

#### 4. PROPOSED PLAN CHANGE 61 GENERAL OBJECTIVE AND POLICY FRAMEWORK FOR GREENFIELD RESIDENTIAL GROWTH AREAS

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##### PURPOSE OF REPORT

1. This report discusses the Council initiated Proposed Plan Change 61 General Objective and Policy Framework for Greenfield Residential Growth. It also discusses and reports on a presentation and bus trip workshop undertaken with Councillors on 30 June 2010 on the plan change and subsequent feedback from Mahaanui Kurataiao Limited on the plan change. The report seeks that Proposed Plan Change 61 and the associated Section 32 assessment be adopted by the Council for public notification in September of 2010.

##### EXECUTIVE SUMMARY

2. Proposed Plan Change 61 (PPC 61) introduces a new set of general Objectives and Policies to apply across all new greenfield residential growth pockets..
3. Recent greenfield growth has been facilitated by the Living G zone. Living G has 'evolved' and is evolving through several separate Resource Management Act 1991 (RMA) processes. Living G had its genesis in the Masham section 293 application before the Environment Court. Since then Living G has been used by both the Council and private plan change applicants as a starting point to develop each separate plan change. Separate statutory processes currently underway are:
  - Belfast Section 293 – Johns Road Horticulture Limited – currently before the Environment Court
  - Proposed Plan Change 5 – Awatea
  - Private Plan Change 62 – Wigram
  - Private Plan Change 30 – Preston's Road
  - Private Plan Change 43 – East Belfast.
4. The Council has the option of:
  - (a) Resolving to notify Proposed Plan Change 61, or
  - (b) Resolving not to notify Proposed Plan Change 61.
5. PPC 61 introduces a number of new General greenfield residential growth objectives and policies in regard to the structure of outline development plans (ODPs) in peripheral greenfield areas. There is a new objective in the peripheral urban growth objective (6.3B) that aligns the City Plan with Proposed Change 1 (PC1) to the Regional Policy Statement (RPS) as amended by the Commissioners decisions on PC 1 to the RPS. There is also a new Living Zone Objective 11.7 Greenfield Residential Growth and a number of supporting policies that relate to the structure of ODPs and the supporting layer diagrams that should accompany the ODP. These policies also reflect the ODP policies 7 and 8 in PC 1 to the RPS. There is an amendment to policy 10.3.2 Innovative Design that makes specific mention of good urban design outcomes in subdivision and minor word changes to Policy 6.1.1 Population Densities.
6. These objectives and policies have been reviewed legal counsel, who are considering the Council's position in regard to appeals on the Commissioners decision on PC 1 to the RPS for consistency with that position. They have found that there are no inconsistencies or conflicts.
7. The reason for the plan change is that while the Environment Court has determined that the outline development plan method (as developed in Living G) fits with the existing general urban growth objectives and policies in the City Plan, there is currently no overarching or linking policy structure in the City Plan that provides a consistent approach to comprehensive outline development plans in the City Plan. PPC 61's objectives and policies will provide direction as to how this complex method should be used for consistent administration of the method by the Council across the various plan change areas. PPC 61 is also consistent with and reflects the policy directives of PC 1 to the RPS in regard to the mechanics and contents of outline development plans (ODPs).

8. PPC 61 does not provide objective or policy about the 'where' or the 'when' (timing) of urban growth – that is for resolution of PC 1 to the RPS process to determine. Rather it provides additional guidance and direction to Council and landowners as to the expected character and form of greenfield residential growth. PPC 61 supports and reinforces existing City Plan policies and objectives which emphasise urban consolidation, a land form that promotes close proximity and accessibility between living and employment areas, avoids adverse environmental impacts and makes efficient use of physical infrastructure.
9. PPC 61 was presented to the 1 April 2010 Regulatory and Planning Committee and this was followed up by a workshop and visit to a number of examples of greenfield zones around the city as they have evolved. The bus trip visited Delamaine (Masham Section 293), Aidanfield, Milnes Estate, and Linden Grove. Councillors who attended were given a hand out, relevant parts of which are attached as **Attachments 1 and 2**. Examples of 'good' and 'bad' built outcomes were pointed out and discussed by officers and Councillors in the context of PPC 61.
10. The version of PPC 61 attached in **Attachment 3** has been changed following feedback from the workshop and a general review of the intent of the plan change and legal advice. The major change has been to make it clear that the Plan Change relates to any new greenfield residential growth – regardless of whether it is called Living G or not. This will ensure that all plan changes (private or Council initiated) will fall within the ambit of the objectives and policies of the proposed plan change – regardless of whether they are called Living G or not.
11. Mahaanui Kurataiao Limited (MKT) have provided feedback on the proposed plan change. Some suggested changes regarding protection of natural and cultural values have been taken up, and some other matters in regard to restoration and pre-treatment of stormwater before it enters natural water courses have not. A copy of the MKT response is attached as **Attachment 4**.

#### **FINANCIAL IMPLICATIONS**

12. This plan change will require approximately \$100,000 to progress in this financial year. This includes public notification fees, consultants fees and legal opinion fees. This expenditure is covered in the approved 2010/11 City Plan work program.

#### **Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

13. Refer to the preceding paragraph on Financial Implications.

#### **LEGAL CONSIDERATIONS**

14. There is a legal process of notification, submissions, reporting, hearings, decisions and possible appeals which must be followed set out in the RMA.
15. PPC 61 refers to and takes direction from policies 7 and 8 of PC 1 to the RPS. If any significant changes are made to policies 7 and 8 of PC 1 through decisions of the Environment Court on appeals this could impact on PPC 61. However the risk is minimal. Policies 7 and 8 deal with issues of detailed implementation rather than significant policy directions.
16. PC 1 of the RPS is currently open to appeal and any appeals lodged are unlikely to be heard until September 2010 at the earliest.
17. The reason PPC 61 is being pursued now is to align it with several current judicial processes, and that it appropriately has regard to PC 1 to the RPS in its current form. It is therefore not considered a legal or planning risk to include reference to and take direction from PC 1 to the RPS at this stage. This matter is discussed in detail at paragraphs 34 and 35 of this report.
18. This matter has been discussed in detail with Mr James Winchester, Legal Counsel, Simpson Grierson.
19. Simpson Grierson have reviewed the PPC 61, including the version attached to this report, and provided advice on drafting to ensure that the plan change is tight enough to avoid other matters beyond the plan change coming into scope. Simpson Grierson were also asked specifically whether the Plan Change should refer to greenfield residential growth in general

(rather than just 'Living G') to ensure that the plan change covered all potential greenfield residential growth scenarios. They were also asked to consider whether a rule should be introduced to the general rules section of the City Plan as a critical standard to ensure that all greenfield residential growth areas are subject to the objectives and policies. Overall Simpson Grierson agreed that the plan change should be redrafted to focus on all greenfield residential growth and noted that a general rule stating that all greenfield growth areas will require an ODP is not needed.

20. Simpson Grierson have also reviewed PPC 61 in relation to the recommended position that the Council takes on appeals to decisions on PC 1 to the RPS and found that there is no conflict with this recommended position.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

21. Aligns with Activity Management Plan for 2009 – 2019 LTCCP – Activity 1.3 District Plan: Prioritised program of plan changes is prepared and approved by the Council on an annual basis. PPC 61 was initially developed as part of Proposed Plan Change 5 – Awatea.

#### **ALIGNMENT WITH STRATEGIES**

22. Aligns with the Greater Christchurch Urban Development Strategy (UDS) and Proposed Change 1 to the Regional Policy Statement.

#### **CONSULTATION FULFILMENT**

23. Council undertook consultation by mail out to known participants in the Living G processes (including those persons Officers have received enquiries from in terms of prospective plan changes). That mail-out closed on 19 January 2010. The matters raised in feedback are set out in the consultation section of the Section 32 report in **Attachment 3** to this report. In general responses acknowledge the need for an overarching objective and policy direction in the City Plan but some question the level of detail specified for ODPs.
24. Mr Steve Higgs, Regional Planning Manager, of the New Zealand Transport Agency had a telephone conference with Mr Blair of the Strategy and Planning Group. Mr Higgs was very supportive of Proposed Plan Change 61 and discussed relatively minor drafting matters with Mr Blair.
25. Andrea Lobb of Mahaanui Kurataiao Ltd (MKT) has been contacted for comments on the Proposed Plan Change. MKT provided some written comments on the plan change after the Regulatory and Planning Committee on 1 April. Officers have reviewed those comments and made some changes to the Plan Change in response.
26. The Ministry for the Environment was provided a copy of the draft Proposed Plan Change by Council. At the time of drafting this report no response has been received.
27. Partner UDS Council's have been given an opportunity to respond (as either parties to an existing Living G process, i.e. Environment Canterbury or by mail in the case of Selwyn District Council and Waimakariri District Council.

#### **STAFF RECOMMENDATION**

That the Council:

- (a) Adopt the Section 32 Assessment Proposed Plan Change 61 General Objective and Policy Framework for Greenfield Residential Growth.
- (b) Agree to publicly notify Proposed Plan Change 61 pursuant to the first schedule of the Resource Management Act 1991.

#### **COMMITTEE RECOMMENDATION**

That the staff recommendation be adopted.

## BACKGROUND

28. To date the Living G zone has evolved and is evolving through several separate RMA processes. Living G had its genesis in the Masham Section 293 application by Applefields Ltd before the Environment Court. Given that the Environment Court has heard and endorsed this structure (in the Masham case) it has been used by both the Council and private plan change applicants as a starting point to develop separate plan changes. Several separate statutory processes currently underway are:
- Belfast Section 293 – Johns Road Horticulture Limited – currently before the Environment Court
  - Proposed Plan Change 5 – Awatea
  - Private Plan Change 62 – Wigram
  - Private Plan Change 30 – Preston's Road
  - Private Plan Change 43 – East Belfast.
29. Officers also receive enquiries from other prospective private plan change applicants now that the Commissioner's decisions from PC 1 to the RPS have been released.
30. In the Masham Environment Court case the Court determined that the mechanics and structure of Living G fit with the wider objectives and policies of the City Plan. Nevertheless, given the number of disparate statutory processes involving Living G, either before the Environment Court, Council initiated plan changes or private plan changes, it is a concern that there is the potential for these processes to arrive at different outcomes with different and potentially conflicting individual policy structure leading to an unnecessarily complex City Plan. An overarching structure in policy format is considered necessary to ensure that the mechanical form of Living G maintains some consistency across these and future Living G processes.
31. On 11 April 2008 the Environment Court released an interim decision on the Belfast Section 293 application (another Living G process). In that decision the Court made directions as to how the Living G rules package for the Belfast 293 was to be amended. Amongst others the Court, directed that the 'Aims and Principles' and 'key structural elements' written material that sat with the layer diagrams and the ODP would become objectives and policies within the City Plan.
32. Further, the Commissioner's decision for PC 1 to the RPS was released in December 2009. Over the course of developing Proposed Plan Change 5 (Awatea) (PPC 5 (Awatea)), which is currently going through the public notification process, Officers have been cognisant of Policies 7 and 8 of PC 1 to the RPS. These refer to the matters that the Council has to ensure are addressed in plan changes for Greenfield areas. The new Living G policies in PPC 61 take some direction from Policies 7 and 8 of PC 1 to the RPS. PPC 61 also deletes existing City Plan Policy 6.3.9 Urban Extensions as it creates ambiguity with the urban growth position of Proposed Change 1 to the Regional Policy Statement. The Proposed Plan Change also amends Policy 6.1.1 Population Densities. Comment has been sought from Officers reviewing the Commissioner's decision and drafting the Council's appeal (if any) to the Proposed Change 1 RPS decisions. Other than identifying the ambiguity or conflict with Policies 6.3.9 and 6.1.1, these Officers have indicated that there are no apparent conflicts with this position. Further to this, Simpson Grierson, the Council's legal representatives on Proposed Change 1 to the RPS have reviewed Proposed Plan Change 61 and found no conflicts. The amendment to Policy 6.1.1 is relatively minor.
33. It is recommended that the policy format in PPC 61, given the aforementioned directions of the Environment Court, and Proposed Change 1 to the RPS be pursued for all greenfield residential growth in the future. Proposed Plan Change 61 is seen as an opportunity to align the City Plan's approach to greenfield residential growth in general with the directions of the Environment Court and Proposed Change 1 to the RPS. It is also noted that later in 2010 the Council will be presenting further evidence to the Environment Court on format of the Objectives and Policies in the Belfast Section 293 case. This package will align with PPC 61.
34. Individual greenfield growth plan changes will still contain their own policies – but those policies would be specific to the plan change area and relate directly to the peculiarities of that particular greenfield growth site. For example in PPC 5 (Awatea) a policy supported by a non-complying activity rule restricts development of the Awatea Block until it can be serviced by sewer infrastructure that will not be available for that particular area for several years – this only affects the Awatea block.

35. Existing City Plan Policy 6.1.1 talks about promoting opportunities for higher densities in larger areas of peripheral urban growth. PPC 61 talks about ensuring mixes of densities including higher densities. An amendment to Policy 6.1.1 has is recommended to align 6.1.1 to the new policies in PPC 61.
36. For clarity, it is useful to discuss what PPC 61 does not do. PPC 61 does not introduce objective or policy that talks about where greenfield growth is to occur in Christchurch City or when it is to occur. Those are matters that are specifically dealt with in PC 1 to the RPS. They are issues that are likely to be hotly debated by appellants to the Commissioner's decisions on PC 1.

#### Further presentation and workshop

37. This plan change was brought before the 1 April 2010 Regulatory and Planning Committee on 30 June 2010. The workshop consisted of a half hour presentation and then a bus trip to view examples of 'good' and 'bad' built outcomes at recent large greenfield residential developments that the proposed objectives and policies are designed to address. A copy of the presentation is attached as **Attachment 1** to this report. The presentation reviewed the development, purpose and structure of Living G, reasons for the plan change and, a number of questions that had been raised by Councillors at the 1 April 2010 committee meeting.
38. Questions addressed at the presentation were:
  - (a) What is the relationship between outline development plan design and setting developer contributions under the Long Term Council Community Plan (LTCCP)?
  - (b) Is the amount of open space acquired by the Council in greenfield subdivisions diminishing?
  - (c) Can open space be specified in objectives and policies in the City Plan?
  - (d) Will Plan Change 61 lead to or prescribe repetitive subdivision with no individual flair or design?
  - (e) Should an issues or options paper be produced?
  - (f) Can the Council apply to the Environment Court to have the provisions of the plan change have immediate effect upon public notification?
39. The Development Contributions Manager addressed question on the relationship between ODPs and developer contributions. In general, for a Council initiated Living G rezoning, the ODP and the capital works programme (CWP) are developed together. Development Contributions are then set to the requirements of the capital works program. Private plan change applicants should develop their plan changes in consultation with Council officers. If they do not they could create a conflict with the capital works programme. The significance of this conflict could go towards a recommendation to reject the plan change for notification (e.g. 'Prestons') or be dealt with by a recommendation in the subsequent Officer's Section 42A RMA report. It was also noted by Officers that the layer diagrams supporting ODPs are not designed to be 'exact'. There is often room for adjustment within the parameters of the layer diagram to meet the CWP. The final design, within the constraints of the CWP and the DC's policy is determined at the subdivision stage giving effect to the ODP.
40. Staff, addressed the perception that open space for neighbourhood parks in greenfield subdivisions is diminishing. As a generality the amount of contribution per allotment for neighbourhood parks has reduced from the former 7.5 per cent of the of the allotment's under value, under the former Local Government Act (LGA), to an equivalent of 3.5 per cent of the value under the newer household unit equivalent (HUE) in the DCs policy. The Development Contributions that in future the capital works programme will align with the general requirements of the ODP in the plan change.
41. Staff addressed the matter of whether the location and amounts of open space could be specified in the City Plan. It was noted that the City Plan already has objectives and policies on open space in the City Plan, in Section 14 of Volume 2. Plan Change 61 complements and enhances these policies and brings them into a Living G context. The Planner specifically noted that PPC 61 does not specify a quantum or area of open space that has to be provided. It specifies general location and how the space is to function (which is much the same as the role of the existing objectives and policies, but with more detail in regard to bottom lines for Living G).

42. Staff addressed the question of repetitive subdivision design. The Planner said that PPC 61 only prescribes a general built outcome. It is concerned about 'bottom lines' and ensures integrated development and sustainable management. It is not designed to completely pre-determine the outcome of a development area. It does determine how aspects of the development such as servicing, transport, open space, convenience retail, urban design and density are to be delivered. Outside of those bottom lines there is room for a developer to bring their own vision of the physical development to fruition through the subdivision and building process. It was also noted that the consultancy firm Boffa Miskell, who have been undertaking some computer modelling work for the PPC 5 Awatea and Proposed Private Plan Change 62 Wigram Plan changes (both written within the parameters of PPC 61) have found that there are many different ways in which each of these development areas could be delivered within the bottom lines.
43. Staff addressed the issue of whether an issues and options paper should be produced. Living G, as a method, has been canvassed through several statutory processes – Council plan changes, private plan changes and Environment Court cases. As a general method it is well established and accepted. Importantly the general concept was widely consulted on as part of Change 1 to the Regional Policy Statement – particularly through policies 7 Urban Design and Form and 8 Outline Development Plans and Changes to zoning in District Plans.
44. Finally staff addressed the issue of whether the Council could apply to the Environment Court to have the objectives and policies have effect immediately. The answer is no. The provisions of sections 86A-86G of the RMA apply to rules only. PPC 61 is an objective and policy based plan change.
45. A three hour bus trip followed the presentation. Officers and Councillors went to Delamaine (Masham section 293 – west Christchurch), Aidanfield (South West Christchurch), Milnes Estate (South West Christchurch), and Linden Grove (South West Christchurch). The officers accompanying the Councillors were the District Plan Programme Manager, a Senior Planner, a Urban Designer, a Senior Stormwater Engineer, and a Senior Parks and Waterways Planner. Some hand out material was distributed to the Councillors. The material relevant to this discussion is attached as **Attachments 1** and **2**. At each stop Councillors were shown built outcomes and discussion ensued with officers as to whether that outcome was 'good' or 'bad' and which specific objective or policy the example related to.
46. At Masham the general theme was that the desired outcomes of multimodal connectivity, comprehensive integrated stormwater design, open space planning, provision of local convenience retail were provided. However some of the finer urban design aspects of the development needed addressing – particularly the way in which higher density was constructed (obtrusive firewalls were notable on one terrace block) and how some of the residential units addressed open space. Issues around the delivery of the storm water system arising from a lack of specificity in the blue network layer diagram, which were satisfactorily resolved, were pointed out and discussed.
47. A stop was made on the way to Aidanfield to discuss the amenity of the Wigram detention basins, their role in the refit of stormwater for the southwest, and how comprehensive and integrated design sought in the objectives and policies can help avoid the need to undertake such work in the future.
48. At Aidanfield the Councillors were shown a general theme of uniform density, poor interconnectivity with surrounding existing development, difficulties arising from a lack of comprehensive stormwater design, difficulties with the design and function of Bibiana Reserve. An aerial photograph overlaid with zoning – showing how local convenience retail and some areas of L3 density were forgone in favour of uniform Living 1 density was discussed on the bus.
49. At Milnes Estate the Councillors were shown a stormwater system set out under pylons that had reasonable amenity but was poorly designed as a series of 'bath tubs'. This design creates difficulties for operation and maintenance for the Council when vested. Another aerial photograph with cadastral boundaries was discussed. This photograph showed how interconnectivity and permeability (evident at Delamaine) had failed to be achieved on parts of Milnes Estate. The walking distance between two houses 60 metres apart is illustrated as 830 meters and the driving distance as 1310 metres.

50. At Linden Grove the Councillors were shown a higher density terrace development that exemplified the outcomes that PPC 61's Objectives and Policies are seeking to achieve in terms of location with open space, relationship with open space, connectivity between streets and open space, Crime Prevention Through Environmental Design (CPTED), well designed and functioning back lanes.

Feedback from Mahaanui Kurataiao Limited.

51. The earlier report on this plan change noted that MKT had not responded to requests to provide feedback on the plan change. Feedback has now been received. Comments generally sought greater recognition of habitat and cultural and spiritual values of concern to Ngāi Tahu. Changes have been made to the Plan Change (attached as **Attachment 3** and shown as red tracked changes) to reflect some of these comments. These changes generally align with Section 5 of Volume 2 of the City Plan – Tangata Whenua.
52. However not all of the changes sought have been taken up. Some of the changes sought by MKT went to 'restoration' of sites of cultural significance. Actual restoration is not a matter that is currently dealt with by existing objective and policy in Part 5 of Volume 2. The existing policies are concerned about avoiding, remedying or mitigating adverse effects on values of significance. Investigation to extend policy to actual restoration of adversely affected taonga is wider matter that should be explored in the forthcoming review of Part 5 of Volume 2 of the City Plan (as part of the general city plan review) in the context of Section 8 Treaty of Waitangi, and Section 74(2A)(a) Matters to be considered by territorial authorities (taking into account relevant planning documents by an Iwi) of the RMA.

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53. Further, MKT sought specific recognition in the objectives and policies that stormwater be conveyed and treated outside of natural waterways. This has significant implications for detailed sustainable stormwater design. At this stage it is considered that this is a matter that is better dealt with as part of any integrated catchment management plan and subsequent resource consent applications to Environment Canterbury for discharge consent.

Feedback on fit with the Infrastructure Design Standard.

54. The Plan Change has been checked against the newly adopted infrastructure design standard. Minor issues in relation to specifying a minimum dimension of 20 metre width for open space were identified. Alterations to delete the specific reference and to put more emphasis on the desired functional outcome have been made. These are shown as red tracked changes on Policy 11.7.2(a) in **Attachment 3**.

Further advice from Simpson Grierson.

55. Following further consideration of the plan change after the workshop and field trip staff has asked Simpson Grierson whether the plan change should be redrafted to cover all potential greenfield residential growth rather than just Living G. It is feasible that a Private Plan Change applicant could seek a different format of growth that isn't called Living G and doesn't involve an outline development plan. Simpson Grierson reported back that the plan change would benefit from redrafting from Living G to a more generic green field residential growth format. This has been undertaken this redrafting work has been completed. Changes are shown as red tracked changes in Attachment 3.
56. Simpson Grierson were also asked, by staff, whether a general rule needed to be inserted in the plan change stating that all greenfield residential growth needs to be accompanied by an outline development in the format sought in the policies. Simpson Grierson reported that such a rule was not needed because:
- (i) Any plan change will be assessed against the existing objectives and policies of the City Plan – including those introduced by Plan Change 61.
  - (ii) It is extremely unlikely that any resource consent application for subdivision consent for residential development on 'greenfield land' would be anything other than a non complying activity. A non complying activity resource consent application is assessed against the existing objectives policies and rules of the City Plan – including those introduced by Plan Change 61.

## **THE OBJECTIVES**

57. To publicly notify the attached Proposed Plan Change 61 General Objectives and Policies for Greenfield Residential Growth.

## **THE OPTIONS**

### **58. Option 1**

Adopt the Section 32 Assessment for Proposed Plan Change 61 and agree to notify Proposed Plan Change 61 pursuant to the first schedule of the Resource Management Act 1991.

### **59. Option 2**

Do not publicly notify Proposed Plan Change 61.

## **THE PREFERRED OPTION**

60. Option 1 is the preferred option. This will enable the Council to provide a framework in the City Plan for policy consistency in structuring and assessing plan changes for greenfield residential development.