

Proposed Change 36 to the Selwyn District Plan

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

28 October 2014

Contents

Recommendation to the Selwyn District Council	1
Introduction	2
Abbreviations	2
Amendments to the Proposals	2
Submissions Received	2
Hearing	3
Statutory Framework	3
Effects on the Environment	6
Rural Character	6
Landscape	6
Reverse sensitivity	7
Transportation	7
Water reticulation	8
Water quality	8
Natural hazards	9
Soil contamination	9
Other matters	9
Subdivision layout, lot sizes and the ODP	9
Statutory Analysis	9
Section 32	10
Recommendations	11
APPENDIX1	12
Schedule of Proposed Amendments - Plan Change 36 – Conifer Grove Block	12
APPENDIX 2	16
RECOMMENDATIONS ON SUBMISSIONS	16

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 36 to the Selwyn District Plan be allowed, subject to the amendments set out in Appendix 1.
2. The submissions in support of Proposed Change 36 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 36 be accepted to the extent set out in Appendix 2 and otherwise be rejected.

Introduction

1. Plan Change 36 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 changes is Conifer Grove Trustees Ltd. 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 Conifer Grove Trustees as the applicant.
2. Plan Change 36 (PC 36) proposes to create a new Living 3 zone and apply it to 12.4 hectares of land at 311 Trents Rd, near Prebbleton. The site is on the southern side of the urban area of Prebbleton, and is bounded by Trices, Hamptons and Birchs Rd, approximately 1.5 km from the town centre, to which it is connected along Birchs Rd. It is an irregularly shaped block in three landholdings with a small 250m² portion of a fourth.
3. The new Living 3 zone proposes to permit the establishment of rural residential allotments ranging in size from 0.5 – 1.26 hectares. An indicative subdivision concept plan shows 16 allotments ranging in size from 5100m² to 1.26ha, with a 17th allotment containing an existing electricity substation owned by Orion NZ Ltd. 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, with several minor site specific adjustments. No amendments to the District Plan objectives and policies are proposed.
4. The block is currently zoned Rural Inner Plains, which permits subdivision to a minimum lot size of 4ha, and contains the applicant’s residence, outbuildings, stables and a horse training track.

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.
PC 36	Proposed Change 36 to the Selwyn District Plan for the subject
RMA	The Resource Management Act 1991.
RPS	The Canterbury Regional Policy Statement
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 minor amendments to the proposal. Again, at the conclusion of the hearing, the planners for the applicant and the Council were able to agree on a set of amendments to the original proposal to deal with all the issues raised, and I am grateful to them for that.

Submissions Received

6. Six submissions were received, as follows,

- 6.1. Mr Murray Sinclair submitted in partial opposition to the application, seeking larger lot sizes, a 48 hour storage capacity for the sewage system to allow for power outages, control of the existing water bores on the property and retention of existing shelter belts.
- 6.2. MG and BI Claxton submitted in support of the application.
- 6.3. Orion NZ Limited submitted in partial support, seeking a greater allocation of allotments for its land and that the rules be less restrictive about the eventual form of subdivision and that the Outline Development Plan be indicative only and not binding on future subdivision.
- 6.4. Mr Mark Sweney submitted in support of the application.
- 6.5. Mr Anthony and Mrs Barbara George submitted in support of the application.
- 6.6. Te Taumutu Runanga submitted in opposition, on the grounds of adverse effects on cultural values, including quality of surface and groundwater, and water supply, planting and landscaping

Hearing

I conducted a hearing of this application at the Council offices on Thursday 25th of September 2014.

The following were present;

Applicant

Mr and Mrs Taylor – Applicant landowners

Mr John Fergusson and Mr Aaron Grey – Planning Consultants

Submitters

Mark Sweney

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 of the property at Hamptons Rd.

Statutory Framework

7. 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* decision¹, which are to
 - 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.
8. He also drew attention to the requirement to give effect to the RPS, and to have regard to the Canterbury Land Use Recovery Strategy, the Rural Residential Strategy, the Natural Resources

¹ Long Bay-Okura Great Park Society Inc. v North Shore City Council A078/08

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 plan's higher level objectives and policies, the change must also implement and be consistent with those objectives and policies.

9. This application must therefore be considered under a whole suite of higher level planning provisions.
10. 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 documents.
11. 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 almost completed by 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.
12. In summary, the LURP adapted or took over many of the RPS proposals for urban growth in and around Christchurch, including rural residential development, and these have been given statutory effect. 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. It is no longer possible to propose rural residential developments on sites that have not been identified in the RRS14.
13. Therefore the most important parts of the statutory framework can now be found in the RPS as it was modified by the LURP, the district plan and the RRS14. The only aspect of this general process which is yet to be finalised is final approval of some changes that have been made to the District Plan to give effect to the RRS14. This requires approval of the Minister of Earthquake recovery under Action 18 of the LURP.
14. The LURP has inserted a new chapter 6 into the RPS which deals with urban growth in the Greater Christchurch Area. Amongst many other issues, Chapter 6 recognises and enables the place of a limited amount of rural residential growth to provide for housing supply and choice, particularly in the light of the earthquakes.
15. 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.

16. 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 town 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 and reduce reverse sensitivity effects and compromising rural

character further from urban areas. Prebbleton is one of the selected localities and this site was included in the Strategy.

17. 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 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 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*.
18. 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 and are still waiting for final approval by the Minister of Earthquake Recovery. 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.

Effects on the Environment

Rural Character

19. 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 Graham Densem, and the Council through the evidence of Andrew Craig, who are both highly experienced landscape architects.
20. 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.
21. 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.
22. Mr Sinclair wished to see larger minimum and average lot sizes in the development corresponding to the existing Living 2 zoned properties to the north. Mr Craig did not see this as necessary, pointing out that the proposed minimum and average lot sizes would be large enough to preserve the rural character and amenity and that the proposals comply in this regard with the standards set out in the RPS and RRS14 which were themselves subject to considerable assessment. I agree with Mr Craig, and I note that thinking on this may have changed slightly since the Living 2 zone at Trices Rd was laid out. The applicant is entitled to rely on the later standards that have been set following expert evaluation and consultation.
23. I have concluded that PC 36, as modified by the applicant at the hearing, would create and preserve a genuine rural residential character and a high standard of amenity.

Landscape

24. 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 Inner Plains zoning. This is because the sites are large enough to be spacious, it is almost inevitable that they will be attractively planted, and the rules on fencing and roading layouts will avoid creation of urban-style development.

25. There is a clear difference of opinion between the submitter Mr Sinclair, who resides in Trices Rd and is a neighbour to the north of the application site, and the applicants and the reporting officers about the value of retaining the existing shelter belts on the property. Mr Sinclair wants them preserved. The applicant does not wish to be committed to this. For the Council, their landscape architect Mr Craig considered it unnecessary to retain them.
26. On the one hand shelter belts definitely provide an element of rural character, and screening from neighbours. 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, with the shelter belt divided among a number of properties 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. Mr Craig said that in his experience rural residential owners almost invariably plant their properties attractively and that there would be no need for shelter belts to screen them from neighbours. I accept this reasoning, and note that neighbours are in a position to provide screen plantings of their own should they wish to.
27. Te Taumutu Runanga wish to see indigenous plantings used in landscaping. The difficulty with this is that unlike some larger developments, this application does not propose much in the way of open space such as reserves or stormwater ponds, which are often used for this purpose. About the only opportunity on public land would be on the proposed internal road where some street trees are to be planted, and in the swales. Mr Grey and Mr Clease proposed the use of an assessment matter in the district plan to ensure that the use of indigenous species is allowed for and considered at the time of a subdivision application, and I accept this is an appropriate response to this issue. 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.
28. The Living 3 zone contains a list of acceptable plant species to be used for landscaping purposes. The applicant sought an exemption from this requirement for this site. Having been involved with the creation of the Living 3 rules, I am aware that they were specifically developed for two very large sites at Rolleston that were almost completely without any vegetation except for pasture and boundary shelter belts. These rules were an attempt to develop an appropriate rural character for the sites. That is a very different situation from this relatively small site that already contains a number of trees that are likely to be retained. Mr Craig was very clear that in his experience new owners of rural residential blocks can be relied on to plant them attractively without this sort of regulation. I note that such rules would be very difficult for the council to enforce. I accept that this list is not necessary for this site.

Reverse sensitivity

29. 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. In this case there are no nearby activities which could be affected in this way by the establishment of the proposed rural residential area, except perhaps for the Orion substation. The main effect from substations is noise, as they can emit a humming sound. Their appearance can also be rather utilitarian. The Orion site is large enough to enable suitable visual and acoustic buffers and screening to be provided if the site is subdivided.

Transportation

30. The application documents include an integrated transport assessment report. This concluded that there would be no adverse effects on capacity, efficiency or road safety. Most of the site has

good access to the cycleway along Birchs Rd to enable off-road access to Prebbleton and beyond on foot or bicycle. It also concluded that the proposals would comply with the overarching strategic planning documents for transportation such as the RPS and the Canterbury Regional Land Transport Strategy.

31. The Council obtained a peer review of the applicants' assessment of transport matters, from Novo Group, which concurred with these conclusions. It also obtained a report from Mr Andy Carr, of Carriageway Consulting. Mr Carr generally accepted the applicants' conclusions, but pointed out that an exemption sought for the site from the generic district plan transport rules for accessways was probably too broad and could have unintended consequences for road safety. Mr Grey accepted this and withdrew this proposed amendment at the hearing.
32. There was also discussion about the status of a proposed walkway/cycleway through the site linking Hamptons and Birchs Rd, as it is unclear at this stage whether or not the accessway at Hamptons Rd would be a private accessway or a legal road. An agreement was reached at the hearing about an annotation on the ODP to cover this.
33. Finally on transportation, it is noted that Trices Rd is classified as an arterial road in the district plan, and direct vehicular access off it would be contrary to Policy 6.3.9 of the RPS. The applicant proposed an amendment to the ODP that would draw attention to this requirement. In this regard it is noted that all of the proposed lots can be readily provided with access off roads other than Trices Rd.

Water reticulation

34. Water reticulation is to be connected to the Council's existing system and no further bores on the site will be required.

Water quality

35. A number of concerns were expressed, particularly by Te Taumutu Runanga, about adverse effects on water quality, especially effects on ground water, and on the open water race that adjoins the site on Trents Rd. Stormwater is proposed to be managed by way of direct soakage to ground on each of the lots to be created. In addition, roadside swales would provide treatment and soakage for run-off from the roading system. No central collection and ponds system would be required or is proposed. No discharge to the water race is proposed. The soils on the site are very suitable for this, and no contamination of groundwater is anticipated by the expert reports for the applicant and Council. The submission by Te Taumutu Runanga is very concerned about the potential for contamination of both surface and ground water, and requests that more detail be provided as to exactly how this is to be achieved, including identification of the areas to be set aside for stormwater treatment. The concern for water quality is very understandable, and appears to be fully shared by the applicant and Council. The difference between them is really about when the detailed design of the stormwater system should be carried out, now as the submitter requests, or later at the subdivision application stage as suggested by the applicant and the Council.
36. Accelerated stormwater run-off will occur from roofs, and from roadways and hard stand areas. Disposal of stormwater directly to land is proposed. The reports for the Council and the applicant foresee no adverse effects from this. Roof water is generally regarded as clean. Run-off from roads will be treated by retention in grassed swales. These discharges will require consent from Environment Canterbury. 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 and can safely be addressed at the time of subdivision application.

37. Because of the same concern about water quality, the Runanga wanted to see more information about the design and operation of the proposed sewerage system. This is proposed to be connected to the Prebbleton reticulation system, either by gravity sewer to a central pumping station, or by individual high pressure pumps serving each allotment. The difficulty with asking for more information at this stage is that by the time the application is made, any preliminary designs which might be offered now may be out of date or different thinking might have arisen. As with stormwater, I am satisfied that this matter will be taken responsibly and fully attended to at the time of subdivision application.

Natural hazards

38. Natural hazards which might occur in flat rural land in Selwyn District could include flooding and seismic risk. The report prepared for the applicant by Riley Consultants and peer reviewed for the council by Geotechnic Consultants showed that the risk of liquefaction or lateral displacement on this land is low. The Rural Residential Strategy process demonstrated that this site is not prone to flooding or drainage difficulties.

Soil contamination

39. A Preliminary Site Investigation into the potential for soil contamination included with the application indicated that the site is unlikely to have been used for any hazardous activities except for the Orion Substation. As a result none of the balance subdivisible land is affected by land contamination and there is no risk of contamination of surface or ground water and no risk to the health of future occupants.

Other matters

Subdivision layout, lot sizes and the ODP

40. Orion NZ, although generally supporting the plan change application, opposes the requirement in the rules that any subdivision of the land is to comply with the subdivision layout of the Outline Development Plan and also limits the number of new allotments on the Orion part of the new zone to 3. Orion seeks that the ODP layout be indicative only and that the allowable number of allotments be increased. Ordinarily I might accept that an ODP need not contain such a detailed layout. However, in this case the area is a relatively small one, in three separate ownerships, and subject to averaging rules for lot size. It would be possible for the first owners to subdivide to “cherry pick” by maximising their own use of smaller allotments, while leaving it to later owners to make up the average with a lesser number of larger allotments. This would be unfair to such owners. It could also produce an uneven distribution with consequent effects on amenity. For these reasons it is common in Selwyn District for rural residential ODP’s to contain a detailed subdivision layout. For the Council Mr Clease recommended retaining the detailed layout on the ODP, introducing some provision for flexibility over lot boundaries, and increasing the allocation of new allotments on the Orion Block to 6. This would not affect overall averages if the other sites’ allocations remained. Orion, in a written statement submitted at the hearing did not agree with this approach. However I concur with Mr Clease and consider his suggestion is an appropriate way of dealing with the matter.

Statutory Analysis

41. 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 these applications 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.

42. 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:

43. 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 Inner 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.

44. 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.

45. 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

46. Section 32(2) of the Resource Management Act requires that before 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.

47. 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.

48. 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.
49. 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.
50. 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.
51. 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

52. 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 change be approved with amendments and the submissions are allowed or disallowed accordingly.
53. The full text of the recommended amendments to the district plan is set out in Appendix 1.
54. A schedule of Decisions on submissions is set out in Appendix 2.



David L Mountfort

Accredited Hearings Commissioner

October 28 2014

APPENDIX1

Schedule of Proposed Amendments - Plan Change 36 – Conifer Grove Block

Appendix 1 – Plan Change Provisions

Changes to Planning Maps

Amend the colouring to reflect the application site's Living 3 zoning on District Plan Maps 014, 129, and 130 and to a new Planning Map 130A showing the full extent of the application site.

Changes to Rules

In Chapter 12 – Living Zones Rules, Subdivision, amend Table C12.1:

Township	Zone	Average Allotment Size Not Less Than
Prebbleton	Living 1	800 m ²
	Living 1A	2,000 m ²
	Living 1A1	800 m ²
	Living 1A2	800 m ² and no more than 10% at less than 700 m ²
	Living 1A3	800 m ² and no more than 10% at less than 700 m ²
	Living 1A4	800 m ² and no more than 10% at less than 700 m ²
	Living 1A5	800 m ² and no more than 10% at less than 700 m ² . For comprehensive residential development, the minimum average area shall be 350 m ² .
	Living 1A6	Area A: 1000 m ² minimum net allotment area; Area B: 600 m ² minimum net allotment area and 900 m ² maximum net allotment area; Area C: 550 m ² minimum average allotment area and 450 m ² minimum net allotment area; and in all cases development shall proceed in accordance with the ODP and shall achieve a minimum density of 10 lots/ha once the entire site has been developed.
	Living 2	5,000 m ²
	Living 2A	5,000 m ² Maximum number of allotments is 32, and on the south side of Trices Road the maximum number of allotments is 8
	Living 2A (Blakes Road)	5,000 m ² Subdivision shall proceed in substantial accordance with the development plan in Appendix 19
	Living 2A (The Paddocks)	1.5 ha minimum allotment size

Living X	What the subdivider nominates, but not less than the average for the Living 1 Zone in the township (800 m ²)
Living 3 (Hamptons Road)	5,000m² minimum average allotment size (calculated across all allotments in the ODP area) and 4,000 m² minimum allotment size
	The number of allotments shall be in accordance with the maximums per sub area shown on the ODP (Appendix 19)

In Chapter 12 – Living Zones Rules, Subdivision, insert Rule 12.1.3.Y:

(This replaces 12.1.3.3X in the notified application. The withdrawal of rule 12.1.3.3X(d) has allowed the rule to be rewritten to remove repetitiveness. This rule enforces the matters contained in the ODP, such as restricting access to Trices Road.)

12.1.3.Y Any subdivision of land within the Living 3 Zone (Hamptons Road) at Prebbleton is in general accordance with the density of allotments, subdivision layout and access layout of the Outline Development Plan shown in Appendix 19.

In Chapter 12 – Living Zones Rules, Subdivision, insert Rule 12.1.3.Z:

12.1.3.Z Within the Living 3 Zone (Hamptons Road) at Prebbleton, all publicly accessible areas (including the access/local road, stormwater swales and public walkway reserve) are to provide plantings of native species. A landscaping plan is to be submitted with any subdivision consent application showing compliance with this rule.

Should Plan Change 36 be approved prior to the approval of the Plan Change 41, the following changes shall be made:

In Chapter 12 – Living Zones Rules, Subdivision, amend Rule 12.1.3.28 as follows:

12.1.3.28 In the Living 1A, 1A1, 1A2, 1A3, 1A6, LX, and 2A and 3 zones in Prebbleton, any subdivision is in general accordance with the respective concept and/or Outline Development Plans in Appendix 19.

Should Plan Change 36 be approved following the incorporation into the District Plan of the proposed amendments under LURP Action 18(vii), the following changes shall be made:

Insert Rule Y:

Y Within the Living 3 Zone (Hamptons Road) at Prebbleton, the right of way / local road shown on the Outline Development Plan in Appendix 19 shall be constructed in general accordance with Appendix 43.

Should Plan Change 36 be approved prior to the incorporation into the District Plan of the proposed amendments under LURP Action 18(vii), the following changes shall be made:

In Chapter 4 – Living Zones Rules, Buildings, insert Rule 4.9.XX:

4.9.XX Any building in the Living 3 Zone (Hamptons Road) at Prebbleton shall be set back at least:

20 metres from any road boundary except on corner lots a minimum setback of 15m applies to one boundary

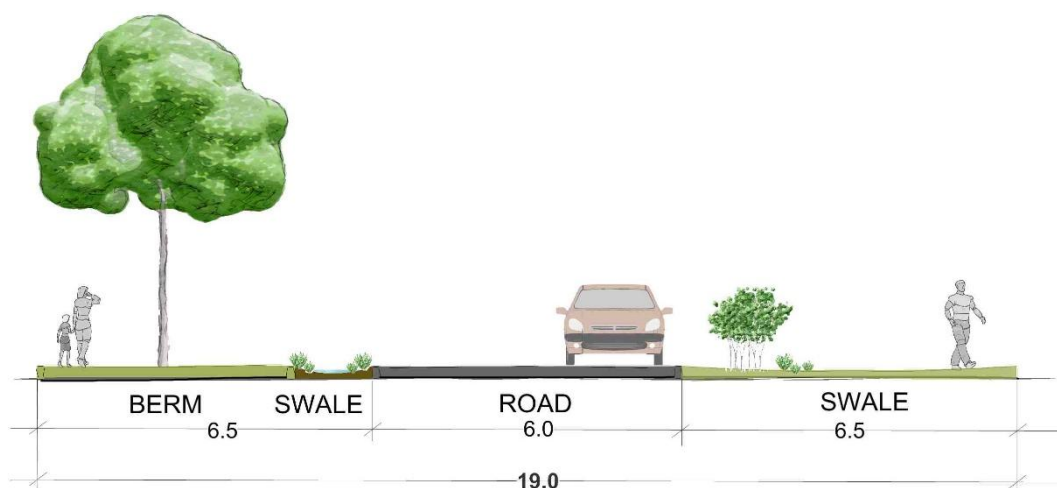
15 metres from any other boundary

In Chapter 12 – Living Zones Rules, Subdivision, insert Rule 12.1.3.XX:

12.1.3.XX Any allotment created within the Living 3 Zone (Hamptons Road) at Prebbleton is supplied with reticulated effluent treatment and disposal facilities.

Insert Rule Y and Figure Y:

Y Within the Living 3 Zone (Hamptons Road) at Prebbleton, the right of way / local road shown on the Outline Development Plan in Appendix 19 shall be constructed in general accordance with Figure Y.



* Lights at intersection only

Figure Y. Right of way / local road standards for the Hamptons Road ODP Area .

Changes to Assessment Matters

In Chapter 12 – Living Zones Rules, Subdivision, insert Rule 12.1.4.XX under the heading “Hamptons Road, Prebbleton ODP Area (Living 3 Zoning)” as an assessment matter for all subdivision consent applications in this area.

Hamptons Road, Prebbleton ODP Area (Living 3 Zoning)

12.1.4.XX The extent to which native plant species are used within the street environment (right of way or local road), stormwater swales and public walkway reserve.

Changes to Appendices

Insert the attached Outline Development Plan into Appendix 19 of the Township volume.

APPENDIX 2

RECOMMENDATIONS ON SUBMISSIONS

Murray Sinclair	Accept in Part	<p>It is recommended that this submission be accepted insofar as the concerns raised regarding servicing and water quality have been investigated and the adequacy of the detailed design of such systems is able to be confirmed through the subdivision and resource consent processes.</p> <p>It is recommended that clarity is provided regarding the retention of shelterbelts along the internal boundary with the Trices Road L2A zone by making it clear that such retention is optional.</p> <p>It is recommended that the relief sought regarding a minimum lot size of 7,890m² and a minimum average of 7247m² be rejected.</p>
MG & BI Claxton	Accept	
Orion New Zealand Ltd	Accept in Part	<p>It is recommended that this submission be accepted in part to the extent that it is recommended that provision be made for up to 6 lots on the Orion block.</p> <p>The relief sought by Orion to remove the indicative lot boundaries from the ODP or the cap on the number of lots from each block is recommended to be rejected.</p> <p>The relief sought by Orion that that the Outline Development Plan be indicative only and not binding on future subdivision is recommended to be rejected.</p>
Mark Sweeney	Accept	
A & B George	Accept	
Te Taumutu Rununga	Accept in Part	<p>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.</p> <p>It is recommended that a rule be included requiring the use of indigenous vegetation in publicly owned areas of the new zone and the subdivision assessment matters be amended to include the ability of Council to consider the extent to which</p>

		native species are proposed to be used in the road reserve and vegetated swales.
--	--	--