

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE MATTER OF Proposed Plan Change 34 to the Selwyn District Plan, relating to the rezoning of 6 hectares of land in High Street Southbridge from Rural (Outer Plains) to Living 1.

**REPORT AND RECOMMENDATIONS TO THE SELWYN DISTRICT
COUNCIL BY KEN LAWN, HEARINGS COMMISSIONER**

Role of the Commissioner

1. I was appointed pursuant to section 34A of the Resource Management Act 1991 to consider this Proposed Change to the Selwyn District Plan, hear the submissions from interested parties, and provide this report and recommendations to the Council.

**IF MY RECOMMENDATIONS ARE ADOPTED BY THE COUNCIL THIS REPORT
WILL BECOME THE COUNCIL'S DECISION.**

Proposed Change 34

2. The area of land that is the subject of this privately initiated plan change contains 6 hectares located on the south western side of Southbridge's urban area. The block of land is bounded by High Street, Brook Street and Bellfield/Robinson Street (an unformed road). The property is owned by Roxburgh Property Developers Ltd, the applicant for this Plan Change. The property contains a single dwelling, located centrally on the property, with the balance of the land being utilised for cropping and minor grazing activities.
3. To the south and west of the site the area contains rurally zoned farmland. To the east of the site, across High Street, is part of the urban area of the Southbridge township. To the north of the site is an area of land used by McMillan Drilling Company, which is partly zoned Business 2 and partly Rural (Outer Plains).
4. The application for this Plan Change was initially lodged on 25 June 2012. A revised application was lodged on 27 August 2014, which contained additional information, particularly around servicing of the block, particularly for wastewater. The Plan Change was publicly notified on 14 October 2014, with submissions closing on 12 November 2014. 7 submissions were received. The Plan Change was then publicly notified for further submissions, but no further submissions were received.

5. The Plan Change proposes rezoning the site from Rural (Outer Plains) to Living 1 zone. The Plan Change proposes the introduction of an Outline Development Plan (ODP) for the rezoned area of land. The ODP shows the main road, pedestrian and cycle linkages, as well as green areas, an area for potential stormwater treatment and detention, and an area within which reverse sensitivity solutions are to be developed (in respect of the McMillan Drilling Company site that adjoins). A “possible” subdivision plan included with the application shows the property being subdivided into 56 lots.

The Hearing

6. I had the benefit of a comprehensive pre-circulated series of officers’ reports, prepared by Ben Rhodes, (Strategy and Policy Planner), Murray England (Asset Manager), Russell Malthus (Environmental Health Consultant), Gabi Wolfer (Urban Designer), Andrew Mazey (Traffic Engineer), and Ian McCahon (Geotech Engineer Consultant).
7. The hearing took place at Southbridge Hall on Thursday 19 February 2015.

The applicant

8. Ms Jen Crawford presented legal submissions on behalf of Roxburgh Property Developers Ltd, the applicant for the Plan Change. She submitted that there is nothing particularly controversial about the proposal, and no fundamental impediments to rezoning. She submitted that the site is ideally located with good connectivity, there are solutions available to provide the necessary infrastructure to service the site, and any potential effects can be managed through the ODP and associated rule framework. She submitted that there is no particular presumption as to the appropriate zone for this site, and the question is what is the more appropriate zone for this site, Rural (Outer Plains) or Living 1.
9. Ms Crawford made a number of submissions in respect of submissions received and officer reports. She contended that the objectives and policies of the Selwyn District Plan encourage the logical extension of townships. The applicant accepted suggested rules requiring low fencing on road frontages and reserve boundaries, and opposed a Living Z zone suggested by the Council’s Urban Designer as an alternative to Living 1. She submitted that the servicing (wastewater, water supply, and fire fighting capacity) issues raised by submitters had all been answered by Council reports. She covered reverse sensitivity issues with respect to McMillan Drilling, and submitted that the mitigation measures proposed (setback, bund and fence, increased to 3 metres, controlled zone around an explosive hazardous storage facility, and an agreed no complaints covenant) were sufficient.
10. Mr Rob Roxburgh, Director and owner of the application company described the background to the development proposals for this property, and his discussions over time with the Council, the Southbridge Advisory Committee, and adjoining property owners, including McMillan Drilling. He considered development of the site as a logical and sustainable extension of the Southbridge township, which would provide community advantages for the health of the town.
11. Ms Jane West gave planning evidence on behalf of the applicant. She noted that Plan Change 34 does not intend to amend any of the operative objectives and policies of the Selwyn District Plan. She concluded that the rezoning to Living 1 achieves those objectives better than the existing Rural zoning. She considered it a more appropriate

option to provide for the future growth of Southbridge than relying on the potential ad-hoc development of sections within the existing Living 1 zone. She considered the site a logical extension of the township. The inclusion of an ODP, along with new rules and assessment matters, will ensure certainty around future development of the site, while mitigating any potential for reverse sensitivity. She agreed with a number of minor amendments that were set out in Mr Rhodes evidence (inclusion of a rule requiring an acoustic bund and/or fence in the reverse sensitivity area, and new assessment matters relating to noise attenuation works and dwelling design achieving reasonable noise levels, and effectiveness of mitigation measures to address effects of the explosive storage area in McMillan Drilling.

The submitters

12. Mr Stewart Collie spoke to his submission on behalf of him and his wife Joanna, who live at 131 High Street, opposite the site of the proposed new Living 1 zone. They are concerned that the proposed rezoning will damage the character of the town, there is a lack of compelling evidence for the need to create a subdivision of this size, and the lack of infrastructure capable of supporting it. He considered it to be an unnatural extension of a small rural settlement, with smaller sections from those normally found in Southbridge, and in a township with a small demand for additional houses. He was concerned about traffic impacts on High Street, and disruption and noise and dust from the property development over a number of years. He raised questions about the capacity of the wastewater distribution network, and the main treatment plant at Leeston, and about the water supply system and network.
13. Mr John Summers presented his submissions. He and his wife live on the opposite side of Brook Street, and use their rural property for growing cut flowers, berry fruits and various vegetables. He disagreed that additional growth at Southbridge would support a wider range of services for the town, and pointed to the loss of services even although the population is greater than in the past. He sought some visual mitigation of the subdivision from Brook Street, and was supportive of the proposed rule for lower fences on road frontages. He sought a mechanism through this plan change for the retention of 9 red oaks on the southern verge of Brook Street. He shared other submitters concerns about waste water and water supply capacity.
14. Ms Georgina Hamilton presented legal submissions on behalf of McMillan Drilling Company. Mc Millan Drilling operates from a site adjoining the northern boundary of the proposed rezoning site, having been based there for over 40 years. The company operates a range of drilling services, and although drilling is not undertaken on the site, there is a large workshop, vehicle storage areas, pipe storage areas (close to the boundary with the rezoning site), and area for repairing and running drilling rigs. It includes a range of hazardous storage facilities, including one for explosives.
15. The submission from McMillan Drilling neither supported or opposed the Plan Change, but sought assurances that the operation of their business would not be adversely affected in the future. The Company appreciated the efforts of the applicant to resolve its concerns (reverse sensitivity buffer area, construction of acoustic bund and fence, a discretion for the Council to be satisfied on noise issues, and a no objection covenant), but in the end has concluded that the reverse sensitivity issues have not been fully addressed, and its position is that Plan Change 34 should be declined.
16. Ms Hamilton, on behalf of McMillan Drilling, provided a list of further changes to the Plan Change that the submitter sought should I not agree with their position that the application be declined. These changes sought;

- Widening of the reverse sensitivity buffer area to include all of the area shown as Lots 1 to 4 on the possible subdivision plan, either as a widened reverse sensitivity area, or as an extension to the proposed recreation reserve
- Provision for the notification of any subdivision consent to the owner of the McMillan Drilling property
- Ensuring the rules require the acoustic bund/fence to be constructed at the time of subdivision
- Require the design of the acoustic bund/fence and any other mitigation measures be supported by a report from an acoustic engineer confirming the design will achieve its intended purpose
- Providing that any subdivision that does not comply with acoustic bund/fence rule be a non-complying activity
- A further rule to ensure that the reverse sensitivity buffer area is maintained for its intended purpose

17. I record that I have also read 4 other submissions made to this rezoning. Claire and Martin Allen, of 17 Broad Street, opposed the application on grounds of insufficient capacity in the wastewater, water supply, and fire fighting systems, and the costs that may be imposed on Southbridge ratepayers to upgrade those systems. The New Zealand Fire Commission sought assurances that there would be adequate water for fire fighting purposes. A letter was tabled at the hearing accepting the recommendations of Mr Rhodes. The Southbridge Advisory Committee largely supported the Plan Change, although it sought limitations on the use of relocatable houses. Nicola and Martin Wellby, of 16 Gordon Street, also opposed the Plan Change on the grounds of insufficient capacity in the water supply, wastewater and fire fighting systems, and the costs that may be imposed on ratepayers, and also were concerned about the reverse sensitivity effects on McMillan Drilling, the largest employer in the township.

Council Officers

18. Mr Ben Rhodes spoke to his Section 42A report. In that report Mr Rhodes had summarised the application, and set out the statutory framework for the consideration of the Plan Change. He discussed and considered various issues raised by submitters. On the matter of the providing for growth at Southbridge, he concluded that there is an ongoing, although small (historically 2.6 households per year), demand for new sections in Southbridge. Plan Change 34 would provide for that projected growth in a more comprehensive and integrated fashion than relying on infill development. On the matter of infrastructure servicing, he concluded that there were solutions to providing for wastewater, water supply, stormwater, and fire fighting. On the matter of location, he concluded that the site is the logical location that is best available to accommodate new growth at Southbridge.

19. On the matter of character, he concluded that the suggestion (by Ms Wolfer) that fencing on road frontages be controlled to a maximum height of 1 metre, would assist in the integration of the site with the rural village character of Southbridge. He did not think that a suggestion of using a Living Z zone, again by Ms Wolfer, would be appropriate, and may produce unintended density issues. He did not consider there was a need to restrict the use of relocatable houses, as suggested in the submission from Southbridge Advisory Committee. He also did not consider there was a need for requiring planting on the southern road boundary to provide a protection of the rural outlook from rural properties, a suggestion that he interpreted from the submission of Mr Summers. On the matter of traffic, he considered that the residential use of the development would operate well within the capacity of the road network.

20. On the matter of reverse sensitivity from the McMillan Drilling site, he considered the potential effects that could be generated. With respect to noise, he concluded that with the requirement for a 3 metre high bund and/or fence, and an assessment matter providing for a broader consideration of acoustic mitigation, that the noise related adverse sensitivity effects would be mitigated. With respect to hazardous substance storage, he considered that the addition of an assessment matter that would consider any mitigation measures to address potential reverse sensitivity and public safety effects from the explosives storage area, would be sufficient to address that matter.
21. Mr Rhodes' Section 42A report concluded with an assessment of various statutory documents. He concluded that the Plan Change would not be inconsistent with the Land Use Recovery Plan, be consistent with the outcomes sought in the Recovery Strategy, would be consistent with the Canterbury Regional Policy Statement, would be consistent with relevant objectives and policies in the Selwyn District Plan, consistent with the outcomes sought by the Canterbury Natural Resources Regional Plan and the Land and Water Regional Plan, and does not present any conflicts or inconsistencies with the Mahaanui Iwi Management Plan. He concluded that the Plan Change, with amendments, would better achieve the purpose and principles of the Resource Management Act than the current District Plan provisions. There are no matters of national importance that are relevant, the Plan Change will enhance the well being of the community of Southbridge, and will result in positive social, economic, and environmental outcomes. His Section 32 analysis concluded that Change 34 better achieves the Selwyn Plan's objectives than the existing provisions, and that the plan change is more appropriate to provide for Southbridge's growth than relying on potential infill options within the existing Living 1 zone.
22. Mr Russell Malthus spoke to his pre-circulated environmental health report. In that report he concluded that the proposed residential development would be compatible with the existing Living 1 zone, and the Rural Outer Plains zone, when considering issues of noise, light spill and glare, hazardous substances and land contamination. With regard to reverse sensitivity effects on the McMillan Drilling operations, he concluded that the acoustic mitigation measures now proposed would be sufficient to avoid adverse noise effects from the operations of McMillan Drilling. With respect to the explosive store, he noted that McMillan Drilling have an explosive certificate that states that a distance of 42 metres is to be maintained to establish a controlled zone between the magazine and any place where low density traffic and persons may be present. This is a matter that will be discussed later in this decision.
23. Mr Murray England spoke to his pre-circulated infrastructure report. In that report he provided information about the ability to service the proposed residential development. With respect to water supply he advised that the existing water infrastructure at Southbridge had sufficient capacity to meet the current level of customer demand of 345 connections, but would struggle to accommodate growth over and above that demand and another 17 connections to properties in Southbridge that were zoned but not yet developed (half connections). He advised that further capacity could be provided either by a pump upgrade of the existing bore pumps (which would require some changes to existing resource consents held) or by the construction of a new well. At the hearing he advised that his preference was for a new well, as this would provide a better long term solution for this potential development, and for further redevelopment of the existing zoned areas. It would also provide a solution to meeting the fire fighting capacity needs of Southbridge.
24. With respect to wastewater he advised that the current wastewater system within Southbridge was designed for 350 connections, and there are currently 394 connections, although the system is currently performing satisfactorily at that level. The Change 34

area could be accommodated by duplicating a higher capacity flush pump, although this would leave the Southbridge wastewater system with limited capacity to accommodate growth beyond existing connections and the Change 34 area. A higher capacity increase could be achieved by installing a new pump station and rising main, or possibly a two stage pumping along the existing rising main. At the hearing Mr England advised that the Council had not yet determined which solution should be proceeded with. The first option would provide sufficient capacity for Change 34 plus about another 10 sections. The issue for the other solutions is that Southbridge is growing very slowly, and funding the additional capacity may be difficult. However, he agreed that either solution would provide the capacity for Change 34.

25. Mr England also referred to issues at the Ellesmere Sewerage Treatment Plant, which services the sewage produced from Southbridge, Leeston and Dunsandel. He advised that the Council has already installed a new centre pivot to increase the irrigated area, and that this provided capacity for all the existing areas and their growth.
26. Mr England in his report advised that stormwater would be discharged to a natural waterway known as Tent Burn, which ultimately discharges to the coast between Rakaia Huts and the outlet to Lake Ellesmere. At the hearing he advised that an application would be required for such a discharge to Environment Canterbury, but he did not expect any issues with such an application.
27. Ms Gabi Wolfer spoke to her urban design report. She reiterated her support of a rule which limits the height of fences on road frontages. She agreed that the use of a Living Z Zone was, on reflection, not appropriate, as it may provide unintended density outcomes.

Discussion on issues raised

28. Before hearing the right of reply from the applicant, I provided an opportunity for the parties (in particular the applicant, McMillan Drilling and Council officers), to consider some of the detail matters arising during the hearing, in particular the further amendments sought by McMillan Drilling relating to noise matters, and to the size and ownership of the reverse sensitivity buffer area. I indicated that I would be more comfortable with a slightly wider reverse sensitivity buffer area of 22 metres, which would bring the separation distance to the explosives store to approximately the 42 metres stated on the explosives certificate, and that I would also prefer that this area was part of the Council reserve rather than being within the residential sections that adjoin the boundary. The parties also had the opportunity to consider the other changes sought by McMillan Drilling.
29. After that opportunity, and before hearing the verbal right of reply, I provided a further opportunity for McMillan Drilling to state their position. Ms Hamilton advised that although some changes had been agreed, the submitter still opposed the Plan Change, as they did not consider that the noise issue had been sufficiently resolved ahead of the Plan Change.
30. Ms Crawford provided a verbal right of reply at the hearing, and this was followed up on 2 March with a written right of reply.
31. I also record that I undertook a site inspection of the McMillan Drilling Company site, accompanied by Mr McMillan, during the lunch adjournment, and I carried out a visual inspection of the Plan Change 32 site and surroundings before and after the hearing.

Right of Reply

32. In the written right of reply, the applicant agreed to a number of changes to the Plan Change. These changes are as follows
- Agreement to extend the reverse sensitivity buffer to 22 metres, and for that area beyond the proposed recreation reserve to be a local purpose reserve in the ownership of the Council. Council officers have agreed to that status.
 - Clarify in the rules that the bund/fence in the reverse sensitivity area is to be constructed at the time of subdivision (although the applicant noted that staging may mean that the lots closest to the McMillan boundary may not be developed until later, and hence the construction at the time of subdivision may not be necessary)
 - Require that the design of the acoustic bund/fence or any other mitigation measures be supported by a report from an acoustic engineer confirming that the design will achieve its intended purpose
 - Preclude the development of land subject to the “reverse sensitivity buffer area” overlay to ensure that the area is maintained for its intended purpose by making this area a local purpose reserve with consequential adjustments to cycle and pedestrian links
33. Ms Crawford advised that the applicant did not agree to the other two changes (requirement to notify subdivision consents to owner of McMillan Drilling site, and making non compliance with the acoustic bund/fence rules a non-complying activity). She considered that those matters related to the consenting process rather than the zoning process.
34. In her reply Ms Crawford noted that the matters raised by Mr Collie relating to traffic issues were outside of his submission lodged, and that the submission from McMillan Drilling neither opposed nor supported the Plan Change, and therefore their now opposition to the Plan Change is outside the scope of their submission.
35. She also submitted that in a Plan Change process it was not necessary to provide certainty that all potential adverse effects are avoided, and that the noise and other issues can be resolved at the subdivision or building consent stage.
36. Ms Crawford noted that with respect to noise, the evidence of Mr McMillan is that noise from their property is intermittent, and is not a noise intensive emitting activity. Mr Malthus is satisfied that noise standards can be met. With regard to the explosives store, she noted that even Mr McMillan does not consider this a big issue, and the widening of the reverse sensitivity area brings the exclusion area to 42 metres, and takes this issue off the table.
37. Ms Crawford noted that there is now a consensus about the fencing rule, and that the Living Z zone is not appropriate. There is now no fundamental impediment to the rezoning in terms of infrastructure and servicing. Overall Plan Change 34 is more appropriate than the current rural zoning.
38. Having received the written right of reply I then concluded the hearing on 3 March 2015.

Growth

39. Southbridge has had a pattern of slow growth, which Mr Rhodes estimated to be 2.6 dwellings per year. Continued growth could be accommodated by infilling of the existing township, and/or by an extension to the zoned area of the township.
40. The Southbridge Advisory Committee submission supported the Plan Change as a better alternative than infill development, and identified a number of positive advantages from some growth in Southbridge (refresh building stocks, enhance existing social, commercial and recreational infrastructure, increase rating base, bring new employees, and opportunities for population changes from Canterbury earthquakes). The only submission which raised growth issues was that of Mr and Mrs Collie, who were concerned about impacts on the character of the township. They would prefer further infill development, and suggest that development of the Plan Change 34 area would stifle further infill development. They question whether there is any evidence of any demand for growth.
41. In the end, I accept the advice and conclusions of Mr Rhodes that the Plan Change 34 area is a logical and cost effective extension of the township. Piecemeal infill development may not be all that practical from a servicing cost point of view, whereas a planned subdivision can provide an integrated and comprehensive solution.

Infrastructure Servicing

42. Most of the opposition to this Plan Change relates to the infrastructure servicing for wastewater, water supply, and capacity for fire fighting purposes. Southbridge currently has servicing issues with respect to those services.
43. However, on the advice of Mr England there are solutions available to the Council which will be able to be considered and imposed on conditions at the subdivision stage. Those potential solutions are described earlier in this decision in paras 23 to 26.
44. Mr Rhodes in his report recommended an additional statement to be included on the Outline Development Plan which would read;

"BLUE NETWORK"

Development within the Outline Development Plan Area will require upgrades to the waste water and water supply to ensure the ODP area can be appropriately serviced. Any subdivision of land within the ODP at Appendix E43, High Street Southbridge shall outline how the subdivision will be serviced in discussion with Council"

45. The evidence before me is that the fire fighting capacity issue is a matter on the Council's agenda and that it has a process to resolve those issues. There is an effective stormwater solution that can be resolved through the subdivision process, and consents from Environment Canterbury.
46. I am therefore satisfied that there are no infrastructure servicing issues that would thwart a residential subdivision of the Plan Change 34 area, and that these matters can all be resolved through the normal subdivision process.

Location and Character

47. Mr Rhodes is of the view that Plan Change 34 land is a logical location that is best able to accommodate a new residential growth area for the township. It is located close to the centre of Southbridge and its key business and community facilities, it has frontage to High Street, which is the main street of the township, and it provides a logical squaring off of the town. It is well defined by existing roads and a walkway, which provides a clear demarcation of the township boundary, and provides buffers to the rural zones.
48. The need to protect the character and amenity of Southbridge was raised in a number of the submissions. Mr and Mrs Collie considered the proposal did not fit with the rural village character of the town. Mr Summers had concerns about the loss of rural outlook from his rural site. The Southbridge Advisory Committee had some concerns about the use of relocatable houses.
49. Ms Wolfer provided urban design advice, and her conclusion was that the impact on the visual character of the township was acceptable, but she did recommend that fencing on road frontages needs to be of an open style nature, with the ability to establish attractive front yards with appropriate plantings and landscaping. Mr Rhodes accepted that advice and recommended referencing the Southbridge ODP in an existing rule in the Selwyn District Plan, which provides for a maximum height of 1 metre for fences on road, right of way, or shared access, boundaries, and another rule which requires fences erected within 5 metres of a boundary of as reserve to be at least 50% visually transparent.
50. There was a suggestion from Ms Wolfer that these rules could also be achieved by zoning the area Living Z, which is a zone used for other urban growth areas. However, the advice of Mr Rhodes, and accepted by Ms Wolfer, was that the Living Z zone allows comprehensive developments of higher density, and this may have unintended consequences for Southbridge. I agree with that conclusion.
51. Mr Summers agreed with the fence height rule, and agreed that this would help with his view of the development. Mr Summers was also concerned about the retention of 9 Red Oak trees that are planted in the berm on Mr Summers side of Brook Street. The retention of those trees, which are on Council's legal road, is not a matter that can be determined or protected by this Plan Change. In the end it will be a decision for the Council as road controlling authority, and it will need to consider any road improvements (Brook Street is unsealed) to be required as a condition of any subdivision of the Plan Change 34 land. However, I would comment that the trees do assist in providing an effective buffer between the Plan Change 34 area and the rural area beyond, and I would expect the Council to give serious consideration to the retention of these trees.
52. With regard to the use of relocatable houses, I agree with Mr Rhodes that relocatables are already a controlled activity in the Living 1 zone, and that there is no need to add any further controls.

Traffic matters

53. Mr Collie raised traffic issues. He considered that a potential increase of over 500 vehicle movements per day would have an impact on the quality of life of people living in Southbridge, and would have an impact on the use of High Street, which also accommodates a number of farm and truck vehicle movements. While this was not a matter that he actually raised in his written submission, I am satisfied on the advice of Mr

Rhodes that any additional vehicle movements will be well within the capacity of the road network, and any impacts on amenity would not be significant.

Reverse sensitivity for McMillan Drilling

54. The major issue raised at the hearing was the reverse sensitivity impacts on the operations of McMillan Drilling Ltd. McMillan Drilling has operated from its site to the north of the Plan Change 34 area for over 40 years. It is a major employer in the district, and provides a very important rural service in the Canterbury area. Mr McMillan is rightly concerned about his business creating adverse effects on future residents, and the potential for pressure to be put on his business to either take additional steps to reduce adverse effects, or to move to another location.
55. The main potential adverse effect is noise. At times the operations of the site can be quite noisy. This mainly involves the delivery and off loading of pipes to an area of the site immediately adjoining the Plan Change 34 boundary, the uplifting of those pipes for drilling jobs, the repair and maintenance of vehicles and drilling rigs, and truck movements. Those noisy operations are however intermittent.
56. The Plan Change proposes the creation of a Reverse Sensitivity Buffer Area adjacent to the boundary with McMillan Drilling. As notified that area was 18 metres wide, and was proposed to accommodate an acoustic bund and/or fence. That bund/fence was originally proposed to be of 2 to 2.5 metres in height, but on the advice of Mr Malthus, the height is proposed to be 3 metres. In the Plan Change as notified, this reverse sensitivity area would probably form part of the (slightly larger) sections that would adjoin the northern boundary. As proposed in the recommendations in Mr Rhodes Section 42A report, the Plan Change would include an assessment matter that would read;

“the extent to which the proposed noise attenuation works and dwelling design and construction are required to achieve reasonable noise levels inside and outside the dwelling, in the context of existing ambient noise climate and with regard to current guidelines of acceptability and avoidance of sleep disturbance”.

The applicant has also agreed to provide a no complaints covenant on the land at the time of subdivision, which will transfer through to individual sections and titles.

57. As recorded earlier in this decision, the Reverse Sensitivity Buffer Area is now proposed to be increased to 22 metres, and is to be vested in the Council as a local purpose reserve. The revised ODP also shows a walkway through this area, rather than in a mid-residential block that was shown in the original ODP. The applicant has also agreed that the 3 metre high bund/fence is to be erected at the time of subdivision, and that the design of the acoustic bund/fence and other mitigation measures are to be supported by a report from an acoustic engineer confirming that the design will achieve its intended purpose.
58. Mr Malthus in his report advised that the noise standards that should apply at the common boundary, taking into account a 5dBA penalty for the impulsive noise of moving pipes, should be 50dBA L10 and 85dBA Lmax between 7.30am and 8.00pm, and 35dBA L10 and 70dBA Lmax between 8.00pm and 7.30am. He determined those noise standards from the appropriate rule in the Selwyn District Plan.
59. Based on a limited noise measurement, Mr Malthus concluded that noise levels would be 68dB L10 and 94dBA Lmax at the boundary if pipes were being handled relatively continuously for an hour or more. For houses built beyond the 18 metre setback of the reverse sensitivity buffer area, he calculated levels of 59dBA L10 and 85dBA Lmax. This

would exceed the daytime limits by 9dBA and the night time limits by 24dBA. It was on this basis that he recommended the bund and/or fence be increased to 3 metres to achieve a 9dBA reduction, and a need for house construction components to achieve the reduction needed for night time limits. Mr Malthus was confident that the required noise levels in the receiving environment could be achieved, and that detailed noise measurements and assessments at the subdivision stage would be appropriate.

60. For McMillan Drilling it was this lack of detailed noise measurement and assessment at the Plan Change stage that led to their position that they did not support the Plan Change, and that it be declined.
61. While I have some sympathy for the McMillan Drilling position, I have reached the conclusion that the measures now contained in the Plan Change are sufficient. I reached that conclusion taking into account the advice from Mr Malthus, the intermittent nature of noise from McMillan Drilling, the requirement for an acoustic report, and the agreement to have a no complaint covenant (which will sit outside the District Plan provisions). I am also now more comfortable with the reverse sensitivity buffer area being in Council ownership as a Local Purpose reserve. There was a suggestion from the applicant that the construction of the bund/fence may not be needed at subdivision stage, depending on the staging of the sections. However, I consider there is more certainty, and acknowledgement of the issue, if the bund and/or fence is constructed early in the subdivision development.
62. The other reverse sensitivity issue is the explosives store located within the McMillan Drilling property. The store has a certificate which states that "a distance of 42 metres shall be maintained to establish a controlled zone between the magazine and any place where low density traffic or persons up to 200 in number may be present". The magazine is approximately 20 metres from the boundary, and with the now 22 metre wide reverse sensitivity buffer area, to be in Council ownership, it would achieve that 42 metre separation. It was not entirely clear at the hearing whether the controls within that 42 metres would exclude any persons, or control the extent of movement. However, all parties agreed this was probably a relatively minor matter. The parties were all also comforted by the addition of an assessment matter, recommended by Mr Rhodes, that would read;

"the effectiveness of any proposed mitigation measures to address potential reverse sensitivity effects and public safety from the blasting explosives storage area located on the adjoining site to the north (McMillan Drilling Ltd site)"

Statutory Assessment

63. The application for the Plan Change provided a thorough assessment of the objectives and policies of the Selwyn District Plan, and Mr Rhodes in his report assessed the application against the key objectives and policies. I adopt those assessments, and agree with Mr Rhodes's conclusion that the zoning request represents an efficient and effective method for achieving the Plan's operative objective and policy framework and providing for Southbridge growth.
64. I concur that the Plan Change is not inconsistent with the Land Use Recovery Plan (LURP), nor with the Recovery Strategy for Greater Christchurch, which in any event are primarily focussed on the Greater Christchurch area. I also concur that the Plan Change, being on the edge of Southbridge, close to the town centre, able to be serviced by upgrades to infrastructure, and able to mitigate potential reverse sensitivity effects, is

consistent with the policy approach and direction set out in the Canterbury Regional Policy Statement. I agree that the proposal can be effectively and efficiently serviced in a manner that maintains water quality and quantity such that it is consistent with the Natural Resources Regional Plan and the proposed Land and Water Plan. I also agree that the rezoning of the Plan Change 34 area does not present any conflicts or inconsistencies with the Mahaanui Iwi Management Plan.

65. Subject to the amendments that have been made as a result of this decision, I am satisfied that Plan Change 34 achieves the integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district, as required by Section 31 of the Resource Management Act.
66. I am satisfied that adequate consideration has been given to alternatives and to the costs and benefits of Proposed Change 34 pursuant to Section 32 of the Act, and I am satisfied that the rezoning of this area to Living 1 is the most appropriate means by which to achieve the purposes of the Act for this area.
67. I am satisfied that Plan Change 34, as modified by this decision, achieves the purpose of the Act set out in Section 5. I have had regard to Section 7(a) "the efficient use and development of natural and physical resources", Section 7(c) "the maintenance and enhancement of amenity values", and Section 7(f) "maintenance and enhancement of the quality of the environment".

RECOMMENDATIONS

68. My recommendation to the Council is that Proposed Plan Change 34 is approved, but with a number of amendments (as set out in Attachment 2) to reflect the issues raised in submissions, and the conclusions reached on these issues as set out through this decision, and that the submissions and further submissions are accepted, accepted in part, or rejected accordingly as set out in Attachment 1.
69. In the event that there is any inconsistency between the summary of submissions in Attachment 1 and the amendments to the District Plan set out in Attachment 2, Attachment 2 is to prevail.



Ken Lawn
Independent Commissioner
12 March 2015

ATTACHMENT 1

Decisions on submissions

	Submitter	Heard	Request	Decision sought		Decision
S01	Claire and Martin Allen	Not Stated	Opposed	D1.1	The water supply system does not have sufficient capacity to accommodate PC34.	REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the water system to increase capacity. This can be detailed at subdivision stage
				D1.2	The wastewater system does not have sufficient capacity to accommodate PC34.	REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the waste water system to increase capacity. This can be detailed at subdivision stage
				D1.3	The costs of providing for infrastructure upgrades may create a financial risk to the ratepayers of Southbridge.	REJECT - Any upgrades work would be funded by the future developer and/or Development contributions payable by future developers.
				D1.4	There is inadequate supply of water for fire fighting	REJECT IN PART – The Council has processes in place to deal with the issue of an adequate water supply for fire fighting purposes.
S02	New Zealand Fire Service Commission	Yes	Neutral	D2.1	Is neither in support or opposed but seeks that the provision of a fully reticulated water supply is provided that meets the operational needs of the NZFS and the NZFS code, before houses are constructed on the PC34 site.	REJECT IN PART – The Southbridge scheme as a whole does not comply with the NZ Fire fighting code of practice in most areas. The scheme a whole needs to be considered not just the PC34 site. Council is investigating options to increase water supply, including a new bore that will lead to better compliance with NZ Fire Fighting Code. With regard to PC34 specifically Council has matters for discretion and policies to allow consideration of fire fighting capacity for any new subdivision, including meeting SNZ PAS 4509.
				D2.2	Seeks the inclusion of new Rule 12.1.3.44 as follows: <u>12.1.3.44 Ensure that connections to reticulated water are available at all property boundaries. Where a reticulated water supply cannot provide adequate quantities and pressure for fire fighting as set out in SNZ PAS 4509:2008, an on-site firefighting water supply shall be provided in accordance with SNZ PAS 4509:2008.</u>	REJECT – The Council has processes in place to deal with the issue of an adequate water supply for fire fighting purposes.
				D2.3	Seeks an amendment to the proposed new Rule 12.1.6.8, to support the above, as follows: <u>12.1.6.8 Any subdivision subject to Rule 12.1.1 which does not comply with Rules 12.13.43 and Rule 12.1.3.44</u>	REJECT – The Council has processes in place to deal with the issue of an adequate water supply for fire fighting purposes.
3	Southbridge Advisory	Yes	Support in Part	D3.1	Seek approval of Plan Change 34.	ACCEPT – It is recommended that PC34 be approved

	Committee			D3.2	The Plan Change will avoid future growth of Southbridge being reliant on ad hoc in fill subdivision or construction of residences on vacant sections.	ACCEPT – PC34 will provide an opportunity for greenfield development
				D3.3	Future development of the Plan Change site will likely refresh building stocks in the township and provide opportunity for residents to down size to smaller sections in the township. This may bring new employees to the township.	ACCEPT
				D3.4	An increase in residents will likely enhance the use of existing community infrastructure.	ACCEPT
				D3.5	An increase in residents will likely provide increased support for more service activities and resources for the township	ACCEPT
				D3.6	Development contributions arising from the development of the Plan Change site and an increased rating base will spread the burden of infrastructure maintenance and development.	ACCEPT
				D3.7	The approval of the Plan Change will be able to take advantage of population shifts since the Canterbury Earthquakes	ACCEPT
				D3.8	Support creation and on going protection of a reverse sensitivity buffer between the Plan Change site and McMillan Drilling Services.	ACCEPT – It is recognised that there is a reverse sensitivity issue and mitigation measures have been included in the Plan Change.
				D3.9	Support a bush/tree buffer in the reverse sensitivity buffer for aesthetic purposes, provided this could raise issues with access of sunlight for adjoining proposed lots.	ACCEPT IN PART - in that it is accepted a reverse sensitivity buffer is needed but the aesthetics of this will be up to the Council as the owner of the Local Purpose Reserve
				D3.10	Support the suggestion that the reverse sensitivity buffer be given a reserve status to provide a walkway link to Robinsons Road but are uncertain of the costs of achieving this.	ACCEPT - the reverse sensitivity area is now to become a Local Purpose reserve vested in the Council

				D3.11	Do not support the use of relocatable houses unless they are new or of a very high quality in terms of their ability to meet the current building code. Safeguards should be put in place to ensure these standards are met.	REJECT – The current District Plan framework and the building code sufficiently control the quality and standard of relocates
4	Nicola Wellby and Martin Wellby	Yes	Opposed	D4.1	Seek that the plan change is declined	REJECT – The decision is to approve the Plan Change with modifications.
				D4.2	The water supply system does not have sufficient capacity to accommodate a further 56 lots.	REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the water system to increase capacity. This can be detailed at subdivision stage
				D4.3	The development will impact on current water supply service levels	REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the water system to increase capacity. This can be detailed at subdivision stage
				D4.4	The wastewater system does not have sufficient capacity to accommodate PC34.	REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the waste water system to increase capacity. This can be detailed at subdivision stage
				D4.5	The costs of providing for infrastructure upgrades will put further financial pressure on existing ratepayers.	REJECT - Any upgrades work would be funded by the future developer and/or Development contributions payable by future developers.
				D4.6	There is inadequate supply of water for fire fighting	REJECT IN PART – The Council has processes in place to deal with the issue of an adequate water supply for fire fighting purposes.
				D4.7	Concerned about the impacts of reverse sensitive effects to McMillan Drilling, as the largest employer in the township.	ACCEPT – It is recognised that there is a reverse sensitivity issue and mitigation measures have been recommended.
				D4.8	Support the use of a reverse sensitivity buffer adjacent to McMillan Drilling	ACCEPT – It is recognised that there is a reverse sensitivity issue and mitigation measures have been recommended, including a reverse sensitivity buffer.
5	Stewart Roger Collie	Yes	Opposed	D5.1	Seek that the plan change is declined	REJECT – The decision is to approve the plan Change with modifications.
				D5.2	The proposal does not fit with, and would drastically alter, the character of the existing township	REJECT – The framework of PC34 is consistent with that of the existing township (e.g. lot size, setbacks, height, site coverage etc). The Plan Change now provides that

					fence heights are controlled to retain character along street and reserve frontages
				D5.3	<p>Rural character is a defining characteristic of Southbridge and it is strongly disagreed that the loss of the Plan Change sites rural character is not an adverse effect.</p> <p>REJECT – as above (D5.2). Southbridge township is an urban environment. Although some rural land adjoining the town is being lost this is insignificant to the overall rural land area and character of the area around Southbridge. The township will still be surrounded by rural land uses and continue to be a “rural township”</p>
				D5.4	<p>The wastewater system does not have sufficient capacity to accommodate any additional connections.</p> <p>REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the waste water system to increase capacity. This can be detailed at subdivision stage</p>
				D5.5	<p>The proposal to install another pump at Southbridge does not address the waste water infrastructure issue fully as the Leeston Waste Water Treatment Plant has in sufficient capacity to process the additional wastewater generated.</p> <p>REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the waste water system to increase capacity. This can be detailed at subdivision stage. EWWTP is able to service Southbridge and the PC34 site</p>
				D5.6	<p>If the Leeston Waste Water Treatment Plant is to be upgraded it is logical to use the extra capacity to allow more connections in Leeston in the first instance.</p> <p>REJECT – The EWWTP is able to service Southbridge and the PC34 site. Selwyn District Councils growth model indicates growth to Southbridge out to 2031.</p>
				D5.7	<p>The water supply system does not have sufficient capacity to accommodate a further development and how this will be resolved is not clear or certain.</p> <p>REJECT - Although there is limited capacity at present to service PC34 there are viable and acceptable options to upgrade the water system to increase capacity. This can be detailed at subdivision stage</p>
				D5.8	<p>There is inadequate supply of water for fire fighting.</p> <p>REJECT IN PART– The Council has processes in place to deal with the issue of an adequate water supply for fire fighting purposes.</p>
				D5.9	<p>There is little evidence of demand for more residential development in Southbridge. It is more appropriate to utilise the existing Living 1 zoned land in Southbridge for development.</p> <p>REJECT - Selwyn District Councils growth model indicates growth to Southbridge out to 2031. Sufficient and appropriately located land should be supplied to accommodate this.</p>
6	McMillan Drilling Ltd	Yes	Support in Part	D6.1	<p>Seeks provisions protecting their business operation from reverse sensitivity effects arising from a residential development.</p> <p>ACCEPT – It is recognised that there is a reverse sensitivity issue and mitigation measures have been included in the Plan Change decision.</p>
				D6.2	<p>Seek a "no objection" (to McMillan Drilling Ltd operations) covenant to be put on each title of the future development.</p> <p>ACCEPT IN PART - a no objection covenant is a mechanism that is between a future developer and the landowner. An agreement has been so agreed, but is a matter outside of the District Plan provisions.</p>

				D6.3	Assurance is sought from the developer that McMillan Drilling will not be adversely affected in the future.	REJECT IN PART – While no assurance can be given, the modifications to the Plan Change should give reasonable certainty as to future potential adverse effects
7	John Reuel and Lorraine Anne Summers	Yes	Opposed in Part	D7.1	Concerned about the loss of rural views from their property.	REJECT IN PART - It is acknowledged that will be a loss of rural outlook.
				D7.2	Seek that the Council and the developer protect the nine oak trees to the berm on the south west side of Brook Street	REJECT IN PART - in that developer has no control over the Oak trees. They are in Council road reserve. It will be up to the Council as to whether these are retained. The Commissioner's recommended decision does make reference to the value of retaining the trees
				D7.3	Seek visual mitigation of the future residential subdivision along its Brook Street frontage through either a bund formation and/or tree planting to soften boundary between a residential development and a rural area. This will also have the benefit of protecting residents in the new development from southerly and south westerly storms.	REJECT IN PART - The Plan Change now provides that fence heights are controlled to soften the interface with public road. Lower fence heights will also likely encourage more planting along the road frontage.

Attachment 2
Amendments to Plan Change 34

Note: where required re numbering of subsequent rules will occur.

Notified provisions

Insert new rules into Part C 12 Living Zone Rules – Subdivision as follows:

12.1.3.43 Any subdivision of land in the area shown in Appendix E43, at High Street Southbridge, shall be designed in general accordance with the Outline Development Plan Shown in Appendix E43

12.1.6.8 Any subdivision subject to 12.1.1 which does not comply with Rule 12.1.3.43

Insert new assessment matters into Part C 12 Living Zone Rules – Subdivision as follows:

Southbridge – High Street, Southbridge Outline Development Plan (Appendix E43)

12.1.4.78 The extent to which any amendments to the roading pattern will provide for connectivity and avoid piecemeal and uncoordinated subdivision patterns

12.1.4.79 The extent to which any amendments to the layout of development will still enable efficient and coordinated provision of services, and provide adequately for reserve, pedestrian or cycle linkages.

Recommended provisions

Insert new rules into Part C 12 Living Zone Rules – Subdivision as follows:

12.1.3.43 Any subdivision of land in the area shown in Appendix E43, at High Street Southbridge, shall be designed in general accordance with the Outline Development Plan Shown in Appendix E43.

12.1.3.44 An acoustic bund and/or fence of 3m high shall be constructed at the time of subdivision in the reverse sensitivity buffer as shown in Appendix E43, at High Street, Southbridge.

12.1.3.45 The design of the acoustic bund and/or fence and other mitigation measures (if any) are to be supported by a report from an acoustic engineer confirming that the design will achieve its intended purpose (as set out in assessment matter 12.1.4.80).

12.1.6.8 Any subdivision subject to 12.1.1 which does not comply with Rules 12.1.3.43 to 12.1.3.45.

Insert new assessment matters into Part C 12 Living Zone Rules – Subdivision as follows:

Southbridge – High Street, Southbridge Outline Development Plan (Appendix E43)

12.1.4.78 The extent to which any amendments to the roading pattern will provide for connectivity and avoid piecemeal and uncoordinated subdivision patterns

12.1.4.79 The extent to which any amendments to the layout of development will still enable efficient and coordinated provision of services, and provide adequately for reserve, pedestrian or cycle linkages.

12.1.4.80 The extent to which the proposed noise attenuation works and dwelling design and construction are required to achieve reasonable noise levels inside and outside the dwelling, in the context of existing ambient noise climate and with regard to current guidelines of acceptability and avoidance of sleep disturbance.

12.1.4.81 The effectiveness of any proposed mitigation measures to address potential reverse sensitivity effects and public safety from the blasting explosives storage area located on the adjoining site to the north (McMillan Drilling Ltd site).

Amend existing rules as follows:

4.13 BUILDINGS AND STREETSCENE

Permitted Activities — Buildings and Streetscene

For all residential development located within the Lowes Road Outline Development Plan area (Appendix 34) **or the High Street, Southbridge Outline Development Plan area (Appendix E43)** or a Living Z zone

4.13.1 That any fence between the front façade of the dwelling and the street boundary or Private Right of Way or shared access over which an allotment has legal access which is parallel or generally parallel to that boundary shall be a maximum height of 1m. For allotments with frontage to more than one road, any fencing on the secondary road boundary is to be no higher than 1.8m.

4.13.2 Any other fence shall be a maximum height of 1m if it is located within 3m of the street boundary or Private right of Way or shared access over which allotment has legal access.

4.17 FENCES ADJOINING RESERVES

Permitted Activities – Fences Adjoining Reserves

- 4.17.1 All development located within the Living Z zone **or the High Street, Southbridge Outline Development Plan area (Appendix E43)** that shares a boundary with a reserve or walkway shall be limited to a single fence erected within 5m of any Council reserve that is at least 50% visually transparent where it

Insert new page to the proposed ODP as Appendix E43 as follows:

PART E **APPENDIX 43**

OUTLINE DEVELOPMENT PLAN - HIGH STREET SOUTHBRIDGE

BLUE NETWORK

Development within the Outline Development Plan Area will require upgrades to the waste water and water supply infrastructure to ensure the ODP area can be appropriately serviced. Any subdivision of land within the ODP at Appendix E43, High Street Southbridge shall outline how the subdivision will be serviced in discussion with Council.

High Street, Southbridge Outline Development Plan



- Outline Development Plan Area
- Existing Road
- Proposed Road Design
- Local Road
- Potential Stormwater Treatment / Detention
- Reverse Sensitivity Buffer Area
- Recreation reserve
- Local purpose reserve - landscape
- Pedestrian and Cycle Links

