

Before the Selwyn District Council

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*under:* the Resource Management Act 1991

*in the matter of:* Proposed Private Plan Change 66 to the Operative  
District Plan: Maddisons Road, Rolleston

*and:* **Rolleston Industrial Developments Limited**  
*Applicant*

Closing legal submissions on behalf of Rolleston Industrial  
Developments Limited

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## **CLOSING LEGAL SUBMISSIONS ON BEHALF OF ROLLESTON INDUSTRIAL DEVELOPMENTS LIMITED**

### **INTRODUCTION**

- 1 These closing legal submissions are made on behalf of the applicant, Rolleston Industrial Developments Limited (*RIDL*) in relation to a private plan change request, known as PC66, to the Selwyn District Council (the *Council*) to change the Operative Selwyn District Plan (the *District Plan*) to rezone approximately 27 hectares of land currently zoned Inner Plains to Business 2A Zone at Maddisons Road.
- 2 The hearing for PC66 was held on 9 and 10 August 2021 and traversed a wide range of matters relating to the site and the plan change. These legal submissions seek to only cover the most contentious aspects of the plan change and new issues that arose from the hearing, which are, in summary:
  - 2.1 As requested by the Commissioner, the potential inconsistency between the Canterbury Regional Policy Statement (*RPS*) and the National Policy Statement on Urban Development 2020 (*NPS-UD*);
  - 2.2 Versatile soils;
  - 2.3 Indicating the rail siding on the ODP;
  - 2.4 Further information relating to Midland Port;
  - 2.5 Landscape and amenity; and
  - 2.6 An updated rules package.
- 3 Other topics raised at the hearing and not considered in these submissions are considered to have been adequately addressed at the hearing, through evidence and questions by the Commissioner. These will not be considered again here.

### **THE POTENTIAL INCONSISTENCY BETWEEN THE RPS AND THE NPS-UD**

#### **Timetable and brief description of relevant planning documents**

- 4 The following table has recently been provided to the Panel hearing the Proposed Selwyn District Plan by way of memorandum (which we attach at **Appendix 1** for your reference), but we consider it equally helpful to set it out here to assist the Commissioner in this process. It provides a timeline and brief description of the relevant planning documents related to this issue:

Document	Time of implementation	Comments
Land Use Recovery Plan ( <i>LURP</i> ) <sup>1</sup>	Took effect in <b>December 2013.</b>	<p>A regional planning document prepared under Canterbury Earthquake Recovery Act 2011.</p> <p>It puts land use policies and rules in place to assist the rebuilding and recovery of communities (including housing and businesses) disrupted by the Canterbury Earthquakes.</p> <p>Of most relevance, however, it amended the RPS to include Chapter 6 (Recovery and rebuilding of Greater Christchurch) and identified 'greenfield priority areas'.</p> <p>The LURP introduced the first iteration of what we know as 'Map A' into the RPS.</p>
National Policy Statement on Urban Development Capacity ( <i>NPS-UDC</i> ) <sup>2</sup>	Took effect in <b>December 2016.</b>	<p>The purpose of the NPS-UDC was to ensure that councils enabled development capacity for housing and businesses (through their land-use planning infrastructure) so that urban areas could grow and change in response to the needs of their communities.</p> <p>The emphasis of the NPS-UDC was to direct councils to "<i>provide sufficient development capacity and enable development to meet demand in the short, medium, and long term.</i>"<sup>3</sup></p>
Our Space 2018-2048: Greater Christchurch Settlement Pattern Update ( <i>Our Space</i> ) <sup>4</sup>	Final report endorsed by the Greater Christchurch Partnership in <b>June 2019.</b>	<p>This document was expressly prepared to give effect to the NPS-UDC in Greater Christchurch and in particular the provision of "sufficient development capacity". Our Space identified that housing development capacity in Selwyn and Waimakariri is potentially not sufficient to meet demand</p>

<sup>1</sup> <https://dpmc.govt.nz/our-programmes/greater-christchurch-recovery-and-regeneration/recovery-and-regeneration-plans/land-use-recovery-plan>

<sup>2</sup> [https://environment.govt.nz/assets/Publications/Files/National\\_Policy\\_Statement\\_on\\_Urban\\_Development\\_Capacity\\_2016-final.pdf](https://environment.govt.nz/assets/Publications/Files/National_Policy_Statement_on_Urban_Development_Capacity_2016-final.pdf)

<sup>3</sup> Refer for example OA2, PA1, PC1, PC3, PC4 of the NPS-UDC.

<sup>4</sup> <https://greaterchristchurch.org.nz/assets/Documents/greaterchristchurch/Our-Space-final/Our-Space-2018-2048-WEB.pdf>

Document	Time of implementation	Comments
		<p>over the medium and long term (10 to 30 years).</p> <p>It was intended that this document then form the basis of changes to Regional and District Planning documents to give effect to the NPS-UDC in a planned and collaborative way across Greater Christchurch.</p> <p>Our Space proposed that Map A of the RPS be amended to include 'Future Development Areas' which would give effect to the NPS-UDC. We point your attention to the note at the bottom of this map which provides "<i>While it is intended Our Space provides some direction to inform future RMA processes, [this map] is indicative only.</i>"</p>
National Policy Statement on Urban Development (NPS-UD) <sup>5</sup>	Took effect in <b>August 2020.</b>	<p>This national policy statement replaced the previous NPS-UDC.</p> <p>Of particular relevance is the following change in the direction to councils to "<i>at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.</i>"<sup>6</sup></p> <p>It also introduced a range of policies and objectives not even contemplated in the NPS-UDC. Of particular note is Objective 6 and Policy 8 (which we consider in more detail below).</p>
Plan Change 1 to Chapter 6 of the RPS (PC1)	PC1 made operative <b>July 2021.</b>	<p>PC1 was approved by the Minister for the Environment (the <i>Minister</i>) under the Streamlined Planning Process (which we explain in more detail in paragraphs 5-17 below).</p> <p>PC1 effectively amends the RPS to include in Map A the Future Development Areas identified in Our Space. Map A as contained in Our Space and PC1 are identical. It also</p>

<sup>5</sup> <https://environment.govt.nz/assets/Publications/Files/AA-Gazetted-NPSUD-17.07.2020-pdf.pdf>

<sup>6</sup> Refer Policy 2, Clause 3.2, Clause 3.3, Clause 3.11, Clause 3.13 of the NPS-UD.

Document	Time of implementation	Comments
		<p>introduced new objectives and policies around the new future development areas.</p> <p>PC1 does not fully give effect to the NPS-UD as it includes only the Future Development Areas from Our Space which only gave effect to the NPS-UDC.</p>

### Does PC1 give effect to the NPS-UD?

- 5 This question was raised by the Commissioner at the hearing.
- 6 As noted above, PC1 was advanced through a streamlined planning process. In short, this process allows a Council (in this case, ECan) to apply to the Minister for the Environment (*Minister*) to undertake a streamlined planning process. This process is distinct from the direct referral process of an application to the Environment Court provided under sections 87C to 87I of the RMA which only relates to applications for resource consents. There is no role for the Environment Court in the streamlined planning process.
- 7 PC1 was publicly notified on 16 January 2021 and Carter Group Limited (the applicant's holding company) lodged a submission on PC1 effectively seeking the inclusion of further Future Development Areas into Map A (this included the PC66 site). Other submitters sought the inclusion of additional land in response to the NPS-UD and in particular in light of the words "at least" before sufficient development capacity and Policy 8.
- 8 No hearing was held for PC1 and there was no right of appeal.<sup>7</sup> ECan prepared a written recommendation report to the Minister dated March 2021 (the *Report*) for approval.
- 9 The Report effectively states that the land identified in Our Space and included as Future Development Areas under PC1 would be consistent with the NPS-UD as it would enable additional development capacity and would contribute to well-functioning urban environments but concludes that all submissions seeking to add extra land in response to the NPS-UC were out of scope as ECan did not consider that the submissions were 'on' the proposed plan change and that therefore the decision maker did not have jurisdiction to consider it.<sup>8</sup> This included the Carter Group

<sup>7</sup> Noting that the RMA (Schedule 1, clauses 91 - 93) only provides a right of appeal to streamlined planning processes where the decision relates to a requirement, designation, or heritage order.

<sup>8</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [45].

submission, which the Report recommended be rejected. While we do not agree with this finding,<sup>9</sup> whether or not Carter Group's submission was within scope is not an issue that needs to be traversed for the purpose of this memorandum.

- 10 The Report concluded that the inclusion of additional land identified by submitters was not considered to be a 'consequential' or 'incidental' change to PC1 as notified, and that it is more appropriate to consider the inclusion of additional land as further/new Future Development Areas as part of the full RPS review which they indicate will occur later in 2021.<sup>10</sup> Counsel does not know specifically what ECan's timeline is for full review of the RPS but recent comments by Council Officer's indicate it may not be until 2024.
- 11 The Minister approved PC1 on 28 May 2021 and the changes were made operative on 28 July 2021.
- 12 The Report expressly notes that the purpose of PC1 was to give effect to Policy 2 and clause 3.7 of the NPS-UD (relating to providing 'at least' sufficient development capacity) and in particular provide flexibility for Selwyn and Waimakariri District Councils to consider rezoning land within the Projected Infrastructure Boundary to meet medium term housing demands as part of their district planning processes, where a sufficiency shortfall is identified through a housing development capacity assessment.<sup>11</sup>
- 13 It goes on to state that PC1 "*implements the outcomes of Our Space 2018-2048*"<sup>12</sup> to enable sufficient development capacity as Our Space identified there was insufficient development capacity in certain locations within Greater Christchurch in the medium term and overall for the long term.<sup>13</sup>
- 14 It is therefore clear that the RPS, as amended by PC1, could only ever identify the least amount of development capacity that is required to be enabled by the NPS-UD. This is because Our Space determined only the 'sufficient development capacity' required in the short, medium, and long term as required under the NPS-UDC. This is what has been implemented through PC1. But now the NPS-UD requires 'at least' sufficient development capacity. This means there is nothing preventing a local authority from identifying land appropriate for development, over and above what might otherwise

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<sup>9</sup> As ultimately, and among other reasons, the Carter Group submission related to giving effect to the NPS-UD which the plan change is required to do.

<sup>10</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [66].

<sup>11</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [22].

<sup>12</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [23].

<sup>13</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [25].

have been considered 'sufficient' in 2018/19 (i.e. over and above what was identified in Our Space).

15 However, the Report notes that:<sup>14</sup>

*"The purpose of the Proposed Change is not to consider additional areas appropriate for future residential zoning, or to respond to longer-term housing capacity in Greater Christchurch."*

16 The Report did not consider there was any hardship to submitters in approaching the matter in this way, and that whether additional land should be included as future development areas would be considered in the context of the full review of the RPS where the community will have the benefit of proper analysis, consultation and notification.

17 Ultimately, we accept that PC1 does, to some extent, give effect to the NPS-UD as it is required to under section 62(3) of the RMA. However, PC1 is not the end of the requirement to give effect to the NPS-UD in the Canterbury region. It does not in and of itself give effect to the NPS-UD in its entirety. The Report to the Minister expressly acknowledges that:

17.1 The purpose of PC1 is to give effect to Policy 2 and clause 3.7 of the NPS-UD. The Report expressly states that this will give effect to the NPS-UD "in part" to provide sufficient development capacity to meet expected demand;<sup>15</sup>

17.2 *"The Proposed Change does not purport to, and nor it is required to, give full effect to the NPS-UD as it is has not been practicable for Environment Canterbury to fully implement the NPS-UD within the scope of this change being progressed through the streamlined planning process and within the timeframes available."*<sup>16</sup>

17.3 Further changes to the RPS are anticipated and required in order to fully give effect to the NPS-UD, including the introduction of criteria as to what would add significantly to development capacity and contribute to well-functioning urban environments so that local authority decisions affecting

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<sup>14</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [66].

<sup>15</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [57].

<sup>16</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [62].

urban environments are responsive to plan changes in accordance with Policy 8 of the NPS-UD.<sup>17</sup>

- 17.4 This further work to the RPS is currently being undertaken, and in the meantime, any private plan change requests will need to be considered in light of the NPS-UD. More comprehensive changes to the policy framework in the RPS will be considered as part of the full review of the RPS scheduled to commence in 2021.<sup>18</sup>

### **Principles of statutory interpretation**

- 18 The question that is then asked is how the RPS is to be interpreted in light of the NPS-UD? This is especially so because the RPS contains an “avoid” policy with respect to development outside Map A, yet the later in time, and higher order, NPS-UD contains Objective 6 and Policy 8.
- 19 To answer this question it is helpful at the outset to first cover some basic principles of statutory interpretation especially relating to the hierarchy of planning documents, and the effect of later in time legislation on existing legislation.
- 20 Modern statutory interpretation requires a purposive approach and a consideration of the context surrounding a word or phrase.<sup>19</sup>
- 21 When interpreting rules in planning documents, *Powell v Dunedin City Council* established that (in summary):<sup>20</sup>
- 21.1 the words of the document are to be given their ordinary meaning unless it is clearly contrary to the statutory purpose or social policy behind the plan or otherwise creates an injustice or anomaly;
- 21.2 the language must be given its plain and ordinary meaning, the test being “what would an ordinary reasonable member of the public examining the plan, have taken from” the planning document;
- 21.3 the interpretation should not prevent the plan from achieving its purpose; and

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<sup>17</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [66].

<sup>18</sup> Report to the Minister for the Environment on Proposed Change 1 to Chapter 6 of the CRPC, March 2021, at [66].

<sup>19</sup> The most fundamental principle of statutory interpretation is contained in section 5(1) of the Interpretation Act 1999: “The meaning of an enactment must be ascertained from its text and in light of its purpose”.

<sup>20</sup> *Powell v Dunedin City Council* [2004] NZRMA 49 (HC), at [35], affirmed by the Court of Appeal in *Powell v Dunedin City Council* [2005] NZRMA 174 (CA), at [12].



- 21.4 if there is an element of doubt, the matter is to be looked at in context and it is appropriate to examine the composite planning document.
- 22 Reading the words of a planning document with reference to its plain and ordinary meaning is therefore the starting point to any interpretation exercise.
- 23 It is widely accepted that the RMA provides for a three tiered management system – national, regional and district. This establishes a ‘hierarchy’ of planning documents:<sup>21</sup>
- 23.1 First, there are documents which are the responsibility of central government. These include National Policy Statements. Policy statements of whatever type state objectives and policies, which must be given effect to in lower order planning documents.
- 23.2 Second, there are documents which are the responsibility of regional councils, namely regional policy statements and regional plans.
- 23.3 Third, there are documents which are the responsibility of territorial authorities, specifically district plans.
- 24 Therefore, subordinate planning documents, such as a regional policy statement, must give effect to National Policy Statements. This is expressly provided in section 62(3) of the RMA. The Supreme Court has held that the “give effect to” requirement is a strong directive<sup>22</sup> and that the notion that decision makers are entitled to decline to implement aspects of a National Policy Statement if they consider that appropriate does not fit readily into the hierarchical scheme of the RMA.<sup>23</sup> The requirement to “give effect to” a National Policy Statement is intended to constrain decision makers.<sup>24</sup>
- 25 Where the ordinary meaning, however, creates an anomaly, inconsistency, or absurdity (such as is the case here) other principles of statutory interpretation must be considered to help shed light on how a planning document should properly be interpreted. We touch on some of those relevant concepts now.

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<sup>21</sup> *Environmental Defence Society v New Zealand King Salmon* [2014] NZSC 38 at [10]-[11].

<sup>22</sup> *Environmental Defence Society v New Zealand King Salmon* [2014] NZSC 38 at [80].

<sup>23</sup> *Environmental Defence Society v New Zealand King Salmon* [2014] NZSC 38 at [90].

<sup>24</sup> *Environmental Defence Society v New Zealand King Salmon* [2014] NZSC 38 at [91].

26 Where there is an apparent inconsistency between two documents, the Courts will first seek to reconcile this inconsistency and allow the two provisions to stand together.<sup>25</sup>

27 Where two provisions are totally inconsistent (such that they cannot be reconciled in a way that they can be read together), then it is appropriate to look to the doctrine of implied repeal. The doctrine of implied repeal provides that a provision that is later in time, impliedly repeals the earlier provision. It is a doctrine of last resort and should only be applied where all attempts at reconciliation fail.<sup>26</sup>

**The potential inconsistency in the RPS and the NPS-UD**

28 The potential inconsistency is between objective 6.2.1.3 of the RPS and Objective 6 and Policy 8 (and relevant clauses) of the NPS-UD.

29 Objective 6.2.1.3 of the RPS provides:

*Recover, rebuilding and development are enabled in Greater Christchurch through a land use and infrastructure framework that: [...]*

3. *avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS;*

30 It is well established in the context of RMA planning documents, that the ordinary meaning of the word 'avoid' means "not allow" or "prevent the occurrence of".<sup>27</sup> Therefore on its face, this objective provides that decision makers must not allow urban development outside of existing urban areas or the greenfield priority areas identified in Map A.

31 However we submit adopting this interpretation in the context of interpreting the RPS would not reconcile the RPS with Policy 8 of the NPS-UD and would lead to the type of problems identified by the Court in *Powell*. Namely, the interpretation would be contrary to the very purpose of Policy 8, would prevent the NPS-UD from achieving its purpose and would interpret the word "avoid" in a vacuum and outside the context of reading the RPS and the NPS-UD together.

32 Objective 6 and Policy 8 of the NPS-UD provide that:

**Objective 6:** *Local authority decisions on urban development that affect urban environments: [...]*

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<sup>25</sup> *R v Taylor* [2009] 1 NZLR 654.

<sup>26</sup> *Taylor v Attorney-General* [2014] NZHC 2225; *Kutner v Phillips* [1891] 2 QB 267 (QB).

<sup>27</sup> *Environmental Defence Society v New Zealand King Salmon* [2014] NZSC 38 at [93].

- (c) *Responsive, particularly in relation to proposals that would supply significant development capacity.*

**Policy 8:** *Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and continue to contribute to well-functioning urban environments, even if the development capacity is:*

- (a) *unanticipated by RMA planning documents; or*  
(b) *out-of-sequence with planned land release.*

- 33 A rigid interpretation of the word “avoid” in the RPS inherently prevents local authorities from being responsive in the way required by the NPS-UD, as it prevents them from even considering the merits of a plan change that might otherwise add significantly to development capacity and contribute to well-functioning urban environments (the criteria for Policy 8 NPS-UD) where these fall outside of greenfield priority areas.
- 34 The requirement of the NPS-UD, that local authorities be responsive to development capacity meeting certain criteria even if it is unanticipated or out-of-sequence is clearly intended to target exactly this type of objective in the RPS and to say that the “avoid” policy in the RPS prevents all developments that fall outside Map A would to act in a manner contrary to the specific direction in Policy 8.
- 35 This is further affirmed by the Ministry for the Environment’s guide on understanding and implementing the responsive planning policies which states that:<sup>28</sup>

***“Objective 6(c) recognises local authorities cannot predict the location or timing of all possible opportunities for urban development. It therefore directs local authorities to be responsive to significant development opportunities when they are proposed. [...]”***

*Expected outcomes*

***The responsive planning policy in the NPS-UD limits a local authority’s ability to refuse certain private plan-change requests without considering evidence. This is because Policy 8 requires local authorities to make responsive decisions where these affect urban environments. Implementing this policy is expected to result in more plan-change proposals being progressed where they meet the specified criteria (see section on criteria below). This will likely lead to***

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<sup>28</sup> <https://environment.govt.nz/publications/understanding-and-implementing-responsive-planning-policies/>

***proposals being brought forward for development in greenfield (land previously undeveloped) and brownfield (existing urban land) locations, which council planning documents have not identified as growth areas. [...]***

*Local authorities may choose to identify in RMA plans and future development strategies where they intend:*

- *development to occur*
- *urban services and infrastructure to be provided.*

***The identified areas must give effect to the responsive planning policies in the NPS-UD and therefore should not represent an immovable line. Council policies, including those in regional policy statements relating to out-of-sequence development, will need to be reviewed and, in some cases, amended to reflect the responsive planning policies of the NPS-UD.”*** [emphasis added]

#### **Reconciling the potential inconsistency**

- 36 As such, it will be necessary, as a matter of interpretation, to attempt to try and reconcile the inconsistency between the two documents. If that is not possible the NPS-UD as the later in time document, and the higher order document, will have impliedly repealed (or amended) the meaning of “avoid” in the RPS.
- 37 Implied repeal of the objective in the RPS should be a last resort, and we submit there is therefore a way the two documents can be reconciled and read together as the Courts expect those interpreting legislation to do.
- 38 In this context, we consider it highly relevant that:
- 38.1 The NPS-UD provides a clear national level direction to enable development capacity and is therefore a higher order document than the RPS in terms of the resource management hierarchy; and
- 38.2 The NPS-UD is the most recent in time planning document. While PC1 to the RPS did in part give effect to the NPS-UD this was not in relation to Policy 8 where it was noted more work would be required to give full effect to the responsive planning framework established by the NPS-UD.
- 39 In light of this, it is appropriate to ‘read down’ or ‘soften’ the interpretation of ‘avoid’ in the RPS to give effect to the NPS-UD (at least until such time as the RPS gives full effect to the NPS-UD, which we consider would require an amendment to this objective in the RPS). This would be done by grafting a limited exception onto the objective where a development could meet the NPS-UD because

it adds significantly to development capacity and contributes to a well-functioning urban environment.

- 40 A strict reading of the RPS objective would be contrary to the NPS-UD. Therefore, read in light of the NPS-UD, the objective in the RPS should now be read as meaning “*except if otherwise provided for in the NPS-UD, avoid...*”
- 41 Further, the NPS-UD requires local authorities to give effect to it “*as soon as practicable*”.<sup>29</sup> This interpretation of the RPS in light of the NPS-UD requires the Selwyn District Council to give effect to Objective 6 and Policy 8 even though the RPS does not yet. This is appropriate given the likelihood that an amendment to the RPS is unlikely to occur for some time now.

**The lack of criteria in the RPS as to what constitutes ‘significant development capacity’**

- 42 Clause 3.8 of the NPS-UD provides further guidance on the responsive planning framework established by Policy 8.
- 43 Clause 3.8(3) requires that regional councils are to include criteria in their RPSs for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity. This has not yet occurred and we would expect this to also be covered in ECan’s intended review of the RPS.
- 44 Nevertheless the criteria is not required for local authorities to give effect to Policy 8 in the interim (i.e. in the absence of such criteria) and until such criteria is provided, it is appropriate for a decision maker to consider whether a particular plan change would add significantly to development capacity on a case by case basis. This will necessarily involve hearing evidence on that topic from applicants and individual submitters.
- 45 It cannot have been the intention of the NPS-UD which requires Councils to give effect to its provisions “as soon as practicable” to wait until an RPS develops criteria in some years’ time. That interpretation would be an absurdity and contrary to the plain meaning of the words. Given the amount of time it took ECan to amend their RPS to be consistent with the NPS-UDC (i.e. after the NPS-UD had been implemented), this is too long for the District Council to wait in order to fulfil its obligations under the NPS-UD to act as soon as practicable particularly in the case of a Council who is in the process of reviewing its District Plan and who is facing rezoning requests from submitters.
- 46 Again, Selwyn District Council would not be giving effect to the NPS-UD ‘as soon as practicable’ if it was to wait for ECan to develop this criteria and in the meantime to refuse to consider requests for

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<sup>29</sup> NPS-UD, clause 4.1(1).

rezoning which on the basis of evidence produced adds significantly to development capacity.

**How this all applies in the context of PC66**

47 The avoid objective in the RPS no longer provides a 'hard line' for where development can or cannot go. Since the implementation of the NPS-UD, this objective has been given a gloss and must be read down as being subject to the NPS-UD in order to give effect to the NPS-UD.

48 In fact, we note that **Ms White** at the hearing acknowledged that the Council would not have accepted the plan change for processing to begin with if the Council itself considered the RPS still directed a 'hard line' approach to the urban growth boundaries.

49 This appears to be consistent with the legal advice we understand the Council has received on the Proposed Selwyn District Plan.<sup>30</sup>

50 As such, the 'avoid' policy in the RPS cannot apply to development that is otherwise sought to be enabled by Policy 8 of the NPS-UD. The Commissioner is entitled to grant this resource consent, despite it being outside of the greenfield priority areas, and the avoid objective in the RPS, but provided that the proposal:

50.1 adds significantly to development capacity; and

50.2 contributes to well-functioning urban environments.

51 The latter of these points was not an issue at hearing and both the applicant's and the council's experts accept that PC66 would contribute to a well-functioning urban environment. We do not consider this further.

52 With regards to whether PC66 adds significantly to development capacity, even in the absence of any criteria in the RPS, it is appropriate for the Commissioner to consider this in light of the evidence before him in order to ensure the NPS-UD is being given effect to.

53 We note that following the evidence of **Mr Carter, Mr O'Styke, and Mr Staite**, the Council now accepts PC66 will add significantly to development capacity given:

53.1 there is a demonstrable shortage of freehold, unencumbered industrial land in Greater Christchurch, and in particular Rolleston; and

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<sup>30</sup> Refer to Growth Planning Report attached to the Section 42A Report for Private Plan Change 67, at [19]. We have requested to see the legal advice referred to in this document and were advised by Council that it was prepared for the Panel for the purpose of the District Plan review. We have not yet seen a copy of this advice.

- 53.2 the unique qualities of the site, including its proximity to Midland Port and the opportunity it provides for the extension of the rail siding and/or an open boundary with Midland Port.

#### **POTENTIAL SCOPE ISSUE RELATING TO ACCESS ALONG MADDISONS ROAD**

- 54 At the hearing, a potential scope issue arose relating to the access onto Maddisons Road. It was suggested that such an access had never been proposed in the original plan change request, and therefore might be out of scope of this plan change.
- 55 The original application for PC66 sought the following:
- 55.1 To amend permitted activity rule 17.2.1.2 to exclude access onto Maddisons Road from the PC66 site from the permitted activity rule;
- 55.2 Amend restricted discretionary activity rule 17.6.2 to include the establishment of a road crossing requiring a break in the Landscape Treatment Area 1 identified in the PC66 ODP. Landscape Treatment Area 1 is adjacent to Maddisons Road. This proposed amendment to the rule therefore in effect seeks that access onto Maddisons Road from the PC66 site be a restricted discretionary activity; and
- 55.3 To amend the matters of discretion in rule 17.6.3 to ensure matters contained in 17.6.3.5 and 17.6.3.6 (relating to impacts of heavy vehicle volumes on the safe operation of Maddisons Road, among other things) are considered when any consent is sought to provide access onto Maddisons Road from the PC66 site.
- 56 However, the integrated transport assessment prepared by **Mr Fuller** and appended to the original plan change application contained a slightly different version of the ODP than the one proposed in the body of the application. This ODP included a note which read "No vehicle entrance off Maddisons Road." This was an error but we understand the intention to have been to indicate that access onto Maddisons Road is not a permitted activity and would require resource consent.
- 57 Nevertheless, this was picked up by **Mr Mazey** and **Ms White** for the Council who recommended in the Section 42A Report that it be noted on the ODP.<sup>31</sup>
- 58 The evidence of **Ms Seaton** subsequently points out that such a notation on the ODP would be problematic due to the non-complying activity rule afforded to any activity that does not comply with the

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<sup>31</sup> Refer paragraph 45 of the Section 42A Report.

ODP.<sup>32</sup> This could result in access onto Maddisons Road from the plan change site being considered a non-complying activity. This was never the intention, as is clear from the original application and the changes sought to the restricted discretionary activity rule, as noted above.

- 59 As such, **Ms Seaton** recommended an amended notation which refers to the specific rules which would apply to the access (i.e. the permitted activity rule and the restricted discretionary activity rule):

*"Roads and/or vehicle access to Maddisons Road is subject to Rule 17.2.1.2 and 17.6."*

- 60 This would signal to any users of the plan that there are access limitations onto Maddisons Road and that those specific rules should be referred to. This is entirely appropriate and within the scope of the original application. No subsequent changes have been sought to those rules and therefore since the very start of this application it was always intended that access onto Maddisons Road from the PC66 site would be a restricted discretionary activity.
- 61 **Ms Seaton** further recommended in her evidence a slight amendment to rule 17.2.2 to clarify that access onto Maddisons Road is a restricted discretionary activity.

#### **VERSATILE SOILS**

- 62 With respect to the versatile soils issue, we will not repeat our analysis of the relevant objectives and policies contained in our opening legal submissions and we refer the Commissioner to these.
- 63 We simply emphasise again, and this was accepted by the **Ms White** at the hearing, that while the land could be used for rural activities, those activities are not dependent on the Class 2 soils present on the site.
- 64 In any case, there are no other sites adjoining the township which would be appropriate for this plan change which seeks to enable the possible expansion of the Midland Port rail siding and otherwise provide another open boundary with Midland Port.
- 65 Nothing in the submission of Ms Penny changes this assessment.

#### **INDICATING THE RAIL SIDING ON THE ODP**

- 66 There was discussion at the hearing around whether the ODP should be amended to indicate where the extended rail siding might be.
- 67 **Ms Seaton** and **Ms White's** response to this was that they were not sure what it would achieve or who it would be intended to give

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<sup>32</sup> Refer rules 24.1.3.11 and 24.1.6.1 in the District Plan.



notice to? They considered it could be problematic to do anything under the plan change if the rail siding is not first extended given the non-complying activity rule if an activity is not in accordance with the ODP.

- 68 We agree with these comments and do not consider it is necessary or desirable to indicate the extended rail siding on the ODP. The Commissioner will no doubt make reference to the potential opportunity for a rail siding in the reasons for the recommendation.

#### **FURTHER INFORMATION RELATING TO MIDLAND PORT**

- 69 The Commissioner at the hearing had some queries regarding the containerised freight volumes to and from Midland Port to Lyttelton Port. Counsel has confirmed with LPC (whom we also act for):

69.1 Almost 100% of all containers travelling between Midland Port and Lyttelton Port travel by rail. Only very few of the Midland Port containers travel by road where they have missed the train due to logistical reasons.

69.2 At peak volume, there are on average 18 trains per week (three per day Monday to Friday, two on Saturday, and one on Sunday) travelling between Midland Port and Lyttelton Port. This may increase in the future although LPC are currently focused on maximising the utilisation of current trains as this is more cost effective.

- 70 The Commissioner also requested the relevant resource consents for Midland Port. We attach these at **Appendix 2**.

#### **LANDSCAPING AND AMENITY**

- 71 At the hearing, the Commissioner questioned whether it would be appropriate to include planting alongside the bund on the interface to the rural boundary.

- 72 Both **Mr Bentley** and **Ms Wilkins** considered this would be appropriate. The applicant is not opposed to this, but does not consider it necessary to amend any rule in the plan to achieve this. Landscape Treatment One and Four<sup>33</sup> in the District Plan already require that planting be along the Business 2A Zone side of the common boundary.

- 73 There was also discussion at the hearing about the appropriateness of an additional matter of discretion for consenting any access onto Maddisons Road relating to the impacts an increase of heavy vehicle volumes would have on amenity.

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<sup>33</sup> Refer rule 24.1.3.13 District Plan.

- 74 We do not consider this necessary and submit that it is appropriate that the matters of discretion relating to access from the PC66 site to Maddisons Road are the same as the matters of discretion already applying to other access ways proposed to Hoskyns/Maddisons Road from the Business 2A Zone.
- 75 Rule 17.3.9.2 will ensure that the impacts of an increase in heavy vehicle volumes on the safe operation of Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection and the Weedons Primary School from an increase in heavy vehicle volumes are considered in any resource consent for access.
- 76 Finally, with regards to the submission of Mr Thomas, we have already responded to his comments in our opening legal submissions. At the hearing, Mr Thomas said that he valued the rural area he lived in, comprised of lifestyle blocks and agriculture and noted that he could already see the lights, containers, and hear the noise coming from Midland Port from his property. The proposed PC66 site is a natural extension of the Business 2A Zone, and the substantial boundary treatments proposed (a 2 metre bund with planting on top) has the potential to buffer some of these effects to his property.

#### UPDATED RULES PACKAGE

- 77 We include, at **Appendix 3**, a full updated version of the rules package and ODP incorporating all of the amendments proposed to date to address submitter and expert concerns.
- 78 The changes from the original rules package contained in the application include:
- 78.1 Inclusion of the additional policy and rules proposed by **Ms Seaton** at the hearing to cover the potential high flood hazard area on the site.<sup>34</sup> At the hearing, this was considered by **Mr Griffiths** to resolve the concerns held in the submission by the Canterbury Regional Council.
- 78.2 An amended rule to clarify that vehicle access to Maddisons Road is a restricted discretionary activity, as discussed above;<sup>35</sup>
- 78.3 A new rule to make noise sensitive activities within 80m of the LPC Midland Port a non-complying activity.<sup>36</sup> This was agreed with LPC and proffered by the applicant;

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<sup>34</sup> New Policy B3.1.9 and Rules 14.1.2, 14.1.3, 16.7.7, and 16.7.8.

<sup>35</sup> Rule 17.2.2.

<sup>36</sup> New Rule 22.9.7.

78.4 A new rule which would make the occupation of any building on the site a non-complying activity until such time as:<sup>37</sup>

- (a) the over bridge of State Highway 1 between Rolleston Drive and Jones Road is operational. This was agreed with the New Zealand Transport Agency and proffered by the applicant to address the concerns in their submission; and
- (b) vehicular access is provided between the Midland Port site. This was again agreed with LPC and proffered by the applicant to address concerns in LPC's submission; and

78.5 A new rule which would make any commercial activity or retail activity (except as provided for in rule 22.10.1.3) a non-complying activity.<sup>38</sup> This was rule was proffered in response to concerns raised in **Mr Foy's** Economic Review appended to the Section 42A Report. **Ms White** has confirmed that this new rule addresses the Council's concerns in this respect;

78.6 Amendments to the ODP to stipulate bunding requirements and to reference the relevant rules for providing access onto Maddisons Road.

79 We trust these submissions cover all of the matters sought to be covered by the Commissioner.

Dated 25 August 2021



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Jo Appleyard / Lucy Forrester  
Counsel for the Rolleston Industrial Developments Limited

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<sup>37</sup> New Rule 22.9.8.

<sup>38</sup> New Rule 22.10.4.

**APPENDIX 1 – MEMORANDUM OF COUNSEL ON BEHALF OF  
CARTER GROUP COMPANIES ON TOPIC 1: STRATEGIC  
DIRECTIONS OF THE PROPOSED SELWYN DISTRICT PLAN**

## **APPENDIX 2 – RESOURCE CONSENTS FOR MIDLAND PORT**

# RESOURCE CONSENT DECISION: 155101



Applicant:	Lyttelton Port of Christchurch Limited
Proposal:	To establish, operate and maintain an intermodal inland port/freight hub.
Location:	Jones Road, Rolleston
Legal Description:	Lot 2 DP 475847 being 27.000 hectares in area more or less, as contained in Certificate of Title 656373
Zoning:	The property is zoned Business 2A under the provisions of the Partially Operative District Plan (Townships) Volume
Status:	This application has been assessed as a land use consent for a Discretionary activity under the Partially Operative District Plan. As such the relevant provisions of the Partially Operative District Plan (Townships) Volume and the Resource Management Act 1991, have been taken into account
This application was formally received by the Selwyn District Council on 26 February 2015. Assessment and approval took place on 30 June 2016 under a delegation given by the Council.	

## DECISION

### General

1. The activity shall be carried out in accordance with the details submitted with the application, further information and approved plans included as attachment 1 to this consent.

### Construction Management

2. All construction noise on the site shall be planned and undertaken to ensure that construction noise emitted from the site does not exceed the noise limits outlined in Table 2 of NZS6803:1999 Acoustics – Construction Noise. Sound levels associated with construction activities shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
3. The consent holder shall implement best practicable option measures to avoid or mitigate the dispersal and deposition of dust from construction and earthworks activities beyond the boundary of the property.
4. The consent holder shall implement best practicable option measures to avoid or mitigate the discharge of sediment laden runoff beyond the boundary of the property

5. At least 10 working days prior to the commencement of construction works for each stage the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Environmental Construction Management Plan demonstrating how conditions 2, 3 and 4 will be achieved. The Environmental Construction Management Plan shall include but not be limited to:
  - (a) The contact details of the lead contractor;
  - (b) The timing and duration for construction, including working hours within which works will be undertaken;
  - (c) Plans demarcating the areas to be disturbed including location, area and volume of earthworks associated with each phase of construction;
  - (d) Monitoring and reporting methods;
  - (e) A complaints procedure;
  - (f) Review procedures for the Environmental Construction Management Plan.
6. All construction works shall be undertaken in accordance with the approved Environmental Construction Management Plan.

#### Noise Mitigation

7. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Rural or Business zoned land:
  - Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 40dB  $L_{Aeq}$  and 70dB  $L_{AFmax}$
8. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Living zoned land:
  - Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$
9. Prior to the commencement of the activity on the site the consent holder shall construct an earth bund of at least two metres in height along the entire eastern boundary of the site for the purposes of noise mitigation.
10. In the event that any dwelling is constructed within 150 metres of the eastern boundary of the site the consent holder shall install an acoustic barrier of at least two metres in height on top of the earth bund required by condition 9 and at least 100 metres in length for the purpose of mitigating noise. Confirmation from a suitably

qualified acoustic engineer that the extent of the proposed barrier will ensure that noise levels at the notional boundary of the dwelling will not exceed:

- Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$
11. For the purposes of the conditions of this consent, noise shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Environmental Noise.
  12. Monitoring of noise emitted from the site shall be undertaken within three months of the activity commencing and again within three months of regular rail movements increasing to five trains per 24 hour period.
  13. The noise monitoring required by condition 12 shall be undertaken in accordance with the following:
    - (a) At identified key control locations around the site and at the notional boundaries of neighbouring dwellings where permission to access these locations can be obtained;
    - (b) During night-time worst case periods as well as during other periods and conditions;
  14. Within one month of any noise monitoring being undertaken, the consent holder shall submit to the Planning Manager, Selwyn District Council a noise monitoring programme and report prepared by a suitably qualified acoustic engineer detailing the noise monitoring undertaken in accordance with condition 12. The report shall include all noise levels measured as part of the noise monitoring. The report shall identify any activities that have the potential to cause a breach of the noise limits specified in conditions 7, 8 and 10 and identify any action taken to minimise noise created at the site.
  15. At least 10 working days prior to the commencement of the operation of the activity, the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Operational Noise Management Plan. The plan shall detail all best practice procedures, mitigation and methodologies required to ensure compliance with the noise limits in conditions 7, 8 and 10 during both the daytime and night time periods, and including but not limited to:
    - (a) Noise monitoring requirements, including the locations, timing and duration of the noise monitoring required by conditions 12 and 13;
    - (b) A noise complaints procedures including 24 hour contact details for the site;
    - (c) Staff training procedures including the safe, effective and noise conscious use of vehicles;
    - (d) Maintenance and operations procedures to ensure:
      - All vehicles operate according to the relevant Manufacturer' specifications; and



- All plant and equipment capable of generating noise is kept in good working order and repair
- (e) Procedures and processes for updating the Operational Noise Management Plan.

### Buildings

16. All buildings (excluding light poles and container stacks) shall be designed and located to meet the following limits:
  - Maximum height – 15 metres
  - Minimum setback from Jones Road – 15 metres
17. All stacked containers shall not exceed a combined stacked height of 15.6 metres (six stacked containers), except that within 150 metres of Jones Road the maximum combined stacked height shall not exceed 15 metres.

### Landscaping

18. In the next available planting season following the commencement of construction works on the site, the consent holder shall undertake landscaping along the entire Jones Road frontage of the site (excluding road or rail crossings). The landscaping shall be designed in accordance with Rule 16.1.2 of the Partially Operative Selwyn District Plan (included as attachment 2 to this consent).
19. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping along the entire eastern boundary of the site. The landscaping shall be designed in accordance with the memorandum prepared by Rough & Milne Landscape Architects dated 12 June 2015 submitted with the application (included as attachment 2 to this consent).
20. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping on the northern boundary of the site. The landscaping shall be designed in accordance with Landscape Treatment Four under rule 24.1.3.13 of the Partially Operative District Plan (included as Attachment 3 to this consent).
21. Prior to commencement of any landscaping on the site the consent holder shall submit to the Selwyn District Council a detailed Landscape Design, Implementation and Ongoing Maintenance Plan for the approval of the Planning Manager. The Landscape Design, Implementation and Ongoing Maintenance Plan shall include but not be limited to:
  - (a) Timing of planting;
  - (b) Species;
  - (c) Spacing of plants;
  - (d) Height of plants at the time of planting;
  - (e) Details of how the acoustic barrier required by condition 10 will be incorporated into the landscaping without compromising screening or visual amenity in the event that it is required.
  - (f) Methods to ensure the successful establishment and growth of plants; and
  - (g) Details of the ongoing maintenance of the landscaping.

22. All landscaping shall be maintained on an ongoing basis and if dead, diseased or damaged, shall be removed and replaced within the next available planting season.

### Hazardous Substances

23. Prior to the storage of any hazardous substances on the site the consent holder shall provide evidence of compliance with the Hazardous Substances and New Organisms Act, including identification of Persons in Charge and Approved Handler training and certification to the Selwyn District Council to the satisfaction of the Planning Manager.
24. Prior to the commencement of IMDG shipping containers containing hazardous substances transiting onto or from the site the consent holder shall provide to the Selwyn District Council certification of the site as a transit depot under the HSNO regulations to the satisfaction of the Planning Manager.
25. The quantities of hazardous substances to be held in transit does not exceed the number of containers specified in the table below at any one time:

HSNO Classification	Maximum Number of Shipping Containers
2.1.1A, 2.1.2A	550
3.1A, 3.1B, 3.1C, 3.2	15
4.1.1, 4.1.2A to F, 4.1.3A to C	1200
4.2A, B & C	15
4.3A, B	25
5.1.1A, B & C, 5.1.2A	3
5.2A to F	500
6.1A, B & C	10
6.1A, B & C (gases)	250
8.1A, 8.2A, 8.3	1200
9.1A, B	2500

26. The quantities of hazardous substances to be stored permanently on the site shall not exceed the volumes specified in the table below:

Substance	HSNO Classification	Volume
Diesel	3.1D, 6.1E, 6.3B, 6.7B, 9.1B	5,000 litres
LPG	2.1.1A	100 kg
Oils and Grease	9.1	300 litres
Paints	3.1B & C	100 litres
Petrol	3.1A, 6.1E, 6.3B, 6.7B, 9.1B	50 litres

27. Any area for the permanent storage of hazardous substances stored on the site, except LPG, shall comply with the following:
- Hazardous substances shall be separated from bare ground by an impervious surface; and
  - The impervious surface shall be designed to contain any runoff of the substance or water contaminated by the substance; and
  - The amount of containment available is no less than 110% of the total volume of stored hazardous substances where the area is roofed.

- (d) The amount of containment available shall be no less than 120% of the total volume of stored hazardous substances where the area is unroofed.
- 28. Spill kits shall be located permanently on the site and staff shall be trained in their use.
- 29. Upon completion of construction works at the site for each stage of development, the consent holder shall prepare and provide to the Selwyn District Council a Site Environmental and Operational Management Plan.
- 30. Records of site inspections and surveys shall be kept and made available to Selwyn District Council staff upon request.

#### Access and Parking

- 31. Prior to the commencement of the activity on the site the consent holder shall form a vehicle crossing in accordance with Appendix 13 of the Partially Operative District Plan (Township Volume) included at Attachment 4 to this consent. The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing between the site boundary and sealed carriageway.
- 32. Prior to the commencement of Stage 1 of the activity on the site the consent holder shall form 20 carparking spaces including one mobility space and shall be provided. An additional 14 carparking spaces shall be provided prior to commencement of Stage 4 of the activity on the site. All carparking shall be designed and constructed to meet the requirements of Appendix E of the Partially Operative Selwyn District Plan (Township Volume), included as attachment 4 to this consent.
- 33. Prior to the commencement of any freight activity on the site the consent holder shall upgrade Jones Road to meet the guidelines specified in the New Zealand Transport Agency Guidelines for accessways with a high proportion of heavy vehicle use shown in Figure 5.2 of the Integrated Transport Assessment prepared by Abley Transportation Consultants dated 04/02/2015 included with the application. Figure 5.2 is included as attachment 5 to this consent.

#### Rail Access

- 34. At least ten working days prior to the construction of a level crossing accessing the site, the consent holder shall submit to the Selwyn District Council
  - (a) Drawings, including cross sections and identification of associated utility infrastructure (lighting, bells, cross arms etc) of the level crossing; and
  - (b) Summary correspondence of the detailed design of the level crossing. The summary shall include the likely commencement date for installation and the timing and traffic management whilst installation is being undertaken.

#### Lighting

- 35. Prior to the commencement of the freight activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a lighting plan showing the following:

- (a) Any fixed, exterior lighting shall be directed away from adjacent properties and roads and shall not exceed:
  - 3 lux spill (horizontal or vertical) on to any part of any adjoining property in the Rural zone
  - 10 lux spill (horizontal or vertical) on to any part of the adjoining property within the Business 2A zone.

36. The maximum height of any lighting pole shall be 25 metres.

#### Waste Generation

37. Prior to the commencement of the activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a Solid Waste Management Plan. The Solid Waste Management Plan shall include but not be limited to:
- (a) Methods that will be employed to minimise waste generated by the activity
  - (b) Methods for the management and disposal of waste that will avoid or mitigate adverse effects on the environment.
38. That pursuant to section 128 of the Resource Management Act 1991, the Council may review all conditions by serving notice on the consent holder within 1 month of any 12 month period following the date of this decision, in order to deal with any adverse effects on the environment that may arise from the exercise of this consent.

#### DEVELOPMENT CONTRIBUTIONS

Development contributions are not conditions of this resource consent and there is no right of objection or appeal.

The consent holder is advised that pursuant to the Local Government Act 2002 and the Council's Development Contribution Policy contained in the Selwyn Community Plan (LTCCP) the following contributions are to be paid in respect of the development of this site:

#### Transport

Transportation development contributions have been assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for transportation is \$2,098 (plus GST) per Household Unit Equivalent (HUE). The current total assessed calculation is \$3,988,000. The attached table explains the calculations as they apply to the 4 areas of the Inland Port and IPORT. The assumptions used in the calculations will need to be reviewed upon the actual land use and assessment for site coverage.

A development contribution for the Hoskyns Road upgrade of \$1,664,188 (plus GST) was advised in LIM L140209. This \$ value is based on 2012 values and is indexed annually by PPI.

The frontage of the developments onto Jones Road shall be upgraded and funded as follows:

- The north side of Jones road shall be upgraded for the entire frontage of the B2A Zone – Rolleston shown on ODP, Appendix 43 of the District Plan. This shall incorporate the frontage of both the Lyttelton Port Company site and the remaining Carter block that adjoins this through to Hoskyns Road.

- A plan shall be developed by the respective developers, with the cooperation and final approval of Council, that details the nature and extent of upgrades proposed.
- All Jones Road frontage upgrades will be fully at the respective developers cost, unless otherwise agreed by Council. This is likely to include seal widening, kerbing, foot/cycle path and street lighting as required.
- The plan can reflect that upgrading can be staged to take account for other possible network upgrades in the vicinity planned by Council/Stakeholders and other factors such as the installation of the new Jones rail level crossing.
- A fully complete frontage upgrade is envisaged along Jones Road east of, and including, the main intersection and roundabout shown on the ODP. West towards Hoskyns Road this portion of Jones Road can have an interim upgrade with seal widening and a footpath only pending how other planned network upgrades may occur over time in the immediate area, and how the Carter Block develops further along this frontage
- The upgrade of Jones Rd frontage will also include the normal utility services of water and wastewater reticulation, and the provision of power, telephone and broad band services as appropriate, at the respective developers costs.
- The council is upgrading Jones Road between the LPC site and Weedons Ross Road in the 2020/2021 financial year. To avoid unnecessary traffic disruptions along Jones Road between Hoskyns Road and Weedons Ross Road with the various construction programmes from the developers/LPC and council, the council would propose a discussion by which an integrated construction programme is prepared and construction implemented prior to any activities commencing. The programme would include the early payment of development contributions.

#### Water and Waste Water

Development contributions for water and wastewater will be assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for water is \$3,302 (plus GST) per Household Unit Equivalent (HUE) and the charge for waste water is \$9,194 (plus GST) per HUE. For non-residential land use the HUE conversion factors for water is 1 HUE per 545 litres per day and for waste water is 1 HUE per 700 litres per day. The amount payable will be assessed once the detail of the development's estimated water and waste water usage is provided.

#### Developers Agreement

A developers agreement will be prepared to capture all issues within this advice note including the documentation of land requirements of the council for the flyover at Hoskyns Road and the payment of development contributions for the Hoskyns Road upgrade. Transparency of this developers agreement will be enhanced by it being attached to certificates of title.

#### NOTES TO THE CONSENT HOLDER

- (a) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.
- (b) In accordance with section 36 of the Resource Management Act 1991, the Council's specialised monitoring fee has been charged.

## Sections 127 Resource Management Act 1991



Report pursuant to section 42A of the Resource Management Act 1991 recommending whether or not an application to change or cancel a condition of a resource consent should be:

- Publicly notified, limited notified or non-notified
- Granted or declined, and if granted, the conditions of the consent

Decision pursuant to section 113 of the Resource Management Act 1991

**Author:** Nathan O'Connell

**Position:** Consultant Senior Planner

**Resource Consent Number:** RC205205

<b>APPLICANT:</b>	Lyttelton Port Company Ltd
<b>PROPOSAL:</b>	To change condition 17 of resource consent RC155101 to increase the maximum height that containers can be stacked from 15.6m to 20.3m
<b>LOCATION:</b>	686 Jones Road
<b>LEGAL DESCRIPTION:</b>	Lot 2, DP 475847 being 27 hectares in area more or less, as contained in Record of Title 656373
<b>ZONING:</b>	The property is zoned Business 2A under the provisions of the Operative District Plan (Townships) Volume
<b>STATUS:</b>	This application has been assessed as a change of conditions pursuant to section 127 of the Resource Management Act 1991 in respect of land use resource consent RC155101 granted on 30 June 2015 to establish, operate and maintain an intermodal inland port/freight hub. As such the relevant provisions of the District Plan (Townships) Volume and the Resource Management Act 1991 have been taken into account
This application was formally received by the Selwyn District Council on 22 January 2020. Assessment and approval took place on 27 May 2020 under a delegation given by the Council.	

## Introduction

1. A non-notified resource consent (RC155101) was granted on 30 June 2015 to establish, operate and maintain an intermodal inland port/freight hub. The consent contains a number of conditions which control how the activity will operate including conditions relating to noise, landscaping, height of buildings/containers, the handling/management of hazardous substances, access, parking, lighting, and waste.

2. The existing resource consent enables containers to be stacked 6 high to a maximum height of 15.6 metres. This proposal seeks to enable containers to be stacked 7 high to a maximum height of 20.3 metres. The additional high is also needed for the taller 'hi-cube' containers which measure 2.9 metres high, whereas a standard shipping container is 2.6m high.

## Description of Proposed Changes

3. The applicant is seeking to change condition 17 of resource consent RC155101 which was granted on a non-notified basis by Selwyn District Council on 30 June 2015.
4. The current wording of Condition 17 is:
- All stacked containers shall not exceed a combined stacked height of 15.6 metres (six stacked containers), except that within 150 metres of Jones Road the maximum combined stacked height shall not exceed 15 metres.
5. The proposed new wording of Condition 17 is:
- All stacked containers shall not exceed a combined stacked height of ~~15.6~~ **20.3** metres (~~six~~ **seven** stacked containers), except that within 150 metres of Jones Road the maximum combined stacked height shall not exceed 15 metres.
6. All other conditions of RC155101 are to remain unchanged and in effect.

## Site description

7. The Applicant has provided a thorough description of the site and surrounding environment on pages 2 and 3 of the application which is considered accurate. The aerial photo below shows the approximate boundaries of the application site along with the surrounding environment.



Approximate application site

## Statutory Requirements

8. Section 127 of the Resource Management Act states:

**127. Change or cancellation of consent condition on application by consent holder –**

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent)*  
...
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if –*
  - (a) *the application were an application for a resource consent for a discretionary activity; and*
  - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –*
  - (a) *made a submission on the original application; and*
  - (b) *may be affected by the change or cancellation.”.*

## Consideration

- 9. The first consideration is whether it is appropriate to use s.127 to change the condition or whether a fresh application under s.88 is required. In this regard I have turned my mind to the whether the nature of the activity will fundamentally change, and/or whether the potential adverse effects will be materially different. The Applicant has also provided a similar assessment on pages 7 and 8 of the application.
- 10. First, I am satisfied the activity will not fundamentally change. The existing resource consent was granted to establish, operate and maintain an intermodal inland port/freight hub. This will not change. This proposal does not seek to change the nature or description of activity as approved under RC155101. Secondly, the potential adverse effects will not be materially different. As with the original decision, this proposal will be considering traffic, noise, and visual effects. I therefore consider it appropriate to consider this application as a change of conditions pursuant to section 127 of the Resource Management Act.

## Planning framework

- 11. While the District Plan rules are not directly relevant under s.127, they provide useful guidance and scope for the following assessment of effects. In this case, the proposal will not create any new non-compliance, but it will increase the extent of non-compliance in respect of Rule 16.5.1 *Building Height and Reflectivity*. As noted in paragraph 2 above, the Applicant seeks to be able to stack containers 7 high to a maximum height of 20.3m (the existing consent enables containers to be stacked 6 high to a maximum height of 15.6 metres). Rule 16.5.1 sets the maximum height of any building within the B2A zone at 15 metres.
- 12. Notwithstanding, pursuant to s.127(3)(a) this proposal is to be assessed as if it was a resource consent application for a **discretionary activity**.

## Actual and potential effects on the environment

- 13. I have reviewed and adopt the Applicant's assessment of environment effects on pages 5, 6, & 7, along with the additional information received 8 May 2020 which also forms part of the application. In summary the Applicant notes:
  - a) A letter from Hegley Acoustic Consultants, confirms noise from stacking containers to 20.3 metres or 7 containers high will not increase the noise levels (beyond that consented). The letter notes



that once the containers are stacked 2 high '*...the noise from adding any further containers to the stack height would be the same as for stacking the second high container*'.

- b) Increasing the height will not require any new machinery, and the highest noise levels (48dBA) will still be when a heavy container is placed on a rail wagon.
- c) The increased height is intended to increase the capacity of the existing site in the short term, however the total site capacity remains unchanged, therefore the total traffic generation also remains unchanged. The long term demand forecasts which the original transport assessment was based on remain unchanged.
- d) The containers will be approx. 50 metres from the eastern boundary and the height of containers will continue to vary depending on demand. Whereas the Plan anticipates a 15 metre high building, setback ten metres from internal boundaries.
- e) An earth bund and landscaping has been established along the eastern internal boundary in accordance with RC155101.
- f) While a height of 20.3 metres is sought, only empty containers can be stacked more than 3 high meaning the height of containers within the site will vary.
- g) The existing condition limiting the maximum height of any container stack located within 150 metres of Johns road to 15 metres (5 containers) will remain.
- h) The nearest dwellings to the south are approximately 270 metres from the application site and any views are limited by the extensive bunding, landscaping and fencing. The nearest dwelling to the east is approximately 800 metres away.

14. When assessing this proposal, I was particularly mindful of the potential visual effects from the increased height, especially in respect of the adjoining property immediately to the east (i.e. 57 Weedons Ross Road). In terms of this property, the Applicant submits it is unlikely that this site will be subdivided into 4ha blocks as approximately half the site (which abuts the application site) is within the Canterbury Regional Policy Statement Project Infrastructure boundary and therefore anticipated to be rezoned for industrial activities in the future. While this is correct, there is no timeframe for this rezoning.

15. Notwithstanding, I consider the above points, particularly (d) (e) & (f) are sufficient to ensure any adverse visual effects on this property from the increased height will be similar (or less) than the built form anticipated by the Plan. In my opinion the additional height will likely be noticeable from this property but there will be some visual relief as the containers will be stacked in rows (compared to a continuous building length), and the additional height will not always be required. Compared to a compliant building located along this boundary (bullet point (d) above) the visual effects are considered sufficiently similar, especially given that there are no controls on the length of buildings in this zone.

16. Overall, from a visual perspective I agree with the Applicant's conclusion that '*...the setback from the eastern internal boundary, the existing boundary landscaping, the variable nature of the container stacks and the formation of the stacks on height...*' will be sufficient mitigation.

17. For the above reasons, any adverse effects are considered less than minor.

#### *Objectives and policies*

18. I agree with and adopt the Applicant's objectives and policies assessment. As noted by the Applicant, the B2A Zone is intended to provide for large footprint buildings and sites and cater for large scale industrial activities (Objective B3.4.2). Also, the proposal, along with the existing consent, is an appropriate activity for the site. Existing mitigation is provided in respect of earth bunds, landscaping, and the containers will be setback further than required by the Plan. On balance, these measures are considered sufficient to safeguard people's health and well-being (Policy B3.4.6(b)).

## **Affected Party Approval**

19. No persons were considered affected by the original application. And based on the above assessment I do not consider the proposed change to condition 17 will result in any persons being affected.

## Recommendations

Resource consent RC205205

- A. Be processed on a **non-notified** basis in accordance with sections 95A-F of the Resource Management Act 1991; and
- B. That the application to change condition 17 of Resource Consent RC155101 granted on 30 June 2015 be granted pursuant to section 127 of the Resource Management Act 1991.

~~17. All stacked containers shall not exceed a combined stacked height of 15.6 metres (six stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.~~

**17. All stacked containers shall not exceed a combined stacked height of 20.3 metres (seven stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.**

### Notes to the Consent Holder

All other conditions of Resource Consent remain unchanged and in effect.

RC155101 (AS AMENDED BY RC205205)

#### General

1. The activity shall be carried out in accordance with the details submitted with the application, further information and approved plans included as attachment 1 to this consent.

#### Construction Management

2. All construction noise on the site shall be planned and undertaken to ensure that construction noise emitted from the site does not exceed the noise limits outlined in Table 2 of NZS6803:1999 Acoustics – Construction Noise. Sound levels associated with construction activities shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
3. The consent holder shall implement best practicable option measures to avoid or mitigate the dispersal and deposition of dust from construction and earthworks activities beyond the boundary of the property.
4. The consent holder shall implement best practicable option measures to avoid or mitigate the discharge of sediment laden runoff beyond the boundary of the property
5. At least 10 working days prior to the commencement of construction works for each stage the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Environmental Construction Management Plan demonstrating how conditions 2, 3 and 4 will be achieved. The Environmental Construction Management Plan shall include but not be limited to:

- (a) The contact details of the lead contractor;
  - (b) The timing and duration for construction, including working hours within which works will be undertaken;
  - (c) Plans demarcating the areas to be disturbed including location, area and volume of earthworks associated with each phase of construction;
  - (d) Monitoring and reporting methods;
  - (e) A complaints procedure;
  - (f) Review procedures for the Environmental Construction Management Plan.
6. All construction works shall be undertaken in accordance with the approved Environmental Construction Management Plan.

#### Noise Mitigation

7. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Rural or Business zoned land:
- Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 40dB  $L_{Aeq}$  and 70dB  $L_{AFmax}$
8. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Living zoned land:
- Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$

9. Prior to the commencement of the activity on the site the consent holder shall construct an earth bund of at least two metres in height along the entire eastern boundary of the site for the purposes of noise mitigation.
10. In the event that any dwelling is constructed within 150 metres of the eastern boundary of the site the consent holder shall install an acoustic barrier of at least two metres in height on top of the earth bund required by condition 9 and at least 100 metres in length for the purpose of mitigating noise. Confirmation from a suitably qualified acoustic engineer that the extent of the proposed barrier will ensure that noise levels at the notional boundary of the dwelling will not exceed:
- Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$
11. For the purposes of the conditions of this consent, noise shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Environmental Noise.
12. Monitoring of noise emitted from the site shall be undertaken within three months of the activity commencing and again within three months of regular rail movements increasing to five trains per 24 hour period.
13. The noise monitoring required by condition 12 shall be undertaken in accordance with the following:
- (a) At identified key control locations around the site and at the notional boundaries of neighbouring dwellings where permission to access these locations can be obtained;
  - (b) During night-time worst case periods as well as during other periods and conditions;
14. Within one month of any noise monitoring being undertaken, the consent holder shall submit to the Planning Manager, Selwyn District Council a noise monitoring programme and report prepared by a suitably qualified acoustic engineer detailing the noise monitoring undertaken in accordance with condition 12. The report shall include all noise levels measured as part of the noise monitoring. The report shall identify any activities that have the potential to cause a breach of the noise limits specified in conditions 7, 8 and 10 and identify any action taken to minimise noise created at the site.
15. At least 10 working days prior to the commencement of the operation of the activity, the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Operational Noise Management Plan. The plan shall detail all best practice procedures, mitigation and methodologies required to ensure compliance with the noise limits in conditions 7, 8 and 10 during both the daytime and night time periods, and including but not limited to:
- (a) Noise monitoring requirements, including the locations, timing and duration of the noise monitoring required by conditions 12 and 13;
  - (b) A noise complaints procedures including 24 hour contact details for the site;

- (c) Staff training procedures including the safe, effective and noise conscious use of vehicles;
- (d) Maintenance and operations procedures to ensure:
  - All vehicles operate according to the relevant Manufacturer' specifications; and
  - All plant and equipment capable of generating noise is kept in good working order and repair
- (e) Procedures and processes for updating the Operational Noise Management Plan.

### Buildings

- 16. All buildings (excluding light poles and container stacks) shall be designed and located to meet the following limits:
  - Maximum height – 15 metres
  - Minimum setback from Jones Road – 15 metres
- 17. All stacked containers shall not exceed a combined stacked height of 20.3 metres (seven stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.

### Landscaping

- 18. In the next available planting season following the commencement of construction works on the site, the consent holder shall undertake landscaping along the entire Jones Road frontage of the site (excluding road or rail crossings). The landscaping shall be designed in accordance with Rule 16.1.2 of the Partially Operative Selwyn District Plan (included as attachment 2 to this consent).
- 19. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping along the entire eastern boundary of the site. The landscaping shall be designed in accordance with the memorandum prepared by Rough & Milne Landscape Architects dated 12 June 2015 submitted with the application (included as attachment 2 to this consent).
- 20. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping on the northern boundary of the site. The landscaping shall be designed in accordance with Landscape Treatment Four under rule 24.1.3.13 of the Partially Operative District Plan (included as Attachment 3 to this consent).
- 21. Prior to commencement of any landscaping on the site the consent holder shall submit to the Selwyn District Council a detailed Landscape Design, Implementation and Ongoing Maintenance Plan for the

approval of the Planning Manager. The Landscape Design, Implementation and Ongoing Maintenance Plan shall include but not be limited to:

- (a) Timing of planting;
- (b) Species;
- (c) Spacing of plants;
- (d) Height of plants at the time of planting;
- (e) Details of how the acoustic barrier required by condition 10 will be incorporated into the landscaping without compromising screening or visual amenity in the event that it is required.
- (f) Methods to ensure the successful establishment and growth of plants; and
- (g) Details of the ongoing maintenance of the landscaping.

22. All landscaping shall be maintained on an ongoing basis and if dead, diseased or damaged, shall be removed and replaced within the next available planting season.

### Hazardous Substances

23. Prior to the storage of any hazardous substances on the site the consent holder shall provide evidence of compliance with the Hazardous Substances and New Organisms Act, including identification of Persons in Charge and Approved Handler training and certification to the Selwyn District Council to the satisfaction of the Planning Manager.
24. Prior to the commencement of IMDG shipping containers containing hazardous substances transiting onto or from the site the consent holder shall provide to the Selwyn District Council certification of the site as a transit depot under the HSNO regulations to the satisfaction of the Planning Manager.
25. The quantities of hazardous substances to be held in transit does not exceed the number of containers specified in the table below at any one time:

HSNO Classification	Maximum Number of Shipping Containers
2.1.1A, 2.1.2A	550
3.1A, 3.1B, 3.1C, 3.2	15
4.1.1, 4.1.2A to F, 4.1.3A to C	1200
4.2A, B & C	15
4.3A, B	25
5.1.1A, B & C, 5.1.2A	3
5.2A to F	500
6.1A, B & C	10

6.1A, B & C (gases)	250
8.1A, 8.2A, 8.3	1200
9.1A, B	2500

26. The quantities of hazardous substances to be stored permanently on the site shall not exceed the volumes specified in the table below:

Substance	HSNO Classification	Volume
Diesel	3.1D, 6.1E, 6.3B, 6.7B, 9.1B	5,000 litres
LPG	2.1.1A	100 kg
Oils and Grease	9.1	300 litres
Paints	3.1B & C	100 litres
Petrol	3.1A, 6.1E, 6.3B, 6.7B, 9.1B	50 litres

27. Any area for the permanent storage of hazardous substances stored on the site, except LPG, shall comply with the following:
- Hazardous substances shall be separated from bare ground by an impervious surface; and
  - The impervious surface shall be designed to contain any runoff of the substance or water contaminated by the substance; and
  - The amount of containment available is no less than 110% of the total volume of stored hazardous substances where the area is roofed.
  - The amount of containment available shall be no less than 120% of the total volume of stored hazardous substances where the area is unroofed.
28. Spill kits shall be located permanently on the site and staff shall be trained in their use.
29. Upon completion of construction works at the site for each stage of development, the consent holder shall prepare and provide to the Selwyn District Council a Site Environmental and Operational Management Plan.
30. Records of site inspections and surveys shall be kept and made available to Selwyn District Council staff upon request.

#### Access and Parking

31. Prior to the commencement of the activity on the site the consent holder shall form a vehicle crossing in accordance with Appendix 13 of the Partially Operative District Plan (Township Volume) included at

Attachment 4 to this consent. The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing between the site boundary and sealed carriageway.

32. Prior to the commencement of Stage 1 of the activity on the site the consent holder shall form 20 carparking spaces including one mobility space and shall be provided. An additional 14 carparking spaces shall be provided prior to commencement of Stage 4 of the activity on the site. All carparking shall be designed and constructed to meet the requirements of Appendix E of the Partially Operative Selwyn District Plan (Township Volume), included as attachment 4 to this consent.
33. Prior to the commencement of any freight activity on the site the consent holder shall upgrade Jones Road to meet the guidelines specified in the New Zealand Transport Agency Guidelines for accessways with a high proportion of heavy vehicle use shown in Figure 5.2 of the Integrated Transport Assessment prepared by Abley Transportation Consultants dated 04/02/2015 included with the application. Figure 5.2 is included as attachment 5 to this consent.

#### Rail Access

34. At least ten working days prior to the construction of a level crossing accessing the site, the consent holder shall submit to the Selwyn District Council
- (a) Drawings, including cross sections and identification of associated utility infrastructure (lighting, bells, cross arms etc) of the level crossing; and
  - (b) Summary correspondence of the detailed design of the level crossing. The summary shall include the likely commencement date for installation and the timing and traffic management whilst installation is being undertaken.

#### Lighting

35. Prior to the commencement of the freight activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a lighting plan showing the following:
- (a) Any fixed, exterior lighting shall be directed away from adjacent properties and roads and shall not exceed:
    - 3 lux spill (horizontal or vertical) on to any part of any adjoining property in the Rural zone
    - 10 lux spill (horizontal or vertical) on to any part of the adjoining property within the Business 2A zone.
36. The maximum height of any lighting pole shall be 25 metres.

#### Waste Generation



37. Prior to the commencement of the activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a Solid Waste Management Plan. The Solid Waste Management Plan shall include but not be limited to:
- (a) Methods that will be employed to minimise waste generated by the activity
  - (b) Methods for the management and disposal of waste that will avoid or mitigate adverse effects on the environment.
38. That pursuant to section 128 of the Resource Management Act 1991, the Council may review all conditions by serving notice on the consent holder within 1 month of any 12 month period following the date of this decision, in order to deal with any adverse effects on the environment that may arise from the exercise of this consent.

### DEVELOPMENT CONTRIBUTIONS

Development contributions are not conditions of this resource consent and there is no right of objection or appeal.

The consent holder is advised that pursuant to the Local Government Act 2002 and the Council's Development Contribution Policy contained in the Selwyn Community Plan (LTCCP) the following contributions are to be paid in respect of the development of this site:

### Transport

Transportation development contributions have been assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for transportation is \$2,098 (plus GST) per Household Unit Equivalent (HUE). The current total assessed calculation is \$3,988,000. The attached table explains the calculations as they apply to the 4 areas of the Inland Port and IPORT. The assumptions used in the calculations will need to be reviewed upon the actual land use and assessment for site coverage.

A development contribution for the Hoskyns Road upgrade of \$1,664,188 (plus GST) was advised in LIM L140209. This \$ value is based on 2012 values and is indexed annually by PPI.

The frontage of the developments onto Jones Road shall be upgraded and funded as follows:

- The north side of Jones road shall be upgraded for the entire frontage of the B2A Zone – Rolleston shown on ODP, Appendix 43 of the District Plan. This shall incorporate the frontage of both the Lyttelton Port Company site and the remaining Carter block that adjoins this through to Hoskyns Road.
- A plan shall be developed by the respective developers, with the cooperation and final approval of Council, that details the nature and extent of upgrades proposed.
- All Jones Road frontage upgrades will be fully at the respective developers cost, unless otherwise agreed by Council. This is likely to include seal widening, kerbing, foot/cycle path and street lighting as required.
- The plan can reflect that upgrading can be staged to take account for other possible network upgrades in the vicinity planned by Council/Stakeholders and other factors such as the installation of the new Jones rail level crossing.
- A fully complete frontage upgrade is envisaged along Jones Road east of, and including, the main intersection and roundabout shown on the ODP. West towards Hoskyns Road this portion of Jones Road can have an interim upgrade with seal widening and a footpath only pending how other planned network upgrades may occur over time in the immediate area, and how the Carter Block develops further along this frontage

- The upgrade of Jones Rd frontage will also include the normal utility services of water and wastewater reticulation, and the provision of power, telephone and broad band services as appropriate, at the respective developers costs.
- The council is upgrading Jones Road between the LPC site and Weedons Ross Road in the 2020/2021 financial year. To avoid unnecessary traffic disruptions along Jones Road between Hoskyns Road and Weedons Ross Road with the various construction programmes from the developers/LPC and council, the council would propose a discussion by which an integrated construction programme is prepared and construction implemented prior to any activities commencing. The programme would include the early payment of development contributions.

### Water and Waste Water

Development contributions for water and wastewater will be assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for water is \$3,302 (plus GST) per Household Unit Equivalent (HUE) and the charge for waste water is \$9,194 (plus GST) per HUE. For non-residential land use the HUE conversion factors for water is 1 HUE per 545 litres per day and for waste water is 1 HUE per 700 litres per day. The amount payable will be assessed once the detail of the development's estimated water and waste water usage is provided.

### Developers Agreement

A developers agreement will be prepared to capture all issues within this advice note, including the documentation of land requirements of the council for the flyover at Hoskyns Road and the payment of development contributions for the Hoskyns Road upgrade. Transparency of this developers agreement will be enhanced by it being attached to certificates of title.

### NOTES TO THE CONSENT HOLDER

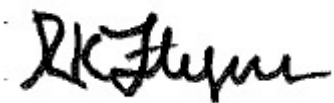
- (a) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.
- (b) In accordance with section 36 of the Resource Management Act 1991, the Council's specialised monitoring fee has been charged.
- (c) Engineering Approval – All applications for Engineering Approval shall be uploaded electronically to the Selwyn District Council Website at the following address:  
[www.selwyn.govt.nz/services/subdivisions/engineering-approval/](http://www.selwyn.govt.nz/services/subdivisions/engineering-approval/)  
 The application shall include:
  - i. Design specifications
  - ii. Design drawings
  - iii. Design calculations
  - iv. Relevant Resource Consents or Certificates of Compliance.
  - v. All correspondence regarding engineering approvals is to be directed to:  
[Development.Engineer@selwyn.govt.nz](mailto:Development.Engineer@selwyn.govt.nz)
- (d) That accurate 'as built' plans of all services be provided to the satisfaction of the Asset Manager. All assets being vested in Council shall be provided in an appropriate electronic format for integration into Council's systems. Actual costs involved in provision and transfer of this data to Councils systems shall be borne by the consent holder.

<b>Reported and recommended by</b>	
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Nathan O'Connell <b>Consultant Senior Planner</b>	<b>Date: 26 May 2020</b>
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## Decision

That the above recommendation be adopted under delegated authority.

 Rosie Flynn, Team Leader Resource Consents	<b>Date: 27 May 2020</b>
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- (c) Engineering Approval – All applications for Engineering Approval shall be uploaded electronically to the Selwyn District Council Website at the following address: [www.selwyn.govt.nz/services/subdivisions/engineering-approval/](http://www.selwyn.govt.nz/services/subdivisions/engineering-approval/)

The application shall include:

- i. Design specifications
  - ii. Design drawings
  - iii. Design calculations
  - iv. Relevant Resource Consents or Certificates of Compliance.
  - v. All correspondence regarding engineering approvals is to be directed to: [Development.Engineer@selwyn.govt.nz](mailto:Development.Engineer@selwyn.govt.nz)
- (d) That accurate 'as built' plans of all services be provided to the satisfaction of the Asset Manager. All assets being vested in Council shall be provided in an appropriate electronic format for integration into Council's systems. Actual costs involved in provision and transfer of this data to Councils systems shall be borne by the consent holder.

Yours faithfully  
**Selwyn District Council**



Emma Larsen  
*Senior Resource Management Planner*

# Change of Consent Conditions Decision

## RC205205



<b>APPLICANT:</b>	Lyttelton Port Company Ltd
<b>PROPOSAL:</b>	To change condition 17 of resource consent RC155101 to increase the maximum height that containers can be stacked from 15.6m to 20.3m
<b>LOCATION:</b>	686 Jones Road
<b>LEGAL DESCRIPTION:</b>	Lot 2, DP 475847 being 27 hectares in area more or less, as contained in Record of Title 656373
<b>ZONING:</b>	The property is zoned Business 2A under the provisions of the Operative District Plan (Townships) Volume
<b>STATUS:</b>	This application has been assessed as a change of conditions pursuant to section 127 of the Resource Management Act 1991 in respect of land use resource consent RC155101 granted on 30 June 2015 to establish, operate and maintain an intermodal inland port/freight hub. As such the relevant provisions of the District Plan (Townships) Volume and the Resource Management Act 1991 have been taken into account
This application was formally received by the Selwyn District Council on 22 January 2020. Assessment and approval took place on 27 May 2020 under a delegation given by the Council.	

## Decision

Resource consent RC205205

- A. Be processed on a **non-notified** basis in accordance with sections 95A-F of the Resource Management Act 1991; and
- B. That the application to change condition 17 of Resource Consent RC155101 granted on 30 June 2015 be granted pursuant to section 127 of the Resource Management Act 1991.

~~17. All stacked containers shall not exceed a combined stacked height of 15.6 metres (six stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.~~

**17. All stacked containers shall not exceed a combined stacked height of 20.3 metres (seven stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.**

## Notes to the Consent Holder

All other conditions of Resource Consent remain unchanged and in effect.

General

1. The activity shall be carried out in accordance with the details submitted with the application, further information and approved plans included as attachment 1 to this consent.

Construction Management

2. All construction noise on the site shall be planned and undertaken to ensure that construction noise emitted from the site does not exceed the noise limits outlined in Table 2 of NZS6803:1999 Acoustics – Construction Noise. Sound levels associated with construction activities shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
3. The consent holder shall implement best practicable option measures to avoid or mitigate the dispersal and deposition of dust from construction and earthworks activities beyond the boundary of the property.
4. The consent holder shall implement best practicable option measures to avoid or mitigate the discharge of sediment laden runoff beyond the boundary of the property
5. At least 10 working days prior to the commencement of construction works for each stage the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Environmental Construction Management Plan demonstrating how conditions 2, 3 and 4 will be achieved. The Environmental Construction Management Plan shall include but not be limited to:
  - The contact details of the lead contractor;
  - The timing and duration for construction, including working hours within which works will be undertaken;
  - Plans demarcating the areas to be disturbed including location, area and volume of earthworks associated with each phase of construction;
  - Monitoring and reporting methods;
  - A complaints procedure;
  - Review procedures for the Environmental Construction Management Plan.
6. All construction works shall be undertaken in accordance with the approved Environmental Construction Management Plan.

## Noise Mitigation

7. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Rural or Business zoned land:
  - Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 40dB  $L_{Aeq}$  and 70dB  $L_{AFmax}$
8. Noise arising as a result of the operation of the activity on the site, including all ancillary equipment and associated activities, maintenance activities and the operation of the road and rail transport on site shall not exceed the following limits, measured at the notional boundary of any existing dwelling located within Living zoned land:
  - Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$
9. Prior to the commencement of the activity on the site the consent holder shall construct an earth bund of at least two metres in height along the entire eastern boundary of the site for the purposes of noise mitigation.
10. In the event that any dwelling is constructed within 150 metres of the eastern boundary of the site the consent holder shall install an acoustic barrier of at least two metres in height on top of the earth bund required by condition 9 and at least 100 metres in length for the purpose of mitigating noise. Confirmation from a suitably qualified acoustic engineer that the extent of the proposed barrier will ensure that noise levels at the notional boundary of the dwelling will not exceed:
  - Daytime (7:30am to 8:00pm) 55dB  $L_{Aeq}$  and 85dB  $L_{AFmax}$
  - Night-time (8:00pm to 7:30am) 45dB  $L_{Aeq}$  and 75dB  $L_{AFmax}$
11. For the purposes of the conditions of this consent, noise shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Environmental Noise.
12. Monitoring of noise emitted from the site shall be undertaken within three months of the activity commencing and again within three months of regular rail movements increasing to five trains per 24 hour period.

13. The noise monitoring required by condition 12 shall be undertaken in accordance with the following:
- (a) At identified key control locations around the site and at the notional boundaries of neighbouring dwellings where permission to access these locations can be obtained;
  - (b) During night-time worst case periods as well as during other periods and conditions;
14. Within one month of any noise monitoring being undertaken, the consent holder shall submit to the Planning Manager, Selwyn District Council a noise monitoring programme and report prepared by a suitably qualified acoustic engineer detailing the noise monitoring undertaken in accordance with condition 12. The report shall include all noise levels measured as part of the noise monitoring. The report shall identify any activities that have the potential to cause a breach of the noise limits specified in conditions 7, 8 and 10 and identify any action taken to minimise noise created at the site.
15. At least 10 working days prior to the commencement of the operation of the activity, the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager an Operational Noise Management Plan. The plan shall detail all best practice procedures, mitigation and methodologies required to ensure compliance with the noise limits in conditions 7, 8 and 10 during both the daytime and night time periods, and including but not limited to:
- (a) Noise monitoring requirements, including the locations, timing and duration of the noise monitoring required by conditions 12 and 13;
  - (b) A noise complaints procedures including 24 hour contact details for the site;
  - (c) Staff training procedures including the safe, effective and noise conscious use of vehicles;
  - (d) Maintenance and operations procedures to ensure:
    - All vehicles operate according to the relevant Manufacturer' specifications; and
    - All plant and equipment capable of generating noise is kept in good working order and repair
  - (e) Procedures and processes for updating the Operational Noise Management Plan.

### Buildings

16. All buildings (excluding light poles and container stacks) shall be designed and located to meet the following limits:
- Maximum height – 15 metres
  - Minimum setback from Jones Road – 15 metres



17. All stacked containers shall not exceed a combined stacked height of 20.3 metres (seven stacked containers), except that within 150 metres of Johns Road the maximum combined stacked height shall not exceed 15 metres.

### Landscaping

18. In the next available planting season following the commencement of construction works on the site, the consent holder shall undertake landscaping along the entire Jones Road frontage of the site (excluding road or rail crossings). The landscaping shall be designed in accordance with Rule 16.1.2 of the Partially Operative Selwyn District Plan (included as attachment 2 to this consent).
19. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping along the entire eastern boundary of the site. The landscaping shall be designed in accordance with the memorandum prepared by Rough & Milne Landscape Architects dated 12 June 2015 submitted with the application (included as attachment 2 to this consent).
20. In the next available planting season following the commencement of construction works on the site the consent holder shall undertake landscaping on the northern boundary of the site. The landscaping shall be designed in accordance with Landscape Treatment Four under rule 24.1.3.13 of the Partially Operative District Plan (included as Attachment 3 to this consent).
21. Prior to commencement of any landscaping on the site the consent holder shall submit to the Selwyn District Council a detailed Landscape Design, Implementation and Ongoing Maintenance Plan for the approval of the Planning Manager. The Landscape Design, Implementation and Ongoing Maintenance Plan shall include but not be limited to:
- (a) Timing of planting;
  - (b) Species;
  - (c) Spacing of plants;
  - (d) Height of plants at the time of planting;
  - (e) Details of how the acoustic barrier required by condition 10 will be incorporated into the landscaping without compromising screening or visual amenity in the event that it is required.
  - (f) Methods to ensure the successful establishment and growth of plants; and
  - (g) Details of the ongoing maintenance of the landscaping.
22. All landscaping shall be maintained on an ongoing basis and if dead, diseased or damaged, shall be removed and replaced within the next available planting season.

### Hazardous Substances

23. Prior to the storage of any hazardous substances on the site the consent holder shall provide evidence of compliance with the Hazardous Substances and New Organisms Act, including identification of Persons in Charge and Approved Handler training and certification to the Selwyn District Council to the satisfaction of the Planning Manager.

24. Prior to the commencement of IMDG shipping containers containing hazardous substances transiting onto or from the site the consent holder shall provide to the Selwyn District Council certification of the site as a transit depot under the HSNO regulations to the satisfaction of the Planning Manager.
25. The quantities of hazardous substances to be held in transit does not exceed the number of containers specified in the table below at any one time:

HSNO Classification	Maximum Number of Shipping Containers
2.1.1A, 2.1.2A	550
3.1A, 3.1B, 3.1C, 3.2	15
4.1.1, 4.1.2A to F, 4.1.3A to C	1200
4.2A, B & C	15
4.3A, B	25
5.1.1A, B & C, 5.1.2A	3
5.2A to F	500
6.1A, B & C	10
6.1A, B & C (gases)	250
8.1A, 8.2A, 8.3	1200
9.1A, B	2500

26. The quantities of hazardous substances to be stored permanently on the site shall not exceed the volumes specified in the table below:

Substance	HSNO Classification	Volume
Diesel	3.1D, 6.1E, 6.3B, 6.7B, 9.1B	5,000 litres
LPG	2.1.1A	100 kg
Oils and Grease	9.1	300 litres
Paints	3.1B & C	100 litres
Petrol	3.1A, 6.1E, 6.3B, 6.7B, 9.1B	50 litres

27. Any area for the permanent storage of hazardous substances stored on the site, except LPG, shall comply with the following:
- (a) Hazardous substances shall be separated from bare ground by an impervious surface; and
  - (b) The impervious surface shall be designed to contain any runoff of the substance or water contaminated by the substance; and
  - (c) The amount of containment available is no less than 110% of the total volume of stored hazardous substances where the area is roofed.
  - (d) The amount of containment available shall be no less than 120% of the total volume of stored hazardous substances where the area is unroofed.
28. Spill kits shall be located permanently on the site and staff shall be trained in their use.
29. Upon completion of construction works at the site for each stage of development, the consent holder shall prepare and provide to the Selwyn District Council a Site Environmental and Operational Management Plan.
30. Records of site inspections and surveys shall be kept and made available to Selwyn District Council staff upon request.

#### Access and Parking

31. Prior to the commencement of the activity on the site the consent holder shall form a vehicle crossing in accordance with Appendix 13 of the Partially Operative District Plan (Township Volume) included at Attachment 4 to this consent. The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing between the site boundary and sealed carriageway.
32. Prior to the commencement of Stage 1 of the activity on the site the consent holder shall form 20 carparking spaces including one mobility space and shall be provided. An additional 14 carparking spaces shall be provided prior to commencement of Stage 4 of the activity on the site. All carparking shall be designed and constructed to meet the requirements of Appendix E of the Partially Operative Selwyn District Plan (Township Volume), included as attachment 4 to this consent.
33. Prior to the commencement of any freight activity on the site the consent holder shall upgrade Jones Road to meet the guidelines specified in the New Zealand Transport Agency Guidelines for accessways with a high proportion of heavy vehicle use shown in Figure 5.2 of the Integrated Transport Assessment prepared by Abley Transportation Consultants dated 04/02/2015 included with the application. Figure 5.2 is included as attachment 5 to this consent.

#### Rail Access

34. At least ten working days prior to the construction of a level crossing accessing the site, the consent holder shall submit to the Selwyn District Council

- (a) Drawings, including cross sections and identification of associated utility infrastructure (lighting, bells, cross arms etc) of the level crossing; and
- (b) Summary correspondence of the detailed design of the level crossing. The summary shall include the likely commencement date for installation and the timing and traffic management whilst installation is being undertaken.

### Lighting

35. Prior to the commencement of the freight activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a lighting plan showing the following:

- (a) Any fixed, exterior lighting shall be directed away from adjacent properties and roads and shall not exceed:
  - 3 lux spill (horizontal or vertical) on to any part of any adjoining property in the Rural zone
  - 10 lux spill (horizontal or vertical) on to any part of the adjoining property within the Business 2A zone.

36. The maximum height of any lighting pole shall be 25 metres.

### Waste Generation

37. Prior to the commencement of the activity on the site the consent holder shall submit to the Selwyn District Council for the approval of the Planning Manager a Solid Waste Management Plan. The Solid Waste Management Plan shall include but not be limited to:

- (a) Methods that will be employed to minimise waste generated by the activity
- (b) Methods for the management and disposal of waste that will avoid or mitigate adverse effects on the environment.

38. That pursuant to section 128 of the Resource Management Act 1991, the Council may review all conditions by serving notice on the consent holder within 1 month of any 12 month period following the date of this decision, in order to deal with any adverse effects on the environment that may arise from the exercise of this consent.

## DEVELOPMENT CONTRIBUTIONS

Development contributions are not conditions of this resource consent and there is no right of objection or appeal.

The consent holder is advised that pursuant to the Local Government Act 2002 and the Council's Development Contribution Policy contained in the Selwyn Community Plan (LTCCP) the following contributions are to be paid in respect of the development of this site:

### Transport

Transportation development contributions have been assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for transportation is \$2,098 (plus GST) per Household Unit Equivalent (HUE). The current total assessed calculation is \$3,988,000. The attached table explains the calculations as they apply to the 4 areas of the Inland Port and IPORT. The assumptions used in the calculations will need to be reviewed upon the actual land use and assessment for site coverage.

A development contribution for the Hoskyns Road upgrade of \$1,664,188 (plus GST) was advised in LIM L140209. This \$ value is based on 2012 values and is indexed annually by PPI.

The frontage of the developments onto Jones Road shall be upgraded and funded as follows:

- The north side of Jones road shall be upgraded for the entire frontage of the B2A Zone – Rolleston shown on ODP, Appendix 43 of the District Plan. This shall incorporate the frontage of both the Lyttelton Port Company site and the remaining Carter block that adjoins this through to Hoskyns Road.
- A plan shall be developed by the respective developers, with the cooperation and final approval of Council, that details the nature and extent of upgrades proposed.
- All Jones Road frontage upgrades will be fully at the respective developers cost, unless otherwise agreed by Council. This is likely to include seal widening, kerbing, foot/cycle path and street lighting as required.
- The plan can reflect that upgrading can be staged to take account for other possible network upgrades in the vicinity planned by Council/Stakeholders and other factors such as the installation of the new Jones rail level crossing.
- A fully complete frontage upgrade is envisaged along Jones Road east of, and including, the main intersection and roundabout shown on the ODP. West towards Hoskyns Road this portion of Jones Road can have an interim upgrade with seal widening and a footpath only pending how other planned network upgrades may occur over time in the immediate area, and how the Carter Block develops further along this frontage
- The upgrade of Jones Rd frontage will also include the normal utility services of water and wastewater reticulation, and the provision of power, telephone and broad band services as appropriate, at the respective developers costs.
- The council is upgrading Jones Road between the LPC site and Weedons Ross Road in the 2020/2021 financial year. To avoid unnecessary traffic disruptions along Jones Road between Hoskyns Road and Weedons Ross Road with the various construction programmes from the developers/LPC and council, the council would propose a discussion by which an integrated construction programme is prepared and construction implemented prior to any activities commencing. The programme would include the early payment of development contributions.

### Water and Waste Water

Development contributions for water and wastewater will be assessed under the Council's Development Contributions policy as included in the Council's 2015-25 Long Term Plan. The 2015/16 charge for water is \$3,302 (plus GST) per Household Unit Equivalent (HUE) and the charge for waste water is \$9,194 (plus GST) per HUE. For non-residential land use the HUE conversion factors for water is 1 HUE per 545 litres per day and for waste water is 1 HUE per 700 litres per day. The amount payable will be assessed once the detail of the development's estimated water and waste water usage is provided.

### Developers Agreement

A developers agreement will be prepared to capture all issues within this advice note, including the documentation of land requirements of the council for the flyover at Hoskyns Road and the payment of

development contributions for the Hoskyns Road upgrade. Transparency of this developers agreement will be enhanced by it being attached to certificates of title.

#### NOTES TO THE CONSENT HOLDER

- a) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.
- b) In accordance with section 36 of the Resource Management Act 1991, the Council's specialised monitoring fee has been charged.
- c) Engineering Approval – All applications for Engineering Approval shall be uploaded electronically to the Selwyn District Council Website at the following address:  
[www.selwyn.govt.nz/services/subdivisions/engineering-approval/](http://www.selwyn.govt.nz/services/subdivisions/engineering-approval/)  
The application shall include:
  - i. Design specifications
  - ii. Design drawings
  - iii. Design calculations
  - iv. Relevant Resource Consents or Certificates of Compliance.
  - v. All correspondence regarding engineering approvals is to be directed to:  
[Development.Engineer@selwyn.govt.nz](mailto:Development.Engineer@selwyn.govt.nz)
- d) That accurate 'as built' plans of all services be provided to the satisfaction of the Asset Manager. All assets being vested in Council shall be provided in an appropriate electronic format for integration into Council's systems. Actual costs involved in provision and transfer of this data to Councils systems shall be borne by the consent holder.

Yours faithfully

**Selwyn District Council**



Rosie Flynn

**Team Leader, Resource Consents**

## **APPENDIX 3 – UPDATED RULES AND ODP PACKAGE**

The Proposed Plan Change undertakes the following in the Township Volume (changes underlined or ~~struck through~~):

1. To amend Township Volume, Part B3 People's Health, Safety and Values by inserting a new policy to read:

Policy B3.1.9:

Avoid new use, or development of land in high flood hazard areas of the Business 2A Zone of Appendix 43A, unless the use or development:

- i. is not likely to result in loss of life or serious injuries; and
- ii. is not likely to suffer significant damage or loss; and
- iii. either is:
  - a. not likely to exacerbate the effects of the natural hazard; or
  - b. the effects of the natural hazard can be avoided or appropriately mitigated.

2. To amend Township Volume, Chapter 14 BZ Earthworks to insert a new rule to read:

Restricted Discretionary Activities - Earthworks

14.1.2 Earthworks in the Business 2A zone depicted in the Outline Development Plan in Appendix 43A and within a High Flood Hazard Area shall be a restricted discretionary activity. For the purpose of this rule, High Flood Hazard Area is defined as land where, in a 1 in 500 year Average Recurrence Interval flood event, either:

- i. the water depth (measured in metres) x the water velocity (measured in metres per second) is greater than 1; or
- ii. the water depth is greater than 1m).

14.1.3 Under Rule 14.1.2 the Council shall restrict the exercise of its discretion to consideration of:

(a) mitigation of the effects of flooding, including by diverting the flood channel to maintain flood storage capacity within the site;

(b) Any potential impacts of the earthworks on the rate, level or volume of flooding within the High Flood Hazard Area;

(c) Whether the earthworks will increase the potential risk to people's safety, well-being and property;

(d) Whether the earthworks will alter the flow of flood water from or onto any other property.

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3. To amend Township Volume, Chapter C16 BZone Buildings, Rule 16.1.2.1 to read:

16.1.2.1 A landscaping strip of at least 3 metres width shall be provided along every road frontage except along:

- the frontage with Railway Road; or
- that part of Hoskyns Road abutting Precinct 4 as outlined in Appendix 22; or
- along the frontage of Jones Road identified within the Outline Development Plan at Appendix 43 where the provision of sightlines from rail crossings are required under Rule 17.4.1.2 and vehicle accessways required under Appendix 13; or
- along the frontage of Maddisons Road identified within the Outline Development Plan at Appendix 43A.

4. To amend Township Volume, Chapter C16 BZone Buildings, Rule 16.7 to read:

#### Natural Hazards

16.7.3 Any new principal building located within the Business 2A Zone depicted in the Outline Development Plan in Appendix 43A and within an area of that Outline Development Plan subject to a 200 year Average Recurrence Interval (ARI) flood hazard event, is a permitted activity if it complies with the following:

16.7.3.1 have a minimum building floor level 300mm above a 200 year Average Recurrence Interval (ARI) flood hazard event. The required floor level shall be identified a maximum of 2 years before the relevant building consent application is formally received by Council, and the building finished floor level is at or above that level.

...

Restricted discretionary activities – Buildings and Building Position

#### 16.7.7

In the Business 2A zone depicted in the Outline Development Plan in Appendix 43A and within a High Flood Hazard Area, any new or extended building shall be a restricted discretionary activity.

For the purpose of this rule, High Flood Hazard Area is defined as land where, in a 1 in 500 year Average Recurrence Interval flood event, either:

- i. the water depth (measured in metres) x the water velocity (measured in metres per second) is greater than 1; or
  - ii. the water depth is greater than 1m).
-

16.7.8 Under Rule 16.7.7 the Council shall restrict the exercise of its discretion to consideration of:

(a) mitigation of the effects of flooding, including by diverting the flood channel to maintain flood storage capacity within the site;

(b) Any potential impacts of the building on the rate, level or volume of flooding within the High Flood Hazard Area;

(c) Whether the building will increase the potential risk to people's safety, well-being and property;

(d) Whether the building will alter the flow of flood water from or onto any other property.

#### Discretionary Activities – Buildings and Building Position

16.7.79 Any activity which does not comply with Rule 16.7.2.4 or Rule 16.7.3 shall be a discretionary activity.

5. To amend Township Volume, Chapter C17 BZone Roding, Rule 17.2 to read:

17.2.1.2 The site within which the vehicle accessway is formed does not have access directly on to:

i) Railway Road, Rolleston from that part of the Business 2A Zones as is depicted on the Outline Development Plan at Appendix 22; or

ii) Hoskyns Road, Rolleston from that part of the Business 2A Zones identified as Precinct 4 as is depicted on the Outline Development Plan at Appendix 22; or

iii) Maddisons Road, Rolleston from that part of the Business 2A Zone depicted on the Outline Development Plan at Appendix 43A.

...

17.2.2 Any activity which does not comply with Rule 17.2.1.2(ii) or Rule 17.2.1.2(iii) shall be a restricted discretionary activity.

...

17.2.3.2 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the impacts of an increase in heavy vehicle volumes on the safe operation of Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection and the Weedons Primary School from an increase in heavy vehicle volumes.

17.2.3.3 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the necessity, extent and cost of upgrades to those roads, i.e. Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection.

6. To amend Township Volume, Chapter C17 BZone Roding, Rule 17.3 to read:

17.3.1.7 The site does not have access directly on to Maddisons Road, Rolleston from that part of the Business 2A Zone depicted on the Outline Development Plan at Appendix 43A.

...

17.3.8 Any activity which does not comply with Rule 17.3.1.6 or Rule 17.3.1.7 shall be a restricted discretionary activity.

...

17.3.9.2 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the impacts of an increase in heavy vehicle volumes on the safe operation of Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection and the Weedons Primary School from an increase in heavy vehicle volumes.

17.3.9.3 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the necessity, extent and cost of upgrades to those roads, i.e. Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection.

7. To amend Township Volume, Chapter C17 BZone Rooding, Rule 17.6 to read:

17.6.2 The establishment of a road or rail crossing requiring a break in the existing primary shelter belt or future secondary planting strip required by Landscape Treatment 3 in Rule 24.1.3.14 along the Railway Road frontage of the Business 2A Zone, or the establishment of a road crossing requiring a break in the future planting strip required by Landscape Treatment 2; or the establishment of a road crossing requiring a break in the future planting strip required by Landscape Treatment 1 as depicted on the Outline Development Plan in Appendix 43A, shall be a restricted discretionary activity.

...

17.6.3.5 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the impacts of an increase in heavy vehicle volumes on the safe operation of Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection and the Weedons Primary School from an increase in heavy vehicle volumes.

17.6.3.6 In relation to Precinct 4 and the Business 2A Zone in Appendix 43A the necessity, extent and cost of upgrades to those roads, i.e. Maddisons Road, Maddisons Road/Hoskyns Road intersection, Maddisons Road/Weedons Ross Road intersection.

8. To amend Township Volume, Chapter C22 BZ Activities, Rule 22.5 to read:

22.5.1.2 Any other lighting if it does not exceed:

...

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(c) 3 lux spill (horizontal or vertical) on to any part of any adjoining property in the Rural zone which has a common boundary with either the Business 2A Zone as depicted on the Outline Development Plan at Appendix 22, the Business 2A Zone as depicted on the Outline Development Plan at Appendix 43A, or the Business 2B Zone as depicted on the Outline Development Plan for ODP Area 5 at Appendix 37.

...

22.5.1.3 Lighting in the Business 2A Zone which is designed so that:

...

(c) In the Business 2A Zone covered by the Outline Development Plan in Appendix 43 and Appendix 43A, all outdoor lighting is shielded from above and is directed away from adjacent properties outside of the Business 2A Zone. All fixed outdoor lighting is directed away from adjacent roads outside of the Business 2A Zone.

9. To amend Township Volume, Chapter C22 BZ Activities, Rule 22.9 to read:

22.5.1.2 Any other lighting if it does not exceed:

22.9.1 Development in the Business 2A Zone shall be a permitted activity provided that the following condition is met:

22.9.1.1 The area along the common boundary of the Business 2A Zone and the Rural Zone, as depicted in the respective landscape treatment areas identified on the Outline Development Plans at Appendix 22, and Appendix 43 and Appendix 43A, and the principal building, shall be landscaped in accordance with the requirements of Rule 24.1.3.13.

22.9.1.2 In the Business 2A Zone identified on the Outline Development Plan in Appendix 43 and Appendix 43A, landscaping, road connections, railway crossings, sidings and pedestrian links shall be provided generally in accordance with those locations identified on the Outline Development Plan at Appendix 43 and Appendix 43A. The roads shall be constructed in general accordance with the road reserve widths specified in Appendix 43.

10. To amend Township Volume, Chapter C22 BZ Activities, Rule 22.9 to read:

Non-complying Activities – Development within the Business 2A Zone, Rolleston

22.9.7 Any Noise Sensitive Activity located within 80m of Lot 2 DP 475847 (LPC Midland Port) shall be a non-complying activity.

22.9.8 Within the Appendix E43A Rolleston Business 2A Zone Maddisons Road ODP area, no building shall be occupied until such time as:

(a) the over bridge of State Highway 1 between Rolleston Drive and Jones Road is operational; and

(b) vehicular access is provided between the Midland Port site (Lot 2 DP 475847) and a legal road within the Appendix E43A Rolleston Business 2A

Zone Maddisons Road ODP area. Such access shall be secured via a right of way easement in favour of Lot 2 DP 475847 and/or a direct connection from Lot 2 DP 475847 to a legal road vested in Council.

11. To amend Township Volume, Chapter C22 BZ Activities, Rule 22.10 to read:

22.10.1.3 In the Business 2A Zone at Rolleston as depicted on the Outline Development Plan at Appendix 43 and Appendix 43A:

12. To amend Township Volume, Chapter C22 BZ Activities, Rule 22.10 to read:

22.10.3 Any activity which does not comply with Rule 22.10.1.2 or 22.10.1.3 shall be a noncomplying activity.

22.10.4 In the Business 2A Zone at Rolleston as depicted on the Outline Development Plan at Appendix 43A, any commercial activity, or any retail activity that is not otherwise specified in Rule 22.10.1.3, shall be a non-complying activity.

13. To amend Township Volume, Chapter C24 BZ Subdivision, Rule 24.1 to read:

24.1.3.11 In the Business 2A Zone road connections and pedestrian links shall be provided generally in accordance with those locations identified on the Outline Development Plans at Appendix 22, ~~and Appendix 43~~ and Appendix 43A. The roads shall be constructed in general accordance with the road cross section examples also included in Appendix 22 (and where any conflict occurs with Rule E13.3.1 these cross sections shall take precedence) or the road reserve widths specified in Appendix 43. Furthermore, lots created which abut Hoskyns Road in Precinct 2 as shown on the Outline Development Plan at Appendix 22 should be designed in such a way that buildings will likely be encouraged to front onto and access onto Hoskyns Road.

...

24.1.3.13 The area along the common boundary of the Business 2A Zone and the Rural Zone, as depicted in the respective landscape treatment areas identified on the Outline Development Plans at Appendix 22, ~~and Appendix 43~~ and Appendix 43A, and the principal building shall be landscaped to the following standards:

...

Note: Common boundary landscaping is required along the full extent of the relevant boundaries as depicted on the Outline Development Plans at Appendix 22, ~~and Appendix 43~~ and Appendix 43A except across vehicle, rail, or pedestrian crossings. Refer to Rule 17.6.1 in respect of road or rail crossings that require breaks in the existing primary shelterbelt or future secondary planting strip along Railway Road, and breaks in the proposed screening treatment along the Hoskyns Road frontage identified as Precinct 4 and the Maddisons Road frontage depicted in Appendix 43A, and Rule 17.2.2 in respect of vehicle accessways which require breaks in the proposed screening treatment along the Hoskyns Road frontage identified as Precinct 4 and the Maddisons Road frontage depicted in Appendix 43A.

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14. To amend Township Volume, by inserting Appendix E43A Rolleston Business 2A Zone Maddisons Road ODP.
15. To amend the Planning Maps, to reflect the Business 2A zoning of the site.

KEY:

- ODP Boundary
- ODP Area
- Landscape Treatment Area 1 and Landscape Bund (Minimum Height of 2.5m)
- Landscape Treatment Area 4 and Landscape Bund (Minimum Height of 2.5m)
- Road Connections from Adjacent Sites
- Indicative High Flood Hazard Area



B2A ZONE EXTENSION PLAN CHANGE  
MADDISONS ROAD

OUTLINE DEVELOPMENT PLAN

DRAWING STATUS  
FINAL DRAFT

STAGE  
CONSENT

SCALE  
1:4000 @ A3

JOB NO.  
021024

REVISION  
10 [23.01.20]  
2.3 [18.09.20]  
2.5 [UPDATES]  
2.6 [FLOOD AREA] 29.06.21  
2.7 [ROAD NOTES] 20.07.21

B

DRAWN

DATE  
18.09.20

DWG NO.  
DPMA-DRG-LA-100-A

