

Proposed Selwyn District Plan



Section 42A Report

Overview

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9 July 2021

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1. Purpose of report

1.1 This report is prepared under s42A of the Resource Management Act 1991 (RMA) in relation to the entire Proposed District Plan (PDP). The purpose of this report is not to address any specific submission points, but to provide the Hearing Panel with an overview of:

- The purpose of the District Plan Review;
- Key issues developed through the process;
- The high-order statutory requirements;
- The consultation processes undertaken, including the summary of submissions and further submissions;
- The Designation process;
- The structure of the PDP;
- The s32 evaluation followed;
- The process for the appointment of the hearings panel;
- The hearings process; and
- The s42a reports.

2. Qualifications and experience

2.1 My full name is Robert Gerard Love and I am employed by the Council as Team Leader – Strategy and Policy. My qualifications include a Bachelor of Environmental Management (Major in Policy and Planning), and a Master of Applied Science (Environmental Management) obtained from Lincoln University. I am an intermediate member of the New Zealand Planning Institute.

2.2 I have nine years' experience as a resource management planner, with this work including experience as a resource consents planner for the Canterbury Regional Council, and as a Strategy and Policy Planner for Selwyn District Council. My experience at Selwyn District Council included the preparation of the Overview s32 evaluation, Rural Chapter and s32 evaluation, Transport Chapter and s32 evaluation, and the Energy and Infrastructure Chapter and s32 evaluation.

2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

3. Purpose of the District Plan Review

3.1 Section 79(1)(c) of the RMA requires that local authorities commence a review of any provision that has not been subject to a review or change within the previous ten years.

3.2 The Operative District Plan was made fully operative in May 2016. It was developed as two separate volumes (Rural and Township), with the Township Volume being notified in November 2000, and the Rural Volume being notified in September 2001, and the Plan becoming partially operative in June 2008. During and post these dates the Operative Plan has been subject to many variations and plan changes (both private and Council initiated).

- 3.3 Although some components of the Operative District Plan have been reviewed or changed within the last ten years, a full district plan review was deemed necessary, given that significant portions have not been subject to review within this timeframe.

Operative District Plan Approach

- 3.4 Made fully operative in May 2016, the Plan is split between a Rural and Township Volume. The Operative Plan is designed around an effects based framework, which is considered to be unwieldy and difficult to understand by the community.
- 3.5 The Rural Volume primarily consists of land zoned 'Rural' in addition to Existing Development Areas, and other special purpose zoning, whereas the Township Volumes consists of Living and Business zoning. Where effects of activities extend across the boundary into zones administered under the other volume of the Plan, then all relevant objectives and policies of both volumes will apply to any resource consents, plan changes and variations. The Township Volume also has a policy framework for dealing with urban expansion and the growth of townships. This process can affect the surrounding rural area where it involves rezoning land from Rural to a Living or Business Zone. Therefore, the Township Volume includes policies to manage the effects of such change and to ensure patterns of residential development achieve the purpose of the RMA.
- 3.6 While some activities have been specified in the Operative Plan provisions, overall it is intended to be an effects based plan. For instance, an activity may not be dealt with specifically, but will have its potential effects assessed against the general provisions, covering aspects such as noise, earthworks and transportation etc. Consent is required not necessarily for the activity type but the intensity and scale of the effects associated with the activity.
- 3.7 While there have been a wide range of variations and plan changes since the Operative Plan was notified, Plan Change 7 (PC7), which was made operative on 5 March 2012, was the most significant. PC7 rezoned land identified in the Proposed Change 1 of the (previous) Regional Policy Statement (RPS), and the Lincoln and Rolleston Structures Plan to provide for the future urban growth of both townships. The main features of PC7 included:
- Rezoning approximately 809 hectares of land in Lincoln and Rolleston for residential development (via the new Living Z zone).
 - Rezoning approximately 13 hectares of land in Lincoln for future industrial development.
 - New District-wide and Township specific provisions within the subdivision section of the District Plan to implement the Subdivision Design Guide and the Medium Density Design Guide to support the consolidation of townships while achieving good urban design outcomes.
 - The requirement to develop an Outline Development Plan (ODP) before development can occur and identifying ODP criteria that will need to be addressed within the ODP to support the implementation of the key aspects of both Structure Plans.
 - Staging requirements for residential development to meet Phase 1 (2007-2020) and Phase 2 (2021-2041) requirements of PC1 to the RPS.
- 3.8 Fundamentally, the effects based approach to planning has not been effective. It has created uncertainty on where activities can locate, does not allow for a planned approach to the district's

development and has led to inappropriate outcomes. The two main issues with this approach has been a lack of certainty for plan users, and no strategic focus. The first issue arises through not having a framework that clearly articulates to people what can and cannot be done on a site. This can be rectified by a move to an activities based framework, with focused and directive objectives and policies. The second issue means that no common tone has been set that guides all development within Selwyn. This issue can be resolved by including strategic objectives within the Proposed District Plan that support the desired 'big picture' outcomes.

4. Key issues to be addressed by the District Plan Review

4.1 Various zone and activity specific issues have been identified and are discussed in detail within the relevant chapter s32 reports. However, in summary these issues stem from the potential effects of activities, as well as structural, efficiency, and effectiveness issues with the current district plan framework. These issues could lead to the district not developing in a planned and cohesive way, affecting the ability for the District Plan to provide for the community's economic, cultural, environmental and social wellbeing.

4.2 The common themes derived from the issues identified in the specific chapter s32 reports are:

- Maintenance of character and amenity, and the appropriate response to match the quality of the character and amenity to be maintained, given the vastly different environments within Selwyn.
- Provision of adequate land for housing and business development, especially given Selwyn's place as one of the fastest growing districts in New Zealand.
- Unwieldy planning regulations can stifle development and the use of land unnecessarily, ranging from narrow housing typology choice, to having rules capturing activities with little to no effect.
- Being enabling of expected activities, while discouraging inappropriate development, or incompatible development for a particular zone or overlay area.
- The identification of those natural and physical resources that people associate particular value and importance to, and the subsequent protection of these resources.
- The interrelationship between zones and areas within zones, and the potential for cross zone boundary conflict.
- Ensuring the adequate provision of services required by the community, including the ability to access water and wastewater facilities, and emergency services.
- The need for integrated planning, development and infrastructure.

5. Statutory requirements

Resource Management Act 1991

- 5.1 Section 31 details the key functions of a territorial authority, and subsequently the matters that are to be addressed within a district plan. However, it is noted that a district plan is only one means for a council to undertake its functions under s31, and to achieve the purpose of the RMA.
- 5.2 Sections 72 – 77 set out the purpose and the processes associated with the development and operation of a district plan, with a district plan being a tool to allow a council to fulfil its functions (s72).
- 5.3 A district plan must be prepared under the requirements of the First Schedule. This Schedule outlines the statutory requirements for preparing a proposed plan, including consultation and process matters both prior to and post public notification (s73).
- 5.4 Council needs to consider higher order documents when preparing a district plan and also any Iwi Management Plans, and their bearing on the resource management issues of the district (s74).
- 5.5 Sections 75-77 outline what must be and what may be included in the district plan (s75), and authorises the inclusion of rules (s76) and the 'activity status' that can be given to activities (s77). Notably s75(5) and cl.34 of Schedule 1 allow for documents to be incorporated by reference into the district plan.
- 5.6 Under s79, council must commence a review of a provision of a district plan, if the provision has not been subject to a review or change during the previous 10 years.
- 5.7 Furthermore, s58I requires the structure and framework of a district plan to be in accordance with the recently introduced National Planning Standards.
- 5.8 In summary, the Council's statutory requirements are:
 - to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources;
 - control effects of the use, development or protection of land, including for the purpose of:
 - avoiding or mitigating natural hazards;
 - managing the use of contaminated land;
 - recognising and providing for a range of matters of national importance;
 - control the emission and effects of noise; and
 - control effects of activities on the surface of lakes and rivers.

National Policy Statements

- 5.9 Section 75(3) of the RMA requires that the District Plan gives effect to any National Policy Statement (NPS) and any New Zealand Coastal Policy Statement. The PDP gives effect to the four NPS documents which are currently in place:
 - NPS on Electricity Transmission (2008)
 - NPS for Renewable Electricity Generation (2011)
 - NPS on Freshwater Management (2020)

- NPS on Urban Development (2020)

New Zealand Coastal Policy Statement 2010 (NZCPS)

- 5.10 The NZCPS recognises the important natural processes and development pressures around the coast and promotes a strategic and integrated approach to coastal planning and management. The coast area within Selwyn is influenced by coastal hazards, elements and features that contribute to the natural character, landscape, visual qualities or amenity values, items of cultural and historic heritage, and physical resources and built facilities, including infrastructure such as roads, that have modified the coastal environment.
- 5.11 The NZCPS directs local authorities on the management of the coastal environment. It contains policies that when implemented enable the achievement of the purpose of the RMA in relation to the coast environment. Council, through the preparation and implementation of the district plan is responsible for managing the effects from the use, development, or protection of land on the landward side of the Coastal Marine Area.
- 5.12 The PDP has identified a coastal environment which has a suite of provisions relating to the management of land use and subdivision in the coastal environment, with the area identified on planning maps. Coastal hazards are also identified and mapped in the PDP, with associated provisions to appropriately manage these natural hazard risks.

National Policy Statement Electricity Transmission 2008 (NPS-ET)

- 5.13 The national grid plays a vital role in the well-being of New Zealand and its people. The NPS-ET prioritises this importance while managing the potential effects associated with this large-scale infrastructure. It achieves this by setting out the direction for the management of the effects of the electricity transmission network. This is carried out by required objectives, policies, and methods (including rules) to recognise transmission corridors, to identify transmission lines on planning maps, and to provide controls on subdivision and land use as necessary to ensure that the operation, maintenance, upgrading and development of transmission infrastructure is not compromised as a result of incompatible land uses.

National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG)

- 5.14 The NPS-REG sets out objectives and policies for renewable electricity generation which seek to provide a consistent approach to planning for renewable electricity generation across New Zealand.
- 5.15 This Statement applies to generation activities at any scale, and covers the construction, operation and maintenance of structures associated with generation.

National Policy Statement on Freshwater Management 2020 (NPS-FM)

- 5.16 The NPS-FM was introduced in 2011, updated and replaced in 2014, amended in 2017, and again replaced in 2020 with changes coming into effect on 03 September 2020.
- 5.17 The NPS-FM sets out an objective and policies that focus on:
- Managing freshwater in a way that 'gives effect' to Te Mana o te Wai: (the integrated and holistic well-being of a freshwater body) in the management of fresh water;

- Prioritising the health and wellbeing of water bodies and freshwater ecosystems, followed by the health needs of people, followed by the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future;
- Avoiding over allocation, improving and maximising efficient allocation and use of water and safeguarding its life-supporting capacity;
- Improving integrated management of fresh water and the use and development of land;
- Establishing a national objectives framework, monitoring progress, and accounting for freshwater takes and contaminants; and
- Providing for the active involvement of tangata whenua in freshwater management and that Maori freshwater values are identified and provided for.

5.18 While many of the objectives and policies relate to the functions of regional councils, those covering integrated management, and tangata whenua roles and interests are of relevance to the Council. Provisions relating to the management of the use and development of land to safeguard water will also be relevant to the PDP, but will need to be implemented in close co- ordination with Canterbury Regional Council in order to avoid overlap and duplication.

National Policy Statement on Urban Development 2020 (NPS-UD)

5.19 The NPS-UD was introduced in 2020, took effect on 20 August 2020, and replaced the National Policy Statement on Urban Development Capacity 2016. The NPS-UD recognises the national significance of:

- Having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future; and
- Providing sufficient development capacity to meet the different needs of people and communities.

5.20 The NPS-UD requires that councils:

- Ensure urban development occurs in a way that takes into account the principles of the Treaty of Waitangi/ Te Tiriti o Waitangi;
- Ensure that plans make room for growth both 'up' and 'out', and that rules are not unnecessarily constraining growth;
- Develop, monitoring, and maintaining an evidence based about demand, supply, and prices for housing and land to inform planning decisions; and
- Align and coordinating planning across urban areas.

5.21 Based on Statistics NZ data (2013), Selwyn is projected to grow significantly, with upwards of 100,000 people anticipated to be living in Selwyn by 2043.

Year	2013	2018	2023	2028	2033	2038	2043
Median Population Projection	46,700	61,900	71,900	79,200	86,200	92,900	99,500
Five Year Increase		15,200	10,000	7,300	7,000	6,700	6,600
Annual Increase		5.8%	3.0%	2.0%	1.7%	1.5%	1.4%

Draft/Proposed National Policy Statements

Draft National Policy Statement for Indigenous Biodiversity (currently being developed)

5.22 The main purpose for this policy statement is to improve the way regional and local government provide for indigenous biodiversity in district plans. Current approaches seeking to achieve the maintenance of biodiversity are highly variable which has resulted in uncertainty, while biodiversity continues to decline.

Proposed National Policy Statement for Highly Productive Land (pNPS-HPL)

5.23 The Government has proposed this policy statement to prevent loss of highly productive land and to promote its sustainable management. The overall purpose of the pNPS-HPL is to:

- Recognise the full range of values and benefits associated with the use of highly productive land for primary production;
- Maintain its availability for primary production for future generations; and
- Protect it from inappropriate subdivision, use and development.

National Environmental Standards

5.24 Every local authority and consent authority must observe national environmental standards (NES) and must enforce them to the extent that their powers enable them to. Section 44A of the RMA requires district plans to not duplicate a national environmental standard or conflict with it.

5.25 There are six relevant national environmental standards which are currently in place and prescribe standards that councils must enforce. The relevance of these is summarised below:

- The **NES for Telecommunication Facilities** allows network operators to install some low impact telecommunication infrastructure in road reserves without the need to apply for resource consent, provided they meet specified conditions. The NES provides a set of rules for permitted telecommunication facilities.
- The **NES for Electricity Transmissions** sets out to minimise the cost to councils of implementing the NPS for Electricity Transmission and ensure planning requirements are nationally consistent for maintenance and upgrading of transmission lines. The NES only applies to existing high voltage transmission lines and does not apply to new lines or substations.
- The **NES for Assessing and Managing Contaminants in Soil to Protect Human Health** (NESCS) is a nationally consistent set of planning controls and soil contaminant values. It ensures that land

affected by contaminants in soil is appropriately identified and assessed before it is developed and, if necessary, the land is remediated or the contaminants contained to make the land safe for human use. All territorial authorities are required to observe and enforce the NESCS.

- The **NES for Plantation Forestry** seeks to maintain and improve the environmental outcomes of plantation forestry nationally and to increase certainty and efficiency in the management of plantation forestry activities. The NES provides consistent rules across the country for specified forestry related activities.
- Other NESs that are primarily administered by regional councils include the **NES for Freshwater** that protects freshwater and freshwater ecosystems; the **NES for Air Quality**, which sets air quality standards for health protection for all New Zealanders; and the **NES for Sources of Drinking Water**, which seeks to protect human drinking water from becoming contaminated. A **NES for Marine Aquaculture**, which was established to increase regulatory consistency and certainty, ensure environmental effects are appropriately managed, and increase industry confidence to promote investment.

5.26 Council must enforce the regulations set in the national environmental standards. In some circumstances where specified in a NES, councils can impose stricter or more lenient standards. The PDP has taken and used this ability to allow for either more lenient or stricter standards where appropriate in the local context.

National Planning Standards

5.27 The National Planning Standards were gazetted in April 2019. The purpose of the National Planning Standards (planning standards) is to improve consistency in plan and policy statement structure, format and content.

5.28 The planning standards were introduced as part of the 2017 amendments to the RMA. Their development is enabled by sections 58B–58J of the RMA. The planning standards provide mandatory direction by requiring consistent structure, definitions, format and electronic functionality and accessibility. Councils are required to implement the planning standards under section 58I. Under this section the Council is able to make consequential amendments to avoid duplication or conflict with the amendments.

5.29 The planning standards determine the sections that should be included in a district plan. Mandatory directions are also set out to determine how a district plan should be ordered.

5.30 The planning standards must be in place within five years from April 2019 or at the time that a district plan is reviewed.

Canterbury Regional Policy Statement (RPS)

5.31 Section 75(3) of the RMA requires a district plan to give effect to the RPS, with the RPS providing methods which directs district councils to give consideration to. The RPS contains a multitude of issues facing the Canterbury region, and sets out a range of objectives and policies to address these. While a significant portion of the issues, objectives, and policies are wholly within the realm of regional planning documents, direction is provided for territorial authorities when creating, and implementing their district plan. Primarily this direction is in regard to infrastructure, energy, waste, indigenous biodiversity, landscape, coast and natural hazards, the protection of outstanding natural features and

landscapes, and the built environment, including the form and location of urban growth and provision for papakāinga housing.

Regional Plans

5.32 Section 75(4) of the RMA requires a district plan to not be inconsistent with any regional plan that is in force. In the Selwyn District, there are a range of regional plans that are relevant to the district plan review, these being:

- Regional Coastal Environment Plan
- Canterbury Land and Water Regional Plan
- Canterbury Air Regional Plan
- Waimakariri River Regional Plan
- Canterbury Regional Pest Management Plan
- Canterbury Regional Land Transport Plan 2021 - 2031
- Canterbury Regional Public Transport Plan 2018-2028

Iwi Management Plans

5.33 Iwi Environmental Management Plans (IMP) must be taken into account under Section 74(2A) of the RMA. Currently within Selwyn there are four relevant iwi management plans.

Mahaanui Iwi Management Plan 2013

5.34 This IMP covers the takiwā of six rūnanga located within the Canterbury region and in a Selwyn context is an expression of kaitiakitanga and rangatiratanga of Te Taumutu Rūnanga and Ngāi Tūāhuriri Rūnanga who have mana whenua over Selwyn District. This IMP sets out the values important to Ngāi Tahu which require protection and enhancement, and the relationships that need to be provided for between Ngāi Tahu and the natural resources of the land. The IMP allows councils to understand issues of significance to tāngata whenua, and for how those issues can be resolved in a manner consistent with cultural values and interests. Additionally, the IMP can provide assistance in determining the nature and extent of consultation that may be required regarding particular activities or places of importance. The main areas of concern within the IMP is:

- Ranginui (Air)
- Wai Māori (Water)
- Papatūānuku (Land)
- Tāne Mahuta (Indigenous Biodiversity)
- Tangaroa (Coast)
- Tāwhirimātea (Wind Farms)
- Ngā Tūtōhu Whenua (Treasured and Sacred Sites)

Te Taumutu Rūnanga Natural Resource Management Plan

- 5.35 This IMP was the basis of the Mahaanui Iwi Management Plan 2013, and while being replaced by this document, it has not been repealed and provides a useful source of information for understanding the values important to Te Taumutu Rūnanga.

Te Mahere Whakahaere o Muriwai O Whata – Muriwai/ Coopers Lagoon Management Plan 2016

- 5.36 This management plan has been prepared by Te Rūnanga o Ngāi Tahu and Te Taumutu Rūnanga to guide and support the management of the bed of Muriwai, as well as the wider catchment, in line with Ngāi Tahu values.
- 5.37 The plan aims to sustain the vitality of Ngāi Tahu culture by restoring resource-centred relationships, and recognising the relationships of Ngāi Tahu and their culture and traditions with the ancestral land and taonga of Muriwai, primarily through enabling the enhancement and gathering of healthy mahinga kai.
- 5.38 The plan contains long-term objectives, policies and methods for effective integrated management of Muriwai. It provides for the management of the Ngāi Tahu lakebed as a primary objective, as well as advocacy for the management of the wider catchment in conjunction with other landowners and agencies.

Te Waihora Joint Management Plan 2005

- 5.39 This is a statutory joint management plan between Te Rūnanga o Ngāi Tahu and the Minister of Conservation, arising from the Ngāi Tahu Claims Settlement Act (1998). It was prepared to address the integrated management of the lakebed and lake margins, and the natural and historic resources within these areas.

Other Plans and Strategies

- 5.40 The RMA also requires a Council preparing a district plan to have regard to any management plans and strategies prepared under other Acts (section 74(2)(b)(i)). Other legislation and regulations that are relevant and have been considered when preparing the Proposed District Plan, are:

- | | |
|---|--|
| - Local Government Act 2002 | - Te Ture Whenua Maori Act (Maori Land Act) 1993 |
| - Building Act 2004 | - Conservation Act 1987 |
| - Reserves Act 1977 | - National Parks Act 1980 |
| - Heritage New Zealand Pouhere Taonga Act 2014 | - Fire and Emergency New Zealand Act 2017 |
| - Land Transport Act 1998 | - Summit Road (Canterbury) Protection Act 2001 |
| - Land Transport Management Act 2003 | - Health Act 1956 |
| - Hazardous Substances and New Organisms Act 1996 | - Telecommunications Act 2001 |
| - Ngāi Tahu Claims Settlement Act 1998 | - Electricity Act 1992 |

- Gas Act 1992
- Utilities Access Act 2010
- Civil Defence Emergency Management Act 2002
- Railways Act 2005
- Soil Conservation and Rivers Control Act 1941
- National Water Conservation (Te Waihora/ Lake Ellesmere) Order 1990
- National Water Conservation (Rakaia River) Order 1998
- Land Use Recovery Plan 2013
- Land Transport (Road User) Rule 2004
- Civil Aviation Act 1990
- Our Land 2018
- Health and Safety at Work Act 2015
- Health and Safety at Work (Hazardous Substances) Regulations 2017
- Sale and Supply of Alcohol Act 2012
- Food Act 2014
- Litter Act 1979

5.41 The following local Policies, Plans, By-laws, and Strategies were also considered as part of the development of this District Plan:

- Selwyn 2031
- Ellesmere and Malvern Area Plans 2031
- Lincoln Town Centre Plan 2016
- Rolleston Town Centre Master Plan 2014
- Lincoln Structure Plan 2008
- Prebbleton Structure Plan 2010
- Rolleston Structure Plan 2009
- Rural Residential Strategy 2014
- Selwyn District Parking Strategy 2019
- Long Term Plan 2018-2028
- Dog Control Bylaw 2012
- Christchurch to Little River Railtrail: Prebbleton to Lincoln Bylaw 2007
- Speed Limits Bylaw 2006
- Speed Limit Register 2018
- Public Places Bylaw 2018
- Traffic and Parking Bylaw 2009
- Waste Management and Minimisation Bylaw 2012
- Stock Droving Bylaw 2008
- Canterbury Water Management Strategy
- Open Spaces Strategy 2015
- Community Facilities Activity Management Plan
- Greater Christchurch Urban Development Strategy 2007
- Greater Christchurch Settlement Pattern Update: Our SPACE 2018 – 2048
- Environmental Services Activity Management Plan 2018- 2028
- Greater Christchurch Transport Statement 2012
- Transport Activity Management Plan 2018-2028
- Walking and Cycling Strategy 2018

6. Consultation

Pre-notification Consultation

6.1 The consultation process in developing the PDP has been extensive and undertaken over a number of years. Community engagement was carried during the preferred options phase, with ongoing consultation with individual landowners and key stakeholders throughout. The methods of consultation were:

- Direct communication
- Newsletters
- Public meetings and drop in sessions
- Face to face meetings
- Community events
- Online and social media

6.2 For the initial public consultation held 16 August – 8 October 2018 some of the key consultation indicators were:

- 5,400 website views
- 100 people attended drop in sessions
- 272 submitted online surveys
- 200 emails or calls were received
- 50 face to face meetings with landowners and stakeholders.

6.3 Some of the topics that received the most interest were:

- Family flats
- Night glow
- Sites and areas of cultural significance
- Housing development in residential zones
- Home based business
- Outstanding Natural Landscapes
- Intensive farming.

6.4 Of the responses received, approximately 79% of respondents either lived in Selwyn or were a rate-payer, with 18.5% of responders working within Selwyn.

Consultation with iwi authorities

6.5 Section 32(4A)(b) requires Council to include in the evaluation report a summary of all the advice received from Iwi authorities on the District Plan Review. Section 32(4A)(b) requires Council to provide a summary of how Council has responded to the advice received from Iwi authorities on the

District Plan Review, including any provisions included in the PDP that are intended to give effect to the advice.

- 6.6 In addition to this, it was identified early in the review process the need to bring Iwi representatives into the decision making process and form a partnership. This partnership extended to an invitation to each of the Rūnanga to join the District Plan Committee with full voting rights. Additionally, Mahaanui Kurataiao Ltd have been engaged on behalf of the Rūnanga to provide planning input by way of preparation and review of preferred option reports and review of draft provisions of most interest to Rūnanga.
- 6.7 Through the preparation of the PDP the objectives and policies of the Mahaanui Iwi Management Plan have been taken into account in drafting of all Proposed Plan sections. Research reports and recommendations from mana whenua were commissioned for sections relating to kāinga nohoanga and protection of culturally significant sites and areas, and these have informed the policy approach for these matters.
- 6.8 In addition to the provisions for kāinga nohoanga and protection of culturally significant sites and areas, recognition of iwi values has been integrated into objectives, policies, rules and assessment matters throughout the PDP. Examples of the consideration of iwi values in the PDP include the recognition, monitoring and protection of cultural heritage and culturally significant sites, and the prevention of development which would adversely impact the values of these wāhi taonga management areas.
- 6.9 Council was acutely aware of its obligations under Clause 3 of Schedule 1 to the RMA, which sets out the requirements for local authorities to consult with Tangata whenua through iwi authorities (Te Rūnanga o Ngāi Tahu). Clause 3 also requires Local Authorities to consult with any person, group or ministry that may be affected by changes made to the district plan.
- 6.10 Council was also aware of the obligations of Clause 4A of Schedule 1 of the RMA, which requires local authorities to consult with iwi authorities before notifying a proposed plan. Clause 4A(1)(b) requires Council to have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.
- 6.11 Section 32(4A)(a) requires Council to include in the Evaluation Report a summary of all the advice received from iwi authorities on the District Plan Review. Section 32(4A)(b) requires Council to include in the Evaluation Report a summary of how Council has responded to the advice received from iwi authorities on the District Plan Review, including any provisions included in the proposed plan that are intended to give effect to their advice. This section should also document how the advice has been used in the s32 evaluation process.

Post Notification Summary

- 6.12 Council publicly notified the PDP on 05 October 2020 with the submission period being open until 11 December 2020. During this time Council received approximately 470 submissions, which resulted in approximately 7,700 individual submission points. In addition to the submissions received, Council also received 19 late submissions. Late submissions with reasoning were submitted

to the Hearing Chair Rob van Voorthuysen, who made the decision to accept all late submissions received prior to the finalisation of the summary of submissions.

- 6.13 Submissions overall were fairly supportive of the PDP with 39% in support, and 24% supporting in part.
- 6.14 Council publicly notified a summary of decisions requested, in accordance with Clause 7 of Schedule 1 to the RMA on 19 April 2021. The period for lodging further submissions was closed on 3 May 2021.

7. Designations

- 7.1 Under Clause 4 of Schedule 1 to the RMA, requiring authorities with existing designations in the Operative District plan are invited to give notice to Council that their designations are to be:
- Rolled over into the PDP without modification;
 - Rolled over into the PDP with modification; or
 - Withdrawn.
- 7.2 There are new designations proposed in the PDP with all notices received from the requiring authorities under Clause 4 of Schedule 1 to the RMA being included in the PDP. All landowners and occupiers directly affected by any notice were notified separately.

8. Structure of the Proposed District Plan

Drafting Protocol

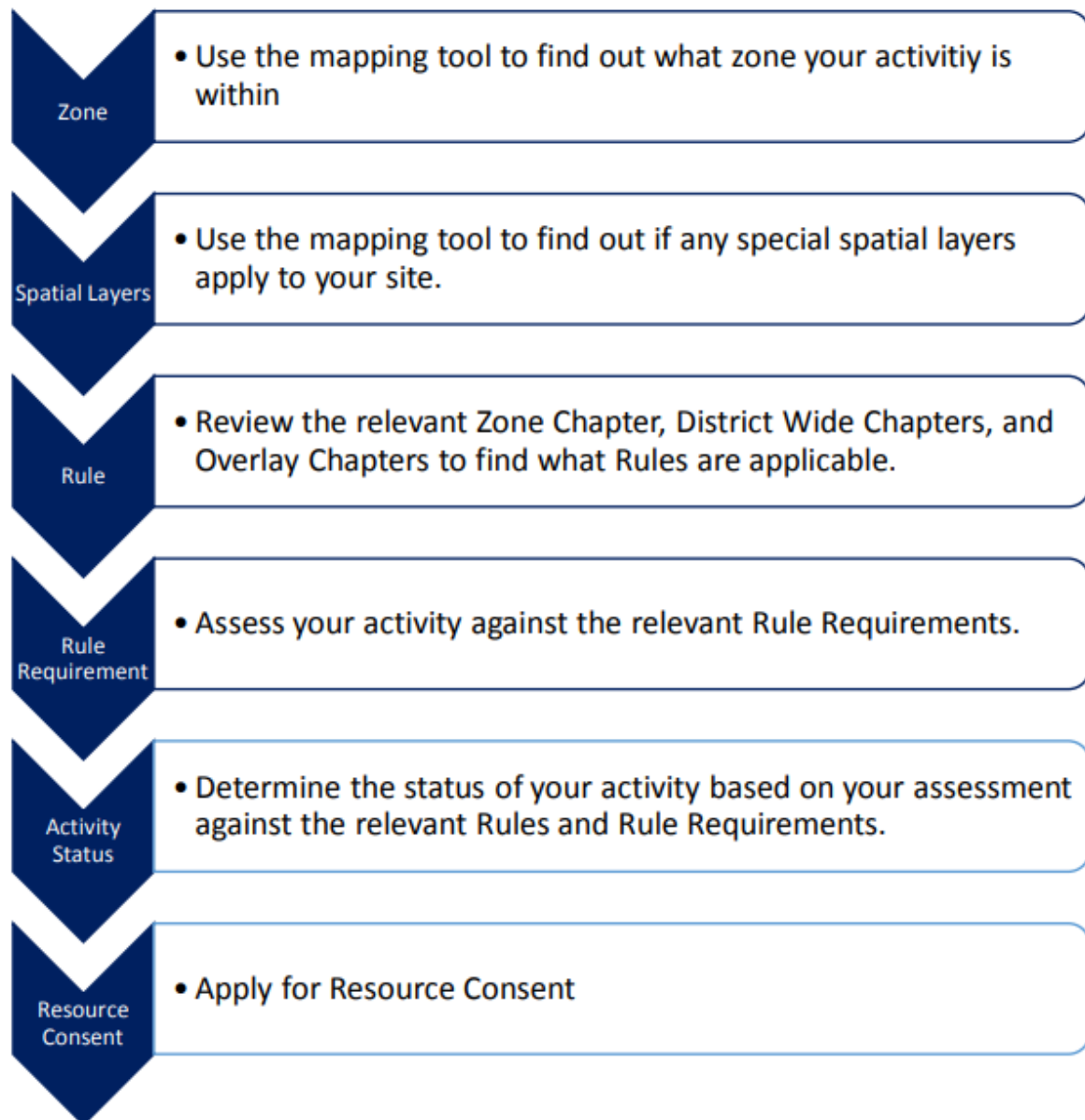
- 8.1 A drafting protocol was developed to achieve consistency in plan drafting across the District Plan Review, and to ensure completeness and improve readability. Additionally, it means that statutory requirements are also fulfilled such as under s32(1)(b)(i), which requires that all reasonably practicable options for achieving the objectives are identified. Generally the Council notes that it is seeking a district plan which is:
- contained in one volume;
 - will be in an ePlan format;
 - consistent with the National Planning Standards structure for district plans;
 - significantly rationalises the number of Living Zones; and
 - is user-friendly with clear, consistent and concise language.
- 8.2 And a district plan that does not contain:
- excess description or narrative beyond the scope prescribed in the National Planning Standards;
 - issues;
 - explanations and reasons;
 - anticipated environmental results;

- methods (other than rules);
- statements in respect of monitoring;
- text which “interprets” the meaning of statutory requirements; and
- text which may date and consequently be of limited relevance in a short space of time.

Plan Structure

- 8.3 The PDP follows an activities based planning framework, as required by the National Planning Standards. Some issues are dealt with issue by issue (typically where they occur throughout a district regardless of activity type or zone) while others are zone related, with certain issues and management solutions being dealt with solely within a zone or management area.
- 8.4 Activity based plans allow for district-wide issues to be incorporated into the same plan as localised issues without repeating provisions in each zone or area based chapter. Those issues that are found throughout a district can be incorporated into 'District Wide Matters' and be cross-referenced from other parts of the plan. Those issues specific to an area or zone can be dealt with in discrete chapters that relate solely to those areas (Area Specific Matters).
- 8.5 The PDP framework is set by the National Planning Standards. In particular the new plan:
- Is a GIS driven ePlan that makes the PDP more accessible to the community;
 - Places a stronger focus on objectives and policies as these provide the decision making framework for resource consent applications;
 - Simplifies the provisions by providing separate, tailor made provisions for individual district wide matters and zones; and
 - Simplifies the rule structure by using colour coding to indicate status, and uses a format that allows for a logical flow through different activity types.
- 8.6 The change in method of the operation of the district plan framework from effects to activities based, and the inclusion of strategic objectives to provide an overarching tone, is considered to be the most appropriate option in addressing the administration issues identified in relation to the Operative District Plan.
- 8.7 The Strategic Objectives will direct decision making by expressing the outcomes to be achieved by the Proposed Plan in addressing the key resource management issues for the district. They set up the framework for the District Plan and are supported by the chapter level objectives.

How the District Plan works



Rules verse Rule Requirements

- 8.8 These two methods of the District Plan operate in conjunction with one another. Rules are the starting point to control the activity type, with details provided as to any relevant rule requirements that need to be assessed.
- 8.9 The rule will deal with the activity, whereas the rule requirement addresses the components of the activity, usually built standards (e.g. building height), operating standards (e.g. noise), or other environmental restrictions (sensitive activity near an existing incompatible activity) applicable to that activity.
- 8.10 For example, when assessing a commercial activity against the provisions of the District Plan the activity type (commercial) will dictate the rule to be assessed against. The Commercial Activity Rule

may then specify that various rule requirements which also need to be met, such as building height, setbacks to roads, etc. Whether the attributes of the activity breach a particular rule requirement or not will determine the overall activity status of the activity, with some rule requirement breaches escalating the activity status.

- 8.11 For example, a breach of a rule requirement controlling building height may only render an activity restricted discretionary, whereas, a breach of a rule requirement controlling noise may make the activity non-complying, with the more stringent status applying to the activity as a whole.

Sections of the Proposed District Plan

- 8.12 The PDP has the following main parts to it:

- Part 1 – Introduction and General Provisions
 - Contains elements such as interpretations, how the plan works, and how the plan relates to national direction instruments.
- Part 2 – District Wide Matters
 - Contains provisions that apply across the individual zones.
- Part 3 – Area Specific Matters
 - Contains zone based provisions that only apply if the development is in a particular zone/ area.
- Part 4 – Appendices
 - Contains elements such as how to apply for a private plan change, the road hierarchy, and height in relation to boundary diagrams
- Planning Maps
 - The planning maps are a mixture of zones, overlays, specific control areas, development areas and precincts that will all relate to provisions within the Plan. It is relevant to note that roads are split zones approximately at the centre line, rather than having their own zoning.

Rules with immediate legal effect

- 8.13 A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publically notified (RMA s86B). However, as per s86B(3) a rule in a proposed plan has legal effect if the rule:

- protects or relates to water, air, or soil (for soil conservation); or
- protects areas of significant indigenous vegetation; or
- protects areas of significant habitats of indigenous fauna; or
- protects historic heritage; or
- provides for or relates to aquaculture activities.

- 8.14 Rules which protect the above and subsequently had legal effect post notification have been indicated in the PDP by an orange gavel to the right of the provision.

- 8.15 Council had options to vary this approach. It could have sought earlier legal effect from the Environment Court for other rules, or resolve that rules only have legal effect once the proposed plan has been made operative. Council did not exercise either of these options in relation to the PDP.

9. Section 32 evaluation

- 9.1 The district plan framework is subject to a process under s32 of the RMA, the purpose of which is to ensure that provisions are robust, evidence-based and the most appropriate means to achieve the purpose of the Act. To that end, the Council is required to undertake an evaluation of any PDP provision before notifying those provisions. The s32 evaluation reports provide the reasoning and rationale for the proposed provisions and should be read in conjunction with those provisions, with the degree of detail of the assessment correlating to the scale and significance of the anticipated effect of the provisions (s32(1)(C)).
- 9.2 The evaluation examines the extent to which the provisions are the most appropriate way of achieving the purpose of the Act. In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s6, have particular regard to 'other matters' (s7), and take into account the principles of the Treaty of Waitangi (s8).
- 9.3 The evaluation also identifies other options for achieving the objectives of a district plan, and the efficiency and effectiveness of the provisions in achieving these objectives. When assessing the efficiency and effectiveness of the provisions, the proposed plan must under s32(2):
- (a) *"identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
 - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
 - (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions."*
- 9.4 The Section 32 evaluation reports are robust and include an evaluation of options that were considered in the development of provisions, an assessment of the objectives against the purpose of the RMA, and evaluation of the specific provisions as the most appropriate way to achieve the objectives. Each report also contained an assessment of the provisions against the higher-order documents, such as the Regional Policy Statement and any relevant National Policy Statements.
- 9.5 The Section 32 evaluation reports also catalogue all of the consultation processes, feedback and responses for each part of the PDP.
- 9.6 In order to keep each of the Section 32 evaluations focused on the main topic, an overarching Section 32 report was written, and is closely linked to this report, which catalogues the statutory

framework within which the PDP (and the Section 32 evaluations) was prepared. It also outlines the broader consultation processes.

10. Appointment of the Hearings Panel

10.1 In accordance with section 34A of the RMA, the Council appointed a ten member Hearings Panel to hear the PDP submissions. The Hearings Panel comprises six independent commissioners, two of which are iwi commissioners, and four councillor commissioners. The Hearings Panel consists of:

- Rob van Voorthuysen (Chairperson)
- Gary Rae (Deputy Chairperson)
- Andrew Willis (Independent Commissioner)
- Lindsay Daysh (Independent Commissioner)
- Yvette Couch-Lewis (Iwi Commissioner)
- Raewyn Solomon (Iwi Commissioner)
- Malcolm Lyall (Councillor Commissioner)
- Nicole Reid (Councillor Commissioner)
- Debra Hasson (Councillor Commissioner)
- Mark Alexander (Councillor Commissioner)

11. Hearings

11.1 Hearings have been organised broadly along the lines of plan chapter order as per the contents of the PDP. Strategic Directions is considered to set the scene and provide the direction to the rest of the PDP, and as such has been selected to be the first hearing. This will be followed by the all-encompassing self-contained chapters such as Urban Growth, Energy & Infrastructure and Transport. Regarding the hearing of the Interpretation chapter, definitions which are used across the plan will be heard with other Part 1 Matters during the second hearing, but where a definition is solely used or has most relevance in a particular chapter, that definition will be included within the chapter hearing, rather than the Part 1 hearing. It was deemed important to have all of the district wide matters considered prior to the zone based hearings given their overarching presence throughout the zone based chapters, and to avoid re-litigation over district wide matters within each zone hearing if the hearing order was switched. The hearing structure is as follows:

- Hearing 1 – Strategic Directions
- Hearing 2 – Part 1 Matters
- Hearing 3 – Urban Growth
- Hearing 4 – Energy and Infrastructure
- Hearing 5 - Transport
- Hearing 6 – Hazardous Substances and Contaminated sites
- Hearing 7 – Notable Trees

- Hearing 8 – Historic Heritage
- Hearing 9 – Natural Hazards
- Hearing 10 – Sites and Areas of Significance to Maori
- Hearing 11 – Ecosystems and Indigenous Biodiversity
- Hearing 12 – Activities on the Surface of Water
- Hearing 13 – Natural Character
- Hearing 14 – Subdivision and Public Access
- Hearing 15 - Earthworks
- Hearing 16 - Light
- Hearing 17 - Noise
- Hearing 18 – Signs
- Hearing 19 – Natural Features and Landscapes
- Hearing 20 – Coastal Environment
- Hearing 21 – Temporary Activities
- Hearing 22 – Residential Zones
- Hearing 23 – Commercial and Mixed Use Zones
- Hearing 24 – General Rural Zone
- Hearing 25 – General Industrial Zone
- Hearing 26 – Special Purpose Zones – Port Zone, Knowledge Zone, and Dairy Processing Zone
- Hearing 27 – Special Purpose Zones – Terrace Downs Zone, Grasmere Zone, and Porters Zone
- Hearing 28 – Special Purpose Zone – Maori Purpose Zone
- Hearing 29 – Designations
- Hearing 30 – Rezoning requests

12. Section 42a Hearing Reports

- 12.1 Section 42A of the RMA relates to the preparation of a report on information provided on any matter described in section 39(1) by the applicant or any person who made a submission. Section 42A(1AA) outlines who may prepare such a report:

The local authority may—

- (a) require an officer of the local authority to prepare the report; or*
- (b) commission a consultant or any other person employed for the purpose to prepare the report.*

- 12.2 The purpose of the Section 42A reports in the context of the PDP is to evaluate each of the primary and further submission points and make a recommendation to the Hearings Panel. Each of the hearings will have at least one Section 42A report, which will be written by a suitably-qualified and experienced planner and makes a recommendation on each primary submission point and further submission point relevant to the topic. While these are written by a planner, the Section 42A reports will often have technical evaluations appended to them, upon which the planner has relied. The opinions expressed in the Section 42A reports are those of the author, and may not necessarily be those of Council or elected members. This is entirely appropriate, as all authors are required to confirm that they have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that they have complied with it when preparing their report. The role of the Section 42A report author is that of an independent expert. Other than when they state that they are relying on the advice of another person, the evidence must be within the author's area of expertise. Material facts known to the author cannot be omitted that might alter or detract from the opinions that are expressed in the report.
- 12.3 The authors of each Section 42A report must declare all perceived or real conflicts of interest.
- 12.4 In order to keep each Section 42A focused and free of unnecessary clutter, an overview Section 42A report (this report) has been written which contains background material on the district plan review process to date, to inform the Hearings Panel, submitters and interested people of the steps taken over several years to reach the hearings stage. It contains no analysis or recommendations on any individual submissions or further submissions.
- 12.5 Section 32AA of the RMA requires that a further evaluation in accordance with Section 32 be carried out for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed. It is good planning practice for any recommended amendments in the Section 42A reports to be subject to the rigour of a Section 32AA evaluation to help inform the Hearings Panel. Accordingly, each Section 42A report contains an evaluation of any recommended changes in accordance with Section 32, but at a level of detail that corresponds to the scale and significance of the changes recommended.