Matters and Conclusion

- 5.27 Mr Trewin considered a rule requiring the assessment of flood risk and proposed mitigation measures should be provided for in the plan change. Ms Bensemann on the other hand was of the view that an additional site specific rule was not necessary on the basis that the consideration of flood hazards risks using the most up to date flooding risk information forms part of the building consents process often with minimum floor levels set.
- 5.28 I tend to agree with Ms Bensemann, but I also note that the new assessment matters for the ODP associated with the Living 1 and Business 2 Zones require consideration as to whether the subdivision of land or subsequent use of the land is likely to cause or exacerbate potential risk to people or damage to property and any measures proposed to mitigate the effects of a potential natural hazard. In my opinion this enables the consideration of the flood risk at the time of subdivision without the need for a further rule.
- 5.29 Overall, having regard to the above and in particular the various measures that have been put in place I am satisfied that the transportation and connectivity issues have now been appropriately addressed and, in that context, accept that PC61 will not lead to any adverse efficiency related effects or capacity issues and that the actual or potential effects on the environment of the plan change have been adequately addressed.

National Policy Statement for Freshwater Management 2020

- 5.30 Having reviewed the objective and policies of the National Policy Statement for Freshwater Management (NPS-FM) I do not consider there is anything specifically in them that PC61 does not give effect to. The Council's commitment to building a wastewater pipeline to Rolleston and thus providing Darfield with a reticulated system and requiring new development to connect to that system will further help in achieving the NPS-FM.

National Policy Statement for Urban Development

- 5.31 I agree with Mr Trewin that the National Policy Statement for Urban Development is of limited relevance in this instance, aside from Policy 2 which I accept PC61 is consistent with.

Canterbury Regional Policy Statement

- 5.32 PC61 is required to give effect to the CRPS and in my opinion the relevant provisions are those located in Chapter 5. These provide an overview of significant resource management issues and in particular in relation to PC61, provisions seek to achieve consolidated, well designed and sustainable growth in and around or attached to existing urban areas and promote a coordinated pattern of development and energy efficiency in urban form, transport patterns and site location (Objective 5.2.1 and Policy 5.3.1). Policy 5.3.2 then sets out the development conditions which are to be met.
- 5.33 Having reviewed these provisions, I considered PC61 is now generally consistent with, and gives effect to, these provisions given it consolidates the boundary of the Darfield township, does not exacerbate any natural hazards, addresses reverse sensitivity effects, is able to integrate with existing and proposed servicing infrastructure, now addresses the potential impacts on the transport networks and has been designed to protect the proposed new community water supply.
- 5.34 Policy 5.3.5 seeks to ensure development is appropriately and efficiently serviced with potable water, and sewage and stormwater disposal, while Policy 5.3.6 seeks the avoidance of development which constrains the on-going ability of these services to be developed and used and discourages them where they will promote development in locations which do not meet Policy 5.3.1. I accept that the PC61 area with a new water supply bore could be efficiently serviced with a water supply which is unconstrained, that stormwater can be appropriately addressed and that with a commitment to a reticulated system in Darfield wastewater will now be appropriate dealt with. In this context PC61 gives effect to the above policies.
- 5.35 Turning to other provisions, Objectives 5.2.2 and 5.2.3 seeks that development does not result in adverse effects on the operation, use and development of regionally significant infrastructure, while requiring the avoidance of development which adversely affects the safe efficient and effective functioning of the strategic land transport network; and that a safe, efficient and effective transport system to meet local regional, inter-regional and national needs for transport is provided for. I consider that PC61, with the various amendments proposed, achieves the intent of these provisions with various mechanisms now in place to ensure connectivity with the Darfield township and the upgrading of the SH73/Creyke Road intersection.
- 5.36 Overall, I consider PC 61 gives effect to the Canterbury Regional Policy Statement.

Land and Water Regional Plan

- 5.37 I do not consider the PC61 is inconsistent with the Land and Water Regional Plan, however I note that future subdivision may well generate the need for consents under this plan.

Other Relevant Documents

- 5.38 The other relevant planning documents to be considered in evaluating PC61 under section 74 include:
- (i) Mahaanui Iwi Management Plan 2013
 - (ii) Malvern Area Plan

Mahaanui Iwi Management Plan 2013

- 5.39 The application documentation included an assessment of the Mahaanui Iwi Management Plan (IMP) and noted that the proposed plan change will not affect landscapes or sites of cultural heritage or significance nor contain any areas of significant biodiversity. Also of note now is that wastewater will be required to be reticulated.
- 5.40 On this basis I accept that PC61 is generally consistent with the objectives and policies of the IMP and will not compromise the values set out in the IMP.

Malvern Area Plan (Area Plan)

- 5.41 As referred to above the Area Plan identifies that for Darfield there is currently sufficient zoned but undeveloped residential land available to accommodate projected population growth through until 2031. The site itself is identified as having the potential for a low-density residential growth area or alternatively could be used as a Business 2 zone to accommodate industrial growth, which is what the plan change proposes. In my opinion therefore PC61 is consistent with the intentions of the Area Plan.

Conclusion

- 5.42 Having regard to the requirements of ss74 I considered PC61 to be reasonably consistent with the provisions of the above documents.

Section 32

Proposed Amendments

- 5.43 The proposed amendments to the District Plan are limited to the inclusion of an ODP and associated rules and a change to the Planning Maps to show the Living 1 and Business 2 Zones.

1. The Outline Development Plan

- 5.44 Having reviewed the revised ODP I consider it now addresses all the necessary matters and it and the rules associated with it, including some necessary consequential amendments, are consistent with other ODP's contained within the District Plan. In relation to this I acknowledge Mr Cleary's submission that the notations on the ODP form part of the rules in the District Plan.

2. Planning Map

- 5.45 I consider the alterations to the Planning Map would be simply a function of the rezoning.

Objectives and Policies

- 5.46 PC61 does not propose any alterations to the objectives and policies in the District Plan. It is therefore incumbent on me to determine whether the proposed rezoning is the most appropriate means of achieving the relevant objectives of the District Plan and whether it implements the policies having regard to their efficiency and effectiveness and taking into account the benefits and costs and the risks of acting or not acting.
- 5.47 Having considered the objectives and policies identified in the plan change application I consider the following are of particular relevance to my considerations.

- 5.48 The natural resources provisions in particular Objective B1.2.1 and Policy B1.2.1, B1.2.2, B1.2.3 and B1.2.4 relate to protecting the quality of, and avoiding effects on, ground or surface water resources from services; ensuring rezoned land can be serviced; and providing protection around water supply bores.
- 5.49 The physical resources provisions in particular Objective B2.1.1 and Policies B2.1.2, B2.1.3, and Objective B2.1.2 and Policies B2.1.3, B2.1.4, B2.1.12, B2.1.13, B2.1.14, B2.1.15 and B2.1.23 promote an integrated approach to land use patterns and transport to manage effects including reverse sensitivity, encourage walking and cycling and require the impacts on the roading network to be addressed including the extension of urban development along a state highway.
- 5.50 The quality of environment provisions principally Objectives B3.4.3, B3.4.4 and B3.4.5 look to avoid reverse sensitivity effects, promote a compact urban form and provide a high level of connectivity.
- 5.51 In terms of growth Objectives B4.1.1 and B4.1.2 promote a range of living environments and for new residential areas to be a pleasant place to live and add character and amenity, while Objective B4.3.1 and B4.3.2 seeks that the expansion of townships does not adversely affect other activities and amenity values; and adjoins an existing township at a compatible urban density to achieve a compact township shape. Policy B4.3.27 is a specific Darfield policy and seeks that new residential or business development does not create or exacerbate 'reverse sensitivity' issues in respect of activities in the existing Business 2 Zones or the Midland Railway.

Benefits and Costs

- 5.52 I accept that PC61 has benefits in consolidating the urban form of Darfield and in relation to the SH73/Creyke Road intersection upgrade, as Mr Cleary put it, provides the only realistic opportunity for the necessary upgrades to be undertaken. In the context of what is now provided for in terms of the mechanisms (and land) associated with the potential upgrading of the intersection I see this as a benefit.
- 5.53 The costs appear to relate to those experienced by the Applicant in pursuing the plan change and the potential need for significant intersection upgrade of the Creyke Road SH73 intersection. As the Council is already addressing the water supply issue and intends to provide for wastewater reticulation to the wider township, I do not consider these can be seen as costs associated with PC61.

Risk of Acting or Not Acting

- 5.54 The risk associated with PC61 primarily relate to reverse sensitivity potential and impacts on the transportation network. In my view the reverse sensitivity issues have adequately been addressed in evidence and through proposed rules. Likewise, I consider the transportation matters in contention have now been appropriately addressed and in terms of the intersection upgrade, land provision within the PC61 site has been provided to enable, should it be required, a roundabout to be formed.

Conclusion

- 5.55 I consider that overall PC61 is efficient and effective and contains benefits, particularly in terms of consolidation of the Darfield urban form, providing for additional business land and facilitating the upgrade of the SH73/Creyke Road intersection upgrade. Amenity issues have also been adequately addressed as has the issue of reverse sensitivity. On this basis I consider the plan change will implement the policies of the District Plan.

Therefore, having reviewed the above objectives and policies and considered the benefits, costs and risks I am of the view that PC61 is the most appropriate means of achieving the objectives.

Sections 31

- 5.56 I consider that in terms of consolidation and broader servicing PC61 will facilitate the integrated management of effects and that this can be achieved without creating any significant actual or potential effects on the environment.

Part 2 of the RMA

- 5.57 Overall, I consider the objectives of the District Plan will be achieved as a result of the changes proposed as part of PC61. I have evaluated the rezoning as being the most appropriate, in terms of its effectiveness and efficiency, and the benefits that it achieves verses the costs imposed. I have therefore gone onto consider the matters contained in Part 2 of the Act.

Section 6

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

Section 7

- 5.59 Section 7 of the Act sets out other matters I am to have particular regard to. Of particular relevance are section 7(b) concerning the efficient use and development of natural and physical resources; section 7(c) relating to the maintenance and enhancement of amenity values and section 7(f) in terms of the maintenance and enhancement of the quality of the environment.
- 5.60 While I acknowledge the concerns expressed about existing capacity, I accept that the PC61 site has already been identified for urban development in the Area Plan and the PDP. In my opinion urban development of this site now represents a more efficient use of the land resource given its size and proximity in relation to existing zoned urban areas and roading infrastructure. In my view its ability to be utilised efficiently for rural activities, in particular farming has become limited.
- 5.61 In terms of the maintenance and enhancement of amenity values and the quality of the environment I consider PC61 would achieve these.

Section 8

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

Section 5

- 5.63 The ultimate purpose of the plan change is to achieve the purpose of the Act as defined in section 5. In the case of a plan change that purpose is usually subsumed in the greater detail and breadth of the operative objectives and policies which are not sought to be changed. That is broadly the situation in these proceedings.
- 5.64 Matter of reverse sensitivity, urban form and capacity and servicing were all effectively addressed by the initial evidence, which left transportation and connectivity matters which I consider have now been sufficiently

addressed via various provisions and that overall the plan change is now able to meet the sustainable management purpose of the Act.

- 5.65 I therefore considered for the reasons set out above that PC61 is appropriate in terms of the s32 tests and meets the purpose and principles set out in Part 2 of the Act in promoting sustainable management. Specifically, it will enable people and communities to provide for their economic and cultural wellbeing by providing greater flexibility in residential and business development in Darfield and in a location which will help in consolidating the urban form of the settlement and where the effects of development can be acceptably mitigated. Overall, I consider PC61 promotes sustainable management in meeting the purpose of the Act.

6.0 Decision

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

1. **That pursuant to clause 10 of Schedule 1 to the Resource Management Act 1991 the Council approve Plan Change 61 to the Selwyn District Plan as set out in Appendix A.**
2. **That for the reasons set out in the above the Council accordingly either accept, accept in part or rejected the submissions listed in Appendix B.**



Commissioner D Chrystal

7th July 2021

CHANGES TO THE SELWYN DISTRICT PLAN

Amendment 1: New Appendix	<p>Add <u>Appendix 41B ODP - Darfield East</u> to Township Volume - containing Outline Development Plan contained in Appendix 2 of this plan change.</p> <p><i>Note: This is referred to as "Appendix X" for the purpose of this rules table but should be inserted as the next relevant appendix number in the District Plan.</i></p> <p><i>Additional note: the ODP proposed is the amended version attached in Appendix B of this evidence.</i></p>
Amendment 2:	Amend Planning Maps to rezone the application site from Rural (Outer Plains) to Business 2 and Living 1 consistent with the proposed ODP.
Amendment 3:	<p>Amend Rule 12.1.3.16 as follows:</p> <p>Any subdivision of land within the area shown in Appendix 47 - Living 2A Darfield - Bangor Road Outline Development Plan, and within the area shown in Appendix 41A - Living 2 Darfield - Creyke Road Outline Development Plan, <u>and within the area shown in Appendix 41B - ODP- Darfield East,</u> shall comply with the layout and contents of that Outline Development Plan and shall comply with any standards referred to in the Outline Development Plan.</p>
Amendment 4:	<p>Insert new rule after Rule 12.1.3.16 as follows:</p> <p><u>12.13.16A No subdivision of land in the Living 1 zone shown in the ODP - Darfield East in Appendix 41B shall take place until a potable water supply is available that is capable of serving lots within the subdivision.</u></p>
Amendment 5:	<p>Insert new rule after Rule 12.1.3.16 as follows:</p> <p><u>12.1.3.16B Subdivision design of the land in the Living 1 zone shown in the ODP – Darfield East in Appendix 41B shall result in the creation of a separate allotment for the land identified as Restricted Development Area.</u></p> <p>Insert new assessment matters after 12.1.4.84 as follows:</p> <p><u>12.1.4.84A Development of the land identified in the Restricted Development Area in the Living 1 zone shown in the ODP – Darfield East in Appendix 41B:</u></p> <p><u>(a) Whether the subdivision design would limit or foreclose the opportunity for appropriate and safe intersection improvements at the corner of Creyke Road and State Highway 73.</u></p> <p><u>12.1.5.2A Any subdivision subject to Rule 12.1.1 which does not comply with Rule 12.3.16B</u></p>

	<p>New heading '<u>Darfield</u>'</p> <p><u>12.1.5.5A The exercise of discretion in relation to Rule 12.1.5.2A shall be restricted to the matters listed in Rule 12.1.4.</u></p> <p><u>12.1.5.5B Any subdivision application arising from Rule 12.1.5.2A shall not be publicly notified and may only be limited notified on Waka Kotahi NZ Transport Agency.</u></p>
Amendment 6:	<p>Insert New Rule after 16.1.6 as follows:</p> <p><u>16.1.6A Any principal building in that part of the Business 2 Zone located south of the State Highway and west of Creyke Road shown as Business 2 Outline Development Plan (Darfield East) at Appendix 41B if the following standards are met:</u></p> <p><u>All landscaping along the external perimeter of the Business 2 Zone as depicted on the Outline Development Plan at Appendix 41B, shall be landscaped to the following standards:</u></p> <ul style="list-style-type: none"> - <u>A landscaping strip shall be established along the Business 2 Zone side of the common boundary to a depth of either 10, 16 or 40 metres in accordance with the requirements of the ODP at Appendix 41B.</u> - <u>Landscape planting and an irrigation system shall be undertaken in accordance with the Outline Development Plan at Appendix 41B. Irrigation is to be provided for a minimum of 2 years following the establishment of the landscaping.</u> - <u>All landscaping, once matured, shall meet the minimum heights depicted in the ODP East Darfield in Appendix 41B.</u> - <u>The landscaping planted shall be maintained and if dead or diseased or damaged, shall be removed and replaced.</u> - <u>No accessory buildings, fences, or structures shall be erected within the required landscape strips unless such buildings, fences or structures are directly required for the purposes of noise attenuation or other such mitigation.</u> - <u>Before any principal building is erected on any parcel of land subject to Rule 16.1.6A, all of the landscape planting, irrigation system and fencing shown on the Outline Development Plan at Appendix 41B on that allotment shall be completed.</u>
Amendment 7:	<p>Insert new rule after Rule 4.2.4 as follows:</p> <p><u>4.2.4A For the Living 1 Zone at Darfield identified on the Outline Development Plan in Appendix 41B, the following shall apply:</u></p> <p><u>Before building any dwelling or any principal building on a site adjoining the State Highway 73, the following standards shall be met:</u></p> <ul style="list-style-type: none"> - <u>All landscaping, once matured, shall meet the minimum heights depicted in the ODP East Darfield in Appendix 41B.</u>

	<ul style="list-style-type: none"> - <u>The landscaping planted shall be maintained and if dead or diseased or damaged, shall be removed and replaced.</u> - <u>No accessory buildings, fences, or structures shall be erected within the required landscape strips unless such buildings, fences or structures are directly required for the purposes of noise attenuation or other such mitigation.</u>
Amendment 8:	<p>Insert new permitted activity rule after Rule 4.9.44, (Chapter 4, Living Zone Rules – Buildings) as follows:</p> <p><u>4.9.44A In the Living 1 Zone identified in the ODP East Darfield, Appendix 41B at Darfield, no dwellings, accessory buildings, or structures other than fences shall be constructed within the area identified as Restricted Development Area.</u></p> <p>Insert new restricted discretionary activity rule after Rule 4.9.55 as follows:</p> <p><u>4.9.55A Any activity which does not comply with Rule 4.9.44A shall be a restricted discretionary activity.</u></p> <p><u>Under Rule 4.9.55A the Council shall restrict the exercise of its discretion to the following:</u></p> <p><u>The extent to which the development of the Restricted Development Area would limit or foreclose the opportunity for appropriate and safe intersection improvements at the corner of Creyke Road and State Highway 73.</u></p> <p><u>Applications under Rule 4.9.55B shall not be publicly notified and may only be limited notified on Waka Kotahi NZ Transport Agency.</u></p>
Amendment 9:	<p>Insert new rule after Rule 16.7.2.11 as follows:</p> <p><u>16.7.2.12 In that part of the Business 2 Zone located at the corner of State Highway 73 and Creyke Roads, Darfield, as depicted on the Outline Development Plan at Appendix 41B:</u></p> <ul style="list-style-type: none"> – <u>Road boundaries: 10 metres</u> – <u>Internal boundaries adjoining a residential zone: 40 metres</u>
Amendment 10:	<p>Insert new rule after 22.13 as follows:</p> <p><u>22.14 - Development within the Business 2 Zone East Darfield ODP</u></p> <p><u>Permitted activity</u></p> <p><u>22.14.1 Prior to any development within the Business 2 Zone located at the corner of State Highway 73 and Creyke Roads, Darfield, as depicted on the Outline Development Plan at Appendix 41B, the intersection of Creyke Road and State Highway 73 shall be upgraded in consultation with Waka Kotahi, The New Zealand Transport Agency.</u></p> <p><u>22.14.2 Prior to any development within the Business 2 Zone located at the corner of State Highway 73 and Creyke Roads, Darfield as depicted</u></p>

	<p><u>on the Outline Development Plan at Appendix 41B, adequate provision for walking and cycle access from the site to Darfield shall be provided.</u></p> <p><u>Discretionary activity</u></p> <p><u>22.14.3 Any activity that does not comply with rules 22.14.1 or 22.14.2 shall be considered as a discretionary activity</u></p>
Amendment 11:	<p>Insert new assessment matter after assessment matter 12.1.4.84 and after assessment matter 24.1.4.40 under a new Heading of Darfield as follows:</p> <p><u>12.1.4.84B/21.1.4.41 In relation to the Living 1 and Business 2 Zones in the Outline Development Plan – Darfield East at Appendix 41B:</u></p> <p><u>(a) Whether the subdivision of land or subsequent use of the land is likely to cause or exacerbate potential risk to people or damage to property; and</u></p> <p><u>(b) Any measures proposed to mitigate the effects of a potential natural hazard, including:</u></p> <p><u>i. Building platforms within each allotment, of sufficient size to accommodate a dwelling and associated curtilage; and</u></p> <p><u>ii. The filling (with inert hardfill) of any low lying area; and</u></p> <p><u>iii. Proposed methods and locations for flood offset areas; and</u></p> <p><u>(c) How adequate and appropriate any such mitigation measures may be, and the mechanisms to secure any such measures.</u></p>
Amendment 12:	<p>Insert new assessment matter after assessment matter 12.1.4.84 as follows:</p> <p><u>12.1.4.84C In relation to the Living 1 Zone in the Outline Development Plan – Darfield East at Appendix 41B:</u></p> <p><u>The provision of adequate walking and cycling access between the site and Darfield.</u></p>

OUTLINE DEVELOPMENT PLAN AND PLANNING MAPS

1. Add a new Outline Development Plan as Appendix 41B as shown below.

Part E

OUTLINE DEVELOPMENT PLAN – DARFIELD EAST

2. Amend the Planning Map by rezoning the area shown below from Rural Outer Plains to Living 1 (Darfield East) and Business 2.



Note:
At the time of construction of the new intersection onto Creyke Road, Creyke Road shall be realigned to adjoin State Highway 73 at right angles as shown on this ODP.

- KEY**
- Plan Change Boundary
 - Proposed Business Zone
 - Proposed Living 1
(average allotment size at 1950m², minimum allotment size 800m²)
 - Proposed Living 1
(average allotment size 4000m², minimum allotment size 3000m²)
 - Restricted Development Area
 - Proposed Planting Strategy Area
 - Berm
 - Indicative Street Trees
 - Indicative Street Lights
 - 2m Walkway/ Cycleway
 - Potential Connections to Future Footpath/ Cycleway Links
 - Emergency Access
(with traffic calming measures to deter heavy vehicles)

BASELINE GROUP

Darfield Plan Change		
Drawn	1:500 gds, 1:1000 gds	
Date	10 May 2023	
Design	SL	
Check	SL	
Review	AS	
Rev	Date	Amendment
1		

PC61 – Rezone land at Darfield from Rural Outer Plains to Living 1 (Darfield East) and Business 2

APPENDIX B

Recommended Decisions on Submissions

Sub. Point	Name	Oppose/Support	Summary of Submissions	Recommended Decision
1.	P & C Poultry	Oppose	Our property, 15 Horndon St, is a poultry farm in the industrial zone that operates 24/7. Potential residents will not like this.	Reject
2	Canterbury Regional Council	Neutral	It is unclear whether there is a need for additional capacity when the Area Plan states there is sufficient land for housing and business.	Reject
		Neutral	The land would be identified as highly productive through the proposed National Policy Statement on Highly Productive Land. The land identified in the Area Plan would not meet the threshold for exemption from NPS-HPL. The threshold requires shortage in development capacity. Although this is not confirmed or gazetted, the consulted document provides strong indication on protection of the land.	Reject
		Neutral	Consent to discharge wastewater to the ground will be required from ECan. The cumulative effect of increased density of on-site wastewater treatment remains unknown. Further, ECan is concerned that it would be inappropriate to service the area with on-site wastewater ahead of SDC's decision on wastewater servicing. It would be inefficient to switch from on-site to reticulated at some unknown point. It is inefficient to pre-empt a preference for on-site wastewater systems if there is potential for township wastewater system.	Accept
		Neutral	The recent modelling shows some overland flow flooding. ECan recommends buildings part of this development have floor levels above the 200 year flood level.	Accept in part
3	Ascot Park Ltd	Neutral	Recommends a Detailed Site Investigation for both sites (pits) identified in order to inform an appropriate Remedial Action Plan. The investigation should be carried out in accordance with the Contaminated Land Management Guidelines and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.	Accept
		Oppose	The proposal does not incorporate a 1ha buffer along Creyke Rd, which would make it consistent with all other properties along Creyke Rd and reduces amenity of the surrounding area.	Accept in part
		Oppose	Support the findings from Carriageway Consulting that would require an upgrade to the intersection of Creyke and West Coast Rd. Additional traffic entering from Creyke Rd will put strain on West Coast Rd. Since Ascot Park sealed Creyke Rd it is being used as a thoroughfare. The intersection is very busy with vehicles travelling at speed. This may	Accept

		Oppose	<p>require a review of speed limits on West Coast Rd. Further, the entrance to PC61 is close to West Coast Rd so there is potential for traffic to build-up along Creyke Rd causing more risk and impede flow on West Coast Rd.</p> <p>The proposal does not represent an efficient use of resources given there is already land zoned for residential and business use. There is already a lot of residential zoned land still undeveloped, this would create an oversaturation.</p>	Reject
4	Canterbury District Health Board	Oppose	CDHB has sought that all new developments in Darfield provide reticulated sewerage as continued growth relying on on-site septic systems is untenable from a public health standpoint.	Accept
5	Darfield Seed Cleaning Co Ltd	Oppose	The proposal does not represent an efficient use of a natural resource/valuable arable farmland given that there is already land zoned for residential and business use in Darfield that is better suited to development than the proposal site	Reject
		Oppose	Lack of demand for additional residential and business zoned land within the surrounding area of Darfield. Recently rezoned to residential area of land in close proximity to the proposal have generated little to no development. South of the proposed site there is currently a variety of residential land undeveloped. This proposal will create a surplus of residential land. The location of the proposed WWTP over the road is deterring potential purchasers in the area. This proposal has the potential to create large pockets of undesirable land.	Reject
		Oppose	Traffic concerns relating to entering and exiting Horndon Street from SH73. Upgrades to West Coast Road and Creyke Rd intersection will impact Horndon St, which is not designed or maintained to accommodate large increases in traffic	Reject
		Oppose	Have a good relationship with neighbours and are aware of the other businesses around us. This proposal potentially generates new neighbours that are not accepting of existing and long standing businesses. Additionally, the Business 2 zone provides for a wide range of activities.	Accept in part
		Oppose	No formal consultation between the applicant and ourselves has occurred. This would have been appreciated.	N/A
6	Waka Kotahi NZ Transport Agency	Oppose in part	Waka Kotahi is concerned that appropriate intersection investigations have not been undertaken as part of the Transport Assessment in relation to how the land adjacent may develop in the future. The applicant should consider whether the proposed intersection upgrade is appropriate for the plan change and how the reliance of this intersection will be impacted when the adjacent land is developed. This should be considered against the Safe Systems Approach to ensure the correct investment is made. The trigger rules for intersection improvements may be difficult to implement if the current proposed intersection is deemed appropriate. The upgrade should be undertaken at the same time as the formation of the internal road network. Consideration of the current posted speed of the State Highway and whether this needs to be reviewed. The application has not fully	Accept in part

		<p>Oppose in part</p> <p>Neutral</p>	<p>considered the compatibility of the development with the state highway network, and its continued safe, efficient and effective operation, as outlined in the RPS 5.23 and 5.3.7</p> <p>The increase in residents will increase travel and potential non-car modes. There are currently no options identified as part of this Plan Change for multi modal transport. The RPS seeks reduction in vehicle trip frequency, trip generation and distance, and improve modal choice resulting from the use of private motor vehicles (5.1.2). Selwyn District Plan recognises the need to integrate land use and transport planning (Objectives B2.1.1 and B2.1.2). Selwyn District Plan recognises the importance of multi modal transport and strategic planning (Objective B2.1.3, Policy B2.1.5 and B2.1.17).</p> <p>Any rezoning should be considered against the UDS provisions. Darfield is outside the UDS, however, the proposal would result in a large area of residential development, which may affect residential demand in the UDS area.</p>	<p>Accept in part</p> <p>Reject</p>
7	W.D. Boyes & Sons Ltd trading as Canterbury Clay Bricks	<p>Support (revised position)</p> <p>Support (revised position)</p>	<p>There is potential for the proposal to cause reverse sensitivity on the nearby businesses; Canterbury Clay Bricks, Poultry Farm at 15 Horndon St, and the council proposed WWTP site. The economic implications on Canterbury Clay Bricks is significant. Odour and potentially dust from the site may be found offensive and/or objectionable to the new receiving environment. This may also impact Canterbury Clay Bricks ability to renew its air discharge permit, to be reviewed in August 2028.</p> <p>The activities permitted that can occur within this zone are wide ranging and are permitted if meeting other general rules. Examples in Darfield are seed cleaning, farm equipment supplier, engineering and agricultural supplies, fabrication machining and maintenance, transportation, civil construction yard, concrete plant, and panel beaters. Further, activities could be office blocks, showrooms and warehousing and other ancillary activities like coffee shops or takeaway outlets. These may find the noise, dust and odour offensive. There is no guarantee that the proposed B2 zone will act as a buffer.</p>	<p>Accept</p> <p>Accept</p>