

# Proposed Change 28 to the Selwyn District Plan

---

Report and Recommendations of Hearings  
Commissioner David Mountfort to the  
Selwyn District Council

---

9 February 2015

## Contents

Recommendation to the Selwyn District Council .....	2
Introduction .....	2
Abbreviations .....	2
Amendments to the Proposals .....	3
Submissions Received .....	3
Hearing .....	4
Statutory Framework .....	4
Effects on the Environment .....	7
Cultural Values .....	7
Rural Character .....	8
Landscape .....	8
Rural Residential layout and lot sizes .....	9
Reverse sensitivity .....	9
Noise .....	10
Transport Safety and Efficiency .....	10
Stormwater Management.....	11
Water and sewerage reticulation.....	11
Water quality.....	11
Land Stability and Geotechnical Risk.....	11
Soil contamination .....	12
Statutory Analysis .....	12
Section 32 .....	13
Recommendations .....	13
APPENDIX 1 .....	15
Schedule of Proposed Amendments - Plan Change 28 – Denwood Trustees Block.....	15
APPENDIX 2.....	20
RECOMMENDATIONS ON SUBMISSIONS .....	20

## Recommendation to the Selwyn District Council

My recommendation to the Selwyn District Council is that pursuant to Clause 10 of the First Schedule to the Resource Management Act:

1. Proposed Change 28 to the Selwyn District Plan be allowed, subject to the amendments set out in Appendix 1.
2. The submissions in support of Proposed Change 28 to the Selwyn District Plan be accepted in part to the extent set out in Appendix 2, and otherwise be rejected.
3. That the submissions opposing Plan Change 28 be accepted to the extent set out in Appendix 2 and otherwise be rejected.

## Introduction

1. Plan Change 28 to the Selwyn District Plan is the result of a request to change the Selwyn District Plan under Part 2 of the First Schedule to the Resource Management Act. The party requesting the plan change is the Denwood Trustees. Although strictly speaking this is not an “application”, for the sake of plain language I will refer to it in this report as an application and the Denwood Trustees as the applicant.
2. Plan Change 28 (PC28) proposes to amend the zoning of 57.7 hectares of land at Springs Rd, Lincoln from Rural (Outer Plains) to Living 3. The site is to the south-east of the urban area of Lincoln, separated from it by an area of land zoned for residential and business purposes but at present undeveloped.
3. The Living 3 zone is to permit the establishment of rural residential allotments ranging in size from 0.3 – 0.9 hectares. 110 allotments are proposed. An Outline Development Plan (ODP) is proposed to guide future development, and corresponding amendments to the Planning Maps are also proposed. The plan change largely relies on the existing Living 3 zoning framework established by Plan Changes 8 and 9 in 2011 and amended by Action 18 of the Land Use Recovery Plan (the LURP), with several minor site specific adjustments. No amendments to the District Plan objectives and policies are proposed.
4. The block is currently zoned Rural Outer Plains, which permits subdivision to a minimum lot size of 20 ha, and contains a residence and outbuildings, but is otherwise used for farming purposes.

## Abbreviations

In this report I use the following abbreviations

LURP	The Canterbury Land Use Recovery Plan
ODP	Outline Development Plan
PC1	Proposed Change 1 to the Canterbury Regional Policy Statement.
PC28	Proposed Change 28 to the Selwyn District Plan for the subject site
RMA	The Resource Management Act 1991.
CRPS	The Canterbury Regional Policy Statement 2014
RRS14	The Selwyn Rural Residential Development Strategy 2014
UDS	The Urban Development Strategy 2006, a strategic planning document by Environment Canterbury, Christchurch City Council, Selwyn District Council and Waimakariri District Council and NZ Transport Agency making recommendations for the future urban growth of the Greater Christchurch sub region.

## Amendments to the Proposals

5. Following receipt of submissions and the Council's section 42A report the applicant made some amendments to the proposal. A different ODP was proposed, altering the layout of the site, providing more detail on landscaping and reducing the number of proposed changes to the district plan as a result of amendments which have already been made under Action 18 of the LURP, which has made some of the originally-proposed changes unnecessary. Some of these changes are in response to submissions received, and others are required to make the plan change consistent with the LURP, so I am satisfied I have the scope to consider them. None of the changes was so extensive that other people may have wanted to submit on them. Ordinarily I would consider the scope to make changes is limited by clause 10 of the First Schedule to the RMA, which limits decisions on plan preparation matters to provisions and matters raised in submissions, and some of the requested amendments went further than the submissions. As I understand it, normally there is no general power to make changes simply to improve the plan change in the absence of corresponding submissions. However in this case there is the extra factor of the Land Use Recovery Plan. A decision on this plan change must not be inconsistent with the LURP.<sup>1</sup> Any changes not in response to submissions are minor and appropriate to make the plan change more consistent with the LURP.
6. In summary, the changes to the originally notified plan change are;
  - 6.1. **Mix and Range of Lot size.** The applicant now proposes a more random and greater mix of lot sizes, with larger lots in the central area to better achieve semi-rural characteristics, with smaller lot sizes around the rural periphery, which are able to take advantage of adjacent larger rural properties.
  - 6.2. **Setbacks.** Standard set back rules for front and internal boundaries have been deleted from the plan change, which will now rely on district plan rules as amended by Action 18 of the LURP. A 20m setback from the western waterway boundary is proposed, in order to partly meet the submission of Te Taumutu Runanga who requested a 20 metre esplanade reserve here. A 15 metre set back from the southern boundary is now proposed, along with additional landscaping.
  - 6.3. **Landscaping and Planting.** Greater use of indigenous species is proposed in the western waterway redevelopment, along the southern boundary and in the B2B buffer zone. The northern boundary with Lincoln University is to be provided with a 1.8m paling fence and 5m high shelterbelt, as requested in the submissions by Lincoln University and Denwood Trustees.
  - 6.4. **Removal of rules.** A number of site specific proposed rules have been deleted from the plan change where LURP Action 18 has inserted similar rules into the district plan. The proposed restriction in height of new dwellings to 7 m has been deleted.
  - 6.5. **Future roading links.** Future roading links to the north and east are to be shown as future possibilities only rather than definite proposals.
  - 6.6. **Descriptive Text.** Explanatory text for the ODP has been prepared in a similar format to that in the district plan for other Living 3 zones.

## Submissions Received

7. Seven submissions were received, as follows,
  - 7.1. The Rockbrook Trust, seeking protection of their farming operations from reverse sensitivity issues.
  - 7.2. The Canterbury Regional Council submitted opposing the application, but has now withdrawn that submission as matters of concern to it have been resolved through the LURP process.

---

<sup>1</sup> Clause 23(1) of the Canterbury Earthquake Recovery Act 2011

- 7.3. Lincoln University submitted seeking mitigation of effects along their boundary with the property.
- 7.4. The New Zealand Fire Service submitted seeking adequate access for fire appliances, but withdrew this submission prior to the hearing.
- 7.5. Denwood Trustees submitted seeking some minor amendments to the proposal.
- 7.6. Te Taumutu Runanga submitted, seeking better protection of tangata whenua values.
- 7.7. The Canterbury District Health Board submitted, seeking further consideration be given to the effects of high water tables in part of the site, potentially contaminated land and the feasibility of providing reticulated services.
8. Environment Canterbury lodged a further submission in support of the submission by Te Taumutu Runanga, and Lincoln University lodged a further submission in support of the submission by the Denwood Trustees.
9. All of the above submissions are more concerned with resolving site specific details rather than opposing the application in total.

### Hearing

10. I conducted a hearing of this application at the Council offices on Thursday 18th of December 2014. The following people were present;

#### **Applicant**

Ms Fiona Aston	Planning consultant
Ms McKenzie	Trustee
Mr Jeremy Head	Landscape Architect
Ms Pru Steven	Legal Counsel

#### **Submitters**

Mr Julian Twiss for the Rockwood Trust

#### **Council**

Mr Jonathan Clease	Planning Consultant and lead author of a report for the Council on the application
Mr Andy Carr	Transportation Consultant
Mr Andrew Craig	Landscape Architect
Mr Liam Foster	Utilities Engineering Consultant

Following the hearing I conducted a site visit to the property at Springs Rd on Monday 26 January 2015.

### Statutory Framework

11. In his report on the application for the Council, Mr Jonathan Clease outlined the general approach under the RMA for consideration of plan changes, including the well-known principles arising out of the Environment Court's *Long Bay* decision<sup>2</sup>, which are to

---

<sup>2</sup> Long Bay-Okura Great Park Society Inc. v North Shore City Council A078/08

- Comply with the Council's functions under s31 of the RMA,
  - Consider alternatives, benefits and costs under s32,
  - Ensure the necessary matters are included in the plan change that are stated in s75, and
  - Have regard to the overall purpose of the RMA under Part II.
12. He also drew attention to the requirement to give effect to the CRPS, and to have regard to the Canterbury Land Use Recovery Plan, the Rural Residential Strategy, the Natural Resources Regional Plan, the Proposed Canterbury Land and Water Regional Plan, and the Mahaanui Iwi Management Plan 2013. As the application seeks to change only rules and maps in the district plan, and not any of the district plan's higher level objectives and policies, the change must also implement and be consistent with those objectives and policies.
  13. This application must therefore be considered under a whole suite of higher level planning provisions.
  14. Mr Cleese said and I accept that the purposes and principles of the RMA, as set out in Part II have already been given effect to in a general sense by the operative District Plan objectives and policies. The same could be said for the regional planning documents. As well, there is a need to be consistent with the Land Use Recovery Plan and to give effect to or have regard to the regional planning documents. I do not therefore intend to embark on a first principles assessment of this application and its appropriateness by direct reference to Part II of the RMA itself. Instead it is more appropriate to consider it under the detailed framework established by the LURP and the regional and district documents.
  15. There has been a long and complex process over many years of attempting to regulate and moderate the development of rural residential activity in the areas surrounding Christchurch, firstly by the district councils, then through the Urban Development Strategy 2006 and the resulting Proposed Change 1 to the Regional Policy Statement in 2007. While PC1 was going through a long and convoluted statutory process the Selwyn District Council also introduced Plan Changes 17 and 32 to the District Plan and the Living 3 zone was established through privately-requested Plan Changes 8 and 9. Thankfully this long process has recently been clarified and completed through the Canterbury Land Use Recovery Plan (the LURP) and much more detailed guidance has been provided under the Rural Residential Strategy 2014 (the RRS14) which the Council was required to produce and adopt under the LURP.
  16. In summary, the LURP adapted or took over many of the CRPS proposals for urban growth in and around Christchurch, including rural residential development, and these have been given statutory effect. Under Action 18 of the LURP the Council was obliged to produce a Strategy to guide the planning for new rural residential areas, and this has resulted in the adoption of the RRS14. Some consequential amendments have also been made to the district plan under Action 18 to incorporate the outcomes of the Strategy. The RRS14 establishes principles for the selection of sites for rural residential development and for their design and layout. Importantly, the RRS14 adopts the principle that rural residential development should only occur on the periphery of townships. The PC 28 site is one of a number that were identified in the RRS14 as being generally suitable for rural residential development, subject to more detailed assessment under the district plan change process. Any proposals for sites outside of the RRS14 are unlikely to succeed given that they will be in conflict with directive policies in the CRPS.
  17. Therefore the most important parts of the statutory framework can now be found in the CRPS as it was modified by the LURP, the district plan and the RRS14.
  18. The LURP has inserted a new chapter 6 into the CRPS which deals with urban growth in the Greater Christchurch Area. Amongst many other issues, Chapter 6 recognises and enables the

role of a limited amount of rural residential growth to provide for housing supply and choice, particularly in the light of the earthquakes.

19. The key provision for this purpose in Chapter 6 is Policy 6.3.9 which provides;

**Policy 6.3.9 – Rural residential development**

*In Greater Christchurch, rural residential development further to areas already zoned in district plans as at 1st January 2013 can only be provided for by territorial authorities in accordance with an adopted rural residential development strategy prepared in accordance with the Local Government Act 2002, subject to the following:*

*(1) In the case of Christchurch City, no further rural residential development is to be provided for within the Christchurch City Plan area;*

*(2) The location must be outside the greenfield priority areas for development and existing urban areas;*

*(3) All subdivision and development must be located so that it can be economically provided with a reticulated sewer and water supply integrated with a publicly owned system, and appropriate stormwater treatment and disposal;*

*(4) Legal and physical access is provided to a sealed road, but not directly to a road defined in the relevant district plan as a Strategic or Arterial Road, or as a State highway under the Government Roading Powers Act 1989;*

*(5) The location and design of any proposed rural residential development shall:*

*(a) avoid noise sensitive activities occurring within the 50 dBA Ldn air noise contour surrounding Christchurch International Airport so as not to compromise the future efficient operation of Christchurch International Airport or the health, well-being and amenity of people;*

*(b) avoid the groundwater protection zone for Christchurch City's drinking water;*

*(c) avoid land between the primary and secondary stop banks south of the Waimakariri River;*

*(d) avoid land required to protect the landscape character of the Port Hills;*

*(e) not compromise the operational capacity of the Training Area or Rangiora Airfield;*

*(f) support existing or upgraded community infrastructure and provide for good access to emergency services;*

*(g) avoid significant reverse sensitivity effects with adjacent rural activities, including quarrying and agricultural research farms, or strategic infrastructure;*

*(h) avoid significant natural hazard areas including steep or unstable land;*

*(i) avoid significant adverse ecological effects, and support the protection and enhancement of ecological values;*

*(j) support the protection and enhancement of ancestral land, water sites, wāhi tapu and wāhi taonga of Ngāi Tahu;*

*(k) where adjacent to or in close proximity to an existing urban or rural residential area, be able to be integrated into or consolidated with the existing settlement; and*

*(l) avoid adverse effects on existing surface water quality.*

*(6) An outline development plan is prepared which sets out an integrated design for subdivision and land use, and provides for the long-term maintenance of rural residential character.*

*(7) A rural residential development area shall not be regarded as in transition to full urban development.*

20. The first element of this, in conjunction with the LURP, required the Council, if it wanted to provide for further rural residential development, to prepare a Rural Residential Development Strategy to identify where rural residential growth might occur, in accordance with a number of other criteria which follow. That process has occurred, with the Selwyn District Council preparing a Strategy which was adopted in June 2014 following submissions and hearings. The Council based its Strategy around locating rural residential zones in peri-urban areas, close to the various towns and settlements within the Greater Christchurch Area. This is largely to maximise access to the various community facilities in those towns, enable economic provision of water and sewage reticulation, reduce travel distances, reduce reverse sensitivity effects and not compromise rural character further from urban areas. Lincoln is one of the selected localities and this site was included in the Strategy.
21. The effect of this is that it is not possible or necessary to consider the general suitability of this site for rural residential development, as that has been established by the Strategy. Instead, the purpose of the exercise is to decide whether there are any specific aspects of the proposal which might make the site unsuitable, or lead to a modification of the proposal. The evidence provided by the applicant and the Council was to the effect that the proposal, as modified at the hearing achieved all the aspects of this Policy that are relevant to the site. Most of these are factual matters and I agree that they are met. One matter which requires detailed evaluation, because of the submission of Te Taumutu Runanga is subclause 5(j), *support the protection and enhancement of ancestral land, water sites, wāhi tapu and wāhi taonga of Ngāi Tahu.*
22. Mr Cleese also pointed out the various objectives and policies in the district plan which need to be considered, including a number which have been updated under the LURP process. He concluded that the proposal complies with these provisions. Having considered his report and the provisions I agree and adopt his reasoning and do not repeat this analysis. I simply note that this plan change has been developed alongside the development of the LURP, the CRPS and the RRS14 and at all times the applicant has been careful to ensure the proposal is consistent with those documents.

## Effects on the Environment

### Cultural Values

23. The submission by Te Taumutu Runanga opposed the application in the absence of a full Cultural Impact Assessment for the site. More specifically, a number of cultural values that could potentially be affected were listed in the submission, including
- Protection of water quality and quantity in the drainage network, protection of groundwater and any springs and downstream waterbodies,
  - Protection wahi tapu and wahi taonga
  - Expression of Ngai Tahu cultural identity,
  - Enhancement and restoration of indigenous biodiversity through plantings.
24. Although no comprehensive Cultural Impact Assessment has been prepared for the site, the applicant has dealt with a number of these matters in evidence. In particular I was satisfied on the evidence of both the applicant and the Council that there would be no adverse effects on water quality, either surface or groundwater, due to the stormwater collection, treatment and disposal systems likely to be adopted, which will not be finalised until a subsequent subdivision application. The applicant has done as much as could reasonably be expected towards indigenous planting, particularly within the western waterway corridor, the retention basin, the southern boundary corridor and the Business zone buffer area. Planting concepts for all of these, which feature



largely indigenous species, are included in the latest version of the ODP. There are no springs on the property. No specific examples of wahi tapu or wahi taonga are known or were put forward by the rūnanga. Some matters, such as expression of cultural identity through street naming need to be determined later, at the subdivision consent stage. Overall I am satisfied that there would be minimal effects on cultural values from this proposal, and that the most significant values discussed in the submission, namely water quality and indigenous planting have been addressed well by the applicant in its initial application and subsequent evidence at the hearing.

### Rural Character

25. A major issue for rural residential development in this district in recent years has been preservation of rural character within plan change areas. This was dealt with by the applicant through the landscape evidence of Jeremy Head, and the Council through the evidence of Andrew Craig, who are both highly experienced landscape architects.
26. These witnesses agreed that the proposed rules and Outline Development Plan would preserve a satisfactory level of rural character, as perceived from within the blocks but also from outside looking in.
27. As has become common with this type of application, there is an emphasis on avoiding the creation of “urban motifs”. The controls proposed include ensuring use of rural-style fencing (post, wire and rails), extensive setbacks, rural-styled roads without kerbs, minimum street lighting, avoidance of elaborate entry features and other features.
28. I have concluded that PC28, as modified by the applicant at the hearing, would create and preserve a genuine rural residential character and a high standard of amenity.

### Landscape

29. Similarly to the issue of rural character, I concluded that the layouts proposed on the Outline Development Plan together with the rules package would see the establishment of a pleasing landscape character within the development, different from but as good or possibly better than might occur under the Rural Outer Plains zoning. I note that on such flat land with large average lot sizes, views in this part of the Rural Outer Plains zone are often heavily restricted by shelter belts and landscapes can be quite monotonous. While shelter belts are often considered to be a feature which contributes to rural character, both witnesses agreed that in the case of this small site it would not be necessary or even particularly desirable to insist on the preservation of all the existing shelter belts.
30. On the one hand shelter belts definitely provide rural character. On the other hand, they detract from openness and long views, and can be difficult for owners of relatively small blocks to maintain consistently. Shelter belts require a good deal of maintenance and trimming to ensure a good visual appearance. Over time an uneven and possibly overgrown appearance may develop, at least in some cases. Large trees close to houses can also create nuisance effects such as wind noise, shading, and dropping of needles, leaves and branches.
31. Te Taumutu Runanga wish to see indigenous plantings used in landscaping. I am reluctant to require the use of indigenous planting on private property. It would be an unpopular move and very difficult for the Council to enforce. Of course some landowners will choose to use indigenous species when landscaping their properties. However there are a number of areas where indigenous planting can be incorporated. These include along the banks of a drainage waterway along the western boundary which is to be naturalised, along the southern boundary of the site where landscaping is proposed, in the buffer area to the adjacent Business 2B zone on the eastern boundary including on the acoustic bund which is to be established, and in and around the stormwater basin. At the hearing the applicant proposed and the Council accepted a planting scheme for these areas, which I concur with. This can be included with the Outline Development Plan.

### Rural Residential layout and lot sizes

32. 110 lots are proposed. As this is quite a large rural residential development, the applicant accepted Mr Craig's suggestion that in general larger lots should be grouped towards the centre of the site, preserving a sense of spaciousness and semi-rural character there, with the smaller lots around the edge where residents will be able to enjoy the spaciousness and amenity provided by the Rural Outer Plains zoned sites over the boundary.

### Reverse sensitivity

33. Reverse sensitivity occurs when an established activity is legitimately established but then becomes surrounded by newer activities which are sensitive to the effects of the existing activity. This can lead to complaints and pressure on the existing activity to either reduce its effects or relocate, both of which can have severe economic or other effects on the existing activity. Activities such as poultry sheds, and dairy shed effluent disposal to land are activities which can often be affected in this way. This was the major issue in the submission by the Rockwood Trustees, whose land adjoins the application site. In presenting this submission, Mr Twiss was clear that the Trust was not opposed to the plan change. However, the Trust's land contains an abattoir facility which is currently unused but which the Trustees would like to reopen. If it was reopened, this would necessitate disposing of liquid effluent to land, and the possible creation of odours which could affect the proposed rural residential allotments. Mr Twiss sought to put the applicants on notice that Rockwood proposed to reopen the facility, and preferably a mechanism to protect the Trust from complaints from future residents. He mentioned the possibility of requiring "no complaints covenants" over the applicant's lands to prevent actions by future residents, and said that basically the Rockwood Trustees wished to preserve their rights as if the rural residential development was not taking place.
34. The difficulty with this is that the abattoir has been disused since 2004. I understand that any existing use rights under the district plan may have expired, although the abattoir may be a permitted activity on the site in any case. More importantly the consent from the Regional Council, ECAN, to discharge liquid effluent to land has been surrendered, or cancelled, and would have to be reinstated or applied for again before the abattoir could be reopened. There is some question about the legality of the surrender or cancellation of that consent. For Denwood, Ms Steven said that regardless of that, case law established that an improperly cancelled or surrendered consent cannot be simply reinstated, and needs to be reapplied for, and that the interests of the future residents would have to be considered. She said that if the consent was not properly surrendered or cancelled that may be a cause of legal action against ECAN but that does not affect the rights of the new residents. She said that the abattoir operation and associated effluent spreading is no longer part of the existing environment and I should not have any regard to it, regardless of the dispute between Rockwood and ECAN.
35. The formal relief sought in the submission asks that either this application be postponed until Rockwood regains its discharge consent, or that the future residents be prevented from complaining about adverse effects from a reopened abattoir, and also from other normal farming operations. Mr Twiss also asked that this decision be used in some way to record the existence of the abattoir and the owner's intention of reopening it. I do not have the authority under the RMA to postpone the application in that way. In fact as matters stand under the RMA timeframes the application has to be decided by 31 March 2015, the timeframe having been extended until then by the District Council.
36. With regard to the possibility of preventing complaints, "no complaints covenants" can be used for this purpose. In my experience these are usually proposed by applicants to enable a development to proceed because of an existing operation on adjoining land. In that way the newcomer accepts an existing situation and is able to establish something which might otherwise have been prevented because of the existing lawfully established neighbours. I accept Ms Steven's

argument that the abattoir is no longer an existing, lawfully consented operation. It has been unused for 10 years and it no longer has the consents it requires to operate. I did not hear any specific expert evidence that there would be an odour problem on the PC28 site if the abattoir reopened, although I accept that this may occur, or the extent of any such odours. I believe that if Rockwood applies to re-establish the abattoir, it should be treated as if it were a new operation, and the application will have to take into account the interests of any parties who have moved into the area in the meantime. It would therefore be inappropriate to require no complaints covenants on new allotments. In any case I would be most reluctant to do so. Such covenants do not mitigate adverse effects, they simply transfer the consequences of them from the party causing them to the parties receiving them. In effect they are a licence to pollute, and I would not consider using them except in a very clear case, preferably with the consent of the applicant, and with full knowledge of the extent of the problem.

37. With regard to effects from other lawful farming activities, in my opinion rural residents should be expected to accept a reasonable level of effects from neighbouring farms such as normal agricultural noise and spraying if carried out lawfully using best practice. Effects over and above that level should not in my opinion be protected from complaints.
38. With regard to using this decision to put parties on notice about Rockwood's intentions, this decision has now thoroughly highlighted and discussed this issue, so that anyone who reads it including the present applicant, Denwood Trust will be at least aware of the issue. To that extent, Mr Twiss's request can be achieved. However, new residents in the area are not likely to seek out and read this decision. They would have no reason to do so. In this regard the decision may not have much long term effect.
39. Reverse sensitivity was also an issue for Lincoln University, which is situated along the northern boundary of the subject site. On the University side of the boundary is a metalled track, formerly the route of the Lincoln to Springston railway, and north of that various cropping blocks which need to be separated from neighbours. By the time of notification of the plan change the applicants and the university has reached an agreement that a close-boarded fence would be established along this boundary and an evergreen shelter belt planted and maintained on the applicants side of the boundary. This would address the concerns of the University, which made a submission supporting the application subject to the inclusion of this fencing and shelter belt. This is not totally typical of rural areas but I am satisfied that the layout retains enough other rural features that this is not a concern and the landscape experts were able to support it.

## Noise

40. There is a proposed business zone on the eastern side of the site between the site and Springs Rd. Because of this the applicant proposed a 15 m wide landscape strip including an acoustic mound. I am satisfied on the evidence that this would satisfactorily mitigate any adverse effects from noise.

## Transport Safety and Efficiency

41. The issues are whether or not the traffic generated by the proposal would cause adverse effects on the surrounding network, particularly on Springs Rd. Considerations include the capacity of Springs Rd itself, the intersection of the site access with Springs Rd, the proximity to other intersections on Springs Rd serving new residential development to the east, and any effects on the safety and efficiency at the roundabout to the north where Springs Rd intersects Gerald St. This is a major intersection as it provides access to Lincoln University to the west, Lincoln Township to the east, and Christchurch City to the north.
42. The traffic experts for the applicant and the Council agreed that Springs Rd has adequate capacity for the traffic likely to be generated, that the proposed access road and intersection onto Springs Rd would operate safely and efficiently, and that there would be sufficient separation

from other existing and proposed intersections in the vicinity. Major residential development is taking place on the opposite side of Springs Rd as Lincoln expands in accordance with the Urban Development Strategy and CRPS, but Springs Rd currently has low levels of traffic, is flat and straight and has sufficient width to accommodate this growth which is being comprehensively designed and implemented by the various developers and the District Council.

43. The one traffic issue that emerged was the degree of impact on the Springs Rd/Gerald St roundabout. Mr Carr was not convinced by the analysis submitted with the original application and sought further information. The applicant provided further analysis which enabled Mr Carr to conclude that there were likely to be issues at the intersection in the future but that these issues are a result of the cumulative extra traffic from Lincoln growth in general. The PC 28 additional growth would not make a material difference to the problem. Any solution to general growth will also provide for PC28's small increment.

### **Stormwater Management**

44. This was one of the matters of concern to the Canterbury District Health Board, as the site has a high water table and is unsuitable for onsite soakage. The applicant outlined that stormwater would be collected by a system of swales and discharged to a retention and treatment basin in the south-eastern corner of the site, from which water could be released at an appropriate rate to the waterway running along the site boundary, which leads to the LII River, and ultimately to Lake Ellesmere. Detailed design has not been carried out, but the expert evidence for both the Council and the applicant was that this system would be feasible, and best designed in detail at the time of application for subdivision consent. Due to the high groundwater table, care will need to be taken with design of the retention and treatment basins to ensure they can retain the volumes of water that will occur, but this is a matter of detailed design. A discharge consent will be required from Environment Canterbury.

### **Water and sewerage reticulation**

45. Water and sewage reticulation is also of concern to the District Health Board. The site water reticulation is to be connected to the Council's system in Springs Rd. This requires upgrading because of the extent of development going on in Lincoln, and development of the subject site will not be possible until water supply and sewerage becomes available. This is planned to occur, and the timing can be controlled through the subdivision consent process.

### **Water quality**

46. A number of concerns were expressed, particularly by Te Taumutu Runanga, about adverse effects on water quality, especially effects on downstream waterways and the ground water. Accelerated stormwater run-off will occur from roofs, and from roadways and hard stand areas. Roof water is generally regarded as clean. Run-off from roads will be treated by retention in grassed swales and a first flush basin, and the vegetated wetland basin. These discharges will require consent from Environment Canterbury. Disposal of stormwater directly to land is not proposed. The reports for the Council and the applicant foresee no adverse effects from this. Construction earthworks can create temporary issues for water quality. These are usually dealt with by conditions at the time of subdivision consent applications, particularly by the use of management plans. I was satisfied on the evidence presented that any adverse effects on water quality would be less than minor.

### **Land Stability and Geotechnical Risk**

47. Natural hazards which might occur in flat rural land in Selwyn District could include flooding and seismic risk. The site is not within the flood risk areas on the Selwyn District planning maps. The

Rural Residential Strategy process demonstrated that this site is not prone to flooding. The report prepared for the applicant by Aurecon Consultants showed that the risk of liquefaction or lateral displacement on this land is low.

### Soil contamination

48. A Preliminary Site Investigation into the potential for soil contamination was included with the application. This identified a number of farming related activities on the site which have some potential to have created localised site contamination, including over and underground fuel storage tanks, a disused silage pit and a waste oil storage system. The report concluded that all this was capable of being further investigated and if necessary remediated at the time of subdivision and the Council confirmed that its subdivision consenting system was robust enough to ensure this occurred. No further action is required at this stage.

### Statutory Analysis

49. Section 5 of the RMA contains the well-known purpose of sustainable management of natural and physical resources. Sustainable management includes enabling people to meet their social cultural and economic needs, which this application would do. At the same time adverse effects on the environment must be avoided, remedied, or mitigated, the needs of future generations must be protected and the life-supporting capacity of air, water, soil and natural ecosystems must be safeguarded. Of these only dealing with adverse effects seems relevant, and I have found that any adverse effects can be dealt with. There do not seem to be any issues that have been raised concerning the needs of future generations except perhaps the rather tenuous argument that the land might be better kept for other purposes, or about life-supporting capacity.

50. Section 6 specifies a number of matters of national importance but none of those seem to be applicable. Section 7 contains a number of other matters I am to have particular regard to. The ones I consider relevant to this case are;

*(b) The efficient use and development of natural and physical resources:*

*[(ba) the efficiency of the end use of energy:]*

*(c) The maintenance and enhancement of amenity values:*

*(f) Maintenance and enhancement of the quality of the environment:*

51. My comments on those matters are;

- **Efficient use and development of resources.** The opportunity to make use of the land for rural residential development is economically more efficient than requiring that they be retained for lower value agricultural uses. Although the site contains soils capable of productive use, there are other sites throughout the district that are more suitable for such activities. The strategic approach the Council is adopting towards rural residential development is to make limited provision for it in peri-urban areas such as this to free up the Rural zones for productive use.
- **Energy.** No rural residential development is going to promote efficiency in end use of energy compared to more intensive residential activity. However the higher order planning documents establish that there is to be a limited amount of rural residential development. The RRS14 deliberately selects peri-urban sites close to townships because of their proximity to community facilities and public transport to minimise the amount of car travel that would result from a more scattered approach.
- **Amenity values.** The developments proposed will almost certainly produce as good or better standard of amenity than activities conforming to the Rural Outer Plains zone.

- **Quality of the Environment.** I do not see this as being adversely affected by the proposals, and because of the high standard of landscaping and visual presentation it will probably be improved.
52. Under Section 74(2) of the RMA (when preparing or changing a district plan), the Council must give effect to the operative Canterbury Regional Policy Statement. I have discussed this above and concluded that this proposal achieves and complies with its provisions.
53. Other than section 32, which I discuss separately below, the remaining provisions of the RMA relating to plan changes are procedural and have been complied with. I therefore conclude that the plan change complies with the requirements of the RMA.

### Section 32

54. Section 32(2) of the Resource Management Act requires that before these plan changes are approved, I must evaluate them under its provisions. Although section 32 was recently amended the amendments apply to applications where further submissions closed after 4 December 2013, which is not the case here. Therefore, under the former provisions, evaluation must examine
- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
  - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
55. The evaluation shall take into account
- (a) the benefits and costs of policies, rules, or other methods; and*
  - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
56. With regard to the proposed amendments to the rules, another alternative would be instead to proceed by way of resource consent but this would not be as efficient as a plan change. A resource consent would require too much of the final design to be established at this early stage, which could prove difficult to implement when the time comes to actually subdivide the land, perhaps creating a need for further resource consents. It is more efficient to establish the broad parameters of the developments at an early stage through district plan provisions, so that the owners can proceed to the more expensive detailed design with confidence.
57. As for benefits and costs, I am satisfied that the proposals will bring about considerable economic benefits for the landowners, and some for the local economy. With regard to costs there would be few costs to the natural and physical environment because of the lack of adverse effects. There would be some travel costs generated from commuting, but no more so than many other sites that are already in use for rural residential activities or proposed for that purpose. There would be some costs from lost rural production, but these would be less than the economic benefits of the development of the sites as proposed. I therefore find that the benefits of the proposed plan changes are considerably greater than the costs.
58. The issue of risk of acting or not acting in the absence of sufficient information does not seem to apply. There is sufficient information to make informed decisions.
59. Overall the proposed plan changes satisfy the requirements of section 32 of the Resource Management Act as they existed at the time the application was made.

### Recommendations

60. My formal recommendations to the Selwyn District Council have been set out at the commencement of this report, but briefly I have recommended the plan changes be approved with amendments and the submissions are allowed or disallowed accordingly.
61. The full text of the recommended amendments to the district plan is set out in Appendix 1.



62. A schedule of Decisions on submissions is set out in Appendix 2.

A handwritten signature in blue ink that reads "D-L Mountfort". The signature is written in a cursive style with a horizontal line through the middle of the letters.

David L Mountfort

Accredited Hearings Commissioner

February 9 2015

## **APPENDIX 1**

### **Schedule of Proposed Amendments - Plan Change 28 – Denwood Trustees Block**



Amend 4.9.28 as follows:

**4.9.28(b) Within the Living 3 Zone at Lincoln shown on ODP Area 7 in Appendix 37, no dwelling or principal building shall be constructed within 50m of the Business 2B Zone boundary.**

Add a new assessment matter as follows:

**4.9.39.5 In the Living 3 Zone at Lincoln shown on ODP Area 7 in Appendix 37, any reverse sensitivity issues at the eastern zone boundary of the Business 2B Zone.**

Add a further paragraph to the reasons for rules – building position – as follows:

**In the Living 3 Zone in Lincoln shown on ODP Area 7 in Appendix 37, a building setback from the acoustic and landscape area adjoining the Business 2B zone on the site's eastern boundary will assist to manage reverse sensitivity effects with this zone and maintain open space and semi-rural character.**

Amend Table C-12.1 as follows:

**Table C-12.1**

<b><u>Lincoln L3 (Appendix x)</u></b>	<b><u>The average and minimum lot sizes shall be as shown on ODP Area 7 in Appendix 37;</u></b>
	<b><u>The maximum number of allotments within the area shown on ODP Area 7 in Appendix 37 shall be 110.</u></b>

Insert the ODP and planting schedule appended as a new Appendix X to the District Plan.

Add a new 'ODP Area 7' to the map at the start of Appendix 37

Add the following explanatory text

## **OUTLINE DEVELOPMENT PLAN AREA 7**

### **INTRODUCTION**

Area 7 comprises approximately 57.7ha of land located in the south west of Lincoln bounded by the Living Z and Business 2B zones to the east, Rural (Outer Plains) zone to the south and west and Lincoln University to the north. The 'Dairy Block' residential (LZ) subdivision is further to the east on the opposite side of Springs Road.

Area 7 is identified in the Selwyn Rural Residential Strategy as a suitable location for rural residential development.

The ODP is based on sound urban design principles and establishes a framework to guide future development of the site.

## **INTEGRATION WITH LINCOLN TOWNSHIP**

The ODP is designed to integrate with surrounding landuses and plans for the wider Lincoln Township, including residential subdivision to the west, University land to the north, and potential connections to and through these areas to the existing town centre and Gerald Street neighbourhood centre.

The ODP is based on sound urban design principles and establishes a framework to guide future development of Area 5.

## **DENSITY PLAN**

A variety of rural residential lot sizes are shown on the ODP in a generally 'random' pattern but with a general approach of locating smaller lots (minimum 3000m<sup>2</sup>) around the outside of the site, with larger lots towards the centre. The rationale is to enable a sense of spaciousness and ruralness to be present within the centre of the site, especially for those lots that do not have a direct visual connection to the wider Outer Plains rural environment or landscaped buffers on the boundary with the Living Z and B2B zones. The exception is at the B2B zone boundary where larger (minimum 5000m<sup>2</sup>) lots are necessary to facilitate a 50m dwelling setback for noise mitigation reasons.

## **ROAD AND ACTIVE TRANSPORT NETWORK**

Key principles of the proposed roading network are to achieve strong connectivity both within Area 7 and to adjacent areas; support the wider Lincoln existing and proposed road network; and ensure a legible and safe local roading network.

The proposed internal roading pattern is based on an internal circular roading layout, with access to Springs Road via the adjoining LZ zone. Possible future links are identified on the ODP via University land to the north and to the B2B zone to the east.

Given the local traffic volumes anticipated on the internal roads, local roads will provide shared space for cyclists and motorists. In addition, an off road cycle and pedestrian route is proposed around the proposed stormwater management area and along the western waterway within the proposed 5m esplanade strip area.

## **GREEN NETWORK**

Landscaped buffer areas are proposed around all boundaries of Area 7.

The landscape buffer (30m) with the LZ zone is located within the LZ zone, and can accommodate the possible future Lincoln Bypass.

A 15m landscape buffer incorporating an acoustic mound is proposed along the B2B boundary to visually screen the B2B development from the L3 zone, and, in combination with a 50m dwelling setback along this boundary, provide appropriate mitigation of noise effects generated by future development in the B2B zone.

A 5m wide belt of totara trees underplanted with natives will provide an appropriate edge at the boundary with rural land to the south. 1.8m high paling fencing and a 5m high shelterbelt is proposed along the northern boundary with the University, as requested by the University. Whilst paling fencing is not consistent with the fencing typologies for the L3 zone specified in Appendix 43, in this case it is considered acceptable as the fencing will be set behind the shelterbelt within the L3 zone, and not visible from any public place.

Riparian planting along the western waterway and within the stormwater management area in accordance with the waterway cross – section and planting guide attached to the ODP will provide for enhanced indigenous diversity, mahinga kai and amenity values.

The boundary treatment fencing and planting and riparian planting will be undertaken by the

developer at the time of subdivision and consent notices on future lot titles will be required as appropriate to ensure its ongoing protection and maintenance.

The proposed stormwater reserve areas can also be utilized for open space/amenity purposes.

Large scale trees are proposed for street tree planting with the species list comprising mainly exotics but also totara. The intention is to create a significant scale of planting commensurate with the larger scale of the proposed rural residential subdivision pattern. Native planting generally cannot achieve this, other than totara, as species are for the most part smaller in size.

#### **BLUE NETWORK**

Area 7 will be serviced with reticulated water and wastewater services connected to the township reticulation.

Stormwater will be disposed of by gravity to the first flush and stormwater detention ponds within the proposed stormwater management area adjoining the western boundary of the site in the location shown on the ODP, prior to discharge into the private western waterway. This method of treatment and disposal is consistent with the consented Integrated Water Management Plan for Lincoln. A discharge consent from Environment Canterbury is likely to be required for the proposed stormwater management system.

The stormwater conveyance system will utilise swales.

Amend Planning Maps 008 & 121 (sheets 1 & 2) to reflect the change in zone to Living 3.

Any consequential amendments and renumbering of provisions as required to give effect to the plan change request.

Insert ODP and Planting Schedule here

## APPENDIX 2

### RECOMMENDATIONS ON SUBMISSIONS

D & S Denwood Trustees	Accept in Part	Submission is accepted insofar as PC 28 is recommended to be approved subject to minor amendments to the ODP, landscaping rule, and subdivision assessment matters.
Rockwood Trustees	Reject	<p>The submitter requests that the plan change be deferred pending the outcome of the submitters application to reinstate a discharge to air consent formerly held on an adjoining property. There is no power under the RMA to make such an adjournment without the consent of the plan change proponent, which was not provided, and under the RMA the decision on the plan change must be made by 15 March 2015.</p> <p>Alternatively the submitter requested that if the plan change is approved that it made be subject to legal arrangements such as no complaints covenants to prevent future residents on the plan change site from complaining about activities on the submitter's property, in particular odours from a disused slaughterhouse which it proposes to reopen, and other normal farming activities. As the slaughterhouse is disused, and its discharge consents have been surrendered, it cannot be considered part of the existing environment. No complaints covenants do not mitigate adverse effects, simply transfer the consequences of them from the perpetrators to the recipients, so are best used to protect already existing activities from newcomers, especially when the new comers agree to such covenants. No evidence was provided about the extent of the odour problem so imposition of such covenants would provide security from complaint however severe the odour effects. It is considered more appropriate for the submitter's, if it proceeds, to be considered as a new activity taking into account effects on the existing environment at the time, which may include housing on the plan change site.</p>
Lincoln University	Accept	The submitter requested that the plan change include provision for fencing and a shelter belt along its boundary with the site. This has been accepted by the plan change proponent and amendments have been made to the plan change.

Te Rununga	Taumutu	Accept in Part	The majority of the matters raised by the submitter are more appropriately considered through later subdivision and resource consent processes once the detailed design of infrastructure has been developed. In particular, there is no reason to believe that surface or underground water quality will be affected if appropriate engineering controls are adopted at time of subdivision. Water supply is to be through the Council's reticulated supply, so questions of allocation will be controlled through that process. The plan change has been modified to include reasonable provision for indigenous plantings to be made within the retention basins, waterway margins and buffer areas. No other effects on cultural values have been identified.
Canterbury District Health Board)		Accept	The submitter requested for provision to be made for stormwater disposal system that take into account the high water table underlying the site, that provision be made for dealing with potentially contaminated parts of the site, and that the proposal not proceed unless it is shown to be feasible to connect the site to water supply and wastewater reticulation. Sufficient evidence was produced on all these matters to indicate that all of them could be satisfactorily addressed when the property is subdivided.
Canterbury Regional Council		Submission withdrawn	
NZ Fire Service		Submission withdrawn	