

Sections 169, 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE and 149ZCF Resource Management Act 1991



Report pursuant to section 169(1) of the Resource Management Act 1991 recommending whether a notice of requirement should be publicly notified, limited notified or non-notified.

Decision pursuant to sections 169 and sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF

Author: Jane Anderson

Position: Consultant Planner

Notice of Requirement Number: D220002

REQUIRING AUTHORITY:	Minister of Education
PROPOSAL:	To designate the site for education purposes – secondary school, primary school, early childhood and specialist hub
LOCATION:	700 Selwyn Road, Rolleston
LEGAL DESCRIPTION:	Lot 1000 DP 557037 contained in Record of Title 977880

Description of the Proposal

1. The Minister of Education (the Minister) has given notice of a requirement for a new designation to establish educational facilities to cater for secondary school students from Year 9 to 13, primary school students from Year 0 to 8, along with an early childhood education centre (ECE), and a specialist Hangarau teaching hub / space.
2. The proposed designation sought is for 'educational purposes', as set out in **Appendix 1**.
3. The notice provides a detailed description of the proposal, as set out below:
 - A secondary school, catering for Year 9 to Year 13 inclusive, with an initial build roll of 1,200 students, with a potential future expansion roll of 2,500 students;
 - A full primary school, catering for Year 0 to Year 8 inclusive, with an initial roll of 300 students;
 - An early childhood centre, for approximately 50 students; and
 - A Hangarau specialist teaching space / facility (technology facility provided in accordance with tikanga practices).
4. A number of conditions are proposed to provide parameters around the scope of the designation, and to mitigate the effects of any school development on the site. These cover the purpose of the designation, the maximum coverage of buildings on the site, noise from the operation of the facilities, the requirement to develop a school travel plan within 6 months of the opening of the school and exemption from the provision of an outline plan of works for a variety of minor works. The original draft conditions are attached in **Appendix 1**.

5. Further information has been provided in response to requests for further information as “RFI Response” dated 12 September 2022 and “Peer Review Response” dated 12 December 2022. These documents are attached as **Appendix 2**.
6. The Minister has advised that a separate outline plan would be lodged at a later date for the proposed works on site.

Description of the Existing Environment

7. The application site is a 10.18 hectare site located within the wider ‘Faringdon West Village’ Development. The site is owned by the Crown.
8. The site is fully described in section 3 of the application. I adopt the applicant’s description, and note the following key points:
 - The application site is located in the south-eastern corner of the “Faringdon West Village” that is currently under construction.
 - The site is zoned Rural (Inner Plains) under the Operative District Plan and General Rural under the Proposed District Plan.
 - The site is located directly adjacent to the wider West Village development which was approved by an Expert Consenting Panel under the COVID-19 Recovery (Fast-track) Consenting Act 2020 (FTCA) under resource consents RC2165539 and RC215540. However, the subject site was subdivided from the wider West Village land and is not subject to the consent conditions.
 - The site is currently vacant and does not contain any significant vegetation.
 - The site will encompass an entire block and will have road frontages on all four boundaries, being Selwyn Road, Springston Rolleston Road and the recently completed Hungerford Drive and Eileen Way. The excepting being 12 adjoining properties on Pye Lane.
 - As part of the purchase of the site, the developer is required to provide the site with accesses to all appropriate services, including fibre, electricity, water supply, fire-fighting water supply and waste water.
 - Land immediately adjacent to the site on the western and northern boundaries are currently being developed for residential activities in accordance with the FTCA consents. Acland Park is located to the east of the site, on the adjacent side of Springston Rolleston Road, and is also currently being developed for residential activities in accordance with the HASHA Resource Consents.
 - Land to the south of the site is currently zoned Rural (Inner Plains). The closest residential unit within the Rural zone is approximately 75m from the site.
9. An aerial photo of the site is shown in **Figure 1** below.

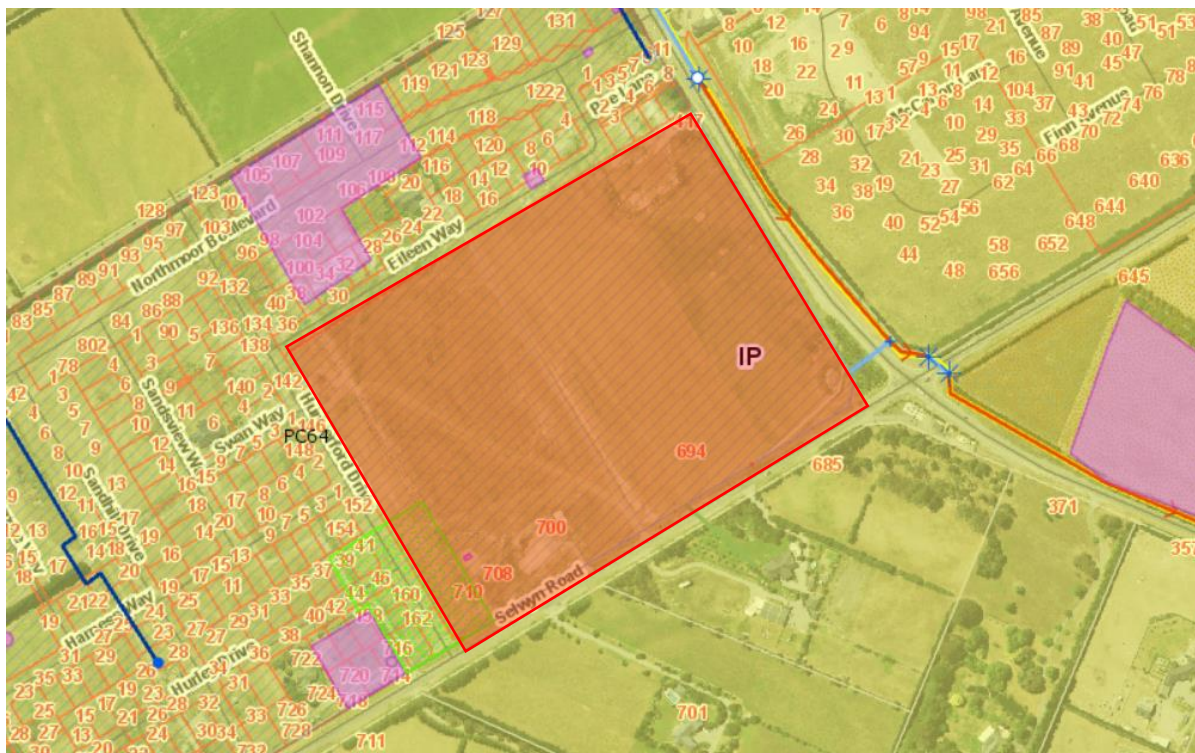


Figure 1 – Approximate location of site (red square) and surrounding area. Aerial photo – Selwyn District Council

Section 169 Notice of Requirement to Territorial Authority

10. Section 169 applies if a territorial authority is given notice of a requirement under section 168 for a designation for a public work within its district from a Minister of the Crown.
11. Section 169(1) states:
 - (1) *If a territorial authority is given notice of a requirement under section 168, the territorial authority must, within 10 working days, decide whether to notify the notice under—*
 - (a) *subsection (1A); or*
 - (b) *sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF, which apply with all necessary modifications and as if—*
 - (i) *a reference to an application or notice were a reference to the notice of requirement; and*
 - (ii) *a reference to an applicant were a reference to the requiring authority; and*
 - (iii) *a reference to the Minister or the EPA were a reference to the territorial authority; and*
 - (iv) *a reference to an activity were a reference to the designation.*

Section 149ZCE Assessment – Environmental Effects

12. Section 149ZCE sets out the relevant considerations for determining whether adverse effects on the environment are likely to be more than minor for the purposes of making a decision on public notification pursuant to section 149ZCB(2)(a).

149ZCE [Territorial Authority] to decide if adverse effects likely to be more than minor

For the purpose of deciding under section 149ZCB(2)(a) whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the [Territorial Authority]—

- (a) must disregard any effects on persons who own or occupy—
 - (i) the land in, on, or over which the activity will occur or apply; or*
 - (ii) any land adjacent to that land; and**
- (b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*
- (c) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*
- (d) must disregard trade competition and the effects of trade competition; and*
- (e) must disregard any effect on a person who has given written approval in relation to the relevant application or notice.*

Discussion

13. The actual and potential adverse effects of the proposal relate to residential coherence, character and amenity, visual, noise, and traffic movements.

Permitted baseline

14. In determining whether the adverse effects of a proposal are more than minor, section 149ZCE(b) allows the Council to disregard the adverse effects of permitted activities.
15. The site is zoned Rural Inner Plains. Within the Rural Inner Plains zone, residential activities are permitted where the residential density is one residential dwelling per 4 hectares subject to meeting the built form requirements. The Rural Inner Plains provisions provide, as a permitted baseline, for a building to cover a maximum of 5% of the net site area, to a maximum height of 8m for a dwelling or 12m for any other building and be sited a minimum of 5m from property boundaries, and a minimum of 10m from road boundaries.
16. The zone also permits non-residential and non-rural activities where no more than two staff are employed on site, where the gross floor area of any building does not exceed 300m² and the vehicle movements do not exceed 20 per day on a local road, which forms a relevant permitted baseline against which to assess the proposed activity. The rule framework also specifically provides for activities associated with tertiary education providers and Crown Research Institutes.
17. Noise limits in the Rural Inner Plains shall not exceed 55dB_{L10} between the hours of 7:30am – 8pm, and 40dB_{L10} between 8pm – 7:30am at any Living Zone boundary, and 60dB_{L10} between the hours of 7:30am – 8pm, and 45dB_{L10} between 8pm – 7:30am at the notional boundary of any dwelling, hospital or classroom.
18. Given the complexity of the rural zoning as applied to this site, the identified permitted baseline provides little guidance. Further, the surrounding residential environment has been developed in accordance with resource consents and therefore a comparison of the proposed development with a residential zoning is not applicable in terms of section 149ZCE(b).

Context and Zoning

19. The subject site is located within the Rural Inner Plains zone under the Operative District Plan. As has been noted, the immediately adjacent land to the north, east and west of the site have been developed in accordance with resource consents providing for residential scale developments (RC216539 and RC215540). However, the subject site was subdivided from the land subject to these resource consents and remains zoned rural in both the Operative and Proposed District Plans.
20. Given the residential context of the application site, it is considered more appropriate to assess the amenity and coherence of the NoR against the receiving environment rather than the rural zoning.

Residential coherence

21. Non-residential activities establishing within residential areas have the potential to result in adverse effects on residential coherence, character and amenity. Adverse effects on residential coherence occurs when residential activities are displaced by non-residential developments, resulting in a loss of community from the area. Alternatively, when the character and integrity of an area zoned for residential development and character is encroached by an activity(ies) which are inherently not residential this can alter and reduce the residential integrity and character of that area, and / or result in isolated residential occupation surrounded by non-residential activities. Effects on character and amenity occur as a result of development that is of a scale and character that is not compatible with a residential environment and that detracts from the pleasantness or attractiveness of a place, or substantially encroaches into a residential environment displacing residential development.
22. The application site is located within a developing residential area. It is anticipated that the once developed, the character of the immediately adjacent environment will reflect that of recent greenfield residential development within the Rolleston township, that being, single storey detached residential units. On the southern side of the road, the area remains rural-residential in character.
23. Although schools and ECE are not residential activities, they are an integral and expected component of residential communities. It is considered typical and appropriate that a school be established within residential areas. It is noted that both Acland Park Primary School (ME 30) and Lemonwood Grove School (ME28) are similarly located in the Rural Inner Plains zone and surrounded by residential developments established through HASHA consents.
24. I consider that establishing educational activities in this location will not result in any loss of residential coherence from the surrounding area. The application site is currently vacant, so the development of these activities on the site will not displace any existing residential activity. Further, the surrounding residential environment will remain dominated by residential activity and will continue to maintain a coherent residential character. Further it is noted that, with the exception of the limited number of Pye Lane properties, the site is demarcated by road boundaries, providing a clear boundary to adjoining residential development and preventing further displacement of residential activities as the school will be contained within the defined urban block.

Character and amenity

Visual character and amenity

25. At this time, the Ministry has through its Notice of Requirement set out its commitment to establish a school on the site. Specific details of the public work and project associated with individual

buildings, facilities and configuration will be considered at the Outline Plan stage, in accordance with section 176A of the RMA. However, proposed conditions put forward as part of the designation would seek to increase site coverage and maximum height of buildings beyond that provided for as a permitted baseline under the applicable Rural zoning as associated with the site.

26. As has been discussed, while the site was omitted from the area subject to the resource consents granted under FTCA, the surrounding environment is currently being developed in accordance with the Living Z provisions of the Operative Selwyn District Council. The Rural Inner Plains zone provides for a maximum site coverage of 5%, while the FTCA resource consents / Living Z zone on the surrounding sites to the proposed designation provides for a maximum building coverage of 45% as associated with both building bulk and scale. Commensurately, applying this extent of site coverage to the proposed Designated site would equate to 45,000m² of building footprint. While the NoR does not include any height limits, the proposed conditions include a recession plane restriction and an Urban Design process. Proposed condition 2 seeks to replicate the site coverage provisions provided for in the surrounding residential environment. Proposed condition 3 seeks to provide a minimum setback of 3m from any road boundary.
27. Proposed condition 4 provides for an urban design statements and landscape concept plan as part of any subsequent Outline Plan process under s176A of the Act. The Urban Design Statement will demonstrate *“how the layout and design of the education facility will promote a positive relationship to the adjoining street network and neighbourhood”*. A Master Plan and subsequent landscape concept plan will provide details of framework tree planting, the identification of open space, location of vehicle access and parking, and boundary management.
28. As there is no indicative development plan for the site, it is difficult to comprehensively pre-empt and assess the potential visual effects of any built form. However, as noted the Outline Plan process provides an opportunity for the Council to determine the impact of any subsequent school development on the site and the request changes for design, layout and configuration in order to maintain an appropriate level of amenity that remains compatible with the surrounding urban context.
29. Given the likely scale of the proposed educational development, the visual effects from the bulk of associated built form have the potential to be minor, particularly when consideration is given to the existing environment. Although there will be substantial proportions of open space associated with the school (playing fields, courtyards etc) from some locations the view may be dominated by buildings to a greater degree than anticipated by the resource consents granted under the FTCA in the surrounding residential environment, or by the underlying Rural Inner Plains zone.
30. Another key change in visual character and amenity will be from the increase in activity on and around the site. However, based on the 45% maximum site coverage, the provision of sports fields and open spaces typical of school developments, and in conjunction with the buffering effect of the road network that demarcates the site from the surrounding residential development, I consider that the scale of the site will enable the dispersal of the built form across the site, serving to create a feeling of openness and spaciousness, and reducing the potential dominance of the built form.
31. The site is demarcated by, and has road frontages to Hungerford Drive to the west, Eileen Way to the north, Springston Rolleston Road to the east and Selwyn Road to the south. Given the location of these roads, and the proposed 3m road boundary setback and recession plane requirements, it is considered that the additional distance to these sensitive receivers will reduce

any potential visual dominance of the development. That is, there will be no residential dwelling immediately adjacent to any buildings able to be established under the proposed designation, except for four properties with frontage to Pye Lane as discussed further below. On balance, and in consideration of the future assessments required through the Outline Plan process, it is considered that any adverse effects on adjacent residential sites will be less than minor.

32. Four residential properties immediately adjoin the subject site in the north-eastern edge of the site, with frontage to Pye Lane. No internal boundary setbacks within the Notice of Requirement have been proposed along that interface, however, as the applicant notes in page, a recession plane condition has been proposed to ensure that these properties have “*appropriate access to sunlight, privacy and amenity*” (page 44 of the Assessment of Environmental Effects). These properties are currently owned by Hughes Development who have provided their written approval for the proposed development [Attachment G to the application] and therefore any potential adverse effects on these properties have been disregarded pursuant to s149ZCE(e) and s149ZCE(3)(a).
33. The proposal has been reviewed by Ms Gabi Wolfer, Urban Designer, Selwyn District Council. Ms Wolfer notes the condition that requires an Urban Design assessment at the Outline Plan stage will provide certainty that future development will have regard to appropriate urban design outcomes.

Transport Amenity

34. Traffic amenity effects result from the number, scale, type and location of vehicle movements and parking demand generated by an activity that may commensurately result in noise, glare, vibration, safety and access issues, and visual intrusion of vehicles at various times of the night and day, and during weekends.
35. It is acknowledged that the proposed development will result in additional traffic and activities associated with an educational facility. The majority of these activities will be largely limited to approximate school hours (0800 – 1600 hours, Monday to Friday). The transportation model suggests 710 vehicles entering the site and 558 exiting the site (at full role) during the morning peak hour.
36. The level of traffic and associated adverse traffic amenity effects associated with general school activities, including use of fields, classes and activities is different in the level of intensity and scale of activity compared to what may reasonably be expected to occur under the provisions of the underlying rural zoning, and the existing built environment. However, it is noted that activities related to educational facilities are anticipated within both rural and residential environments.
37. As is discussed in further detail below, the applicant proposes a condition to the designation to manage the potential adverse effects associated with traffic amenity, including requiring that an Integrated Transport Assessment (ITA) is provided at the point when the Outline Plan of Works is available, and that a Transport Management Plan is provided that “*ensures sufficient access and off street parking, including for drop off and pick up, and bus parking, is provided*”
38. It is considered that the proposed mitigation measures will ensure that any adverse effects on the surrounding residential environment from the increased traffic and activity at the site will be no more than minor.
39. It is acknowledged that the immediate locality is undergoing a significant landscape change, as it evolves from open pasture to an urban residential environment. Educational facilities are a typical

feature of urban development, with their presence intrinsically tied with residential areas, as a response to the needs of the community in which they are located.

Conclusion – Effects on character and amenity

40. It is considered that the potential adverse effects on character and amenity will be minor for those properties located directly adjacent to the subject site on Pye Lane, however written approvals have been provided and therefore these adverse effects have been disregarded. It is considered that adverse effects on the surrounding residential environment will be less than minor.
41. On balance, it is considered that, subject to the designation conditions proposed, any adverse effects associated with character and amenity associated with the future educational facilities and activities at the site can be appropriately managed at the Outline Plan stage.

Traffic – Network Effects

42. An Integrated Traffic Assessment (ITA) has been prepared by Abley Limited and is included in the application. This report concludes that the proposal can be supported from a traffic and transportation perspective. The ITA assessed current and future transportation patterns and determined that current traffic flows are likely to increase significantly in the future.
43. The ITA has been peer reviewed by Andy Carr of Carriageway Consulting (attached as **Appendix 3**), and the key matters identified by Mr Carr are summarised below.

Parking and Servicing

44. Insufficient on-site parking for developments can also lead to adverse traffic safety and efficiency effects. In response to requests for further information regarding parking, Abley sets out that 80 to 313 vehicle spaces could be required for the development but highlights that parking could occur on adjacent roads. Mr Carr provides further analysis of this, clarifying that the mean value of 196 spaces would require an aggregate length of 1.2km of kerbside parking, of which the ability of the existing road network to accommodate this demand is “*very constrained*”.
45. As has been noted above, the Minister proposes a condition to the designation to manage the potential adverse effects of parking through a Traffic Management Plan under which the school is required to operate and is required to be updated when the school capacity increases by more than 100 students.
46. I accept Mr Carr’s assessment, and consider that subject to conditions to the designation relating to parking and servicing, the adverse traffic safety and efficiency effects associated with parking and servicing will be less than minor.

Traffic Generation

47. Acknowledging that the school will not open with a full role, Abley have provided revised modelling of the Springston Rolleston Road / Selwyn Road intersection that indicate that the priority intersection will have low queues and delays during the morning peak hour. Both Abley and Mr Carr note that traffic congestion in the evening peak is more significant than morning peak hour and therefore that pressure to convert the priority intersection to a roundabout is more likely to arise from its performance during the evening peak hour, largely due to other developments in the surrounding environment rather than demand generated with this Notice of Requirement. In consideration of other proximate intersections, Mr Carr considers that any congestion will be of short duration and not indicative of any underlying lack of capacity in the roading network.

48. Mr Carr concludes that for the purposes of the designation, there can be reliance on the Springston Rolleston Road / Selwyn Road intersection roundabout being in place before the full school roll is reached. This would appropriately accommodate and manage any future adverse traffic effects associated with congestion at this intersection.
49. As the design and layout of the proposed school is yet to be determined, I consider that a combination of conditions and the outline plan process will provide an opportunity for Council to influence the design of the site to consider how this will be addressed in more detail, to ensure that any adverse effects of traffic movements in the immediate area can be appropriately avoided and mitigated. Accordingly, and considering the Notice of Requirement against the analysis provided by both Mr Carr and Abley's as to the ability to the network to accommodate transport generated by the designation, I consider that Transport effects are less than minor.

Noise

50. It is acknowledged that schools and ECEs are an accepted and integral part of urban environments. Noise from these educational facilities is generated from students and traffic, and while the predominant peak times are during the arrival and departure of students and staff, noise is also generated throughout the day when students are moving between classes, and playing outside during break times. The degree and extent of impacts on more sensitive adjoining activities will largely be dependent on the location and orientation of buildings and playing fields, the location and layout of parking and student drop off / pick up facilities, and the nature of activities including those that may be undertaken outside of normal school hours, when adjoining residents are more likely to be requiring compatible levels of ambient noise.
51. The designation proposes noise limits as follows:

"The operation of the facilities shall comply with the following noise limits at the boundary of any site zoned primarily for a residential purpose, on in the case of a rural zone, at a notional point 20m from the façade of any residential unit, or site boundary, whichever is closest to the residential unit:

- *Monday – Sunday (0700 to 2200 hours) 55dB L_{Aeq}*
- *Monday – Sunday (2200 to 0700 hours) 45dB L_{Aeq} and 75dB L_{AFmax}*

These noise levels shall not apply to noise from standard outdoor recreational activities or early childhood education centre activities occurring between 0800 and 1800 hours Monday to Saturday.

Noise shall be measured and assessed in accordance with NZS 6801:2008 "Measurement of Environmental Sound" and NZS6802:2008 "Environmental Sound"

52. The proposal has been peer reviewed by Acoustic Engineering Services (attached as **Appendix 4**). As part of their review, AES notes the potential adverse effects associated with the cumulative effects of having a number of activities operating across the site. AES notes that the proposed limits already represent the upper threshold for protection of residential amenity and have recommended that an advice note is included alongside the proposed noise condition that states that *"cumulative noise should be appropriately addressed for any staged development"*.
53. AES have also identified *"concerns that these noise limits do not apply to "noise from standard outdoor recreational activities or early childhood centre activities occurring between 0800 and 1800 hours Monday to Saturday"*. AES note that their concerns primarily relate to the potential for regular and sustained use of areas such as hard courts (and other intensively used artificial turf

areas) or early childhood facilities resulting in daytime levels above 55 dB L_{Aeq} . AES notes that given the extensive road boundaries,

“there is likely low risk of sustained noise levels above 55 dB L_{Aeq} occurring at all but the direct residential boundary to the north, where medium density [Residential activity] is proposed”.

54. I accept the assessment provided by AES and consider the potential acoustic adverse effects for the Pye Lane properties to be at least minor. As has been noted, these properties are currently owned by Hughes Development who have provided their written approval for the proposed development and therefore any potential adverse effects on these properties have been disregarded pursuant to s149ZCE(e).
55. Subject to the proposed advice note to manage cumulative effects, I consider that the adverse acoustic effects on the remaining surrounding residential environment (excluding the Pye Lane properties) will be less than minor.

Land ownership

56. Section 149ZCE(a)(i) and (ii) requires that the Territorial Authority disregard any effects on persons who own or occupy land in, on or over which the activity will occur; or any land adjacent to that land. The majority of the effects considered above will only be experienced by land subject to the FTCA resource consent on adjacent sites, developed by Hughes Development Ltd (HDL).
57. HDL has included a specific clause into sales and purchase agreements to ensure that each buyer was fully aware of the future educational facility on the subject site, prior to confirming the purchase. The clause states:
“The purchaser acknowledges that the area identified as “Future Stage” on the Proposed Subdivision Plan may be designated (whether in conjunction with the issue of title to the Property or at a later date) for Education Purposes.
58. I therefore consider that no regard may be had as to any adverse effects on land immediately adjacent the site of the proposed designation.

Conclusion

59. Overall, I consider that the proposed educational facility will have adverse effects, in terms of residential coherence, character and amenity, visual amenity, noise and traffic movements, but these effects will largely be contained to the immediate vicinity of the site and largely contained within that urban block demarcated by Eileen Way, Hungerford Drive, Selwyn Road and Springston Rolleston Road. Any adverse effects beyond the road reserve will be less than minor.
60. Further, while the potential adverse effects of the proposal may be more than minor for the four Pye Lane properties located directly adjacent to the site, I note that ownership of the land is currently retained by the developer of the wider area, and approval for the activity in a written notice has been received by the Selwyn District Council. Therefore, I consider that no regard may be had as to any adverse effects associated with the proposal, for the purposes of notification.


Section 149ZCF Assessment – Affected Person

61. Section 149ZCF sets out the relevant considerations for determining whether a person is an affected person in relation to the application. However, a Territorial Authority must decide a person is not an affected person if they have provided approval for the application by way of written notice.

62. Hughes Development Ltd, who are undertaking the West Village development, have given written notice of their approval of the proposal. Therefore, I consider that there are no affected persons for the purposes of notification.

Recommendation

63. It is recommended that the notice of requirement be processed on a non-notified basis.

Reported and recommended by  Jane Anderson Consultant Planner	Date: 12 January 2023
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Decision

That the above recommendation be adopted under delegated authority.

Commissioner note(s):

Under delegated authority, I have been asked to consider pursuant to s169(1) of the Resource Management Act notification on a Notice of Requirement (NoR) for a designation made under s168 by the Ministry for Education. The details and particulars are as set out by the Reporting Officer Ms Anderson above.

The 10.18ha site is vested in the Crown, and as set out by Ms Anderson is subject to a complex planning framework, being: zoned Rural (Inner Plains) under the Operative District Plan; General Rural under the Proposed Plan; but contributing to a wider block within the Rolleston urban area as contained within Selwyn Road and Springston Rolleston Road as adjoining the wider West Village development. The West Village development, which is currently being established, was approved by an Expert Consenting Panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020('FTCA'), albeit the subject site is excluded from the relevant subdivision and land use consents granted (RC215539 and RC215540).

This delegation is constrained to a consideration of those matters set out in section 169 and sections 149ZCB(1) to (4), 149ZCC(1) to (4), 149ZCE, and 149ZCF of the Act as to whether the Notice should be notified, either publicly (ss 149ZCB and 149ZCE) or limited to affected persons (ss149ZCC and 149ZCF).

I have read the material contained in the Application and attachments, as well as the Officer's Report, expert peer reviews, and additional material provided the applicants agents. I agree that the spectrum of effects to be considered are appropriately canvassed in this report.

I agree with the conclusions reached by the Reporting Officer as to effects, also noting that the subsequent development process pursuant to s176A (and the Conditions affixed to any designation) will assist in further negating effects and managing built form, connections and site configuration.

I consider that the scale of the proposal is substantial but agree with the applicant's agent that the majority of effects will be internalised with the exception of a small length of internal boundary in the north-eastern corner of the site; the site is afforded with road frontage along all site boundaries, providing separation and a buffer from adjacent residential properties. For those properties with an internal boundary along Pye Lane, and where adverse amenity effects (such as noise and built form) may well reach the threshold of 'minor', formal written approval has been provided, and pursuant to s149ZCF(3)(a) I must decide that these properties do not constitute affected persons.

I have carefully considered the extent to which amenity effects may well extend beyond the site, particularly in relation to transport effects on the wider network, amenity associated with on-street parking demand, and noise associated with activities undertaken on the site – including pre-school and outdoor recreation (given the exclusion provided in the application). I note, and accept that there is a high degree of agreement between the respective transport and acoustic experts that, subject to Conditions and subsequent s176A processes associated with specific facilities and activities, resulting amenity effects would not be incompatible within the context of the broader residential development occurring proximate to the site, and therefore less than minor.

Accordingly, I agree with the Reporting Officer's conclusions in this regard.

To that extent, whilst I disagree with Ms Anderson that a specific clause in a 'Sale and Purchase Agreement' [56 and 57 above] constitutes '*approval for the activity in a written notice received by the authority...*' for the purposes of s149ZCF of the Resource Management Act, the threshold for deeming parties to be affected persons is that adverse effects are to be at least minor. As identified, with the exception of persons adjoining Pye Lane (where formal written approvals are provided in the application), the threshold of minor adverse effects has not been attained as identified in the transport and acoustic evidence provided by both the Applicant's agents and the Council's experts.

Accordingly, I am in agreement with the conclusions set out in this s169(1) Report and approve that the above recommendations be adopted under delegated authority.



Matt Bonis
Commissioner

Date: 13 January 2023

Appendix 1 – Draft Proposed Designation Conditions

Purpose of Designation

Secondary School, Primary School, Early Childhood, and Specialist Hubs

1. “Educational purposes” in the designated purpose means to:
 - a. Enable the use of the facilities on the site by and for the educational benefit of any preschool and school age students (i.e., years 0 to 13) regardless of whether they are enrolled at the institutions located on the site.
 - b. Enable the provision of supervised care and study opportunities for students outside school hours in school facilities.
 - c. Enable the provision of community education (e.g., night classes for adults) outside school hours in school facilities.
 - d. Include but not be limited to the provision of academic, sporting, social, and cultural education including through:
 - i. Formal and informal recreational, sporting, and outdoor activities and competitions whether carried out during or outside school hours;
 - ii. Formal and informal cultural activities and competitions whether carried out during or outside school hours; and
 - iii. The provision of specialist hubs and units (including language immersion units and teen parenting units) for children with particular educational requirements or special needs.
 - e. Enable the use of facilities for purposes associated with the education of students including school assemblies, functions, fairs, and other gatherings whether carried out during or outside school hours.
 - f. Enable the provision of associated administrative services; car-parking and vehicle manoeuvring; and health, social services, and medical services (including dental clinics and sick bays).
 - g. Enable housing on-site for staff members whose responsibilities require them to live on-site (e.g., school caretakers) and their families.

The Notice of Requirement documentation associated with this designation is held in Selwyn District Council file D220002.

Building Controls

2. Any new building or building extension (excluding goal posts or similar structures) shall not protrude through a 45 degree recession plane angle measured from any internal boundary with adjoining land (zoned or designated for residential purposes), with the starting point for the recession plane to be 4m above ground level.
3. Buildings on the site shall not exceed a total site coverage of 45%.
4. Any building shall be setback a minimum of 3m from any road boundary.

Outline Plan

5. Any outline plan of works to be undertaken on the site that relates to increased student capacity of more than 100 students shall be accompanied by:
 - a. an urban design statement from a suitably qualified urban designer and/or architect demonstrating how the layout and design of the education facility will promote a positive relationship to the adjoining street network and neighbourhood, in terms of:
 - i. pedestrian connectivity and desire lines;
 - ii. building location and arrangement; and

- iii. location and design of perimeter fencing.
 - b. A landscape concept plan, which includes the following:
 - i. framework tree planting (species, grades and locations), and the location and planting (planting plans) for any garden areas. If hedges are proposed, the species and layout must complement and be well integrated with the landscape works (existing and proposed) for the surrounding streetscapes, but not to the detriment of student safety or sight lines;
 - ii. the identification of outdoor space, including all outdoor play areas (both hard surfaces and grassed areas);
 - iii. vehicle access and parking areas including cycle parks;
 - iv. entrances for cyclists and pedestrians; and
 - v. the location, style and height of fencing on exterior boundaries of the school which face roads or other public spaces.
 - c. A construction management plan which shall include but not be limited to the details of dust suppression methods and hours of operation.
6. An outline plan of works shall not be required for:
- a. Any internal building works other than those that result in a net increase in the number of classrooms or classroom equivalents;
 - b. General building maintenance and repair including but not limited to re-painting, recladding and re-roofing;
 - c. Installing, modifying and removing playground furniture and sports structures (e.g. goal posts), and shade canopies;
 - d. Amending any internal pedestrian circulation routes/pathways;
 - e. Installing, maintaining or repairing any in ground infrastructure services such as stormwater, sewerage and water lines and connections, including any ancillary earthworks;
 - f. Provision of landscaping and gardens, provided that it does not conflict with any designation condition or alter landscaping required as mitigation as part of an outline plan for other works;
 - g. General site maintenance and repair work, or boundary fencing otherwise permitted by the Selwyn District Plan; or
 - h. Installing, modifying or removing minor ancillary buildings and structures (e.g. garden / storage sheds, temporary construction buildings / offices).

Transport

7. Prior to the lodgement of the first outline plan for the secondary school, the Requiring Authority will, in consultation with the Asset Manager Transportation for Selwyn District Council or its successors, resource, develop and action a Transport Management Plan, which:
- a. sets the initial goals of the school with respect to sustainable travel modes and the mitigating real and potential adverse traffic effects;
 - b. ensures sufficient access and off street car parking, including for drop off and pick up, and bus parking, is provided;
 - c. facilitates the integration of the school with the surrounding transport network (including pedestrian and cycling access to the site);
 - d. provides an assessment, if no school travel plan has been provided, as to how a school travel plan would be developed.

The Transport Management Plan shall be reviewed by the Council's Asset Manager Transportation at the time of submitting any and each outline plan relating to increased student capacity of more than 100 students since the Transport Management Plan was last reviewed,

and shall be maintained and regularly updated while the school is operating under this designation.

8. On-site car parking spaces shall be provided in accordance with the Transport Management Plan prepared under Condition 7 above. On-site car parking spaces may be provided on a staged basis in line with the Transport Management Plan prepared under Condition 5 above.
9. Within six (6) months of the opening of the secondary school, the Requiring Authority shall, either directly or through the School Board of Trustees, develop a School Travel Plan which provides specifically for measures to reduce vehicle dependence, including walking school buses, carpooling, the encouragement of the use of public transport, the use of remote pick up/drop off locations if appropriate, and the encouragement of walking and cycling.
This Plan shall be developed in consultation with Selwyn District Council and shall be reviewed at the time of submitting any and each subsequent outline plan of Works relating to increased student capacity of more than 100 students since the School Travel Plan was last reviewed.
10. The Requiring Authority shall, in accordance with the requirements of s176A of the Resource Management Act 1991, submit an Outline Plan of Works for the construction and development of the secondary school, which shall include a Transport Assessment prepared by a suitably qualified traffic engineer / transportation planner which, taking into account the Integrated Transport Assessment (ITA) prepared by Abley dated 6 June 2022, addresses safety, efficiency and the following specific matter:
 - a. Safe access for pedestrians, cyclists and vehicles to Eileen Way (if relevant), including any appropriate mitigation measures and treatments / on road interventions to minimise conflicts between all transport modes.

Noise

11. The operation of the facilities shall comply with the following noise limits at the boundary of any site zoned primarily for a residential purpose, or in the case of a rural zone, at a notional point 20m from the façade of any residential unit, or the site boundary, whichever is closest to the residential unit:

Day / Time	Noise Level (Leq) dBA
Mon – Sun, 7.00am – 10.00pm (0700 -2200)	55dB LAeq
Mon – Sun, 10.00pm – 7.00am (2200 -0700)	45 dB LAeq 75dB LAfmax

These noise levels shall not apply to noise from standard school outdoor recreational activities or early childhood education centre activities occurring between 0800 and 1800 hours Monday to Saturday.

Noise levels shall be measured and assessed in accordance with NZS 6801: 2008 “Measurement of Environmental Sound” and NZS 6802:2008 “Environmental Noise”.

Note: These limits apply to cumulative development of the site, and assessment of particular stages should include an appropriate allowance for future activities.

12. Noise from construction shall not exceed the limits recommended in, and shall be measured in accordance with, New Zealand Standard NZS 6803:1999 “Acoustics – Construction Noise”.

Designation Lapse Period

13. The designation shall lapse on the expiry of 10 years from the date on which it is included in the District Plan if it has not been given effect to before the end of that period.

Note to the Requiring Authority

Advice Notes

School Travel Plan

1. The School Travel Plan required under Condition 9 would be expected to address matters such as:
 - a. start and finish times and whether there is a need to stagger these to alleviate demands on parking, particularly at pick-up times;
 - b. the outcome of any discussions with Environment Canterbury or its successor over the provision of bus services;
 - c. provision for bus loading either on-site or on-street clear of the traffic lanes consistent with growth in use of this transport mode;
 - d. identification of safe access across the roads to the school;
 - e. identification of safe pedestrian and cyclist routes required to and from the school relative to the school catchment; and
 - f. provision of on-site parking and end of trip facilities for motorcycles, scooters and bicycles.

Car Parking Areas

2. The design and layout of car parking areas should have regard to the following design principles:
 - a. for car parking areas adjacent to street boundaries and open space, a positive frontage should be presented by providing high quality boundary landscaping treatment such as permeable fencing and hedge planting to no more than 1.5m in height to screen cars but allow for passive surveillance to the street and/or open space;
 - b. adequate space for landscaping should be provided within the group car parking area to break up the expanse of the impermeable area, and permeable surface materials and Low Impact Design treatment should be used where possible;
 - c. where possible shared surfaces should be used to indicate equal status for vehicles and pedestrians and footpaths may not be required;
 - d. lighting should be provided for security; and
 - e. if physical speed restrictions are required, these can include vertical displacement or other treatments, such as:
 - f. raised tables and horizontal displacement;
 - g. narrowing at entry and exit points.

On-Road Interventions

3. Unless already delivered by others or otherwise agreed with Selwyn District Council, the Ministry of Education will be responsible for the funding and delivery of the following on-road interventions:
 - (i) a 'Kea Crossing', with this to be in place prior to the opening of the primary school;
 - (ii) the continuation of a footpath along Selwyn Road directly adjacent to the school site, the details of which (i.e. length, formation, design etc) will respond to the specific location of any direct vehicle or pedestrian access points to the school along Selwyn Road.

Contaminated Soils

4. If at the time of construction (being carried out in accordance with the outline plan) contaminated soils are discovered, the Ministry is advised that construction should cease so that the site can be assessed in accordance with relevant Ministry for the Environment Guidelines by a suitably Qualified Environmental Practitioner; and all relevant resource consents obtained in accordance with the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

Accidental discovery

5. In the event of archaeological evidence being uncovered, work is to cease in the vicinity of the discovery, and an Archaeologist, Heritage New Zealand, Te Taumutu Rūnanga and Selwyn District Council are to be contacted so that the appropriate action can be taken before any work may recommence.