

## Report to Regulatory Committee

### Whanganui District Council

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**Subject:** **Section 42A Officers Report**  
**Proposed Plan Change 60 – Miscellaneous 2**

**Hearing Date:** **18 October 2023**

**Prepared for Chief Executive by:** **Leayne Huirua**

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## Summary

- 1.1 Section 73 of the Resource Management Act 1991 (**the RMA**) provides for councils to initiate plan changes as necessary and appropriate.
- 1.2 The purpose of Plan Change 60 (**PC60**) is to make changes to amend the operative Plan to facilitate a number of minor changes. These include some rezoning of individual properties, and text changes predominantly involving clarifications and updates.
- 1.3 The Plan Change involves minor changes to existing objectives and policies; and proposes to make general minor amendments to the District Plan in order to ensure its efficient functioning.

## Recommendations to the Regulatory Committee

Recommends that the Council:

1. Receives the s42A report.
2. Accepts, accepts in part or rejects the submissions as set out in Appendix 3 of the Report for the reasons given.
3. Adopts Plan Change 60 to the Whanganui District Plan, with the changes recommended as a result of the Hearing as set out in Appendix 4 of this report.

## 2 Introduction

2.1 This report has been prepared to address Plan Change 60 submissions. The report is prepared by the following officer:

2.2 Leayne Huirua has prepared the responses to Plan Change 60 submissions and supporting information. Leayne has worked for over nine years at the Whanganui District Council Planning Department as an administrator and Policy Planner, and has a Diploma of Arts (Planning Studies). Her role includes the preparation of Plan Changes, reports, evaluations, research and consultation.

2.3 This report has been prepared in accordance with section 42A of the RMA. The purpose of this report is to assess the proposed plan change in terms of the relevant statutory considerations and obligations, taking into account those issues raised by submissions and any subsequently recommended amendments.

2.4 Leayne confirms that she has read the Code of Conduct for Expert Witnesses (Section 8 of the Environment Court Consolidated Practice Note 2023) and agrees to comply with this Code of Conduct. She has complied with the Practice Note when preparing this report and will do so when giving oral evidence before the Commissioner.

Leayne states: The data, information, facts and assumptions I have considered in forming opinions are set out in the report to follow. The reasons for the opinions expressed are also set out in the report to follow.

This evidence is within my area of expertise, except where I state I am relying on evidence from another expert. I confirm I have not omitted to consider material facts known to me that might alter or detract from the opinions.

2.5 I have also relied on a range of background information, technical documents, policies and plans (including higher level resource management documents such as the Regional Policy Statement (RPS)) as outlined below, and in the section 32 report.

2.6 The following is a list of abbreviations referred to throughout this report:

- PC60 – Proposed District Plan Change 60
- Appendix C – Protected Trees schedule
- RMA or the Act – Resource Management Act 1991
- NPS – National planning standard/s
- NPS-HPL – National Policy Statement on Highly Productive Land 2022
- LUC – Land use capability
- NES – National environmental standards
- RPS – Regional Policy Statement (Combined Horizons One Plan)
- Plan – District Plan
- WDC – Whanganui District Council

2.7 This report addresses the following matters:

- The submissions received.
- An assessment of and recommendation for each submission received.
- Whether any changes to the District Plan are proposed as a result of the submissions and an assessment under s32AA of the RMA.

2.8 The following appendices are attached:

- **Appendix 1** PC60 Public Notices
- **Appendix 2** Submissions to PC60
- **Appendix 3** Submission Summary and Recommendations for PC60
- **Appendix 4** PC60 – Proposed Marked-up Plan Text Amendments
- **Appendix 5** Section 32AA Re-Evaluation PC60

### 3 PC60 – Purpose of the Plan Change

- 3.1 This Plan Change comprises a number of minor changes to the District Plan. The changes include a rezoning of individual properties, and text changes predominantly involving clarifications and updates.
- 3.2 Council staff maintain a record of issues which arise as a result of resource consent applications or are brought to council by external parties. Periodically the list of issues raised is investigated and refinements to the District Plan are promoted to address miscellaneous provisions. The Plan Change proposes to make generally minor amendments to the District Plan in order to ensure its efficient functioning.
- 3.3 PC60 was prepared and notified in accordance with Section 74 of the RMA, which outlines the requirements for changing a District Plan. PC60 is being undertaken alongside the Council's staged District Plan review.
- 3.4 National planning standards (NPS) were introduced through the 2017 amendments to the Resource Management Act 1991 with the aim of having national consistency in the format of RMA plans. Additionally, electronic interactive plans (ePlan) were required to be operational within five years. WDC's ePlan became operative in December 2019. During the administrative process of transferring to the new format, some transcription errors to the numbering occurred. Although this could have been rectified without a full plan change (s58I), this plan change was a timely opportunity for rectification of the erroneous numbering.
- 3.5 The National Policy Statement for Highly Productive Land (NPS-HPL) came into force in October 2022 with the objective of protecting highly productive land (HPL) for land-based primary production in the Rural Production and Rural General zones. The NPS-HPL protects Class I, II, and III land from use and development, with the avoidance of subdivision, and rural lifestyle and urban rezoning. To align to this Policy Statement, PC60 seeks to add Class III land to the objectives and policies of the plan. Further, in order to consider HPL in resource consent applications for restricted discretion activities, it is proposed to add a further matter of discretion to the existing matters.
- 3.6 District Plans are required (s75) to include objectives, policies to achieve objectives, and rules (if any) to implement policies. To achieve the objectives and policies in the plan, a council can rely on a mix of regulatory (eg. rules) and non-regulatory methods. A plan can also incorporate methods, conditions and standards to manage the specific environmental effects of activities.
- PC60 seeks to clarify standards for vehicle crossings in relation to street trees, and to the specified widths of vehicle crossings. Clarification is also sought for minor residential units in the General Residential Zone, to make the standard more explicit to meet the objectives of a minor dwelling. Further, a note in an earthworks standard is proposed to be deleted to also provide clarification.
- 3.7 Regulations or standards for 'height in relation to boundary' (sometimes known as recession planes) are used in the District Plan to create boundary setbacks that ensure

activities don't have a negative impact on neighbouring properties. Objectives and policies seek to avoid excessive shading of public spaces or neighbouring properties from structures.

Standards relating to 'height in relation to boundary' are contained in the Network Utilities (NU); General Residential Zone (GRZ); Coastal Residential Zone (CRZ); Rural Lifestyle Zone (RLZ); Settlement Zone (SETZ); Commercial Zone (COMZ); and Open Space Zone (OSZ) sections. Currently, the District Plan has exemptions to these standards which, in essence, means that certain structures do not have to comply with the 'height in relation to boundary' rule. These include structures which could be near boundaries or on rooftops such as chimneys, solar heating devices, play equipment, and network utility masts.

With an increased awareness of climate change issues and a national drive towards lowering emissions, there are increased options of sustainable energy devices available to the domestic and commercial property owner. Similarly, the change in telecommunications structures are beyond those available when these standards were created. Placement of these structures may potentially breach the height recession plane and have a negative impact on neighbouring properties. It is therefore proposed to limit exceptions to the 'height in relation to boundary' standard.

The District Plan has a schedule of Protected Trees (Appendix C), supported by objectives and policies that allow for identification and management of significant trees. PC60 proposes the addition of two additional pōhutukawa trees to the schedule which have been identified by members of the community and fit the criteria for inclusion.

There are limitations to trimming and maintenance of protected trees within the District Plan, as well as the requirement to follow industry standards. PC60 proposes to align with the standards more appropriately by adding further clarification for these activities.

- 3.8 There is also a risk that trimming or maintenance of protected trees on private property could be beyond the scope of permitted activities, risking damage to the trees. To help minimise this risk, it is proposed that a standard be created requiring evidence of why the tree needs trimming, and to dis-incentivise unnecessary works.
- 3.9 The District Plan is comprised of zones as set out in the National Planning Standards – Zone Framework Standard. A zone spatially identifies and manages an area with common environmental characteristics or where environmental outcomes are sought, by bundling compatible activities or effects together, and controlling those that are incompatible.

It has been identified that a number of properties across the district have more than one zone across them. This can be problematic when assessing resource consents as there are more than one set of rules to consider, and the most stringent rules apply in deciding whether or not a consent is required. It is proposed to change some of these affected properties to the most appropriate single zone with agreement from the landowner.

## 4 Submissions

- 4.1 PC60 was publicly notified in accordance with Clause 5 of the 1<sup>st</sup> Schedule of the RMA on 24 May 2023, with the period of submissions closing on 5 June 2023. A copy of the public notice is included as Appendix 1.

- 4.2 Ten submissions were received at the close of submissions.
- 4.3 Submissions were received from the following parties. Copies of the submissions are found in Appendix 2:

<b>Submitters</b>			
01	Rainer & Katharina Schmidt	06	Michael O'Sullivan
02	Horticulture New Zealand Ahumara Kai Aotearoa	07	Bernadine Bourke
03	Powerco Ltd	08	Platinum Homes Whanganui/Manawatu
04	McDonald's Restaurant (New Zealand) Ltd	09	James Lees & Shirley Bennett
05	Steven Archer	10	Horizons Regional Council

- 4.4 All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the RMA. The further submission process closed on 31<sup>st</sup> July 2023.
- 4.5 No further submissions were received.
- 4.6 The focus of this s42A report is to assess the issues raised in submissions to consider whether the decision requested is appropriate, taking into account:
- Good planning practice
  - The requirements of the RMA
  - The requirements of National Policy
  - The relationship with the broader planning framework under the District Plan and its implementation and consistent administration, and
  - The direction set by other Plan changes in the Whanganui District Plan Review.
- 4.7 The summary of submissions is included with Appendix 3 of this report where details of each submission are addressed.

## 5. Analysis of Submissions

- 5.1 Before a plan change can be incorporated into a District Plan it must fulfil a number of statutory requirements set down in the RMA including matters of National Importance and matters to be considered by Territorial Authorities.
- 5.2 The assessment of this Plan Change must also include an evaluation of the provisions to determine their adequacy in terms of:
- a) Their relationship and workability with other District Plan provisions; and
  - b) The appropriateness of such provisions (their reasonableness and consistency).
- 5.3 The decisions requested by the submitters are considered in Appendix 3 of this report.
- 5.4 Appendix 4 comprises a marked up version of the notified text and identifies recommended changes following consideration of submission points. Each recommended change (to text only) is shaded yellow.

## 6. PC60 – Section 32AA Evaluation

- 6.1 Section 32AA of the RMA requires that any proposed changes to PC60 as notified be subject to further evaluation.
- 6.2 As a result of considering the various submission points, I have identified a number of recommended changes to the proposed Plan provisions in Appendix 3. Rather than repeat the reasons and evaluation for each of the changes in this section, I have included my additional assessment as amendments to the notified s32 Evaluation Report. The affected provisions of that report are appended as Appendix 5 to this report (shown as highlighted text for ease of reference). This approach is considered appropriate to reflect the scale and significance of changes relating to the decisions requested by the submissions. These extracts, combined with the balance of the section 32 Report, fulfil the requirements of s32AA of the Act.
- 6.3 The majority of the changes are recommended to improve the certainty and clarity of the provisions for plan users.
- 6.4 Unless otherwise stated within the s32AA Report in Appendix 5, the assessment undertaken in the section 32 Evaluation Report still applies.

## 7. Conclusions and Recommendations

- 7.1 It is recommended that PC60 be amended as indicated in the marked up text (refer to Appendix 4 of this report) and decisions on submission be confirmed as recommended in Appendix 3.
- 7.2 A re-evaluation in accordance with Section 32AA of the Act has been completed (refer to Appendix 5 of this report), in relation to all recommended changes and following consideration of issues raised in submissions.
- 7.3 I consider that the amended provisions will be efficient and effective in achieving the purpose of the Act, the relevant objectives of the proposed plan, and other relevant statutory documents, for the reasons I have recorded as part of the analysis and recommendations within and attached to this report. I am of the view that the plan change gives effect to the NPS, and has been prepared in accordance with sustainable management purpose of the Act.

**Leayne Huirua**  
**20 September 2023**

## Appendix 1

### PC60 Public Notices

## **Public Notice of Proposed Change 60 to the Whanganui District Plan**

### **Resource Management Act 1991 (the Act)**

Whanganui District Council hereby gives public notice pursuant to Clause 5 First Schedule of the Act of proposed Plan Changes to the Operative Whanganui District Plan.

**PC60 Miscellaneous 2** covers a number of minor matters including:

- the simplifying of zones on some properties identified as having more than one zone;
- clarification of rules for height in relation to boundary, minor residential units, and vehicle crossings;
- policy alignment for highly productive land;
- additions to the protected tree schedule with modification to the rules of protected trees; and
- topographical and numbering amendments.

Please contact Leayne Huirua by phone on 06 349 0001, if you have any queries about the proposed changes. The proposed changes may be inspected during normal office hours at:

- Customer Services Desk at Whanganui District Council, 101 Guyton Street; or
- Public Libraries at Queens Park and Gonville; or
- Anytime on the Council's District Plan Website: [www.whanganui.govt.nz/plan-change-60](http://www.whanganui.govt.nz/plan-change-60)

Any person may make a submission by sending a written or electronic submission to Whanganui District Council, PO Box 637, Whanganui 4541, or email [Leayne.Huirua@whanganui.govt.nz](mailto:Leayne.Huirua@whanganui.govt.nz). The submission must be in the format of Form 5 and state whether or not you wish to be heard on your submission. Copies of the form are available from the Council offices and website (see above). Electronic submissions do not require a signature.

Submissions close at **5.00pm on Sunday 25<sup>th</sup> June 2023**.

**David Langford**

CE - Whanganui District Council

**24 May 2023**

### **Public Participation Process**

The process for public participation in the consideration of the proposal under the Act is as follows:

- After the closing date for submissions Council must prepare a summary of decisions requested by submitters and give public notice of where the summary and submissions can be inspected; and
- Any person may make a further submission in support of, or opposition to, the submissions already made.
- If any person making a submission asks to be heard in support of his or her submission, a hearing must be held; and
- Council must give its decision on the provisions and matters raised in the submissions (including its reasons for accepting or rejecting submissions) and give public notice of its decisions within 2 years of notifying the proposal and service it on every person who made a submission at the same time; and
- Any person who has made a submission has the right to appeal against the decision on the proposal to the Environment Court if, the persons submission referred to the matter for which an appeal is to be lodged; and the appeal does not seek the withdrawal of the proposal as a whole.



*Clause 7, First Schedule, Resource Management Act 1991*

Whanganui District Council has prepared a summary of submissions for the following proposed Plan Change to the Whanganui District Plan:

**PC60 (Miscellaneous 2)** covers a number of minor matters including simplification of zones, clarification of rules, policy alignment of highly productive land, additions to the protected tree schedule and administrative corrections.

Copies of submissions, a summary of decisions requested by submitters and further submission forms can be inspected during normal office hours at:

- the Customer Services Desk at Whanganui District Council, 101 Guyton Street,
- the Davis Library, Pukenuamu/Queens Park, and
- the Gonville Café Library

The summary of decisions requested and further submissions forms are also available on the Council's District Plan website: [www.whanganui.govt.nz/plan-change-60](http://www.whanganui.govt.nz/plan-change-60)

Please contact Leayne Huirua on 349 0001 or email [Leayne.Huirua@whanganui.govt.nz](mailto:Leayne.Huirua@whanganui.govt.nz) if you have any queries about the proposed changes.

The Council now invites further written submissions from the public, in the prescribed form (Form 6)

Further submissions may **ONLY** be made in support or in opposition to a submission already received by Council.

You can make a further submission by sending a written or electronic submission to Whanganui District Council, PO Box 637, Whanganui 4541 or email [PlanningPolicy@whanganui.govt.nz](mailto:PlanningPolicy@whanganui.govt.nz). The submission must be in Form 6 and state whether or not you wish to be heard. Copies of the form are available from the Council offices and website (see above). Electronic submissions do not require a signature.

**Further submissions close at 5.00pm on Monday 31<sup>st</sup> July 2023.**

**David Langford**  
**Chief Executive**