

Proposed Changes 8 and 9 to the Selwyn District Plan

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

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Recommendation to the Selwyn District Council

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

1. Proposed Change 8 to the Selwyn District Plan be allowed, subject to the amendments set out in Appendix 1.
2. Proposed Change 9 to the Selwyn District Plan be allowed, subject to the Amendments set out in Appendix 2.
3. The submissions in support of Proposed Changes 8 and 9 to the Selwyn District Plan be accepted in part to the extent set out in Appendix 3, and otherwise be rejected.
4. That the submissions opposing Plan Changes 8 and 8 be accepted to the extent set out in Appendix 3 and otherwise be rejected.

Introduction

1. Plan Changes 8 and 9 to the Selwyn District Plan are the result of requests to change the Selwyn District Plan under Part 2 of the First Schedule to the Resource Management Act. The party requesting the plan changes is the Selwyn Plantation Board Ltd. Although strictly speaking these are not “applications”, for the sake of plain language I will refer to them in this decision as applications and the Board as the applicant. Counsel for the Board, Mr Fowler had no objection to that.
2. Plan Change 8 (PC8) proposes to create a new Living 3 zone and apply it to 92 hectares of land bounded by State Highway 1 to the north, Dunns Crossing Rd and the town of Rolleston to the east, Burnham School Rd and rural residential land to the south, and a large area of land recently designated for the disposal of treated wastewater from the District Council’s Pines Wastewater Treatment Plant to the west. The block is known as the Holmes Block.
3. Plan Change 9 (PC9) seeks to rezone as Living 3 a 72 ha block further to the south along Dunns Crossing Rd, known as the Skellerup Block. This is bounded by rural lands to the north, west and south, and Dunns Crossing Rd to the east. Beyond Dunns Crossing Rd is Living 2A land which is a very low density form of living zoning adjacent to Rolleston, and which has been signalled by the Council as future conventional residential land in the longer term.
4. The new Living 3 zone is to permit the establishment of rural residential allotments ranging in size from 0.4 – 4.0 hectares, and is carefully designed to ensure the developments maintain as much rural character as possible, in contrast to very low density residential zones which they would otherwise resemble.
5. Both changes propose to introduce the new zone and associated rules, along with amendments to existing District Plan policies. The Changes also introduce Outline Development Plans to guide the development of each block. They would also contain “Countryside Areas” which are strips of land retained in typically rural land use to preserve the rural character. Other controls to promote rural character include fencing style, landscaping and details of roading.
6. The two blocks are currently zoned Rural Outer Plains, which permits subdivision to a minimum lot size of 20ha. The two blocks are right on the eastern edge of this zone. To the east, apart from the town of Rolleston, land is zoned Rural Inner Plains, with a minimum lot size of 4 ha.

Abbreviations

In this report I use the following abbreviations

PC1	Proposed Change 1 to the Canterbury Regional Policy Statement.
PC7	Proposed Change 7 to the Selwyn District Plan.
PC8	Proposed Change 8 to the Selwyn District Plan for the site known as the “Holmes Block”.
PC9	Proposed Change 9 to the Selwyn District Plan for the site known as the “Skellerup Block”.
PC17	Proposed Change 17 to the Selwyn District Plan.
RMA	The Resource Management Act 1991.
WWTP	The Rolleston Wastewater Treatment Plant
RRRP	The Rolleston Resource Recovery Park
UDS	The Urban Development Strategy 2006, a strategic planning document by Environment Canterbury, Christchurch City Council, Selwyn District Council and Waimakariri District Council and NZ Transport Agency making recommendations for the future urban growth of the Greater Christchurch sub region.

Amendments to the Proposals

7. As originally notified PC8 proposed to create 125 residential lots ranging from 0.4–1.5 ha, and PC 9 proposed 100 lots ranging from 0.4-0.67 ha, a total of 225 lots. Following submissions the applicant proposed amendments to both blocks reducing their scale and impact. These revisions became the subject of a preliminary dispute as described below. Under the amended proposals the Holmes Block would contain 97 “regular” lots between about 0.4 and 0.8 ha, with 5 additional “balance” 4 ha lots on the western edge adjacent to the District Council’s wastewater treatment and disposal area. The Skellerup block would contain 68 lots between about 0.5 and 0.7, and 5 balance 4ha lots along its northern edge adjacent to the Tegel poultry farm. The combined total would be 175 lots. In each case between 25-30% of the sites would be set aside as Countryside Areas.
8. Again after receipt of the Council’s report on the applications further amendments were produced in an attempt to deal with issues raised. These further reduced the number of allotments. On the Holmes Block there would be 92 regular and 5 balance 4ha lots. On the Skellerup Block there would be 39 regular lots and 15 balance 2 and 4 ha lots. Additional Countryside Areas were provided on both lots, a total of 151 lots. A band of 2 ha allotments along the western and southern edges of the Skellerup block was introduced adjacent to rural land. I was advised that the applicant formally adopted this second revision as its preferred position for the PC8 area, but left it to my discretion whether or not to accept the second revision for the PC9 area. In its opinion either would be acceptable, but I preferred the first revision because of the greater lot yield.

Preliminary issues

9. Prior to the hearing two preliminary matters were raised by Ms Debra Hassan, one of the submitters. The first concerned the way the Selwyn District Council handled a number of late submissions. The Council has a policy manual which states that late submissions should be placed before the Hearings Commissioner to determine whether or not they should be accepted for consideration. However on this occasion the Council has followed an alternative procedure. Acting under authority delegated to him by the Council under the Resource Management Act, the Council’s Planning Manager decided to accept some of the submissions and reject others. I explained to the parties that I was unable to do anything about this, as my delegation from the

Council does not extend to enquiring into preliminary processes. Nor do I have any right to overturn a decision that appears to have been validly made by the Planning Manager under the RMA. Any conflict between the policy manual and the Council's RMA delegations is an internal matter for the Council to resolve for the future, but the decision of the Planning Manager must stand for the purposes of this hearing.

10. The second preliminary matter concerns one of the amendments proposed by the applicant. After the submissions and before the hearing the applicant proposed to amend the Outline Development Plans for both blocks. These amendments reduced the number of lots, placed some 4 hectare lots along the boundaries with sensitive neighbours and increased the area to be set aside as Countryside Areas. Ms Hassan took exception to the introduction of the 4ha lots, because she considered that this "introduces an extension of the Rural Inner Plains Zone into that of the Rural Outer Plains Zone of the Selwyn District Plan and is not within scope for the Commissioner to consider". She also submitted that this was new information not available to original submitters and that I should consider whether there might be other potential submitters who would have submitted for or against this change in zoning and who would now be excluded from participation.
11. Counsel for the applicant, Mr Fowler reminded me of the case law as to scope. He said that it was permissible for the applicant to reduce the scale and intensity of the proposals to satisfy the concerns raised by submitters, as long as this did not alter the character and effects of the activities, or cause prejudice to potential submitters. He said that that the amended proposals lay between the original applications and the original zoning, reduced their scale and intensity without altering their character or effects, and that this was not a proposal to change the zoning of part of the site to Rural Inner Plains. The proposed change remained as Living 3, and the 4ha lots were within the limits to be imposed under that zoning that zoning. He therefore considered that the amendments were within scope and could legitimately be considered at the hearing.
12. I advised the parties that my preliminary view was that the amendments proposed were within scope but that I would not make a preliminary decision on this matter and would address it in the final decisions. The parties could address it further during their presentations if they wished. In the event Ms Hassan did not, having discussed it fairly extensively already by that time.
13. I now confirm that I consider the amendments fall somewhere between the original proposals and the original zoning of the land, and were all put forward in an attempt to deal with matters raised in submissions. They simply increase some lot sizes, reduce the number of lots, extend the Countryside Areas and slightly alter the layout and roading pattern. They do not alter the basic character, or the effects and impacts of the proposals, which would remain as rural residential settlements. They do reduce the scale, intensity and impacts, particularly in the areas of rural character and reverse sensitivity. I also do not consider there was a change proposed to introduce the Rural Inner Plains zoning as such. Just because 4 ha lots are proposed, that does not mean they would be automatically zoned Rural Inner Plains. It is possible to have 4 ha lots in more than one zone. I do not think there would not have been any potential new submitters arising out of this, because the changes reduce the scale and impact of the plan changes. Anyone concerned enough to make a submission would already have done so. I am prepared to consider the amendments put forward, and the other set of revisions presented in the evidence which were to the same effect and reduced the scale and impact again.

Effects on the Environment

Rural Character

14. A major issue for these applications was preservation of rural character within the plan change areas. Most of the parties canvassed this thoroughly, especially the applicant through the landscape and urban design evidence of Ben Espie and Ian Craig, and the Council through the evidence of Andrew Craig. If I seem to deal with this subject somewhat briefly, it is not because I

do not regard it as a very important issue, but rather that the care taken by the witnesses to develop and illustrate their views has made it easy to understand and form a view on.

15. In the end these witnesses largely agreed that the proposed rules and Outline Development Plans would preserve a satisfactory level of rural character, as perceived from within the blocks but also from outside looking in. Ian Craig was quite candid that subdivisions featuring lot sizes similar to what is proposed here can actually seem quite suburban and not rural at all, without detailed design controls. Zones allowing for just that exist nearby in the form of the council's Living 2 zones. Where these are deliberately large lot suburban areas within a township, as occurs elsewhere at Rolleston and at West Melton for example, that is not a problem, but older examples abound in both the Selwyn and Waimakariri Districts outside the townships where there has not been a great deal of attention to preserving rural character.
16. Andrew Craig spoke of the need to avoid "urban motifs", which I thought was a very apt way of putting it. The controls proposed include ensuring use of rural-style fencing (post, wire and rails), the use of shelterbelts, extensive setbacks, straight rural-styled roads without kerbs, absence of cul-de-sacs and "panhandle allotments, specifying planting species, avoidance of elaborate entry features and other features. A major feature was the inclusion of Countryside Areas. These strips of land, 50 metres wide and 500-750 metres long would be held in common ownership and used for rural activities such as cropping or grazing. They would break up the housing and provide rural outlooks and view shafts. Inclusion of some larger lots will also assist greatly, in the form of 7000m² lots along the State Highway boundary of PC8, and 2ha and 4ha blocks along the boundaries of PC8 and 9 with the "real" rural areas (as Ian Craig called them).
17. In contrast some of the submitters said that the two plan changes would simply be low density urban development rather than genuine rural residential activity.
18. I have concluded that both PC8 and PC9, as modified by the applicant at the hearing, would create and preserve a genuine rural character and a high standard of amenity. One unfortunate effect may be to obscure views west to the mountains from some of the housing to the east of Dunns Crossing Rd. However it seems to me that these could also be lost through some legitimate rural activities such as growing of high shelter belts. Under the former use of these two blocks for forestry, there could not have been views across them to the mountains. The existing Rural Outer Plains zone offers no protection to such views.
19. A consequential amendment that would follow from the introduction of the 2 and 4 ha blocks is the need to provide for grazing of them. The proposed rules were written prior to the introduction of these lots and prevent keeping of animals other than domestic pets. Clearly larger lots such as these would most likely be grazed at least in part as the most cost-effective way of keeping them tidy.

Landscape

20. Similarly to the issue of rural character, I concluded that the layouts proposed on the Outline Development Plans together with the rules packages would see the establishment of a pleasing landscape character within the developments, as good or possibly better than might occur under the Rural Outer Plains zoning. I note that on such flat land with large average lot sizes, views in this part of the Rural Outer Plains zone are often heavily restricted by shelter belts and landscapes can be quite monotonous. This effect can be seen clearly nearby, for example in Edwards Rd, parallel to Dunns Crossing Rd to the west.

Urban Design

21. Urban design was an issue strongly contested between the applicant, the Council, and some of the submitters. In this case the term urban design is not being used in the more usual sense of the internal design, appearance, amenity, accessibility, functionality and efficiency of the developments themselves. Those aspects were all covered by the experts dealing with design,

roading, infrastructure and the like. Probably the most significant of these matters were landscape and rural character. In the end all these physical design matters were largely agreed on or resolved between the applicant and the Council other than sewerage to the Skellerup Block.

22. Instead in this case the argument about urban design was mostly at a higher, more theoretical and strategic level and was concerned with the future shape and direction of growth for Rolleston itself, and how the town fits into the surrounding rural environment. As well I was directed to the sustainable management purpose of the Resource Management Act itself, and a number of the principles set out in section 7 of that Act, including efficient use and development of physical resources, efficient end use of energy, and maintenance and enhancement of amenities and the quality of the environment.
23. For the Council, Mr Tim Church, a qualified and experienced urban designer led this argument. His concerns included maintaining a compact shape to Rolleston, avoiding a “blurred edge”, maintaining the advantages residents of smaller towns can gain by proximity to rural areas, reducing motor vehicle use, ensuring efficient and economic reticulation, providing good connectivity to community facilities, and maintaining long views from the built up areas of Rolleston across open rural land . He described the advantages of higher density residential environments as set out in the Rolleston Structure Plan. He was careful to find support for all of this particularly in the provisions of the operative district plan, but also in the Rolleston Structure Plan and the Rural Residential Background Report.
24. It might be fair to say that Mr Church does not seem to be an enthusiast for rural residential development at all, and much of his evidence was directed at the better sustainability and general liveability of urban living. He particularly emphasised the less sustainable features of rural residential land use, such as greater reliance on the private car, and reduced access to services, facilities and opportunities for social interactions. He said that people's desire for rural residential lifestyles can be a reaction to the often poor quality of urban environments. He also said that there would be a risk that the rural residential developments would simply become an isolated dormitory suburb with little to offer in diversifying the towns business and community structures. He considered choice and diversity could be more effectively provided for through the continued infill and greenfield growth of the town. With respect, there was no real evidence that residents would behave that way, or that the town's ability to develop in a diversified way would be seriously threatened if these developments went ahead. I also think that potential residents of these sites, if unable to purchase there, would be more likely to go somewhere they can purchase a lifestyle block than to move into Rolleston. I do not see it as competition for residents between Rolleston and the PC8 and PC9 sites. I think he was on better ground when he wrote of the reduced access to community activities due to distance, lack of public transport and so on.
25. He did acknowledge that rural residential development can be an intermediate type of land use between urban and what he calls truly rural, having connections to both. He also acknowledges that rural residential development provides for choice of housing types, and could be especially well-suited to those downsizing from larger blocks, and for people who work from home. But he thought there could be more suitable sites around Rolleston or close to other towns in Selwyn District.
26. He pointed out the reliance the Rolleston Structure Plan places on establishing a greenbelt along Dunns Crossing Rd to contain the town, define its edge and improve amenity. This is intended to be approximately 50 metres wide and to contain landscaping, and tracks for horse riding, cycling, walking and running. Not surprisingly the applicant quickly adopted this idea by suggesting the greenbelt could be incorporated into the proposed Countryside Areas along Dunns Crossing Rd. Ian Craig went so far as to suggest it may be the best or only chance of achieving a greenbelt along Dunns Crossing Rd, given the absence of provision for it in proposals to date under PC7 for the lands opposite the Holmes Block on Dunns Crossing Rd.

27. In regard to the specific sites Mr Church was relatively comfortable with PC8, provided some amendments were made such as providing an additional Countryside Area along Burnham School Rd and realigning the road access into the block to be opposite the proposed road leading into the Stonebrook residential development opposite. The applicant was prepared to adopt these changes. Mr Church accepts PC8 because it has the wastewater treatment and disposal area beyond rather than truly rural land, and because it is adjacent to a Living 2 zone (which is a type of rural residential zone) on the south side of Burnham School Rd. He therefore does not see it as really beyond the edge of Rolleston. He sees a continuity of development there, in contrast to PC9 which he considers to be more isolated. He opposed PC9, because it is further from the developed part of Rolleston, has an unconfined edge on three sides and would result in too much of Dunns Crossing Rd being taken up in rural residential, with too much loss of the expansive rural views he considers important from the edge of the town.
28. Mr Clease, in his Section 42A planning report for the Council, accepted all of Mr Church's conclusions and added several additional points. He saw the Living 2A zone opposite the Skellerup Block as likely to remain in that form for at least 10 years, and that zone itself as a peninsula of very low density housing, making PC9 a peninsula on a peninsula. Looking at the planning maps I think that is something of an exaggeration. That Living 2A zone is certainly on the edge of Rolleston but is well connected to the existing residential area all along its northern edge and certainly does not have the long narrow jutting out form of a peninsula. Even if it were true, this is likely to be a temporary state of affairs, lasting perhaps 10 years. As the applicant does not intend to start developing the site before 2017 at the earliest I would not regard this as a serious problem. A more significant additional point he raised was that as the Skellerup Block is bounded by Rural zoned land on 3 sides it may create something of a precedent. It would be difficult in his view to resist other applications on similar land in the vicinity, especially along Dunns Crossing Rd, on the basis that similar applications should be entitled to receive similar treatment. Finally Mr Clease suggested it might be a good idea to consider zoning the proposed 4 ha blocks as Rural Inner Plains rather than Living 3 as requested.
29. A number of the submitters raised similar points to Mr Church and Mr Clease. I have considered their views but do not feel I need to discuss them any further as all the points raised have been covered in the discussion above.
30. I have considered this evidence very carefully. I certainly agree with a good deal of it in principle, especially as to the desirability of overall sustainability, compact urban form, accessibility, reduced travel and urban amenity. However we are then faced with a problem, because all that really looks like an argument against having any more rural residential development at all. When I put this to Mr Church, he agreed but said that in his view if there was to be further rural residential development near Rolleston there was at least one better site. But as Mr Fowler put it, this hearing was not an exercise in identifying the best possible sites for rural residential development. Rather, it is an enquiry into whether these particular sites are suitable. The applicant does not have to prove they are the best, or better than others. The exercise of identifying the most suitable areas is of course part of what Proposed Change 17 is setting out to do, which is discussed below.
31. As noted above PC1 enables a certain amount of further rural residential development, and actually directs that it be sited close to towns to reduce travel and provide as much accessibility to community services as can be achieved. There appears to me to be a conflict between Mr Church's aspirations for clean urban edge treatments and PC1's policies in that regard. The closer to a town a rural residential settlement could be, the better it would implement PC1. To achieve the clean urban edge any rural residential development should perhaps be sited away from towns, but this would increase travel distance, reduce sustainability and therefore conflict with PC1.

32. I think some of Mr Church's more theoretical conclusions about the blurring of the urban edge are based on regarding rural residential development as a type of low density urban development. Seen that way, it would soften or blur the urban edge. For Environment Canterbury Mr Sean Elvines expressed a very similar view. However it can equally be regarded as a type of rural activity. In this regard, both Ian Craig for the applicant and Andrew Craig for the Council have been very careful to distinguish these plan changes, with their tight controls to preserve rural character, from older and more loosely controlled large-lot developments such as the Living 2 zones in the vicinity.
33. I also think Mr Church may be overly optimistic if he thinks that deleting PC9 will necessarily result in retention of expansive rural views. Driving around rural roads in this vicinity, it is very obvious that many if not most large rural properties have evergreen shelter belts along road boundaries. Although when witnesses were discussing odour effects I heard about occasions with very low wind conditions, there are many other times when the Canterbury Plains experience strong winds, so shelter belts are common. It seems to me this often creates an almost canyon like feel on long parts of these roads. The western side of Dunns Crossing Rd might not be any different if left in large lot rural use. The proposed Countryside Areas are also to be backed by shelter belts along their western edges, but at least these would be 50 metres back from the road, and the internal access roads and east-west Countryside Areas in PC9 and along the Burnham School Rd frontage of PC8 would provide five long view shafts towards the west. It is possible if not probable that developing most of the frontage of Dunns Crossing Rd in the way proposed by PC8 and PC9 may do more for expansiveness and rural views than the status quo Rural Outer Plains zoning.
34. I have also thought carefully about the suggestion that PC9 is isolated and out of place amidst extensive rural land. It is true that land to the north, south and west of the Skellerup block is Rural Outer Plains and likely to remain so. However PC9 now proposes to establish 2 and 4 ha blocks all along those boundaries, with shelter belts on the boundaries, so there is a reasonable transition there. To the east, along Dunns Crossing Rd and the edge of Rolleston, matters are very different. On the east side of the road there is Living zoning of one sort or another all along the road from the State Highway to about the midpoint of the Skellerup Block. Between the State Highway and Burnham School Rd there is Living Z, a new form of zoning under PC7 which enables conventional urban development. Then there is a stretch of existing Living 1B land, again at residential density, followed by some Living 2A land, which enables subdivision to 1 ha, a density similar to PC9, although it is large lot residential rather than rural residential, with no attempt to preserve rural character. Eventually, under the Rolleston Structure Plan, that Living 2A land is proposed for residential development. On the west side of Dunns Crossing Rd, assuming PC8 is approved, there would be Living 3 and Living 2 land as far as Brookside Rd, then about 500 metres of rural zoned frontage, some of which is in an existing rural residential property and the rest is the Tegel Poultry Farm. The Skellerup block is really not that far from existing and future Living zones at Rolleston. At its closest, it is only about 220 metres from the edge of the Living 1B zone opposite, and when the lands opposite are rezoned it will be no distance at all. The Rolleston Structure Plan proposes that these lands be available for development after 2017, which is why the applicant now proposes to defer the zoning of PC9 until then. The Skellerup block therefore conforms to the PC1 requirement that rural residential should be outside but close to urban areas. In terms of increasing transport use, that would occur, but the distances from areas in Rolleston regarded as acceptable under PC1, PC7, etc. is minimal, and probably less than some other sites which could have been selected.
35. The 2 and 4 ha blocks actually would create a discontinuity with any future rural residential proposals adjacent, reducing any precedent effect. However it is speculative to consider applications which have not been made and may never be. If there is a concern about a trend to excessive rural residential development here, the answer will be with Proposed Change 1 to the Regional Policy Statement and Proposed Change 17 to the Selwyn District Plan. If they are

confirmed then they should adequately restrain this. If not then it should be asked how necessary such restraint really is. I should not attempt answer those questions here. It can be really difficult to identify the “last straw which breaks the camel’s back” on a case by case basis, in the absence of some strong barrier to further growth. Such strategic decisions are best left to broad brush policy setting exercises such as the Regional Policy Statement or PC 17.

36. As for the suggestion of zoning the 4 ha blocks as Rural Inner Plains, I can see some benefits in this. However I doubt if I have the legal scope to do it, and I am not convinced it is necessary. The 4 ha blocks are able to exist in the Living 3 zone. This has adequate controls for them, with one exception which is the need to provide for limited grazing of the larger 2 and 4 hectare blocks. I think it is also desirable for them to remain in the Living 3 zone so the perception of them as inextricably part of the Living 3 zone is maintained. That will reinforce the integrity of the Outline Development Plans and reduce the possibility of future subdivision applications for these blocks.
37. I have therefore concluded that there are not sufficient reasons based on urban design considerations to decline PC 9 in the manner recommended by Mr Church and Mr Cleese. They also made a number of specific recommendations for amendments to the plan changes if they were to be approved. Some of these, such as the realignment of the access roads to line up with other roads opposite, the creation of further Countryside Areas, and the provision of additional large lots around the sensitive rural boundaries were accepted by the applicant. The suggestion of creating a further “Key Gateway” to Rolleston would be outside the area of the plan changes and not something the applicant is in a position to carry out. Mr Church also recommended reducing the size of the two plan changes to 50 allotments each in accordance with the approach of PC17 and the Rural Residential Background Report. For reasons which I will discuss later I am not prepared to apply PC17 strictly so early in its process. In any case PC9 could come down to 54 lots after the amendments made during the hearing, while PC8, which they were much more relaxed about, is down to 97 lots from the original 125. In both cases these numbers include larger 2 and 4 ha lots.
38. That however does not dispose of this matter. I return to it in discussing the objectives and policies of the District Plan below.

Reverse Sensitivity

39. Reverse sensitivity occurs when an established activity is legitimately established but then becomes surrounded by newer activities which are sensitive to the effects of the existing activity. This can lead to complaints and pressure on the existing activity to either reduce its effects or relocate, both of which can have severe economic or other effects on the existing activity. In this case there are three activities which could be affected in this way by the establishment of the two proposed rural residential areas. These are the Rolleston Wastewater Treatment Plant (the WWTP) and the Rolleston Resource Recovery Park (the RRP), both of which are in Burnham School Rd not far from PC8, and a poultry farm in Dunns Crossing Rd adjacent to PC9. At the same time we need to be aware of the possibility of direct sensitivity, i.e. that if the rural residential blocks are established the occupants are not adversely affected by the effects of these three operations

The Wastewater Treatment Plant

40. The Wastewater Treatment Plant itself is located on the southern side of Burnham School Rd, about 800m from the nearest part of the PC9 block along its western boundary. However the land adjacent to this boundary is set aside for disposal of treated wastewater spray irrigation. At a later date this land may also be used for disposal of treated biosolids resulting from the treatment plant. Under the modified proposal adopted by the applicant at the hearing, the properties immediately to the east along this boundary would be 4 hectares in size with a depth of about 224 metres. A triangular area in the southwest corner of the block is shown as an odour constrained area, with a rule to the effect that a building containing living or sleeping areas in that area would

be a fully discretionary activity. The triangulation roughly corresponds with an arc from the existing treatment plant with a radius of 1000 metres.

41. The applicant and the Council reporting officers did not agree about the adequacy of these measures to prevent nuisance being caused to the potential residents
42. For the applicant Richard Chilton gave expert evidence on air quality. In his opinion management and treatment of the biosolids and the irrigation of the treated wastewater would be the activities most likely to cause odour issues at the PC8 block. For the biosolids he considered a buffer distance of 1 km from the biosolids treatment area would avoid any odours reaching residences. Most of this distance is taken up by Council land to be used for disposal of treated wastewater and biosolids, but the 1 km distance intrudes into the PC 8 land and is the reason for the rule and the odour constraint on the ODP mentioned above. For the irrigation of wastewater, he considered there were enough conditions on the discharge consents held by the Council to avoid any necessity for buffer distances on the PC8 land. These conditions are specifically designed to ensure the discharge is of a high quality. They include planting of a dense shelter belt along the boundary, a 25 metre setback for irrigation operations, ensuring the water remains aerobic, a minimum level of dissolved oxygen, restrictions on spraying close to the boundary in certain wind conditions, and a minimum 200 metre setback if the water is not achieving the required standard. These conditions were specifically agreed to between the applicant and the Council to protect the PC8 land during the designation and consenting process for the WWTP in 2009. By that time the applicant was developing its proposals for PC8 and PC9.
43. Mr Chilton considered that the actual treatment of the wastewater would not affect the PC8 land. He considered a 500 metre buffer is required for this, and would be contained within the 1 km buffer for the biosolids treatment. Because of the greater distances involved, he considered that PC9 would be unaffected by any of the activities of the WWTP.
44. The Council obtained an expert report from Ms Prue Harwood. Ms Harwood concurred with all Mr Chilton's recommendations concerning the WWTP except for one matter. She considered that there should be a 175 metre setback of housing from the boundary between the PC8 block and the wastewater disposal area. She noted that Mr Chilton referred to a desirable 200 metre buffer, and so deducted the minimum 25 metre buffer from the WWTP conditions to derive her 175 metres. However Mr Chilton qualified his evidence by stating the 200m would only be required "where quality of the irrigated wastewater is low". In his opinion the discharge consents would be sufficient to ensure that the quality would not be low. Ms Harwood provided a written response to Mr Chilton's evidence. In this she accepts that if all wastewater activities occur perfectly according to the conditions of approval, then there should be no adverse effects. However she remained concerned about the potential for adverse and abnormal events such as unusual weather that would not be fully dealt with by the conditions and continued to support the 175m buffer, unless this was substituted by a mechanism such as a no complaints covenant.
45. I note that the applicant now proposes a set of four 4ha blocks along this boundary which appear to have a depth of about 224 metres¹. These are the only lots which would be affected by a 175 m buffer. It would appear to be feasible, but only just, to erect homes on these four lots outside a 175m buffer and still achieve the 15 m front yard set back from the street required under the proposed rules. There would be about a 34m wide band in which the homes could be built, which would be sufficient, if only just. Not many houses are greater than 34m in depth. However this would not leave much for gardens and lawns close to the house. In fact, to allow for fall to the sewer, houses would probably have to be built relatively close to the front boundary anyway.
46. On the other hand it could be argued that only four homes would be affected if there was an occasional odour incident.

¹ As advised in closing submissions from counsel for the applicant.

47. Mr Fowler described this as a significant constraint or cost. I think he could be overstating the case somewhat, given that large houses could still be built in a suitable location. I accept that it is a constraint, although I cannot see why it is a cost. Mr Fowler reminded me that the Council negotiated its conditions of consent for the wastewater discharge in full knowledge of the potential for the rural residential development to occur on this site. In effect, if Council succeeds in having an additional buffer distance imposed, it would be denying the applicant of the benefits it achieved from those negotiations as recently as 2009.
48. I was not a party to those negotiations and am not fully informed about them. It does seem to me however that the resulting conditions are based on the premise that nothing will ever go wrong at the WTP or in the irrigation process and that the conditions will always be achieved in full. I acknowledge that the applicant feels entitled to rely on the conditions being always achieved in full, but I think that is probably unrealistic, given the complexity of sewage treatment and disposal and the length of time the WTP and the houses would have to co-exist. I consider that from time to time incidents can be expected to occur when the conditions are not achieved perfectly and then there would be the potential for odour issues to arise at those four houses. If they do, then there would not be the 200 metres of separation that the applicant's own witness considers would be necessary, unless the separation is provided on the PC8 land. The only protection would be the dense shelter belt which is to be planted along the boundary. I am aware that the conditions require that if the dissolved oxygen or the UV treatment of the wastewater is not up to standard then the discharge is to be set back 200 metres from the boundary, but that assumes that the water quality is always known. There are arguments for and against, but on balance I consider that if PC8 proceeds, a buffer should be required. In the circumstances, I consider this could be reduced to 150 metres from the boundary, to allow more flexibility for placement of houses. I consider however that dwellings within the odour constrained area should have the status of non-complying activity, rather than discretionary as proposed by the applicant. I do not foresee any way of mitigating these potential odour effects that could be applied to a discretionary activity application.
49. I have considered other alternatives to achieving a buffer while maintaining flexibility for the houses. One option is to reduce the 15 metre front yard setback. This would work against achieving the rural look and feel that the landscape witnesses for the applicant and Council worked so hard to protect. A second option would be to require the use of a no complaints covenant for the affected lots. In my experience these work best when willingly put forward by an applicant, which is not the case here. They also require complex documentation, which would have to be built into the rules package. I received no evidence on this and would need to defer the applications while proposals were developed. Alternatively I could make housing within the 175m buffer a restricted discretionary activity, with discretion reserved on the measures to be adopted to avoid adverse consequences from unanticipated events at the wastewater disposal site, such as no complaints covenants. That would give the owners the option of complying with the 175 m buffer, or developing a covenant package or similar. It would avoid the need for complex rules to be developed in the interim. However I do not favour no complaints covenants except in compelling circumstances. In my experience they are extremely complex, and they do not actually solve the problem, but simply transfer the responsibility for the consequences of it.

The Resource Recovery Plant

50. The Resource Recovery Park is sited on the south side of Burnham School Rd about 300 metres from the nearest part of the PC8 block. The RRP contains a transfer station, where refuse from kerbside contractors and the general public is deposited, compacted and transferred to trucks for hauling away to landfill. It also contains a facility for composting both green and putrescible waste.
51. For the applicant Mr Chilton recommended a 300m buffer area be established between the RRP and the nearest housing, measured from the edge of the present operational area. Because this is set well back from Burnham School Rd this would impinge only very slightly on the PC8 block,

well within the areas already identified as an Odour Constrained Area because of the WWTP. It would not affect the PC9 block. Therefore he saw no need for any additional constraints relating to the RRP.

52. The Council's reporting consultant, Ms Prue Harwood agreed with the 300 m buffer but would measure it differently. She would measure it from the edge of the RRP's designated site which is considerably larger than the present operational area and in fact comes to a point just opposite the southwest corner of the PC8 block. This is because of the potential for the RRP to alter its present operations and establish activities up to the boundary, which it is apparently able to do under its designation. The effect of this would be apparent on the two southernmost 4 ha lots on the revised ODP. There would be an arc-shaped intrusion onto these two blocks which would have quite a severe effect on the northern-most of the two, forcing any house into the north-east corner of the site. On the southern site there would appear to be about 150 metre minimum of depth available. Therefore measuring the 300 metre buffer from the edge of the designated area would be onerous for one of these property owners.
53. In the event, in closing submissions, Mr Fowler increased the buffer area being offered to 450 metres.
54. Mr Chilton dealt with this extensively in his supplementary evidence. He considered that
 - A 300 metre buffer measured from the operational area would be sufficient to provide for existing waste transfer operations and up to a four fold increase in those operations.
 - Any such increases in operations would almost certainly be accommodated in or close to the existing operations area and there would be no need to carry out such activities near the boundaries of the site.
 - A 400 meter buffer would allow for an expansion of the present "in vessel" composting operations, including the possibility of composting biosolids from the wastewater treatment plant.
 - Moving into composting by windrows in the open would substantially increase the buffers required, from at least 1000m for existing quantities, to up to 1750 metres for a four fold expansion. This would substantially increase the impact on the PC8 land, but more significantly the odour impacts would be apparent at two closer residences that are 310 and 585 metres from the operations site.
 - Windrow composting is no longer considered to be industry best practice because of difficulties in controlling odours. However the use of windrows to mature compost and biosolids already treated by the in vessel plant should be possible with a 400 metre buffer.
55. It is probably unlikely that the activities on the RRP site would need to extend right into the nearest corner of the site. It is a big site and present activities are nowhere near this point. Mr Fowler in closing reminded me that the SDC was not able to expand operations at the RRP out to the boundaries in any case without further resource consents. That is probably not the point the Council was trying to make however, which was that the presence of the PC8 development would preclude the opportunity to even consider expansions onto unused parts of the site.
56. The Selwyn District Council itself lodged a submission opposing PC8 outright, because of the potential reverse sensitivity effects on the RRP. The Council's submission was not about odour only. In a very thoughtful and careful piece of evidence, Mr Chris Hopman, the Council's Asset manager for Asset Delivery discussed his concerns about the overall impact of PC8 in particular on the Resource Recovery Park. He discussed the important role the RRP has in the Council's responsibilities. He outlined the care the Council took in establishing the RRP to avoid areas close to residential or rural residential areas. At paragraphs 32 and 33, the following quotations summarise his views.

This separation from what were considered more sensitive activities, including housing at an inner plains, rural residential, residential density, or industrial and business activities was very important factor in selecting the site for the facility. To illustrate the difference under the Outer Plains zone for the PC8 block we could have had four new houses on the block. PC8 as notified proposed 125 new lots (this has been reduced by the applicant to 102 and is recommended in the officer report to be reduced further to 85).

Proposed PC8 has the potential to undermine the considerable work and financial investment the Selwyn District Council has made in establishing the RRP. At the time of the site selection for the RRP had the area of PC8 been zoned Rural Residential or if there was the potential for between 85-125 rural residential lots on the site then it would not have met the key criteria for selection. It would have been considered that the RRP and the adjoining land uses were not compatible.

57. Mr Hopman's principal concern was that, regardless of its actual performance, or compliance with conditions and the like, the RRP was likely to become the subject of complaints from residents, simply because of their perceptions of and dislike of waste handling sites. He conceded that the plant may still be able to get consents for future activities, but considered the process, especially the consultation phase, would be more difficult. He also conceded that there are other examples of similar plants that are sited closer to housing but appear to operate successfully. It was his opinion that the Council would not have selected this site for the RRP if a development such as PC8 had been in the vicinity at the time.
58. I certainly understand the importance of the plant to the district, and I respect the experience and care Mr Hopman brings to his evidence. However I do consider that the plant is not so close to PC8 that, objectively speaking, adverse effects are likely to arise that would impact on the PC8 site. Odour is likely to be the main effect and I accept that with the amended buffer of 450 metres from the operational area offered by the applicant that this would not be an issue. Visual appearance is another potential effect, but the site could easily be screened. It is at present very open to Burnham School Rd.
59. In the absence of any credible actual adverse effects, I do not consider it necessary to decline PC8 because of the presence of the RRP facility. I note that the future residents have a choice to purchase sites or not in the knowledge that the plant exists, and so would be unlikely to receive a great deal of sympathy unless actual adverse effects arise.

Tegel Poultry Farm

60. The Tegel Poultry Farm is situated on Dunns Crossing Rd, between the Holmes and Skellerup blocks, but immediately north of PC9. Two potential issues were identified, noise and odour. In his noise evidence for the applicant, Mr Neville Hegley stated that although noise from ventilation fans at the Tegel had the potential to be a problem, this could be mitigated by a buffer distance, and that this would be less than the buffer that would be required for odour control, and therefore would not be a problem. With regard to odour, Mr Chilton calculated that a distance of 150 metres would be sufficient to disperse any odours, and noted that the applicant was proposing 200m in any case. He based this finding on the use of the AUSPLUME model, which is a standard odour modelling technique which has previously found favour with the Environment Court in another recent poultry farm case in Christchurch City.

61. However the choice of this model was questioned both by the odour expert for the Council, Ms Prue Harwood, and by Dr Brady for Tegel Foods. Ms Harwood referred to a newer model known as CALPUFF which she considers could be more appropriate for the Rolleston situation because she said it would be better at handling low wind speeds likely to occur at Rolleston than AUSPLUME. She referred also to two 2010 Australian reports, one by the Australian Government Rural Industries Research and Development Corporation, and another by the Queensland Chicken Growers Association (QCGA). The consensus of these two reports seemed to be that AUSPLUME could under-predict odour issues in these situations, as could CALPUFF except in low wind situations. QCGA has recommended minimum buffer distances which exceed those offered by the applicants. The QCGA report recommends a separation distance formula approach because of uncertainties in the modelling based approach. Based on these reports Ms Harwood recommended a minimum 300 buffer unless a no complaints covenant approach is adopted.
62. For Tegel Foods Dr Brady considered that the modelling approach adopted by Mr Chilton was likely to be insufficient. This was based on his understanding of the Australian reports discussed above. He also referred to a preference for CALPUFF over AUSPLUME but questioned the use of any model because of the deficiencies discussed in the Australian reports. He referred to separation distances of 400 m recently adopted for poultry farms recently in the Auckland and Taranaki regions based on the experience of field officers and complaints history. He initially recommended a separation distance of between 300-400 metres. By the time of the hearing Tegel Foods was prepared to accept a 250m setback within the PC9 property, accepting that the nearest poultry sheds are 40 metres from the boundary, provided that the applicant establishes a triple row of Leyland Cypress trees on the boundary and also provides a no complaints covenant. It was not made clear to me whether this was Dr Brady's recommendation or a decision by Tegel Foods itself.
63. I was advised that the district plan has a minimum 300m setback requirement. This is in the rural Volume Rule 10.1.1.4 and provides that subdivision of land within 300m of any existing lawfully established intensive livestock production activity shall be a restricted discretionary activity. There is no corresponding provision in the Township Volume and so, as part of PC9 the applicant has proposed a new rule requiring a 200 m separation distance from the Tegel Poultry Farm.
64. I record that Mr Chilton was the only one of these experts to actually attend the hearing. Ms Harwood provided a written report as part of the Council's report under section 42A of the RMA, and a supplementary memorandum after considering Mr Chilton's evidence to the hearing. Dr Brady's report accompanied Tegel's submission and was referred to again in a letter tabled at the hearing setting the outcome of pre-hearing discussions between the applicant and Tegel. In his closing submissions Mr Fowler found some significance in their absence and said that I should prefer Mr Chilton's evidence for that reason, amongst other reasons. For my part I do not consider it makes much difference. The differences in view are clear and easy to understand. The experts have all had the opportunity to read, understand and comment each other's views. Mr Chilton's view did not change to any extent between his initial assessment and giving his evidence. He certainly had the opportunity to hear and respond to the views of the other experts. About the only advantages of oral over written presentations is the opportunity to question the witnesses, and for them to react to each other's evidence. The latter has been achieved in any case, more so in the case of Ms Harwood and Mr Chilton. My notes reveal that I actually asked very few questions of Mr Chilton. The differences between the experts are actually quite simple and come down to the perceived adequacy or otherwise of the Ausplume modelling approach, based on the very recent Australian reports discussed by Dr Brady and Ms Harwood. Mr Chilton did not actually discuss the Australian reports to any extent. I doubt I would have needed to ask the others many if any questions about that.
65. There were other differences, such as whether or not buoyancy effects and the odours arising from cleaning out the poultry sheds had been factored in, but Mr Chilton answered those concerns in his supplementary evidence. It is the question of whether or not the AUSPLUME

approach would be reliable in low wind conditions that is concerning me the most and that just came down to a difference of opinion between the experts.

66. For the applicant Mr Fowler, Mr Chilton and Mr Greg Dewe the planning witness all showed some indignation that their approach was being questioned in this way. That is because they have faithfully followed an approach endorsed by the Environment Court in another recent poultry farm case at Wilmers Rd in Christchurch, which was described as “the Rickerby approach”.² To that I can only comment that even though that case may have been state of the art at the time, recently the Australian reports seem to have raised a relevant new concern, being the possible inadequacy of the AUSPLUME model to correctly predict odour dispersion in calm, very low, or katabatic wind conditions. Katabatic winds are those which flow down slope from high ground, in this case following the slope of the Canterbury plains from the mountains to the sea. Such breezes would carry odours directly from the poultry sheds to the PC9 site.
67. Finally, in closing Mr Fowler reminded me that we are only considering four potential houses on the 4 ha blocks that fall within the disputed distance along the northern boundary of the Skellerup block with the poultry farm. He also gave me a plan showing that with a separation distance greater than 200 metres it would be impossible to build houses on the 4 ha lots.
68. I consider that Ms Harwood and Dr Brady have raised valid concerns about the “Rickerby approach”, at least as it applies in this case, bearing in mind the relative frequency of low winds and katabatic breezes. It also seems to me that the recent Australian reports call the approach into question. The whole matter may have to be revisited by experts and the Environment Court. For the present I think a more cautious approach should be adopted. For the reasons described above I do not favour the use of no complaints covenants in these circumstances, and I am not convinced that there being only 4 affected lots provides a reason for ignoring the potential effect on those 4 households. I therefore consider the 300 metre separation distance specified in the district plan should be retained. This would lead to a need to alter the proposed Outline Development Plan for the Skellerup Block. The simplest approach would be to delete one row of the 5000m² lots in the centre of the Skellerup block, but other layouts may be possible. Amendment 28 should be altered by deleting 200 and substituting 300 metres as well as the necessary amendments to the ODP. Following the hearing, in a Minute to the Parties I requested the applicant to provide an amended Outline Development Plan incorporating the 300 metre separation distance. This was provided and has the desired effect, while reducing the number of lots to 51.

Effect on surrounding farmers

69. In their submissions Mr and Mrs Griebel discussed the potential impact of PC 9 on surrounding farm land, particularly along the eastern boundary. Their own property is on the western side of Edwards Rd, approximately 44 metres from the boundary of the Skellerup Block. As well as the impact on the amenities of their own property they were concerned about reverse sensitivity effects on the farm land in between. This land, lying between Edwards Rd and the Skellerup block is used for dairy run-off in winter and for crops such as hay and baleage in the summer. The Griebels consider that activities on this farm land are likely to give rise to complaints from new residents on the Skellerup block. They thought complaints would arise because of odours from baleage and from the use of manures, dust from fertiliser spreading, noise from cattle, the clicking noises made by irrigators, and noise from farm machinery such as haymaking including at night. They thought the farms could be directly affected by pet dogs upsetting cattle, by trespass and by people disposing of vegetative waste over fences, some of which could be toxic to cattle.
70. None of the expert witnesses addressed the possible odour problems from surrounding rural land. Either they overlooked them or did not consider them serious enough to worry about, but if it was

² ". I do not have the relevant case citation and was not able to find it, so I may not have the details of this case quite right, but I believe I understand what the parties were saying about it.

the latter they would probably have said so. Mr Hegley for the applicant discussed noise from agricultural sources, noting that the district plan noise controls contain exemptions for these activities but that rural activities can be relatively noisy on an intermittent basis. For my part, I believe there is some potential for adverse effects and complaints, but probably at a low level and sporadically, because none of these activities are continuous. The fact that rural noise might comply with the district plan because of the exemptions would not necessarily stop people complaining or mean the Council would not have to follow up such complaints.

71. People will have chosen to live close to a working farm, partly because of the amenity and enjoyment that provides, so they will probably have some tolerance for such effects, although experience with the likes of frost protection for vineyards shows that such tolerance can disappear when effects are felt strongly.
72. Selwyn District's rural zones are divided into the Inner Plains and the Outer Plains zones. The Inner Plains zone tends to be to the east of Rolleston and closer to Christchurch City, and contain generally smaller blocks. Large scale farming activities are expected to be much more prevalent in the Outer Plains zone. There could be a case made for excluding rural residential zones from the Outer Plains zone to avoid such effects. However because Rolleston is on the border between the Outer and Inner Plains zones, this would have the result of Outer Plains zoning occurring across the road from fully built up residential zones, which could be worse, because many more people would be affected. For example, my experience from other rural districts tells me that the former forestry activities on both the Holmes and Skellerup blocks, if continued, would probably have led to complaints once this side of Rolleston had developed, from effects such as shading, wind noise and road frost. Rural residential development could provide a more satisfactory buffer than a direct interface between Outer Plains and full urban activities. In this case the numbers of properties directly adjacent to the farms is quite limited because these are the larger 2 and 4 ha lots.
73. I thought the Griebels have a point, and I have considered it carefully. However I have concluded that this would not be enough to justify turning PC9 down. My reasons are that the effects would probably be minor and occasional, and because declining the applications would only lead to transferring the potential for the same or similar effects up to the urban boundaries of Rolleston, which could be worse. I note that the revised PC9 proposals now have a band of 2ha allotments along the western and southern boundaries which halves the number of lots adjacent to the rural boundary.
74. The Griebels were not concerned about PC8. It is well removed from their own property and nearby rural land is mostly contained in the Wastewater Treatment Plants disposal areas and the Waste Recovery Park.
75. The Griebels had a good deal to say about what they consider to be the impact of the WWTP on ground water quality in the vicinity. I am not required to make a finding on that. Both PC8 and PC9 are intended to be connected to the Rolleston sewerage reticulation so will not directly affect groundwater quality. This was not a hearing about the WWTP.

Noise

76. Mr Nevil Hegley for the applicants provided expert evidence on noise. He considered the effects of various sources of noise, including railway and road traffic, the Wastewater Treatment Plant, the Resource Recovery Park, the Tegel poultry farm, and an electricity substation on the application sites. Of these he considered the substation required buffering from the Holmes Block, which would be achieved by the 50 metre wide Countryside Area along Dunns Crossing Rd, and the poultry farm required buffering from the Skellerup Block, which would be achieved by the 150 m setback for odour proposed by Mr Chilton. He considered there needs to be a separation distance from the State Highway and any homes on the Holmes block and was satisfied that the rules proposed in the Council's Section 42A report would achieve this. He was not concerned

about the noise from the Wastewater Treatment Plant, Waste Recovery Park or railway. As noted above he was not particularly concerned about the potential for intermittent noise from agricultural activities.

77. Mr Hegley also considered whether noise from the residents on the two sites would adversely affect the amenities in surrounding rural areas. He pointed out that such noise is provided for and controlled by the District Plan which does provide exemptions for intermittent activities, that rural residential developments were generally quiet, and that the surrounding rural areas would be more affected by noise existing activities than from the proposed sites.

Traffic

78. For the Council Mr Andrew Mazey, the Council's Transportation Asset Manager provided a report and responded to questions. For the applicant Mr Andrew Metherell gave evidence. The main points debated between them were as follows.

- **General transport matters.** Both experts outlined the extensive efforts that have gone into transport planning in and around Rolleston, as expressed in the Christchurch Rolleston and Environs Transport Study, and the Rolleston Structure Plan. Basically these documents foresee the need for a set of radial routes from the centre of Rolleston out to the edges, and ring roads around it. Dunns Crossing Road is to form part of the outer ring road. Other elements of the network will be provided by upgrades to existing roads and provision of new routes as development occurs under through exercises such as PC7.
- **Intersection spacing** In his report Mr Mazey outlined potential difficulties with intersection spacing between the access roads into the two plan change sites, and the roads on the opposite side of Dunns Crossing Rd shown on the Rolleston Structure Plan. By the time of the hearing the applicant had revised the two plan changes so that each would have a single access road leading onto Dunns Crossing Rd aligned with the proposed roads opposite, and Mr Mazey accepted this. Flexibility may be required in the case of PC9 as the exact location for a new arterial road opposite has not been determined. It is better known for PC8 as development proposals for the land opposite are known and being implemented.
- **Effect on the nearby intersection of Dunns Crossing Rd and State Highway 1.** In its original Traffic Assessment Report the applicant had identified an unacceptable drop in performance at this intersection due to the proposals. Mr Mazey considered the intersection should be upgraded and the applicant should contribute to this. With the reduced number of allotments proposed by the time of the hearing, Mr Metherell identified that the worst intersection leg would operate at a Level of Service E by 2026, which is generally regarded to be the minimum acceptable level and the same as the 2026 level without the development. Mr Mazey was still dissatisfied with this and still sought a contribution towards upgrading. I note that the NZ Transport Agency, which has the responsibility for State Highway 1 did not raise this issue in its submission.
- **Internal road layout.** There was no disagreement about the internal layouts eventually adopted, but Mr Mazey was critical of the proposed rules for road widths etc. in the Living 3 zone. With the exception of the maximum formation width of 8 metres which he opposed and thought should be 6.5m, he considered these duplicate almost identical provisions in the Council's Proposed Plan Change 12, and are unnecessary. Mr Metherell accepted the duplication but wanted to retain the rules because Plan Change 12 is as yet only proposed.
- **Public transport and walking.** Mr Mazey pointed out the limited availability of public transport and relatively long walking distances that would be required to access it.

Conclusions on Transport

79. The intersection spacing issue was resolved at the hearing by the applicant agreeing that the access roads would be opposite planned new roads leading to Rolleston.
80. With regard to the State Highway intersection, normally I might have agreed with the suggestion of the applicant making a contribution. However there are practical problems here. NZTA does not appear to be proposing any upgrade in the foreseeable future. There is nothing to contribute to and no way of assessing an appropriate level of contribution, or when it might be required. There simply seems to be no available mechanism to require such a contribution. Given the minimal compliance with acceptable levels of service, NZTA's indifference to the issue, and the availability of other routes into Rolleston and onto the State Highway via traffic lights at Rolleston, I have concluded that no contribution towards this upgrade should be required.
81. With regard to the roading rules, while Change 12 would be perfectly adequate to govern the situation, I cannot be certain that it will remain in its present form. I therefore consider that the provisions proposed by the applicant be retained, but that the maximum formation width be reduced to 6.5m. If Change 12 is confirmed, these provisions will be redundant but it would be a very minor piece of duplication. The Council can if it wishes tidy that up at a later date with a small plan change.
82. With regard to public transport and walking, I agree that this is not ideal. However I consider it is inherent in the whole concept of rural residential living, a certain amount of which is enabled by PC1, so has to be accepted. At least the locations of these developments are closer to Rolleston than other sites which could have been proposed.

The Submissions

83. 32 submissions were received and accepted on Plan Change 8, with 4 being rejected for being late. 31 submissions were received and accepted on Change 9 with 4 rejected for being late. Most of these submissions were in respect of both Changes 8 and 9. There were a wide range of matters raised in the submissions, and the decisions sought ranged from rejecting the changes in many or most cases, through to amendments of particular aspects. There were no submissions in total support. A number of further submissions were lodged in support of those seeking the rejection of the plan changes.
84. Many of the submissions raised a number of matters. The RMA requires decisions to be made on each submission with reasons. Rather than dealing with each individually, I have chosen to group the submissions according to subject matter, as the RMA allows for³. Many of the matters have been discussed already, but for convenience I will refer to each briefly. A Schedule of decisions on each topic is attached.
85. The topics raised in submissions are:
- 1 **Amend noise rule.** The Holmes block is adjacent to State Highway 1 along its northern boundary and dwellings closest to that boundary could be adversely affected by traffic noise. Various versions of a rule to mitigate this effect were suggested but all concerned seemed to accept a rule put forward by the reporting officer Mr Cleese as modified by Mr Hegley, so I have inserted this in the Schedule of plan amendments.
 - 2 **Archaeology.** The NZ Historic Places Trust advised that although there are no known archaeological sites on either block, the possibility exists of underground archaeological materials that could be uncovered by earthworks. They would like an advice note attached to the plan changes, if approved. I can understand the sentiment, but it is not a practical suggestion. Advice notes are sometimes attached to resource consents but I know of no meaningful way in which one can be attached to a rezoning approval. It is only when

³ First Schedule, Clause 10 of the RMA.

earthworks were being carried out on site that anything might be discovered, at which time it is unlikely that anyone would be consulting the District Plan. In such event the provisions of the Historic Places Act apply. No person may destroy an archaeological site without authority from the Historic Places Trust. In any case it seems unlikely that any archaeological remains could have survived the processes of establishing the two sites in forestry and then clearing it and restoring the sites to farmland.

- 3 **Better locations exist for rural residential development.** Many submitters suggested that these sites were not the best locations for rural residential development. Some of them preferred the Rural Inner Plains Zone, which lies closer to Christchurch. Some were keen to promote the use of sites they have an interest in, possibly including processes under PC 17. However, this is not an exercise in establishing the best possible sites for rural residential development. I need only to be satisfied that these sites are suitable, not the best possible sites that could be found. In any case I was in no position to judge the merits of the other sites which were suggested to me. PC 17 and to a lesser extent PC1 are concerned with establishing a strategic, district and region wide approach to rural residential development. When completed these may include limits on locations and numbers. Until they are complete, I have to have regard to these two changes but am not bound by them. As discussed below, I consider that PC 17 is still too early in its journey through the RMA process to be given much weight in this process. It may well change substantially before it is completed.
- 4 **Conflict of Interest.** A number of submitters thought that the Selwyn District Council has a conflict of interest, being the majority owner of the Selwyn Plantation Board which is the applicant, and also being the planning authority which has to approve these plan changes or not. That is actually correct, but conflicts of interest are almost inevitable from time to time given the wide range of activities local authorities become involved in. The RMA is capable of resolving conflicts of interest. In this case, the Selwyn Plantation Board is managed separately from the Council and makes its own decisions on what business opportunities to pursue. It prepares its own applications under the RMA after receiving independent advice. The Council has arranged for other independent consultants to review and report on those applications, and for me as an independent Hearings Commissioner to hear and consider the applications and submissions and make a recommendation to the Council on them. Ultimately the outcomes can be appealed to the Environment Court and if necessary to the Higher Courts. I have no concerns that the process to date has been tainted by conflicts of interest.
- 5 **Contrary to statutory purposes in s5 and 7 RMA.** I discuss this below under the heading of statutory analysis. There I concluded that neither plan change is contrary to the purposes of the RMA set out in sections 5 and 7.
- 6 **Contrary to District plan objectives and policies.** I discuss this below under the heading of the Operative District Plan and conclude that neither plan change, if modified as suggested, would be contrary to the District Plan objectives and policies.
- 7 **Contrary to PC1 Commissioner's recommendations not to leave the choice of rural residential sites to developers.** It is true that the PC1 Hearing Commissioners recommended that the local authorities conduct a review of provision for rural residential development rather than leaving it to developers to select the site. However that was a recommendation not a binding decision. PC 17 is part of this Council's response to that recommendation and the Waimakariri District council is also carrying out such a review. Christchurch City Council has yet to respond. None of that affects the ability of landowners to make such applications, although that ability would be constrained if PC1 and PC17 become operative.
- 8 **Contrary to RPS.** I discuss this below and conclude that neither plan change is contrary to the operative regional Policy Statement.

- 9 **Contrary to Rural Residential Background report.** This report is the result of an investigation by the Council into the provision of land for rural residential development. I discuss it below. The report stops short of making specific recommendations about sites, but makes a number of recommendations about principles. Whether or not PC8 and 9 implement those principles, the document itself is not binding and needs something like PC17 to give it regulatory force.
- 10 **Contrary to UDS** I do not believe that these plan changes are contrary to the UDS. That submission may come from confusing rural residential development with full residential urban growth. The UDS is a strategic rather than a regulatory document but is largely reflected in PC1 in any case.
- 12 **Density of development is too high.** If rural residential development is to be allowed at all, it is appropriate that it proceed at a density of about 1 site per hectare, as set out in PC1. These sites achieve about that average density. Expert evidence was led by the applicants indicating that many people prefer sites in this size range, and larger sites of around 4 ha are often larger than desired and therefore rather wasteful of land.
- 13 **Develop existing zoned areas first.** There is no general reason under the RMA to insist on developing existing zoned areas first, although there may sometimes be particular reasons, such as efficiency in providing infrastructure for example. No local reasons were suggested to me. Instead evidence was led indicating that there could be a shortage of zoned rural residential sites in the near future, especially near Rolleston.
- 14 **Earthquake considerations.** This was mentioned but not elaborated on and I am unaware of why it would be relevant. There was no suggestion that these sites should be kept for conventional housing to rehouse people displaced by the earthquakes.
- 15 **Excessive commuting to Christchurch promoted.** It is true that rural residential owners will often be commuting to Christchurch for employment and other needs. That is possibly a reason for limiting the amount of rural residential development, as PC1 seeks to do, and for finding sites as close as is reasonable to Christchurch. On the other hand Rolleston is no further from Christchurch than many other likely sites, and at least is well provided with public transport, and developing employment, commercial and community facilities of its own.
- 16 **Excessive share of PC1 quota.** PC1 proposes that there be no more than 600 further rural residential lots established in the Selwyn district by 2041. These plan changes as originally advertised would have claimed 225 of those, although following all the revisions this would be reduced to 148, and it may be unfair to count the 11 4 ha lots in that tally as these would be accepted as rural lots in other parts of the District and Greater Christchurch. That is seen as unfair by many who have development aspirations of their own. That may well be true, but PC1 itself gives no guidance about location or fairness of allocation and until PC17 is further advanced, as discussed below, neither does anything else I can rely on. Unfortunately the RMA sometimes has to allocate scarce resources.
- 17 **Increase to 1 ha minimum lot size.** I believe this submission is based on a misunderstanding of the revised definition of rural residential in PC1, which can be read as meaning that. It can also be read as requiring either an average or a maximum lot size of 1 ha. In my opinion it is very poorly worded and completely ambiguous and needs attention through the appeal process.
- 18 **Inner Plains zone more suitable for Rural residential** In general terms this may be correct, at least because the Inner Plains zone is already more fragmented into smaller allotments, and is mostly closer to Christchurch. However this is not an exercise in finding the most suitable sites, only in deciding whether or not these two sites are suitable. The Rural Outer Plains is very close to the western side of Rolleston, so a blanket avoidance of rural

residential in the Outer Plains zone would result in no more rural residential allotments on that side of Rolleston. There are already some rural residential lots west of Rolleston.

- 19 Land values would increase in the vicinity.** This is not something that is relevant under the RMA.
- 20 The process makes a mockery of existing planning work.** Projects such as PC17 and the Rural Residential Background Report can be pre-empted before they are completed by privately requested plan changes that “get in first”. Unfortunately that is just a fact of life under the RMA. People’s frustration with this is perfectly understandable, but until exercises such as PC17 are further advanced, they cannot be implemented in full and may have to be adapted in the light of other exercises coming ahead of them.
- 21 Boundaries of the sites are not logical.** The boundaries of the sites are cadastral only. They do not follow some strong physical feature to set them apart and confine them, as preferred by the Rural Residential Background Report. Unfortunately, that is also often a fact of life in the Selwyn District, which has a largely flat open terrain with few physical points of difference to define boundaries of zones. In fact the Holmes Block is reasonably well contained by the State Highway, and the wastewater disposal sites. The Skellerup Block is less well contained. It is a factor to be weighed up but not in my opinion so important as to suggest either site should be rejected.
- 23 PC8 may compromise reticulation.** This was suggested but not borne out by the evidence which is that PC8 can be accommodated by the reticulation being installed for subdivisions across Dunns Crossing Rd.
- 24 Precedent.** Some submitters consider that if these applications are allowed, it would set a precedent and other nearby owners would be encouraged to apply. That may be the case, but as I understand the law precedent is not really a relevant issue when considering plan changes, but is more relevant to resource consents, especially non-complying activities. These have the potential to affect the integrity of the plan, if the plan remains unchanged but is regularly being departed from. However a plan change by its very nature means the appropriateness of the plan is being reconsidered. If one plan change application meets the relevant statutory tests then it may well be that another will also.⁴ If a plan change is able to comply with existing objectives and policies, then that is a powerful reason why it should be granted, regardless of whether or not there is a precedent created. If the Council considers an undesirable trend is becoming established, it has the option of reviewing those objectives and policies.
- 25 Refer to intensive farm rather than poultry breeder farm.** The operators of the poultry breeder farm adjacent to the Skellerup block would prefer the rules refer to an intensive farm rather than a poultry breeder farm, to preserve their flexibility to make changes to their operation within existing use rights. It is a fair point and easily accommodated within the rules.
- 26 Retain the land for future effluent disposal, dairy run-off or forestry.** A number of submitters considered the land should be retained for rural uses such as dairy run-off or dairy run-off of forestry. There was no evidence of any need for more land for wastewater disposal, nor any evidence that there was any shortage of land for agricultural or forestry uses or why these would be more suitable than the proposals, so I was not convinced by this.
- 27 Reverse sensitivity for utilities and surrounding farmers.** This has been discussed above. Increased separation distances are being recommended for both the Resource Recovery Park and the Wastewater Treatment Plant disposal area, and there was no evidence of significant effects on neighbouring farmers.

⁴ See Canterbury Fields Management Ltd v Waimakariri District Council Decision C99/2011, starting at paragraph 93 for a discussion of precedent in regard to plan changes

- 28 Rolleston Structure Plan inconsistency.** I do not believe this is borne out by the evidence. The Rolleston Structure Plan is not a regulatory document. However I accept that it is a comprehensive and well-thought out strategic document and should be given a lot of weight, when it is relevant. However it does not attempt to deal with rural residential land. If rural residential development is regarded as a form of residential, or urban development these changes would be inconsistent with the structure plan. However, I do not regard rural residential that way. I believe PC1 makes it clear it is not urban, and should be outside urban limits. I agree.
- 29 Rural Amenity.** Some submitters are concerned about effects on their quiet rural amenities, e.g. noise and traffic. In the case of PC8 this could only occur at the Living 2 zone at the corner of Burnham School Rd and Dunns Crossing Rd and I believe the effect would be minor. In the case of the Skellerup Block, such effects might be felt to the west, along Edwards Rd, but because of the relatively long separation distances, the large allotments around all these boundaries and existing shelter belts, I consider such effects would be minimal. For the applicant Mr Hegley pointed out that rural residential activities are generally quiet, that there are rural activities which could create more noise and that if serious noise problems arose then the council would have powers to do something about it.
- 30 Rural character.** I have discussed this above and concluded that with the design features agreed upon between the applicant and Council's urban design and landscape witnesses that there will not be an adverse effect on rural character.
- 31 Section 32 analysis inadequate.** My analysis under section 32 set out below is that the plan changes satisfy the requirements of section 32 of the RMA.
- 32 Scale and numbers of allotments should be reduced.** In fact the number of allotments has been reduced quite significantly since the applications were first notified. However this seems to relate to PC17 which has a threshold of 50 lots in any one site. While this may be desirable, it is premature to give effect to PC17 and in any case I believe the applicant has demonstrated that with careful design it is possible to exceed this number while still not creating adverse effects.
- 33 Urban design.** I have discussed this in depth above and concluded that there are no urban design reasons for declining the applications.

Planning Documents

The Operative Planning Documents

Regional Policy Statement

86. The Canterbury Regional Policy Statement (the RPS) was made operative in 1998. It contains several chapters relevant to these applications, in particular Chapter 2, Settlement and the Built Environment and Chapter 15, Transport. As this is an operative RPS I am obliged to give effect to it⁵.

87. Relevant objectives in Chapter 12 include

- *Avoid, remedy or mitigate adverse effects of settlements and the use and provision of network utilities on the environment.*
- *Settlement patterns that do not adversely affect the efficient operation, use and development of the region's infrastructure.*

⁵ Section 75(3) Resource Management Act 1991.

- *Maintain the rural character of land in the proximity of Christchurch where it has significant landscape values or ecological values, including amenity values.*
- *Maintain Christchurch's rural-urban contrast.*
- *Settlement patterns in rural areas should enable people and communities to provide for their wellbeing.*

88. Relevant policies include

- *Promote settlement and transport patterns that will result in effective and efficient use of energy resources, particular energy.*
- *Encourage settlement patterns that will make efficient use of the regional transport network.*
- *Discourage urban development where this would adversely affect the operation, efficient use and development of the region's infrastructure.*
- *Expansion of rural towns to have regard to the efficient use and development of natural and physical resources and to the wellbeing of people and communities.*

89. Other than the tendency of any rural residential development to promote use of private motor vehicles and increased travel distances, I regard these objectives and policies as being achieved. Because of the close proximity to Rolleston I am not too concerned about the minor amount of additional travel involved here. Both sites are close to State Highway 1, and to other roads leading into Rolleston. While there remains a possibility that residents of the two blocks would travel regularly to Christchurch, the same could be said about any rural residential location. At least from these blocks it is not very far to urban services in Rolleston.

90. Relevant Objectives in Chapter 15 include

- *Enable a safe, efficient and cost-effective transport system to meet present and future regional, inter-regional and national needs for transport.*
- *Avoid, remedy, or mitigate the adverse effects on the environment of transport use and provision.*

91. Relevant policies in Chapter 15 include

- *Protect Canterbury's existing transport infrastructure and land transport corridors necessary for future strategic transport requirements by avoiding, remedying, or mitigating the adverse effects of the use, development or protection of land and associated natural and physical resources on the transport infrastructure.*
- *Promote the use of transport modes which have low adverse environmental effects.*
- *Promote changes in movement patterns, travel habits and the location of activities, which achieve a safe, efficient and cost effective use of the transport infrastructure and reduce the demand for transport.*

92. Close proximity to State Highway 1 promotes efficient use of that corridor and reduces effects on local roads. There would be some impact on the State Highway 1/Dunns Crossing Rd intersection, which is discussed above. Other than that, the only relevant consideration seems to be the tendency of all rural residential developments to rely heavily on the private car. The close proximity to Rolleston should reduce this in relation to most trips except perhaps trips to work, the majority of which are likely to be to Christchurch.

93. Overall I consider the proposals are not contrary to the objectives and policies of the operative regional policy statement.

Selwyn District Plan

94. The Selwyn District Plan is a document that is very rich in objectives and policies. Because of that it can be difficult to do justice to all of these. I considered that, because the applications are to take the land from the rural zones into a Living zone adjacent to the Rolleston urban area, the Township Volume is the most appropriate part of the Plan to consider. I also examined the Rural Volume because several key witnesses agreed that rural residential living is a form of land use which sits between urban and rural, having links to both.
95. Relevant Objectives and policies from the Township Volume include the following.
96. In Section B1.1 Natural Resources – Soils, Policy B1.1.8 seeks to generally “*avoid rezoning land which contains versatile soils for new residential or business development.*” The evidence was that these soils, although useful for some forms of agriculture have too many limitations to be regarded as versatile.
97. In Section B2.1 Physical Resources -Transport, Objective B2.1.1 is to ensure “*the safe and efficient operation of the District’s transport networks is not impeded by adverse effects from activities on surrounding land or by residential growth*”. Objective B2.1.2 is the converse of that, “*to ensure adverse effects of transport networks on adjoining land uses are minimised*”. Objective B2.1.3 says that “*the establishment of land uses is to be avoided where they may give rise to reverse sensitivity effects on the operation of transport networks*”. Issues of concern here were intersection spacing, the effects on the State Highway 1/Dunns Crossing Rd intersection, and noise from the State Highway, all of which are discussed elsewhere in this report and I consider can be satisfactorily addressed.
98. Policies in this section are similar, but one interesting issue is raised by Policy B2.1.4 (b), which is “*to assess the effects of allowing or disallowing residential growth in townships in Selwyn District on transport demand and promote land use patterns that will reduce the demand for transport*”. As noted above when discussing the Regional Policy Statement there is an inherent tension between allowing any rural residential development at all, and reducing transport demand. The location close to Rolleston will at least reduce transport demand compared to locations in remoter parts of the District so this satisfies the policy to an extent.
99. Section B2.2 is about Utilities. Under Objective B2.2.2, “*efficient use of utilities*” is promoted. Policy B2.2.4 is to “*Ensure provision is made for the on-going maintenance and repair of utilities which do not vest in the Council, and that the users of these utilities are informed of any responsibility they have for on-going maintenance or repair*”. The explanation to this policy strongly emphasises that Council does not prefer privately owned sewage systems, but considers where they are used then provision has to be made for residents to accept their maintenance responsibilities. This policy needs to be read in the light of PC1 which is discussed above. For present purposes I note that there was no suggestion by the applicant as to how this aspect would be dealt with. In fact Martin Dasler, the applicant’s engineer was dismissive of it, simply stating that maintenance would probably not arise since the proposed temporary system for PC9 would be short-lived. I note that there can be no guarantee of that, and that development across Dunns Crossing Rd may or may not take place around 2017 as envisaged by the Rolleston Structure Plan. I therefore consider this policy is not well achieved by the PC9 proposal in its present form.
100. Policy B2.2.5 is to “*avoid potential ‘reverse sensitivity’ effects of activities on the efficient development, use and maintenance of utilities*”. This became a significant issue for PC8 in particular. The proximity of the Rolleston Wastewater Treatment Plant and the Rolleston Recovery Park means that is PC8 is to go ahead at all, adverse effects for the residents,

particularly odours need to be avoided, and the Council's ability to operate these two important facilities is not unreasonably constrained. In the end I concluded that with adequate separation distances this could be achieved.

101. Section B2.3 is entitled Community Facilities. Objective B2.3.1 says *"Residents are to have access to adequate community facilities"*. These will be found nearby in Rolleston. In time as Rolleston develops there may be such facilities in new areas nearby, but for the foreseeable future most community facilities are in and around the Town Centre. Access to community facilities will be available, but largely by private motor vehicle.
102. Section B3.4 is entitled Quality of the Environment. Objective B3.4.1 seeks that *"the District's townships are pleasant places to live and work in"*. Objective B3.4.2 seeks that *"a variety of activities are provided for in townships, while maintaining the character and amenity values of each zone"*. Objective B3.4.3 says *"Reverse sensitivity" effects between activities are avoided*.
103. Policy B3.4.3 is *"to provide Living zones which:*
– *are pleasant places to live in and provide for the health and safety of people and their communities*
– *are less busy and more spacious than residential areas in metropolitan centres; and*
– *have safe and easy access for residents to associated services and facilities."*
104. Policy B3.4.38 is to *"avoid rezoning land for new residential development adjoining or near to existing activities which are likely to be incompatible with residential activities, unless any potential 'reverse sensitivity' effects will be avoided, remedied or mitigated."* This is strongly relevant to the Wastewater Treatment Plant and the Resource Recovery Park. As discussed above, I concluded that with adequate separation distances, problems were not likely to arise.
105. Section B4 is Growth of Townships and is particularly important given the approach Mr Cleese and Mr Church took on behalf of the Council with regard to urban design. Objective B4.1.1 says *"a range of living environments is provided for in townships, while maintaining the overall 'spacious' character of Living zones"*. Objective B4.1.2 says *"new residential areas are pleasant places to live and add to the character and amenity values of townships."* PC8 and PC9 are consistent with these objectives, read by themselves
106. However Policy B4.1.3 is much more significant for these proposals, PC9 in particular. It is *"To allow, where appropriate, the development of low density living environments in locations in and around the edge of townships where they will achieve the following:*
A compact township shape;
Consistent with preferred growth options for townships;
Maintains the distinction between rural areas and townships;
Maintains a separation between townships and Christchurch City boundary;
Avoid the coalescence of townships with each other;
Reduce the exposure to reverse sensitivity effects;
Maintain the sustainability of the land, soil and water resource;
Efficient and cost-effective operation and provision of infrastructure."
107. Of these 8 criteria, only the 4th, 5th and 7th are not directly relevant. The others must be examined.
108. **Compact township shape.** The planning and urban design witnesses for the applicant and the Council all agreed that PC8 would not infringe this policy. They based this conclusion on PC8 being adjacent to an existing Living 2 zone south of Burnham School Rd, and otherwise bounded and confined by the Wastewater Treatment and disposal land and the Rolleston Recovery Park,

and the State Highway 1 corridor. Clearly there can be no further expansion of the Rolleston township in the vicinity of PC8. The witnesses diverged sharply however about PC9. For the applicant their planner, Greg Dewe emphasised that the site is opposite land expected to become full residential some time after 2017. He said that the 2 and 4ha allotments that would surround the outer edges PC9 in one of the versions put forward would confine the zone and discourage outward growth. He also relied heavily on his view that Rolleston has been a very popular location for rural-residential living, that nearly all the land zoned for that in the past near Rolleston has now been identified for more intensive living in the Structure Plan, and that the area to the west of Dunns Crossing Rd is the most suitable location for further rural residential close to Rolleston.

109. Mr Church and Mr Clease consider that the PC9 site would not achieve a compact township shape. They pointed out that it is relatively unconfined, has Rural Outer Plains zoning on 3 sides, and is opposite land that for the present at least is in a low density lifestyle zoning of Living 2A. Mr Clease rather unkindly called it a “peninsula on a peninsula”. I say unkindly because I am not convinced that the Living 2A land opposite should rightly be called a peninsula. It is well-connected to Rolleston, and if we must use this metaphor, at most it would be a gentle cape. Mr Clease also considered that there would be the potential for PC9 to encourage further rural residential developments to the south and west.
110. I found this debate rather semantic. It is an easy one to engage in on paper, especially when looking at planning maps. It does not help that rural residential zones tend to be labelled “Living zones” in district plans around Greater Christchurch. The rural residential zones can then be thought of in the same way as other, higher density living zones and thus it is easy to regard them as part of the town. By contrast PC1 is careful to say that rural residential activity is outside urban limits, although preferably should be close to them. Under the PC1 view, rural residential zones are not parts of towns at all and therefore could not affect their form, compact or not. I also think that rural residential living lies somewhere between urban and truly rural living and can provide a transition between them. If they are regarded as part of the township they will never achieve compactness, because by nature they are not compact.
111. I have therefore concluded that PC9 does not fail to achieve a compact shape for the township of Rolleston. I think the shape of the town is better defined by looking at the truly urban Living zones.
112. The argument about precedent is more relevant to resource consents. If a rezoning complies with objectives and policies then it should probably be allowed. If it does not, then it is unlikely to be allowed. Precedent should have little to do with that.⁶ In any case any fears about unrestrained creep of rural residential activity should be dealt with under PC1 and PC17 when these are settled.
113. **Consistent with preferred growth options for townships.** The best indicators of preferred growth are the Rolleston Structure Plan and PC1. The sites are adjacent to land that is intended under the Structure Plan to be developed over time for full urban purposes. Under PC1, the sites achieve the policy preference for being outside but close to the town. This criterion is therefore achieved.
114. **Maintains the distinction between rural areas and townships.** Like compact shape, this criterion depends on whether rural residential is considered to be part of the town, or urban area. As I do not consider it to be fully urban then this criterion is satisfied. To call it urban would be contrary to PC1.
115. **Reduce the exposure to reverse sensitivity effects.** As already discussed, by increasing some of the separation distances, this can be satisfied.

⁶ See Canterbury Fields Management Ltd v Waimakariri District Council Decision C99/2011, starting at paragraph 93 for a discussion of precedent in regard to plan changes

116. **Efficient and cost-effective operation and provision of infrastructure.** As noted above there was disagreement about this in regard to PC9. However the Council was not arguing that PC9 be rejected for this reason, but that if it was to be allowed it should be deferred until a publicly-owned system is available. I agree with that.

117. I also examined the Rural Volumes' objectives and policies. I found some repetition of the Township Volume provisions relating to versatile soils, transport and utilities, and as expected an emphasis on maintaining rural character and a low density in the Rural Zones. This volume seems silent on expansion of Rural Residential, even in the Inner Plains zone. The most relevant provision in either Volume seems to be Policy B4.1.3 in the Township Volume discussed above.

Proposed Planning Documents

118. Other than PC8 and PC9, there are four other significant planning exercises being carried out at present under the Resource Management Act (the RMA) which are relevant. These are the Proposed Regional Policy Statement 2011, Proposed Change 1 to the Regional Policy Statement (PC1), and Proposed Changes 7 and 17 to the Selwyn District Plan (PC7 and PC17).

Proposed Regional Policy Statement 2011

119. The recently-notified review of the Regional Policy Statement deals with urban growth at a general level and also proposes to adopt and include the earlier PC1 which deals with growth in Greater Christchurch. At the general level I found several relevant clauses in Chapter 5, which is titled "Land Use and Infrastructure".

120. Objective 5.2.1 is

Location, design and function of development (Entire Region)

Development, including papakāinga and marae, is located and designed so that it functions in a way that:

- (1) achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region's growth; and*
- (2) enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which:*
 - (a) maintains, and where appropriate, enhances the overall quality of the natural environment of the Canterbury region, including its coast line, significant landscapes and natural values;*
 - (b) provides sufficient housing choice to meet the region's housing needs;*
 - (c) encourages sustainable economic development by enabling business activities in appropriate locations;*
 - (d) minimises energy use;*
 - (e) enables rural activities that support the rural environment;*
 - (f) is compatible with regionally significant infrastructure; and*
 - (g) avoids adverse effects on significant natural and physical resources.*

121. Policy 5.3.1 says

Regional growth (Wider Region)

To provide, as the primary focus for meeting the wider region's growth needs, sustainable urban patterns that:

- (1) ensure that any*
 - (a) urban growth; and*
 - (b) limited rural residential development occurs in a form that concentrates, or is attached to, existing urban areas and promotes a coordinated pattern of development;*
- (2) encourage within urban areas, housing choice and business opportunities of a character and form that supports urban consolidation;*
- (3) promote energy efficiency in urban forms, transport patterns, site location and subdivision layout;*
- (4) maintain and enhance the sense of identity and character of the region's urban areas; and*
- (5) encourage high quality urban design, including the maintenance and enhancement of amenity values.*

122. This is particularly relevant for its recognition of the place for limited rural residential development. It is therefore complementary to PC1 with its focus on limited and well-sited rural residential development.

123. Policy 5.3.3 says

Management of development (Wider Region)

To ensure that substantial developments are designed and built to be of a high-quality, and are robust and resilient:

- (1) through promoting, where appropriate, a diversity of residential, employment and recreational choices, for individuals and communities associated with the substantial development; and*
- (2) where amenity values, the quality of the environment, and sense of place are maintained, or appropriately enhanced.*

Principal reasons and explanation

Well designed urban and rural-residential development provides for the social, economic and cultural well-being of people and communities and will meet the foreseeable needs of future generations. Design influences the manner in which development functions and relates to the wider environment. It establishes long-term patterns of resource use and character.

124. Again the recognition of rural residential development is noted. Other than the issue of energy which has been discussed a number of times already because it is a recurring theme in many planning documents, I think these proposals achieve and comply with this objective easily.

Proposed Change 1 to the Regional Policy Statement

125. Proposed Change 1 is intended to provide a more directive approach to the issues of urban development in Greater Christchurch, which broadly is Christchurch City and those parts of Waimakariri and Selwyn Districts within a reasonable commuting distance of Christchurch. PC 1 was publicly notified in 2007 following the completion of the Urban Development Strategy (the UDS), which was a strategic planning exercise carried out by the Canterbury Regional Council, the NZ Transport Authority and the three territorial Councils. PC1 is intended to give effect to the UDS through the mechanisms of the Resource Management Act. The UDS itself is a strategic planning document having no regulatory force in its own right.

126. PC1 allows but does not require a limited amount of Rural-residential development, up to 5% of anticipated residential growth in Greater Christchurch.

127. Policy 6 of PC1 sets out staging periods for residential, business and rural residential development (which are the main components of urban growth) in the district, and allocates a proportion of each to the three districts over three staging periods. Selwyn District is enabled to accommodate up to 200 rural residential households between now and 2016, a further 200 from 2017-26 and a further 200 from 2027-2041. These are relatively small numbers and the evidence at the hearing was that the market would withstand significantly greater numbers. Obviously the intention of PC1 is not to accommodate that market in full, because of the adverse effects it foresees of unrestrained growth, such as excessive travel demand and uneconomic development and use of infrastructure. I note that the total of 600 units is well short of 5% of total growth planned for in the Selwyn District, the District Council having preferred to provide a greater proportion of its total growth in fully urban housing.

128. Criteria for its location and development are set out in Policy 14. The criteria relevant for this application are as follows, with my comments interwoven.

- The location must be outside the Urban Limits

Complies. The urban Limit for Rolleston lies along Dunns Crossing Rd to the east of the two blocks.

- All subdivision and development must be located so as to be able to be economically provided with a reticulated sewer and water supply integrated with a publicly owned system, and appropriate stormwater treatment and disposal

PC8 can be physically joined up to the Rolleston sewerage system, but the applicant and Council dispute whether PC9 would be able to be economically connected prior to the development of the lands opposite and the installation of permanent urban reticulation in Dunns Crossing Rd. Stormwater would be on-site and complies.

- Legal and physical access is provided to a sealed road, but not directly to a road defined in the relevant district plan as a Strategic or Arterial Road, or as a State highways under the Transit New Zealand Act 1989;

Complies currently but Dunns Crossing Rd is intended under CRETS to become an Arterial Rd. So neither change really complies with the spirit of this criterion.

- The location of any proposed Rural Residential development shall support existing or upgraded community infrastructure and provide for good access to emergency services;

Both are close enough to Rolleston to support the development of community infrastructure there and for access to emergency services.

- not give rise to significant reverse sensitivity effects with adjacent rural activities, including quarrying and agricultural research farms, or strategic infrastructure;

The applicant asserts no reverse sensitivity effects but Council is concerned with effects at the Pines Wastewater Treatment Plant and Resource Recovery Park adjacent to Change 8, and Tegel is concerned about its poultry farm to the north of Change 9. One submitter is worried about impact on adjacent farming blocks. The issue is whether or not these effects would be "significant".

- An Outline Development Plan is prepared which sets out an integrated design for subdivision and land use, and provides for the long-term maintenance of rural residential character.

Both changes achieve this comprehensively.

- A Rural Residential development area shall not be regarded as in transition to full urban development.

Neither change gives any reason to believe this would occur, and because of the design features it would be difficult to achieve.

129. PC1 has had its submissions and hearings. The Commissioners who heard it made substantial revisions. The provisions described above are from the decisions version. Numerous appeals have been lodged, including against some of the criteria, and the numerical limits described.

130. The relevance of PC1 for this process is that PC8 and PC 9 comply with many but not necessarily all relevant requirements of it, as outlined above. Some of these are disputed between the applicant, the Council and the submitters. In general PC8 achieves more of the criteria more easily than PC9. The content of PC1 is therefore directly relevant to the consideration of PC8 and PC9. Because PC1 is not yet completely operative, there is a question about how much weight I should give to it, or in other words how much I should be guided by it. I discuss this below under the heading of weight to be given to non-operative planning documents.

Proposed Change 7 to the Selwyn District Plan

131. PC 7 was publicly notified in February 2010, submissions have been received and a hearing conducted. No decision is yet available. PC7 sets out to adopt a directive approach to new urban growth in the Selwyn District, by amending objectives and policies, and zoning land, in

accordance with the settlement pattern set out in PC1. Relevant to this process, a block of land opposite the Holmes Block in Dunn's Crossing Rd is proposed to be zoned Living Z, which allows for immediate development to low and medium residential densities, and there is an Outline Development Plan for the block to be inserted in the District Plan. Land across Dunns Crossing Rd from the Skellerup Block is not included in PC7, although it is within the Metropolitan Limit in PC1. The effect is that for the present that land is regarded as being available for development beyond 2021, in accordance with the longer term strategies of PC1.

132. PC7 is indirectly relevant to these processes. I say that because PC7 is about residential, not rural residential development. However it shapes the residential environment of Rolleston adjacent to PC8 and PC9 and into which they would have to integrate.
133. Firstly, it is relevant to objectives and policies which have been discussed above in both PC1 relating to the relationship of rural residential areas to adjoining townships and the Selwyn District Plan relating to urban form and creating a clear edge. The relative timing of the development of the blocks opposite PC8 & 9 affects how well these provisions would be achieved. Developing either PC8 or PC9 significantly ahead of the lands opposite could take them outside these objectives and policies. PC8 fits much better into the likely development sequence for Rolleston than PC9 in that regard, simply because the land opposite is proposed for immediate development. The applicant's proposal to defer PC9 until 2016 would not completely solve this problem if the land opposite was not to be developed at that time and that is unknown at present.
134. Secondly there is the issue of economic servicing. The ideal time for PC8 and 9 to be developed is at the same time or later than the blocks opposite, which would see adequate services installed, particularly sewerage. At present there is nothing available for PC9 and there will not be anything until the land opposite is developed, likely to be beyond 2017. The land opposite PC9 is not within PC7. There was a dispute between Mr Dasler for the applicant and Mr Blake-Manson for the Council as to whether or not the PC9 block should be developed prior to the public reticulation, with Mr Dasler proposing a temporary pumping solution to be installed for the PC9 block, and Mr Blake-Manson asserting this would place a burden on the Council to maintain
135. PC7 is at the stage where submissions have been lodged, and heard, but the decision of the Hearings Commissioners has not been released. It is therefore still in its original form, and may well be subject to change.

Proposed Plan Change 17 to the Selwyn District Plan

136. PC 17 is a newly notified plan change which zones land in the district for rural-residential purposes, following the principles set out in PC1. The plan change was preceded by a comprehensive strategic planning and consultation exercise that attempted to identify the most suitable sites around the parts of the district within the PC1 area for rural residential development up to 2016. The amount of land is limited to 170 ha, observing the upper limit in PC1 of no more than 200ha in the period up to 2016. Part of the PC8 block is included and none of PC9. Other blocks around the district have been included, generally in proximity to the various townships. Submissions and further submissions on PC17 have been lodged but not yet heard.
137. The significance of PC17 for this process is that, following a comprehensive look at the rural lands surrounding all the townships in the district only part of PC8 was included and none of PC 9. PC17 attempts to examine all potential sites against logical criteria. PC8 and 9 are not so comprehensive, although in the background materials and evidence the applicant did look briefly at other potential locations for rural residential and concluded that PC8 and 9 were at least as suitable as anywhere else if not more so. Because the Council's PC17 process was so much more comprehensive than the applicants' I prefer the Council's reasoning in that regard. Numerous submitters, whose land had been included in PC17, or who hoped to get it included through the submissions process, opposed PC8 and PC9 on the grounds of pre-empting PC17, and because the two changes would take an unfair proportion of the available "quota" of 600 units

under PC1. As notified, the two changes proposed 225 households, or 37.5% of the available 600, although the number was reduced at the hearing to either 175 or 151. The applicant, submitters and Council therefore have a complete difference of opinion about the competing benefits of PC17 on the one hand and PC8 and PC9 on the other. That of course does not determine the matter because PC17 is still at an early stage of its process, and could well be changed significantly by the time its process finishes. I therefore need to regard it with considerable caution

Weight to be given to incomplete plan changes

138. If PC1 was complete, and operative, then as a regional policy statement I would have to give effect to it⁷, i.e. implement it in full. This may or may not be decisive for PC8 and PC9 anyway, depending on the significance I place on the areas where they are not fully compliant with PC1. Because it is not operative I am obliged to “have regard” to it.⁸ By itself that is not a very helpful statement because it does not say how much regard.
139. Ordinarily a plan or change that is early in the statutory process would not receive a lot of weight. The rule of thumb is that the further through the process a change is the more weight it should receive. The completion of the first round of hearings and decisions is an important milestone. The plan will have been carefully examined by then in the light of submissions, and revisions made. Greater weight is usually given to a planning document which has reached that stage. PC 1 is at that stage and in my view deserves a good deal of respect because of the lengthy process it has been through and the consideration it has received. It may be altered in the future following appeals. However while it remains in its present form I do not consider I should depart too much from it. That may or may not affect the outcome. In this case, the PC1 criteria are not absolute except for the numerical limit of 200 lots in any one staging period, the roading access and the location outside Urban Limits. Those are not infringed. The rest of the criteria are matters for judgement, and in my opinion, subject to some amendments, especially to separation distances, they can be achieved.
140. As mentioned earlier PC7 is relevant to objectives and policies relating to urban form and integration. Key features of PC7 are the rezoning of lands opposite PC8, and the non inclusion of the lands opposite PC9. I was informed that neither of these has been opposed by submissions. I believe these two features are almost certain to survive the submissions and hearings phases of PC7, and therefore provide clear guidance about the future shape of Rolleston in this vicinity and its timing. I consider therefore that I should be guided quite strongly by those matters, to the extent they are relevant, because they are unlikely to change significantly enough to affect PC8 and 9. Another key feature is the location of important future intersections on Dunns Crossing Road leading into Rolleston, which will affect the location of any roads that lead into the PC8 and PC 9 areas, which in my opinion is also not likely to change to any significant degree. It seems that these parts of Rolleston will be developed, and will need arterial or collector roads leading into them. The only unknown appears to be timing of the later stages.
141. There is useful case-law about how to have regard to planning documents which are not operative. Strictly speaking this case law applies to plan changes and not regional policy statements, but I cannot see that the two types of document should differ much if at all in this regard.
142. The RMA does not give proposed plans equal importance with operative plans. The importance given to the proposed document will depend on the extent to which it has proceeded through the RMA process.⁹ However while the stage in the process is a relevant factor, it does

⁷ Section 75(3) of the RMA

⁸ Section 74(2) of the RMA

⁹ Hanton v Auckland City Council, A010/94.

not necessarily decide the matter. In the case of *Keystone Ridge Ltd v Auckland City Council*¹⁰ the High Court confirmed that the weight to be given to a proposed plan should be considered on its merits on a case by case basis and may include

- (a) The extent to which the proposed provision might have been exposed to testing and independent decision making;
- (b) Circumstances of injustice;
- (c) The extent to which a new measure, or the absence of one might implement a coherent pattern of objectives and policies in a plan; and
- (d) Whether there has been a significant shift in Council Policy and the new provisions are in accord with Part 2 of the Act.

143. The above criteria have been applied subsequently by the Environment Court, for example in *Mapara Valley Preservation Society v Taupo District Council*,¹¹ which was an appeal against a subdivision consent. The Court was considering the weight to be given to plan variations to the Proposed District Plan directed towards managing urban growth. The Court noted that the variations were based on, and intended to implement, a comprehensive growth strategy for the district, similar to the UDS. Furthermore the variations represented a significant shift in Council policy that was in accordance with Part 2 of the Act. The Court therefore gave weight to the variations and in that case declined the consent.

144. I think there are obvious similarities in the present case. In particular PC1 has been thoroughly exposed to testing and independent decision-making. The relevant features of PC7 are unlikely to be altered by the submissions process. All three proposed changes will implement coherent objectives and policies in the relevant planning documents. There has been a significant shift in both Councils' policies towards urban growth. The new provisions are all intended to implement Part 2 of the RMA, with their emphasis on sustainable management of urban growth. The one criterion I do view with concern is "circumstances of injustice". I do not consider applying PC1 to this case would do much harm to these applications, because they comply with the absolute criteria of PC1, and the discretionary criteria are basic common-sense matters which would be equally relevant in the absence of PC1. Similarly, the key features of PC7 identified above are relatively settled, and unlikely to change significantly, so there should be no injustice in applying them to this case. However PC17 is in a different category. It is very recent and is obviously highly controversial. It may well change significantly. From what I was told, the preparation of PC 8 and PC9 commenced well before PC17, so the applicant has got to an advanced stage before even being aware of PC17. If PC8 and/or PC9 were to be approved prior to PC17 it would simply narrow the range in which Council can move in when considering PC17. It would either have to exceed the 200 household cap in PC1 (assuming that survives the appeals), or delete some of the sites it proposes to rezone.

145. In relation to the three proposed changes which affect these applications, I therefore conclude as follows.

PC1

- The changes comply with the mandatory criteria in PC1. The sites are outside the Metropolitan Urban Limits. They have access to the right types of road (noting that that may change in future). They do not exceed the 200 household cap.
- With regard to the discretionary criteria, the locations would support existing or upgraded community infrastructure and provide for good access to emergency services;

¹⁰ AP 24/01

¹¹ A083/87

- Outline Development Plans have been prepared which set out an integrated design for subdivision and land use, and provide for the long-term maintenance of rural residential character.
- There is no reason to believe they would be in transition to full urban development, and they have been designed to avoid it.
- PC8 is adjacent to or in close proximity to an existing urban or rural residential area and is able to be integrated into or consolidated with it. PC9 is more problematic. It is reasonably close to the developing edge of Rolleston but will not be able to be fully integrated with it until that part of Rolleston develops, which is not likely to be until at least 2017 according to the Rolleston Structure Plan.
- PC8 is located so as to be able to be economically provided with a reticulated sewer and water supply integrated with the publicly owned system, but PC9 may not be able to do so until at least 2017. A temporary pumping system would be required until the main Council system reaches this area. The applicant would build this and vest it with the Council, but the Council would have to maintain it. For the applicant Mr Dasler pointed out that as the system would be new, and in use for a relatively short time, maintenance would probably be very limited, replacement would be unlikely to arise and there would be no need to allow for depreciation. Mr Blake-Manson resisted this, but I was given no estimates of maintenance costs by either party. Sewers are available or could be made available to service PC8. However the Council's public reticulation is not expected to reach the Skellerup Block at least until 2017, depending on the rate of development of land opposite in Dunns Crossing Rd. The applicant is content to have the Living 3 zoning deferred until then. After that time, if the public sewer is still not available, it proposed to install a temporary pump station and rising main to the public system for use until the public system becomes available. The Council considers this inefficient and would impose unwanted maintenance costs on the Council. The application considers these costs would be minimal, and that as the system would be temporary there would be no need to allow for depreciation. However I note that unless some sort of body corporate is set up, which would be complex for a relatively large development like PC9, then responsibility for maintenance of the system would fall to the Council by default. Experience around the Councils of Greater Christchurch has been that people tend to start out optimistically with private sewage schemes, but eventually call on the Councils to take over and maintain them. It was for this reason that PC1 requires in Policy 14 that rural residential developments be connected to public sewer systems. This was specifically considered and upheld by the PC1 Commissioners¹². There is one appeal against this but for now I consider that I should give significant weight to PC1 in this regard. It is at a relatively advanced stage and seems to me to meet the purposes of sustainable management better than the alternative. I discuss this issue of weight in more detail below. In regard to this issue I think the only reason I would not apply PC1 would be if it created injustice to the applicant, and I do not think this would occur if PC9 is required to wait until the publicly owned sewer is available at the time the land opposite is developed. It has chosen to go ahead with a proposal in the full knowledge that a publicly owned sewer is not going to be available at least until 2017 if not beyond.
- The sites should not give rise to significant reverse sensitivity effects with adjacent rural activities, including quarrying and agricultural research farms, or strategic infrastructure.
- The Applicant asserts there would be no reverse sensitivity effects, or that these can be mitigated. However the Council is concerned with effects on the Pines Wastewater Treatment Plant and its Resource Recovery Park adjacent to Change 8, and Council and Tegel are concerned about the poultry farm to the north of Change 9. One submitter is

¹² See the Commissioners decisions at paragraphs 336-339.

worried about impact on adjacent farming blocks. The NZ Transport Authority is concerned about the effects of noise from the State Highway. The issue is whether or not these effects would be “significant”. I return to this below.

Plan Change 7

146. PC7 is only indirectly relevant, but indicates that the land opposite PC8 will be developed in the short term, providing a sewer to the area and alternative roading access to the Rolleston Town Centre. It does not include the land opposite PC9, which will therefore be left to a later plan change, possibly timed to meet the Rolleston Structure Plan’s indicative timing of 2017-2026.

Plan Change 17

147. PC8 is partly compatible with PC17. About 30 ha of the Holmes Block were included in PC 17, which could yield between 30 and 60 households under the PC 17 definition of rural residential. In its finally offered form PC8 would yield 100. PC9 is completely incompatible with PC17, and with either 54 or 73 households would be a strong challenge to it. As noted above there is an issue of fairness to the applicant here, as PC17 came about after the applicant had already committed considerable efforts to PC9. On the contrary, various submitters with landholdings in PC17 or who aspire to be included in it, asserted that it would be unfair to them to let PC9 take up so much of the 200 households available under PC1 before PC17 is decided. As the applicant has now conceded that PC9 should be deferred until 2017 that would be the second release of 200 households under PC1 after 2017. My view on that is that the RMA is not strong on equity issues between people, and often applies a “first in first served” test to the allocation of limited resources. It is quite possible and often necessary under the RMA to make decisions that allow one party to make use of resources and deny them to others. The needs of future generations must always be kept in mind but that does not seem to apply in this case. If these applications were to be allowed, and the 3 x 200 households cap survives, PC17 may have to be adapted.

148. My conclusion is that I should not give a great deal of weight to PC17 itself at this stage. Its outcome is too uncertain and it would be unfair to the applicant to do so.

149. However I think I should examine the reasons that led the Council to adopt PC17, to see if they are applicable in their own right under the RMA. I do this by examining the PC17 background documents, and the Rural Residential Background Report

Other Planning Documents

150. Under the RMA I am to have regard to any management plans and strategies prepared under other Acts to the extent these are relevant to resource management issues in the district.¹³ There are several relevant non-regulatory documents I should consider. All could be described as being prepared under the Local Government Act and all are highly relevant to resource management issues in this district and to the issues raised by these applications

Rural Residential Background Report

151. This is a report into a study carried out by the Selwyn District Council, adopted in February 2011. Its purpose was to investigate methods to manage rural residential development in the eastern portion of the Selwyn District. Therefore it deals with precisely the same issues as are raised in these applications. The results of the study guided the Council on what it should include in PC17. Its aims are comprehensive and directed to answer the questions posed by the PC1 hearings Commissioners in their decision on PC1.

152. Section 4 sets out guiding principles, being landscape, constraints and opportunities, infrastructure, water management, integration of land use and transportation, market demand and

¹³ Section 75 (2) (a) of the RMA.

other factors such as climate, geotechnical stability, and ecological concerns. At this very general level of assessment, none of the matters counted against these plan changes. The most contrary relates to integration of land use and transport where the report comments that all rural residential development fundamentally undermines transport sustainability because of the reliance on private cars, but that given a limited amount of rural residential growth is going to occur it would be best confined to the fringes of townships. The applicant's market demand analysis recommends that 50% of the rural residential demand, which it assesses at 120 households per year, be provided in the vicinity of Rolleston, so these two matters tend to support these applications.

153. Section 5 contains assessments of the various townships to identify opportunities and constraints for rural residential development. With regard to Rolleston, it identifies the township as being suitable to be developed as the major town of Selwyn District for a number of reasons, including central location, good employment availability, good transport connections, and soil types that are well-drained but of limited agricultural value. Most of the constraints listed do not affect the two sites, except the presence of the Resource Recovery Park and the Sewage Disposal plant, both located in Burnham School Rd close to the two sites. These are discussed in more detail above under the heading of reverse sensitivity.
154. Section 6 develops criteria for the selection of rural residential sites. There are a number of general criteria and some specific to Rolleston. Most are described as either critical or requiring site specific assessments. The general criteria include all the PC1 criteria already discussed. Of the remaining general criteria, those most adverse to these applications include reducing the impacts of peri-urban development on the compact urban form of existing townships and Urban Limits identified in PC1, retaining an appropriate urban/rural edge, avoiding remedying or mitigating significant reverse sensitivity issues and aligning with Council's asset management processes. PC9 in particular could be affected by the first and last of these. On the other hand there were quite a number of general criteria that would support these two applications, such as location close to Urban Limits, distributing a large proportion of rural residential development to the periphery of Key Activity Centres with the necessary services and infrastructure providing buffers between urban and rural residential, addressing landscape issues, and achieving rural residential character
155. Of the Rolleston specific guidelines I thought the proposals conflicted (in the case of PC9) only with the need to align with timing and availability of infrastructure services as determined by the timing of residential activities within the Urban Limit of Rolleston.
156. I was impressed with the comprehensive nature of this whole report. When it comes to applying it to these two sites however, most of them raise issues that are either achieved by the two plan changes or require further more detailed assessment. The important issues for these applications that also addressed by the Report are urban form and landscape, rural-residential character, the urban-rural edge, reverse sensitivity and infrastructure. The applicant, submitters and Council officers addressed all these matters. What I did not find in the Report was any clear explanation of why PC17 came to include only part of the Holmes Block and none of the Skellerup. The report stops short of formal recommendations about sites or numbers in any location. That explanation is found in PC17 itself, where the merits for selecting certain locations and excluding other alternatives were set out in the section 32 report but have yet to be tested in a hearing and the associated framework remains subject to change.

Rolleston Structure Plan

157. The UDS and PC1 plan for urban growth to 2041. The Rolleston Structure Plan was prepared by the District Council in 2009. The RSP sets out staging and sequencing of the land included in the Metropolitan Limits by PC1 to achieve the household numbers listed there, and looks beyond that again to guide the development of Rolleston until 2075. Relevant to this application is the development of lands on the eastern side of Dunns Crossing Rd. This shows that opposite PC8

land is already able to be developed for residential purposes (currently Living 2 but being changed by PC7 to Living Z). Opposite PC9, further down Dunns Crossing Rd land currently zoned Rural Inner Plains is proposed to be developed for residential use after 2017. The RSP also shows proposed local roads leading off Dunns Crossing Rd opposite PC8 and PC 9 and a proposed main road off Dunns Crossing Rd opposite PC9. This has implications for PC8 and 9. It would be desirable, if they are approved, for their roading patterns to be aligned with the Structure Plan. The timing of any permanent sewer reticulation serving PC9 would be dependent on the development of the land opposite.

158. The RSP proposes a 50 metre wide landscape buffer zone between the Urban Limit and surrounding rural areas, and a cycleway on Dunns Crossing Rd near the PC9 block. Ian Craig for the applicant pointed out that the Countryside Areas proposed within the applications, whilst not conforming exactly to the diagrams illustrating this buffer strip in the RSP, could serve a similar role. I concur. The Countryside Areas might contain less landscaping if used for rural activities such as cropping or landscaping, but would still create a genuine rural buffer impression, and if the Council wished to see them used for more extensive landscaping, walkways, riding trails etc, it may well be able to achieve that by negotiation.
159. The RSP also has a set of urban design principles. Relevant to this case is Principle 8- *Create Ecological and Open Space Links*, with a related bullet point about clearly defining the edge of the town through a strong buffer that maintains the rural feel beyond the urban limit, and Principle 13 where two of the related bullet points seem particularly applicable. These were about using landscape buffers to minimise reverse sensitivity effects of rural activities on urban land uses, and maintaining rural views along roads outside urban limits through landscape buffers. None of the other 16 urban design principles seem to count against the proposed plan changes.
160. My conclusion on the Rolleston Structure Plan was that it generally favours these plan changes, but with a caution that the locations of roads into them may need to be aligned with roads opposite along Dunns Crossing Rd, and that it raises a question about the timing of the development of PC9 relative to the lands opposite it. I return to these two points below.

The Urban Development Strategy

161. The UDS is a strategic planning document prepared by the Canterbury Regional Council, the NZ Transport Authority and the three territorial Councils in 2006. It examines urban growth issues for Greater Christchurch, constraints and opportunities and recommends a preferred settlement pattern similar to that in PC1. The UDS is non-regulatory and is given effect to by the partners who prepared it largely through regulation under the RMA and financial planning for roading and other infrastructure. For present purposes it adds nothing not already described under PC1.

Statutory Analysis

162. Section 5 of the RMA contains the well-known purpose of sustainable management of natural and physical resources. Sustainable management includes enabling people to meet their social cultural and economic needs, which these applications would do. At the same time adverse effects on the environment must be avoided remedied or mitigated, the needs of future generations must be protected and the life-supporting capacity of air, water, soil and natural ecosystems must be safeguarded. Of these only dealing with adverse effects seems relevant, and I have found that any adverse effects can be dealt with, particularly by increasing some of the separation distances. There do not seem to be any issues that have been raised concerning the needs of future generations except perhaps the rather tenuous argument that the land might be better kept for other purposes, or about life-supporting capacity.
163. Section 6 specifies a number of matters of national importance but none of those seem to be applicable. Section 7 contains a number of other matters I am to have particular regard to. The ones I consider relevant to this case are;

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

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

(c) The maintenance and enhancement of amenity values:

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

164. My comments on those matters are;

164.1. **Efficient use and development of resources.** The opportunity to make use of the land for rural residential development is economically more efficient than requiring that they be retained for lower value agricultural uses. Because of the relatively poor soil quality these are not elite agricultural lands capable of a wide range of higher valued productive use.

164.2. **Energy.** Any rural residential development is not going to promote efficiency in end use of energy. However there appears to be consensus that there is going to be a limited amount of rural residential development. How much depends on the progress of processes such as PC1 and PC17 and should be worked out at that higher strategic level rather than on an individual case by case basis. These two sites are as good as many others that are being put forward around greater Christchurch, and better than some others because of their proximity to community facilities and some employment opportunities in Rolleston.

164.3. **Amenity values.** The developments proposed will almost certainly produce a better standard of amenity than activities conforming with the Rural Outer Plains zone.

164.4. **Quality of the Environment.** I do not see this as being adversely affected by the proposals, and because of the high standard of landscaping and visual presentation it will probably be improved.

165. Under Section 74(2) of the RMA (when preparing or changing a district plan, the Council must have regard to any proposed regional policy statement; or proposed regional plan. PC1, which has been extensively discussed, is a proposed regional policy statement for this purpose. I have concluded that the proposals are not contrary to that except in regard to the sewer reticulation, which is a matter which can be dealt with by deferral of PC9. There is also the new 2011 Proposed Regional Policy Statement. I have also discussed this above and concluded that apart from the recurring theme of energy and commuting these proposals achieve and comply with its provisions.

166. Under section 74(3), in preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition, and this is repeated in the First Schedule to the RMA. I do not wish to take this too far, but I am aware that those parties who took the opportunity of putting forward the merits of their own properties as preferable alternatives may have inadvertently been caught by this requirement. In any case, when discussing PC17 I conclude that it is premature to give much weight to that document and the planning investigations which led up to it.

167. Under section 75(3) of the RMA a district plan must give effect to an operative regional policy statement. I have already discussed the rather general provisions of the operative RPS and concluded that these plan changes comply with it.

168. Other than section 32, which I discuss separately below, the remaining provisions of the RMA relating to plan changes are procedural and have been complied with. I therefore conclude that the two plan changes comply with the requirements of the RMA.

Section 32

169. Section 32(2) of the Resource Management Act requires that before these plan changes are approved, I must evaluate them under its provisions. The evaluation must examine

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

Section 32(4) of the RMA requires that the evaluation take into account

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*

170. Under both plan changes, only one new objective is proposed and no new policies. There is one fairly substantial amendment to an existing policy. These are evaluated below. There are a number of minor and consequential amendments to objectives and policies, mainly inserting appropriate cross-references to the new Living 3 zone or to rural residential development generally. These are not evaluated individually as they are not of enough consequence. There are many amendments to the rules which require evaluation.

171. The proposed new objective is

Objective B4.3.7

Ensure that any rural residential development occurs outside the urban limits identified in the Regional Policy Statement and such development occurs in general accordance with an operative Outline Development Plan, supports the timely, efficient and integrated provision of infrastructure, and provides for the long-term maintenance of rural residential character.

172. Where it refers to urban limits, and outline development plans, this objective is primarily intended to ensure compliance with the RPS as amended by PC1. As PC1 is itself intended to achieve the purposes of the RMA then I am satisfied that the objective must also meet the purposes of the RMA. This is not the place to attempt a Section 32 analysis of PC1 itself. Where it refers to infrastructure, the objective reflects the operative RPS which these plan changes have to give effect to, so this must also satisfy the purposes of the RMA. I have already found that the creation of this new Living 3 zone for rural residential activities achieves the sustainable management purpose of the RMA, especially as it enables people to meet their social and economic needs without creating unacceptable adverse effects on the environment or threatening the needs of future generations. Where the objective refers to rural character, this reflects s7 of the RMA and various provisions of PC1. It is therefore fair to say that an objective which fairly encapsulates those primary RMA purpose as well as giving effect to regional planning documents is the “most appropriate” way to achieve the purposes of the RMA, as required by s32.

173. The substantially amended policy is

Policy B4.3.1

*Ensure new residential, **rural residential** or business development either:*

- *Complies with the Plan policies for the Rural Zone; or*
- ***The land is rezoned to an appropriate Living Zone that provides for rural-residential development (as defined within the Regional Policy Statement) in accordance with an Outline Development Plan incorporated into the District Plan; or***
- *The land is rezoned to an appropriate Living or Business zone and, where within the Greater Christchurch area, is contained within the Urban Limit identified in the Regional Policy Statement and developed in accordance with an Outline Development Plan incorporated into the District Plan.*

174. I am satisfied that this policy amendment is necessary to implement the proposed new objective and therefore meets the section 32 requirement.
175. With regard to the proposed amendments to the rules there are many of these. I do not propose to analyse each of these separately. Collectively they create a new Living 3 zone and apply it to the two sites. Having established that the proposed new objective and amended policy meet the purposes of the Act and section 32 then it is necessary to establish a new zone to implement them. I do recommend some of these rules be amended to deal with adverse effects, especially odours and reverse sensitivity. The new provisions would be more effective and efficient for that purpose than any existing district plan zone provisions, because they safeguard rural character and amenity and deal with reverse sensitivity issues far better than any of existing zones. It is at least possible that the provisions introduced by PC17 would be as effective but I am not sufficiently informed about PC17 to make that judgement, and in any case it is not in place.
176. Another alternative would be instead to proceed by way of resource consent but this would not be as efficient as a plan change. A resource consent would require too much of the final design to be established at this early stage, which could prove difficult to implement when the time comes to actually subdivide the land, perhaps creating a need for further resource consents. It is more efficient to establish the broad parameters of the developments at an early stage, so that the owners can proceed to the more expensive detailed design with confidence.
177. As for benefits and costs, I am satisfied that the proposals will bring about considerable economic benefits for the landowners, and for the local economy. With regard to costs there would be few costs to the natural and physical environment because of the lack of adverse effects. There would be some travel costs generated from commuting, but no more so than many other sites that are already in use for rural residential activities or proposed for that purpose. There would be some costs from lost rural production, but these would be less than the economic benefits of the development of the sites as proposed. I therefore find that the benefits of the proposed plan changes are considerably greater than the costs.
178. The issue of risk of acting or not acting in the absence of sufficient information does not seem to apply. There is sufficient information to make informed decisions.
179. Overall the proposed plan changes satisfy the requirements of section 32 of the Resource Management Act.

Principal conclusions

180. This has been a complex matter to consider and decide. There have been two related strands involved. These are firstly assessing the effects on the environment such as landscape, urban design, odours and noise, and so on. These raised complex issues, but the clear evidence led by all parties assisted me to reach settled conclusions on most of those technical matters relatively quickly. The second strand was considering the various planning documents, of which there are quite a surprising number. There are formal plans and policy statements under the RMA, some operative and some proposed, including no less than three versions of the RPS and an operative district plan with two very important proposed changes, Plan Changes 7 and 17, going on concurrently. As well there are some significant background strategic reports to consider including the Urban Development Strategy, the Rolleston Structure Plan and the Rural Residential Background Report. Understanding all this material and working out which to prefer when they point in different directions has required a good deal of consideration. It has been no surprise to me that some of the submitters have relied heavily on Change 17, because that is a strategic planning exercise intended to guide the location and distribution of rural residential activities over the next few years. The Council has been careful and thorough with Change 17 and I do not wish to criticise it in any way. Unfortunately because it is relatively early in its journey through the RMA process, I have not been able to rely on it as much as some would clearly have preferred. In doing that I have had to consider fairness to the applicant.
181. In the end the principal issues came down to
- a) Whether to allow the applications at all or to prefer the PC17 approach, or even to prefer other locations for rural residential activities that were suggested. My conclusion has been to

largely set aside PC17 and other potential sites and consider the applications under the more settled planning framework of the operative RPS, operative district plan and to an extent PC1 to the RPS

- b) Rural character and amenity, and landscape. I have concluded that these can be adequately safeguarded by the proposals, and that in fact the proposals may improve the landscape and amenity over what is possible under the Rural Outer Plains zone.
- c) Direct and reverse sensitivity, particularly the effects of odour.
- d) Compact township form. There was a great deal of debate about whether or not these applications would disturb the compact form of Rolleston, which is an objective which features in all of the RMA documents. I concluded that compact township form is more applicable to the more urban forms of living zones, that rural residential is a hybrid between urban and rural and that PC1 actually directs rural residential development to be outside but close to townships. The notion of compactness therefore has to accommodate that PC1 directive, which I understand is past the point of appeal.
- e) Reticulation issues, in particular whether to accept the possibility of privately owned and operated systems which may or may not turn out to be temporary. The tide seems to have turned against that concept, as illustrated in both PC1 and the district plan, for good reasons. I thought the applicant was overly optimistic about that without sufficient foundation, so have concluded the Skellerup Block should not be developed until the public reticulation reaches the site as Rolleston grows along Dunns Crossing Rd.

Recommendations

- 182. My formal recommendations to the Selwyn District Council have been set out at the commencement of this report, but briefly I have recommended both plan changes be approved with amendments and the submissions are allowed or disallowed accordingly. The main amendments to Change 8 are to adopt the revised Outline Development Plan submitted at the hearing, to increase the separation distances in respect of potential odour from the Rolleston Resource Recovery Park and the Wastewater Treatment Plan disposal area and to amend the noise rule relating to the State Highway.
- 183. The main amendment to Change 9 is to adopt one of the alternative revised Outline Development Plans submitted at the hearing to the Outline Development Plan and to further revise this to impose an increased separation distance from the Tegel poultry farm.
- 184. The full text of the recommended amendments to the district plan is set out in Appendices 1 and 2.
- 185. A schedule of Decisions on submissions is set out in Appendix 3.



David L Mountfort

Accredited Hearings Commissioner

October

3

2011

Appendix1

Schedule of Proposed Amendments Plan Change 8 – Holmes Block

Note The plan change provisions below are based on the version of the plan change attached to the evidence of Gregory John Dewe to the hearing. However I have been unable to reconcile the clause numbering in every case with the on-line District Plan. For example the noise rule is said to be Rule 4.9.27 but in the on-line version is actually 4.9.19. I believe the discrepancy has been caused by the introduction of other new rules by other concurrent plan changes. The Council will need to check the numbering, and any consequential renumbering and cross-referencing; with particular care being taken to ensure the correct separation between permitted activities and restricted discretionary activities is retained.

Where I have changed the provisions from the evidence of Gregory Dewe, the provisions have been shown **shaded**.

For the purposes of this Plan Change Request, any existing text from the District Plan is shown in *italics*, any text proposed to be added by this Plan Change Request is shown as **bold underlined and in italics** and text to be deleted as ~~*striketrough in italics*~~. Please note that only the proposed new and amended provisions to the District Plan are shown in this section and therefore should be read in conjunction with the full text of the District Plan. The provisions proposed below may require some existing provisions to be renumbered / amended accordingly.

The following specific changes are made to the District Plan:

Amendment 1 Amend Planning Maps 13, 102 and 105 (Sheets 1 and 2) to identify the zoning of the site as Living 3.

Amendment 2 Insert Living 3 Zone and description into Table A4.4 – Description of Township Zones (page A4-011) as follows:

Zone Description

Living 3 As for Living 2 Zone, but with specific controls and design elements incorporated to ensure development of the land is reflective of and retains elements of rural character expected of the Living 3 zone, which in essence is a rural residential zone, so as to visually set the development apart from the neighbouring urban area. Similar to the Living 2 zone, larger sections (with a lower building density than Living 2), more space between dwellings, panoramic views and rural outlook are characteristic of the Living 3 Zone.

Amendment 3 Insert new paragraph 7 in Use of Zones (page A4-012) as follows:

As with higher density residential areas, rural residential development is provided for through Change 1 to the Regional Policy Statement. Accordingly the District Plan specifically provides for rural residential opportunities as has long been the case in Selwyn District.

Amendment 4 Amend Policy B1.2.3 for Water Supplies to include (Page B1-017) as follows:

Require the water supply to any allotment or building in any township, **and the Living 3 Zone**, to comply with the current New Zealand Drinking Water Standards and to be reticulated in all townships, except for sites in the existing Living 1 Zone at Doyleston.

Amendment 5 Insert new paragraph 3 in Explanation and Reasons for Objective B3.4.3 Reverse sensitivity (Page B3-036) as follows:

In the case of rural residential development there is the potential for reverse sensitivity effects to arise from the proximity to rural activities. This issue is addressed through Objective B3.4.3 and B4.1.2.

Amendment 6 Amend point 6 on discussion on Residential Density – Strategy (page B4-002) as follows:

Density in Living 2 and 3 Zones is kept low thus reflecting the rural character by maintaining a sense of open space, panoramic views and rural outlook.

Amendment 7 Insert new paragraph 6 of Explanation and Reasons for Objective B4.1.2 for Residential Density (Page B4-003) as follows:

Any Living 3 Zone being a rural residential zone shall be located beyond the 'urban limits' but where it can be economically provided with reticulated sewer and water supply, and appropriate stormwater treatment and disposal. The Living 3 Zone will have regard to providing a visual transition area between the 'urban area' and the rural area which exists beyond townships by incorporating certain design elements of rural character, which are common in rural settings so the land is visually set apart from the neighbouring urban area.

Amendment 8 Amend existing paragraph 7 of Explanation and Reasons for Objective B4.1.2 for Residential Density (Page B4-003) as follows:

New residential areas should be attractively laid out, with allotments of an appropriate shape to build a house, and with access to sunlight. As well as functional utilities, new residential areas need some open space, plantings and landscaping to make them aesthetically pleasing. Objective B4.1.2 is to ensure future residential areas maintain the current attractive layout of Selwyn's townships. For low density Living 2 and 3 Zones, the careful consideration and application of design treatment to such matters as road formation, kerbs, letterboxes, power supply, entry treatment, fencing, landscaping, lighting and the like will ensure the retention of open, spacious rural character. The market can be relied on to achieve this to a certain extent – many people won't buy sections in an unattractive area. However, not all people have the money to choose allotments in more attractive subdivisions. The District Plan provisions set some "bottom lines" to ensure all new residential areas achieve a standard of aesthetic appeal.

Amendment 9 Amend Policy B4.1.2 for Residential Density (Page B4-004) as follows:

Maintain Living 2 and 3 Zones as areas with residential density which is considerably lower than that in Living 1 Zones.

- Amendment 10** Amend paragraph 2 of Explanation and Reasons for Policy B4.1.2 for Residential Density (Page B4-004) as follows:

*Policy B4.1.2 retains Living 2 **and 3** Zones areas with lower residential density than Living 1 Zones. The policy refers to 'considerably lower' which acknowledges that low density living zones be spacious and reflect something of the rural characteristics in which they are located. Currently they are from 6 to 12 times lower. The Council suggests average section sizes would need to remain between 3 and 6 times lower **in the Living 2 Zone and between 6 and 10 times lower in the Living 3 Zone** than that of Living 1 Zones, to have a visually discernible difference in residential density. If more intensive residential density than this is desired in Living 2 **or 3** Zones, the area should be rezoned to another Living zone.*

- Amendment 11** Amend Policy B4.1.7 for Residential Density (Page B4-007) as follows:

*Maintain the area of sites covered with buildings in Living 2 Zones, at the lesser of 20% or 500m² **and in the Living 3 Zone at the lesser of 10% or 500m²**, unless any adverse effects on the spacious character of the area will be minor.*

- Amendment 12** Amend paragraph 4 of Explanation and Reasons of Policy B4.1.7 for Residential Density (Page B4-008) as follows:

*Policy B4.1.7 maintains low site coverage in Living 2 **and 3** Zones. The very rationale for Living 2 **and 3** Zones is to provide a low density, residential area. The policy does include some flexibility to accommodate small increases in site coverage. Any effects on the 'spacious' look of the area should be minor. There are no limits on site coverage in Business zones.*

- Amendment 13** Amend Policy B4.1.9 for Residential Density (Page B4-008) as follows:

*Avoid erecting more than one dwelling per site in low density living (Living 2 **and 3**) Zones.*

- Amendment 14** Amend paragraph 4 of Explanation and Reasons for Policy B4.1.9 for Residential Density (Page B4-008) as follows:

*Policy B4.1.9 is to avoid multiple dwellings in low density living (Living 2 **and 3**) Zones. The rationale for these zones is to provide a low density, residential area. There is no restriction on the number of dwellings per site in Business 1 Zones.*

- Amendment 15** Insert new point 6 on Residential Density – Anticipated Environmental Results (Page B4-011) as follows:

Living 3 Zones are low density rural residential areas.

- Amendment 16** Insert new Objective B4.3.7 of Residential and Business Development – Objectives (Page B4-030) as follows:

Objective B4.3.7

Ensure that any rural residential development occurs outside the urban limits identified in the Regional Policy Statement and such development occurs in general accordance with an operative Outline Development Plan,

supports the timely, efficient and integrated provision of infrastructure, and provides for the long-term maintenance of rural residential character.

Amendment 17 Insert new paragraph 7 of Explanation and Reasons for Objective B4.3.7 for Residential and Business Development (Page B4-031) as follows:

Objective B4.3.7 seeks to ensure that rural residential development occurs outside the urban limits in a manner that accords with the Regional Policy Statement. Given the nature of rural-residential development, Objectives B4.1.1, B4.1.2 and B4.1.3 of the Rural Volume of the District Plan are also relevant when assessing the sustainability of rural land for rural residential purposes.

Amendment 18 Amend Policy B4.3.1 of Residential and Business Development – Town Form Policies (Page B4-033) as follows:

Policy B4.3.1

*Ensure new residential, **rural residential** or business development either:*

- *Complies with the Plan policies for the Rural Zone; or*
- **The land is rezoned to an appropriate Living Zone that provides for rural-residential development (as defined within the Regional Policy Statement) in accordance with an Outline Development Plan incorporated into the District Plan; or**
- *The land is rezoned to an appropriate Living or Business zone and, where within the Greater Christchurch area, is contained within the Urban Limit identified in the Regional Policy Statement and developed in accordance with an Outline Development Plan incorporated into the District Plan.*

Amendment 19 Amend paragraph 1 of Explanation and Reasons for Policy B4.3.1 (Page B4-033) as follows:

*Zoning is an integral part of the approach the District Plan uses to promote sustainable management of natural and physical resources. New residential, **rural residential** or business activities need to occur on land which is appropriately zoned, to ensure the most appropriate policies and rules in the Plan apply to the activity. Additional requirements apply to those townships within the Greater Christchurch area, whereby new residential or business development within Greenfield areas is to be contained within the Urban Limits identified in the Regional Policy Statement and such development is to be carried out in accordance with an approved ODP that has been inserted into the District Plan. The purpose of these provisions is to consolidate and manage the rate of growth within these townships to ensure the integration of development with the appropriate provision of infrastructure, transport linkages, reserves and other community facilities.*

Amendment 20 Amend Rule 4.2.1 for Buildings and Landscaping (Page C4-001) as follows:

Except for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37, any principal building shall be a permitted

activity if the area between the road boundary and the principal building is landscaped with shrubs and:

- Planted in lawn, and/or
- Paved or sealed, and/or
- Dressed with bark chips or similar material.

Note: Except that fences on boundaries adjoining reserve areas, cycleways or pedestrian accessways identified in the Outline Development Plan for Lincoln in Appendix 18 shall not exceed 1.2m in height.

Amendment 21 Insert new Rules 4.2.2, 4.2.3 & 4.2.4 for Buildings and Landscaping (Page C4-001 & 002) as follows:

For the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37 the following shall apply:

4.2.2 Any principal building shall be a permitted activity if:

- i) **That apart from one vehicle crossing and access not exceeding 100m² in area all land within the setback areas from roads as specified in Rule 4.9.26(i), excepting State Highway 1, will be devoted to landscaping; including the provision of at least one specimen tree capable of growing to at least 8m high being planted for every 10 metres of frontage and to be spaced at no less 5 metres and no greater than 15 metres. The area between all road boundaries (other than with State Highway 1) and a line parallel to and 15m back from the road boundary is landscaped with shrubs and specimen trees covering as a minimum the lesser of 30% of the area or 250m²; and**
- ii) **The number of specimen trees in this area is not less than 1 per 10m of road frontage or part thereof; and**
- iii) **The trees are selected from the list below planted at a grade of not less than Pb95; and**
- iv) **Shrubs are planted at 'aa' grade of not less than PB3 and a spacing of not less than 1 per square metre, typically located within a garden area dressed with bark chips or similar material; and**
- v) **Any paved surface area within the area does not exceed 100m² in area.**
- vi) **The list of suitable specimen trees for the purpose of this rule is:**
- vii) **Maple, Silk Tree, Alder, Birch, River She Oak, Leyland Cypress, Monterey Cypress, Lacebark, American sweet gum, Magnolia, Pohutukawa, weeping Kowhai, Common Olive, Pine, Lemonwood, Kohuhu, Ribbonwood, Plane, Totara, Poplar, Oak, Elm, Michelia**
- viii) **The Council will require a planting plan to be submitted at building consent stage, prepared by a suitably qualified landscape professional, identifying compliance with the above control.**

- ix) The landscaping shall be maintained and if dead, diseased or damaged, shall be removed and replaced.

Note: Rule 4.2.2 shall not apply to allotments of 4ha or greater in the Living 3 Zone identified on the Outline Development Plan in Appendix 37.

4.2.3 Any fencing in the Living 3 Zone:

All fencing or walls on a road or Rural zoned boundary or in the area between the road boundary and the line of the front of the principal building or in the area between the Rural Zone boundary and the line of the rear of the principal building;

- i) Shall be limited to a maximum height of 1.2m, be at least 50% open, and be post and rail, traditional sheep, deer fencing, solid post and rail or post and wire only; and
- ii) Shall be of a length equal to or greater than 80% of the length of the front boundary, of a minimum height of 0.6m and be at least 50% open.

Except that nothing in the above controls shall preclude the use of other fencing types when located within 10m of the side or rear of the principal building. Such fence types shall not project forward to the line of the front of the building.

4.2.4 Within the State Highway Buffer Area (refer Outline Development Plan in Appendix 37) planting and fencing of the area of land along the common boundary of the Living 3 zone and State Highway 1 shall be established and maintained in accordance with the detail shown in Appendix 37; and

The landscaping shall be maintained and if dead, diseased or damaged, shall be removed and replaced.

Amendment 22 Amend existing Rule 4.2.2 for Buildings and Landscaping (Page C4-002) as follows:

4.2.5 Any activity which does not comply with Rule 4.2.1, 4.2.2, 4.2.3 or 4.2.4 shall be a discretionary activity.

Add a new Rule 4.2.6 (Page C4-002) as follows;

4.2.6.1 Any activity which does not comply with Rule 4.2.5 shall be a restricted discretionary activity. Council shall restrict the exercise of its discretion to the consideration of:

4.2.6.2 The extent to which the proposed fencing achieves high levels of visual transparency;

4.2.6.3 The extent to which the fencing is in keeping with rural character elements;

4.2.6.4 Whether the proposed fencing is necessary as an integral part of a recreational facility such as a swimming pool or tennis court;

4.2.6.5 Whether the proposed fencing is necessary for the care and management of specialist livestock.

Amendment 23 Amend Rule 4.6.6 for Buildings and Building Density (Page C4-005) as follows:

*The erection on an allotment of any building (other than an accessory building) which does not comply with Rule 4.6.1 shall be a non-complying activity in the Living Z, 1A, 1A2, 1A3, 1A4 zones and the Living XA Deferred Zone at Prebbleton and all Living 2, and 2A zones **and Living 3 Zones.***

Amendment 24 Amend 'Table C4.1 Site Coverage Allowances' (Page C4-005 & 006) as follows:

Zone	Coverage
<u>Living 3</u>	<u>Lesser of 10% or 500m²</u>

Amendment 25 Amend Rule 4.9.2 for Buildings and Building Position (Page C4-008) as follows:

Except as provided in Rules 4.9.3 to 4.9.28, any building which complies with the setback distances from internal boundaries and road boundaries, as set out in Table C4.2 below.

Amendment 26 Amend Rule 4.9.19 for Buildings and Building Position (Page C4-011) as follows:

Except for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37, any dwelling, family flat, and any rooms within accessory buildings used for sleeping or living purposes shall be located...

Amendment 27 Insert new Rule 4.9.26 for Buildings and Building Position (Page C4-011) as follows:

Any building in the Living 3 Zone at Rolleston (as shown on the Outline Development Plan in Appendix 37) shall be set back at least:

i) 15 metres from any road boundary except that on corner lots a minimum setback of 10m applies to one road boundary

ii) 5 metres from any other boundary

Amendment 28 Insert new Rule 4.9.27 for Buildings and Building Position (Page C4-011) as follows:

Any dwelling, family flat, and any rooms within accessory buildings used for sleeping or living purposes, and any internal areas associated with noise sensitive activities in the Living 3 Zone at Rolleston (as shown on the Outline Development in Appendix 37) shall be setback at least 80m from State Highway 1.

For the purposes of this rule, noise sensitive activities means any residential activity, travellers accommodation, educational facility, medical facility or hospital or other land use activity, where the occupants or persons using such facilities may be likely to be susceptible to adverse environmental effects or annoyances as a result of traffic noise from State Highway 1 over its location.

Amendment 29 Insert new Rule 4.9.28-**30** for Buildings and Building Position (Page C4-011) as follows:

Any dwelling, family flat, and any rooms within accessory buildings used for sleeping or living purposes in the Living 3 Zone at Rolleston (as shown on the Outline Development in Appendix 37) located outside the 'Odour Constrained Area' as shown in Appendix 37 (Holmes Block).

Amendment 30 Amend existing Rule 4.9.30 for Buildings and Building Position (Page C4-012) as follows:

~~4.9.30~~**33** Any activity which does not comply with Rule 4.9.2 and Rules 4.9.4 to 4.9.14 and 4.9.25 **to 4.9.27** shall be a restricted discretionary activity

Amendment 31 Insert new matter of discretion as 4.9.34.4 for Buildings and Building Position (Page C4-012) as follows:

In the Living 3 Zone at Rolleston as shown in Appendix 37, whether the building development meets the internal sound levels listed in the table below:

<u>Type of Occupancy/Activity</u>	<u>Recommended Internal Design Sound Level (dBA Leq (24hr))</u>
<u>Dwelling/Family Flat/Accessory buildings – bedrooms.</u> <u>Within bedrooms</u>	<u>35</u>
<u>All other habitable spaces</u>	<u>40</u>
<u>Noise Sensitive Activities</u>	<u>35</u>

Amendment 32 Amend existing Rule 4.9.34 for Buildings and Building Position (Page C4-013) as follows:

~~4.9.34~~**37** Any activity which does not comply with Rule 4.9.3 **or Rule 4.9.28** shall be a discretionary activity

Amendment 33 Insert new Rule 4.9.39 for Non-Complying Activities (Page C4-0013) as follows:

Erecting any new dwelling in the Countryside Area or the 'Odour Constrained Area' identified on the Outline Development Plan in Appendix 37.

Amendment 34 Insert new paragraph 6 within 'Reasons for Rules – Building Position' (Page C4-024) as follows:

Controls on side and front yard spaces apply to sites in the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37 in order to retain views between residences and to assist in retaining elements of rural character and provide visual integration and visual attractiveness.

- Amendment 35** Insert new paragraph 7 (immediately after new paragraph 6 as sought through Amendment 34) within 'Reasons for Rules – Building Position' (Page C4-024) as follows:

Building within the Countryside Area identified on the Outline Development Plan in Appendix 37 is a non-complying activity. The purpose of the Countryside Areas is to provide open space and a visual link to the surrounding rural landscape. These corridors bisect the residential activity and are to be managed in productive rural use.

- Amendment 36** Insert new final paragraph within 'Reasons for Rules – Building Position' (Page C4-024) as follows:

In the case of Rolleston Sewage Treatment Plant and Resource Recovery Park an "Odour Control Setback Area" has been imposed. Building within this area is a Non-complying activity as reverse sensitivity issues may arise if this setback area is not applied.

- Amendment 37** Insert new Rule 5.1.1.6 for Roading and Engineering Standards (Page C5-001) as follows:

For the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37, the road shall include the cross sectional treatment as shown in Appendix 37.

- Amendment 38** Amend Rule 5.2.1.6 for Roading and Engineering Standards (Page C5-002) as follows:

The vehicular accessway is formed to the relevant standards in Appendix 13 **and in addition for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37, private vehicular accessways serving less than three sites shall have a maximum formed width of 3.5m at the road boundary and within 10m of the road boundary;** and

- Amendment 39** Insert new paragraph 3 within 'Reasons for Rules – Living Zone Rules – Roading' (Page C5-005) as follows:

A maximum width applies to accessways within the front 10m of sites in the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 37 in order to avoid dominance of landscaped front yard areas by wide paved accessway surfaces, which could compromise the rural character the zone is expected to create.

- Amendment 40** Amend Rule 10.3.2 for Activities and the Keeping of Animals (Page C10-003) as follows:

The keeping of animals other than domestic pets except as provided under Rules 10.3.3 to 10.3.5 shall be a discretionary activity **except**

(a) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 37 provided that such activities are

identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40); and

(b) within the Living 3 Zone Lower Density Area identified on the Outline Development Plan at Appendix 37 provided that this shall not include intensive livestock production or the keeping of roosters, peacocks, pigs or donkeys.

Amendment 41 Insert new Rule 10.15 Countryside Areas – Living 3 Zone, Rolleston (Page C10-011) as follows:

Permitted Activities – Countryside Areas – Living 3 Zone, Rolleston

10.15.1 Rural activities (excluding forestry, intensive livestock production and dwellings) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 37 shall be a permitted activity provided that such rural activities are identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40.

Restricted Discretionary Activities – Countryside Areas – Living 3 Zone, Rolleston

10.15.2 Rural activities (excluding forestry, intensive livestock production and dwellings) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 37 shall be a discretionary activity except where such rural activities are identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40.

10.15.3 Under Rule 10.15.2, the Council shall restrict the exercise of its discretion to:

10.15.3.1 the degree to which the proposed rural activities maintain open space and/or rural character and rural amenity of the Countryside Area(s);

10.15.3.2 the extent to which potential adverse nuisance effects on occupiers of adjacent rural residential allotments will be internalized within the Countryside Areas.

Amendment 42 Amend paragraph 2 of 'Reasons for Rules – Keeping of Animals' (Page C10-012) as follows:

Resource consent for a discretionary activity is required for: commercial rearing of animals for sale of progeny, meat, skins, wool or other products; the keeping of animals other than domestic pets **(except within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 37;** and for the keeping of more than 15 domestic pets (excluding progeny up to weaner stage). Those activities may be granted resource consent, depending on whether adverse effects can be adequately mitigated, and if there is consistency with the relevant objectives and policies of the plan. **The exception provided for the Living 3 Zone Countryside Areas regarding keeping of animals recognises that rural activities (subject to some specific exceptions) are anticipated and intended to occur within the designated Countryside Areas. The potential adverse effects associated with the keeping of animals other than domestic pets (e.g. horse grazing) within the Living 3 Zone is managed through the requirement for a management plan to be in place prior to such activities occurring, and**

as such, are deemed appropriate for the Zone. A further exception is provided to enable limited grazing of the larger blocks within the Living 3 zone.

- Amendment 43** Insert new final paragraph within 'Reasons for Rules – Countryside Areas – Living 3 Zones' (Page C10-014) as follows:

Countryside Areas – Living 3 Zone

Rule 10.15 provides for rural activities (subject to some specific exceptions) to occur within the designated Countryside Areas within the Living 3 Zone identified on the Outline Development Plan at Appendix 37 as a means of achieving and maintaining rural character within the Living 3 Zone. While such activities have the potential to create adverse environmental effects, the requirement for those activities to be identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40 will ensure that any adverse effects are appropriately managed over time.

- Amendment 44** Insert new Rule 12.1.3.38 for Subdivision General Standard (Page C12-007) as follows:

Rolleston

Any subdivision of land within the area shown in Appendix 37 (Living 3 Zone at Rolleston) complies with:

- i) the Countryside Area layout of the Outline Development Plan at Appendix 37;**
- ii) the location of the Lower Density Area as shown on the Outline Development Plan at Appendix 37;**
- iii) the roading layout of the Outline Development Plan at Appendix 37; and**
- iv) where any conflict occurs with Rule E13.3.1 the cross sections in Appendix 37 shall take precedence; and**
- v) full public access is maintained to internal roads so that the area shown on the Outline Development Plan in Appendix 37 does not become a gated community.**

- Amendment 45** Insert new Rule 12.1.3.39 for Subdivision General Standard (Page C12-007) as follows:

In respect of the land identified at Appendix 37, no more than 97 rural residential allotments may be created.

Insert new Rule 12.1.3.40 for Subdivision General Standard (Page C12-007) as follows:

Any subdivision application within the Living 3 Zone west of Dunns Crossing Road that includes any part of the Countryside Areas as identified on the Outline Development Plan included at Appendix 37 shall be

accompanied by a Countryside Area Management Plan which addresses the following matters:

- (a) The ownership and management structure for the Countryside Area(s);
- (b) Mechanisms to ensure that the management plan applies to and binds future owners;
- (c) The objectives of the proposed rural use of the Countryside Area(s);
- (d) Identification of the rural activity or activities proposed for the Countryside Area, which meet the above objectives;
- (e) Measures to maintain and manage open space and/or rural character;
- (f) Measures to manage plant pests and risk of fire hazard;
- (g) Measures to internalise adverse effects including measures to avoid nuisance effects on occupiers of adjacent rural residential allotments; and
- (h) Measures to provide for public access within the Countryside Area(s) along Dunns Crossing Road.
- (i) Whether there is sufficient irrigation water available to provide surety of crop within the Countryside Areas.

Amendment 46 Amend 'Table C12.1 – Allotment Sizes' (Page C12-012) as follows:

Township	Zone	Average Allotment Size Not Less Than
Rolleston	<u>Living 3</u> <u>(Appendix 37)</u>	<p><u>At least 20ha of the land within the area defined by the Outline Development Plan at Appendix 37 shall be developed as a Lower Density Area in the location shown on the Outline Development Plan with a minimum and an average allotment size of no less than 4ha.</u></p> <p><u>The balance of the land on the Outline Development Plan at Appendix 37 outside the above area shall be developed with an average allotment size of no less than 5000m² with a minimum allotment size of 4000m²</u></p> <p><u>The maximum number of allotments within the area defined by the Outline Development Plan at Appendix 37 shall be 102 97.</u></p>

Amendment 47 Insert new matter over which Council has restricted the exercise of its discretion at Clause 12.1.4.77 (Page C12-023) as follows:

In relation to the Living 3 Zone (Holmes) at Rolleston as shown in Appendix 37:

- (a) Whether the pattern of development and subdivision is consistent with the Outline Development Plan in Appendix 37;
- (b) Whether local roading, and trees and planting on roads and lots, are proposed in general accordance with the Outline Development Plan, road cross section(s) and associated planting schedules and requirements shown in Appendix 37;
- (c) Whether the roading and lot pattern follow a rectilinear pattern with orientations generally established by the surrounding road network, consistent with the typical subdivision patterns of the Rolleston rural area;
- (d) Whether the roading pattern and proposed hard and soft landscape treatments in the road reserve will create a rural character to the development and distinguish it from conventional suburban development;
- (e) Whether suburban road patterns and details such as cul de sac, arbitrary curves, and kerb and channels are avoided;
- (f) The extent to which the maximum of 97 lots within the area defined by the Outline Development Plan in Appendix 37 is met.
- (g) Whether the creation of open space in rural production areas is consistent with the Countryside Areas identified on the Outline Development Plan in Appendix 37.
- (h) Whether the provision of public walkways is consistent with the public walkways identified on the Outline Development Plan in Appendix 37.
- (i) Whether there is a need for the western public walkway taking into account the ability to connect to future public walkways to the west.
- (j) Whether at least 20ha of land is developed as a Lower Density Area with larger allotments (4ha or more) in general accordance with the location identified on the Outline Development Plan at Appendix 37.
- (k) In the event that it is developed first, whether the development of a Lower Density Area in advance of other development avoids frustrating the intentions of the Outline Development Plan or the ability to achieve integrated development over the Outline Development Plan area.

Amendment 48 Insert new matter over which Council has restricted the exercise of its discretion at Clause 12.1.4.78 (Page C12-023) as follows:

In relation to the Countryside Area Management Plan required for the Living 3 Zone west of Dunns Crossing Road, Rolleston as shown in Appendix 37:

- (a) The adequacy of the management plan to achieve open space and/or rural character across the Countryside Area(s) in a manner that is compatible with the surrounding rural residential environment;
- (b) The adequacy of proposed mechanisms to maintain and manage the Countryside Area(s) long term in a consistent manner;
- (c) Whether rural landscape, visual and amenity value characteristics of the Countryside Areas are able to be maintained;

- (d) The extent to which potential adverse nuisance effects on occupiers of adjacent rural residential allotments will be internalised within the Countryside Areas;
- (e) The extent to which adverse effects of plant pests and fire hazard risks will be avoided or remedied; and
- (f) The suitability of proposed access within the Countryside Area(s) along Dunns Crossing Road.

Amendment 49 Insert new Rule 12.1.7.8 (page C12-025) as follows:

Any subdivision that does not comply with Rule 12.1.3.39

Amendment 50 Insert new paragraph 6 in 'Reasons for Rules' (Page C12-031) as follows:

Rule 12.1.3.39 has been incorporated to give effect to Chapter 12A of the Regional Policy Statement in as far as it relates to the allocation of rural residential households to the Selwyn District Council within the first and second sequence periods shown on Table 1 of Chapter 12A of the Regional Policy Statement.

Amendment 51 Amend Appendix 13 – Transport 'Table E13.9 – Roding Standards' (Page E13-009) as follows:

Type of Road	Legal Width (m)		Carriageway Width (m)		Kerb and Channel	Footpath(s)
	Min	Max	Min	Max		
<u>Local Roads – Living 3 Zone at Rolleston (as shown within the Outline Development Plan at Appendix 37)</u>	<u>18m</u>	<u>20m</u>	<u>6m</u>	<u>6.5m</u>	<u>nil</u>	<u>One side only</u>

Amendment 52 Insert new Standard E13.3.1.5 for Appendix 13 – Transport; Roding Standards (Page E13-009) as follows:

Any local road in the Living 3 Zone at Rolleston shall be constructed in substantial accordance with the recommended road cross section shown in the Outline Development Plan in Appendix 37.

Amendment 53 Include the Outline Development Plan attached at **Appendix E** to the evidence of Gregory John Dewe as a new **Appendix 37** to the District Plan, including the following further modifications:

- (a) The SH1 setbacks on the plan are deleted and replaced with the 80 metre setback referred to in the new rule regarding the same.
- (b) The odour constrained area is to be amended to include an area 150 metres in width measured from the western boundary of the site along the entire length of that boundary.
- (c) The odour constrained area is to be further amended to include the area contained by an arc 450 metres from the operations area at the Rolleston Resource Recovery Park, as shown on the attachment to the supplementary evidence of Richard Leslie Chilton dated 25 May 2011.

Amendment 54 Any consequential amendments and renumbering of provisions as required to give effect to the plan change request.

Appendix2

Schedule of Proposed Amendments Plan Change 9 – Skellerup Block

Note The plan change provisions below are based on the version of the plan change attached to the evidence of Gregory John Dewe to the hearing. However I have been unable to reconcile the clause numbering in every case with the on-line District Plan. I believe the discrepancy has been caused by the introduction of other new rules by other concurrent plan changes. The Council will need to check the numbering, and any consequential renumbering and cross-referencing, with particular care being taken to ensure the correct separation between permitted activities and restricted discretionary activities is retained.

Where I have changed the provisions from the evidence of Gregory Dewe, the provisions have been shown **shaded**.

For the purposes of this Plan Change Request, any existing text from the District Plan is shown in *italics*, any text proposed to be added by this Plan Change Request is shown as **bold underlined and in italics** and text to be deleted as ~~*striketrough in italics*~~. Please note that only the proposed new and amended provisions to the District Plan are shown in this section and therefore should be read in conjunction with the full text of the District Plan. The provisions proposed below may require some existing provisions to be renumbered / amended accordingly.

The following specific changes are sought to the District Plan to enable the rezoning to proceed:

Amendment 1 Amend Planning Maps 13 and 108 (Sheets 1 and 2) to identify the zoning of the site as Living 3.

Amendment 2 Insert Living 3 Zone and description into Table A4.4 – Description of Township Zones (page A4-011) as follows:

<u>Zone</u>	<u>Description</u>
<u>Living 3</u>	<u>As for Living 2 Zone, but with specific controls and design elements incorporated to ensure development of the land is reflective of and retains elements of rural character expected of the Living 3 zone, which in essence is a rural residential zone, so as to visually set the development apart from the neighbouring urban area. Similar to the Living 2 zone, larger sections (with a lower building density than Living 2), more space between dwellings, panoramic views and rural outlook are characteristic of the Living 3 Zone.</u>

Amendment 3 Insert new paragraph 7 in Use of Zones (page A4-012) as follows:

As with higher density residential areas, rural residential development is provided for through Change 1 to the Regional Policy Statement. Accordingly the District Plan specifically provides for rural residential opportunities as has long been the case in Selwyn District.

Amendment 4 Amend Policy B1.2.3 for Water Supplies to include (Page B1-017) as follows:

*Require the water supply to any allotment or building in any township, **and the Living 3 Zone**, to comply with the current New Zealand Drinking Water Standards and to be reticulated in all townships, except for sites in the existing Living 1 Zone at Doyleston.*

Amendment 5 Insert new paragraph 3 in Explanation and Reasons for Objective B3.4.3 Reverse sensitivity (Page B3-036) as follows:

In the case of rural residential development there is the potential for reverse sensitivity effects to arise from the proximity to rural activities. This issue is addressed through Objective B3.4.3 and B4.1.2.

Amendment 6 Amend point 6 on discussion on Residential Density – Strategy (page B4-002) as follows:

*Density in Living 2 **and 3** Zones is kept low thus reflecting the rural character by maintaining a sense of open space, panoramic views and rural outlook.*

Amendment 7 Insert new paragraph 6 of Explanation and Reasons for Objective B4.1.2 for Residential Density (Page B4-003) as follows:

Any Living 3 Zone being a rural residential zone shall be located beyond the 'urban limits' but where it can be economically provided with reticulated sewer and water supply, and appropriate stormwater treatment and disposal. The Living 3 Zone will have regard to providing a visual transition area between the 'urban area' and the rural area which exists beyond townships by incorporating certain design elements of rural character, which are common in rural settings so the land is visually set apart from the neighbouring urban area.

Amendment 8 Amend existing paragraph 7 of Explanation and Reasons for Objective B4.1.2 for Residential Density (Page B4-003) as follows:

*New residential areas should be attractively laid out, with allotments of an appropriate shape to build a house, and with access to sunlight. As well as functional utilities, new residential areas need some open space, plantings and landscaping to make them aesthetically pleasing. Objective B4.1.2 is to ensure future residential areas maintain the current attractive layout of Selwyn's townships. For low density Living 2 **and 3** Zones, the careful consideration and application of design treatment to such matters as road formation, kerbs, letterboxes, power supply, entry treatment, fencing, landscaping, lighting and the like will ensure the retention of open, spacious rural character. The market can be relied on to achieve this to a certain extent – many people won't buy sections in an unattractive area. However, not all people have the money to choose allotments in more attractive subdivisions. The District Plan provisions set some "bottom lines" to ensure all new residential areas achieve a standard of aesthetic appeal.*

Amendment 9 Amend Policy B4.1.2 for Residential Density (Page B4-004) as follows:

*Maintain Living 2 **and 3** Zones as areas with residential density which is considerably lower than that in Living 1 Zones.*

Amendment 10 Amend paragraph 2 of Explanation and Reasons for Policy B4.1.2 for Residential Density (Page B4-004) as follows:

*Policy B4.1.2 retains Living 2 **and 3** Zones areas with lower residential density than Living 1 Zones. The policy refers to 'considerably lower' which acknowledges that low density living zones be spacious and reflect something of the rural characteristics in which they are located. Currently they are from 6 to 12 times lower. The Council suggests average section sizes would need to remain between 3 and 6 times lower **in the Living 2 Zone and between 6 and 10 times lower in the Living 3 Zone** than that of Living 1 Zones, to have a visually discernible difference in residential density. If more intensive residential density than this is desired in Living 2 **or 3** Zones, the area should be rezoned to another Living zone.*

Amendment 11 Amend Policy B4.1.7 for Residential Density (Page B4-007) as follows:

*Maintain the area of sites covered with buildings in Living 2 Zones, at the lesser of 20% or 500m² **and in the Living 3 Zone at the lesser of 10% or 500m²**, unless any adverse effects on the spacious character of the area will be minor.*

Amendment 12 Amend paragraph 4 of Explanation and Reasons for Policy B4.1.7 for Residential Density (Page B4-007) as follows:

*Policy B4.1.7 maintains low site coverage in Living 2 **and 3** Zones. The very rationale for Living 2 **and 3** Zones is to provide a low density, residential area. The policy does include some flexibility to accommodate small increases in site coverage. Any effects on the 'spacious' look of the area should be minor. There are no limits on site coverage in Business zones.*

Amendment 13 Amend Policy B4.1.9 for Residential Density (Page B4-008) as follows:

*Avoid erecting more than one dwelling per site in low density living (Living 2 **and 3**) Zones.*

Amendment 14 Amend paragraph 4 of Explanation and Reasons for Policy B4.1.9 for Residential Density (Page B4-008) as follows:

*Policy B4.1.9 is to avoid multiple dwellings in low density living (Living 2 **and 3**) Zones. The rationale for these zones is to provide a low density, residential area. There is no restriction on the number of dwellings per site in Business 1 Zones.*

- Amendment 15** Insert new point 6 on Residential Density – Anticipated Environmental Results (Page B4 – 011) as follows:

Living 3 Zones are low density rural residential areas.

- Amendment 16** Insert new Objective B4.3.7 of Residential and Business Development – Objectives (Page B4-030) as follows:

Objective B4.3.7

Ensure that any rural residential development occurs outside the urban limits identified in the Regional Policy Statement and such development occurs in general accordance with an operative Outline Development Plan, supports the timely, efficient and integrated provision of infrastructure, and provides for the long-term maintenance of rural residential character.

- Amendment 17** Insert new paragraph 7 of Explanation and Reasons for Objective B4.3.7 for Residential and Business Development (Page B4-031) as follows:

Objective B4.3.7 seeks to ensure that rural residential development occurs outside the urban limits in a manner that accords with the Regional Policy Statement. Given the nature of rural-residential development, Objectives B4.1.1, B4.1.2 and B4.1.3 of the Rural Volume of the District Plan are also relevant when assessing the sustainability of rural land for rural residential purposes.

- Amendment 18** Amend Policy B4.3.1 of Residential and Business Development – Town Form Policies (Page B4-033) as follows:

Policy B4.3.1

Ensure new residential, **rural residential or business development either:**

- **Complies with the Plan policies for the Rural Zone; or**
- **The land is rezoned to an appropriate Living Zone that provides for rural-residential development (as defined within the Regional Policy Statement) in accordance with an Outline Development Plan incorporated into the District Plan; or**
- **The land is rezoned to an appropriate Living or Business zone and, where within the Greater Christchurch area, is contained within the Urban Limit identified in the Regional Policy Statement and developed in accordance with an Outline Development Plan incorporated into the District Plan.**

- Amendment 19** Amend paragraph 1 of Explanation and Reasons for Policy B4.3.1 (Page B4-033) as follows:

Zoning is an integral part of the approach the District Plan uses to promote sustainable management of natural and physical resources. New residential, **rural residential or business activities need to occur on land which is appropriately zoned, to ensure the most appropriate policies and rules in the Plan apply to the**

activity. Additional requirements apply to those townships within the Greater Christchurch area, whereby new residential or business development within Greenfield areas is to be contained within the Urban Limits identified in the Regional Policy Statement and such development is to be carried out in accordance with an approved ODP that has been inserted into the District Plan. The purpose of these provisions is to consolidate and manage the rate of growth within these townships to ensure the integration of development with the appropriate provision of infrastructure, transport linkages, reserves and other community facilities.

Amendment 20 Amend Rule 4.2.1 for Buildings and Landscaping (Page C4-001) as follows:

Except for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38, any principal building shall be a permitted activity if the area between the road boundary and the principal building is landscaped with shrubs and:

- Planted in lawn, and/or
- Paved or sealed, and/or
- Dressed with bark chips or similar material.

Note: Except that fences on boundaries adjoining reserve areas, cycleways or pedestrian accessways identified in the Outline Development Plan for Lincoln in Appendix 18 shall not exceed 1.2m in height.

Amendment 21 Insert the following Rules 4.2.2 and 4.2.3 for Buildings and Landscaping (Page C4-001) as follows:

For the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38 the following shall apply:

4.2.2 Any principal building shall be a permitted activity if:

- i) That apart from one vehicle crossing and access not exceeding 100m² in area all land within the setback areas from roads as specified in Rule 4.9.26(i), excepting State Highway 1, will be devoted to landscaping; including the provision of at least one specimen tree capable of growing to at least 8m high being planted for every 10 metres of frontage and to be spaced at no less 5 metres and no greater than 15 metres. The area between all road boundaries and a line parallel to and 15m back from the road boundary is landscaped with shrubs and specimen trees covering as a minimum the lesser of 30% of the area or 250m²; and**
- ii) The number of specimen trees in this area is not less than 1 per 10m of road frontage or part thereof; and**
- iii) The trees are selected from the list below planted at a grade of not less than Pb95; and**

- iv) Shrubs are planted at 'aa' grade of not less than Pb3 and a spacing of not less than 1 per square metre, typically located within a garden area dressed with bark chips or similar material; and
- v) Any paved surface area within the area does not exceed 100m² in area.
- vi) The list of suitable specimen trees for the purpose of this rule is:
Maple, Silk Tree, Alder, Birch, River She Oak, Leyland Cypress, Monterey Cypress, Lacebark, American sweet gum, Magnolia, Pohutukawa, weeping Kowhai, Common Olive, Pine, Lemonwood, Kohuhu, Ribbonwood, Plane, Totara, Poplar, Oak, Elm, Michelia
- vii) The Council will require a planting plan to be submitted at building consent stage, prepared by a suitably qualified landscape professional, identifying compliance with the above control.
- viii) The landscaping shall be maintained and if dead, diseased or damaged, shall be removed and replaced.

Note: Rule 4.2.2 shall not apply to allotments of 4ha or greater in the Living 3 Zone identified on the Outline Development Plan in Appendix 38.

4.2.3 Any fencing in the Living 3 Zone on a road or Rural zoned boundary or in the area between the road boundary and the line of the front of the principal building or in the area between the Rural Zone boundary and the line of the rear of the principal building;

- i) Shall be limited to a maximum height of 1.2m, be at least 50% open, and be post and rail, traditional sheep, deer fencing, solid post and rail or post and wire only; and
- ii) Shall be of a length equal to or greater than 80% of the length of the front boundary, of a minimum height of 0.6m and be at least 50% open.

Except that nothing in the above controls shall preclude the use of other fencing types when located within 10m of the side or rear of the principal building. Such fence types shall not project forward to the line of the front of the building.

Amendment 22 Amend existing Rule 4.2.2 for Buildings and Landscaping (Page C4-002) as follows:

4.2.24 Any activity which does not comply with Rule 4.2.1 **or 4.2. 2** shall be a discretionary activity.

Amendment 23 Add a new Rule 4.2.5 (Page C4-002) as follows;

- 4.2.7 Any activity which does not comply with Rule 4.2.3 shall be a restricted discretionary activity. Council shall restrict the exercise of its discretion to the consideration of:
- 4.2.7.1 The extent to which the proposed fencing achieves high levels of visual transparency;
 - 4.2.7.2 The extent to which the fencing is in keeping with rural character elements;
 - 4.2.7.3 Whether the proposed fencing is necessary as an integral part of a recreational facility such as a swimming pool or tennis court;
 - 4.2.7.4 Whether the proposed fencing is necessary for the care and management of specialist livestock.

Amendment 24 Amend Rule 4.6.6 for Buildings and Building Density (Page C4-005) as follows:

*The erection on an allotment of any building (other than an accessory building) which does not comply with Rule 4.6.1 shall be a non-complying activity in the Living Z, 1A, 1A2, 1A3, 1A4 zones and the Living XA Deferred Zone at Prebbleton and all Living 2, and 2A zones **and Living 3 Zones.***

Amendment 25 Amend 'Table C4.1 Site Coverage Allowances' (Page C4-005 & 006) as follows:

Zone	Coverage
<u>Living 3</u>	<u>Lesser of 10% or 500m²</u>

Amendment 26 Amend Rule 4.9.2 for Buildings and Building Position (Page C4-008) as follows:

*Except as provided in Rules 4.9.3 to 4.9.25**27**, any building which complies with the setback distances from internal boundaries and road boundaries, as set out in Table C4.2 below.*

Amendment 27 Amend Rule 4.9.25 for Buildings and Building Position (Page C4-011) as follows:

Except for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38, Any dwelling, family flat, and any rooms within accessory buildings used for sleeping or living purposes shall be located...

Amendment 28 Insert new Rule 4.9.26 for Buildings and Building Position (Page C4-011) as follows:

Any building in the Living 3 Zone at Rolleston (as shown on the Outline Development Plan in Appendix 38) shall be set back at least:

- i) 15 metres from any road boundary except that on corner lots a minimum setback of 10m applies to one road boundary**
- ii) 5 metres from any other boundary**

Amendment 29 Insert new Rule 4.9.27 for Buildings and Building Position (Page C4-011) as follows:

Any dwelling, family flat, and any rooms within accessory buildings used for sleeping or living purposes in the Living 3 Zone at Rolleston (as shown on the Outline Development in Appendix 37) located outside the 'Odour Constrained Area' as shown in Appendix 38 (Skellerup Block).

Amendment 30 Amend existing Rule 4.9.30 for Buildings and Building Position (Page C4-0012) as follows:

~~4.9.30~~**32** Any activity which does not comply with Rule 4.9.2 and Rules 4.9.4 to 4.9.14 and 4.9.25 **to 4.9.26** shall be a restricted discretionary activity

Amendment 31 Insert new Rule 4.9.38 for Non-Complying Activities (Page C4-0013) as follows:
Amendment 32

Erecting any new dwelling in the Countryside Area and the 'Odour Constrained Area' identified on the Outline Development Plan in Appendix 38.

Amendment 33 Insert new paragraph 6 within 'Reasons for Rules – Building Positions' (page C4-024) as follows:

Controls on side and front yard spaces apply to sites in the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38 in order to retain views between residences and to assist in retaining elements of rural character and provide visual integration and visual attractiveness.

Amendment 34 Insert new paragraph 7 (immediately after new paragraph 6 as sought through Amendment 32) within 'Reasons for Rules – Building Position' (Page C4-024) as follows:

Building within the Countryside Area identified on the Outline Development Plan in Appendix 38 is a non-complying activity. The purpose of the Countryside Areas is to provide a visual link to the surrounding rural landscape. These corridors bisect the residential activity and are to be managed in productive rural use.

Amendment 35 Insert new final paragraph within 'Reasons for Rules – Building Position' (Page C4-024) as follows:

In regard to the Poultry Farm identified on Lot 3 DP 20007 at Rolleston a 300m setback has been imposed in relation to the northern boundary of the Skellerup Block (as shown on the Outline Development Plan in Appendix 38). Building within this area is a non-complying activity as reverse sensitivity issues may arise if this setback area is not applied.

- Amendment 36** Insert Rule 5.1.1.6 for Roading and Engineering Standards (Page C5-001) as follows:

For the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38, the road shall include the cross sectional treatment as shown in Appendix 38.

- Amendment 37** Amend Rule 5.2.1.6 for Roading and Engineering Standards (Page C5-002) as follows:

The vehicular accessway is formed to the relevant standards in Appendix 13 *and in addition for the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38, private vehicular accessways serving less than three sites shall have a maximum formed width of 3.5m at the road boundary and within 10m of the road boundary*; and

- Amendment 38** Insert new paragraph 3 within 'Reasons for Rules - Living Zone Rules – Roading' (Page C5-006) as follows:

A maximum width applies to accessways within the front 10m of sites in the Living 3 Zone at Rolleston identified on the Outline Development Plan in Appendix 38 in order to avoid dominance of landscaped front yard areas by wide paved accessway surfaces, which could compromise the rural character the zone is expected to create.

- Amendment 39** Amend Rule 10.3.2 for Activities and the Keeping of Animals (Page C10-003) as follows:

The keeping of animals other than domestic pets except as provided under Rules 10.3.3 to 10.3.5 shall be a discretionary activity **except**

(c) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 37 provided that such activities are identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40); and

(d) Within the Living 3 Zone Lower Density Area identified on the Outline Development Plan at Appendix 37 provided that this shall not include intensive livestock production or the keeping of roosters, peacocks, pigs or donkeys.

- Amendment 40** Insert new Rule 10.15 Countryside Areas – Living 3 Zone, Rolleston (Page C10-011) as follows:

Permitted Activities – Countryside Areas – Living 3 Zone, Rolleston

10.15.1 Rural activities (excluding forestry, intensive livestock production and dwellings) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 38 shall

be a permitted activity provided that such rural activities are identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40.

Restricted Discretionary Activities – Countryside Areas – Living 3 Zone, Rolleston

10.15.2 Rural activities (excluding forestry, intensive livestock production and dwellings) within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 38 shall be a discretionary activity except where such rural activities are identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40.

10.15.3 Under Rule 10.15.2, the Council shall restrict the exercise of its discretion to:

10.15.3.1 the degree to which the proposed rural activities maintain open space and/or rural character and rural amenity of the Countryside Area(s);

10.15.3.2 the extent to which potential adverse nuisance effects on occupiers of adjacent rural residential allotments will be internalised within the Countryside Areas.

Amendment 41 Amend paragraph 2 within 'Reasons for Rules - Keeping of Animals' (Page C10-012) as follows:

Resource consent for a discretionary activity is required for: commercial rearing of animals for sale of progeny, meat, skins, wool or other products; the keeping of animals other than domestic pets **(except within the Living 3 Zone Countryside Areas identified on the Outline Development Plan at Appendix 38)**; and for the keeping of more than 15 domestic pets (excluding progeny up to weaner stage). Those activities may be granted resource consent, depending on whether adverse effects can be adequately mitigated, and if there is consistency with the relevant objectives and policies of the plan. **The exception provided for the Living 3 Zones regarding keeping of animals recognises that rural activities (subject to some specific exceptions) are anticipated and intended to occur within the designated Countryside Areas, and also within the large lot Lower Density Areas. The potential adverse effects associated with the keeping of animals other than domestic pets (e.g. horse grazing) within the Countryside Areas is managed through the requirement for a management plan to be in place prior to such activities occurring, and as such, are deemed appropriate for the Zone. For the Lower Density Areas the exception allows for these lots to be managed by grazing by suitable species.**

Insert new final paragraph within 'Reasons for Rules – Countryside Areas – Living 3 Zones' (Page C10-014) as follows:

Countryside Areas – Living 3 Zone

Rule 10.15 provides for rural activities (subject to some specific exceptions) to occur within the designated Countryside Areas within the Living 3 Zone identified on the Outline Development Plan at Appendix 38 as a means of achieving and maintaining rural character within the Living 3 Zone. While such activities have the potential to create adverse environmental effects, the requirement for those activities to be identified by and undertaken consistent with the Countryside Area Management Plan required by Rule 12.1.3.40 will ensure that any adverse effects are appropriately managed over time.

Amendment 42 Insert new Rule 12.1.3.38 for Subdivision General Standard (Page C12-007) as follows:

Rolleston

Any subdivision of land within the area shown in Appendix 38 (Living 3 Zone at Rolleston) complies with:

- i) the Countryside Area layout of the Outline Development Plan at Appendix 38;**
- ii) the location of the Lower Density Area as shown on the Outline Development Plan at Appendix 38;**
- iii) the establishment of shelterbelt planting comprising three rows of Leyland Cypress along the common boundary with Lot 3 DP 20007;**
- iv) the roading layout of the Outline Development Plan at Appendix 38; and**
- v) where any conflict occurs with Rule E13.3.1 the cross sections in Appendix 38 shall take precedence; and**
- vi) full public access is maintained to internal roads so that the area shown on the Outline Development Plan in Appendix 38 does not become a gated community.**

Amendment 43 Insert new Rule 12.1.3.39 for Subdivision General Standard (Page C12-007) as follows:

No subdivision of land in the Living 3 Zone west of Dunns Crossing Road, as identified on the Outline Development Plan included at Appendix 38, shall take place to densities less than what are provided for under the Rural (Outer Plains) Zone until:

- (a) A publicly owned sewerage reticulation system has been extended to the site.**

Amendment 44 Insert new Rule 12.1.3.40 for Subdivision General Standard (Page C12-006):

Any subdivision application within the Living 3 Zone west of Dunns Crossing Road that includes any part of the Countryside Areas as identified on the Outline Development Plan included at Appendix 38 shall be

accompanied by a Countryside Area Management Plan which addresses the following matters:

- (a) The ownership and management structure for the Countryside Area(s);
- (b) Mechanisms to ensure that the management plan applies to and binds future owners;
- (c) The objectives of the proposed rural use of the Countryside Area(s);
- (d) Identification of the rural activity or activities proposed for the Countryside Area, which meet the above objectives;
- (e) Measures to maintain and manage open space and/or rural character;
- (f) Measures to manage plant pests and risk of fire hazard;
- (g) Measures to internalise adverse effects including measures to avoid nuisance effects on occupiers of adjacent rural residential allotments; and
- (h) Measures to provide for public access within the Countryside Area(s) along Dunns Crossing Road; and
- (i) Whether there is sufficient irrigation water available to provide surety of crop within the Countryside Areas.

Amendment 45 Amend 'Table C12.1 – Allotment Sizes' (Page C12-012) as follows:

<u>Township</u>	<u>Zone</u>	<u>Average Allotment Size Not Less Than</u>
Rolleston	<u>Living 3</u> <u>(Appendix 38)</u>	<p><u>At least 20ha of the land within the area defined by the Outline Development Plan at Appendix 38 shall be developed as a Lower Density Area in the location shown on the Outline Development Plan with a minimum and an average allotment size of no less than 4ha.</u></p> <p><u>The balance of the land on the Outline Development Plan outside the above area shall be developed with an average allotment area of no less than 5000m² with a minimum allotment size of 4000m²</u></p> <p><u>The maximum number of allotments within the area defined by the Outline Development Plan at Appendix 38 shall be 51.</u></p>

Amendment 46 Insert the following matter over which Council has restricted the exercise of its discretion at Clause 12.1.4.77 (Page C12-023) as follows:

In relation to the Living 3 Zone (Skellerup) at Rolleston as shown in Appendix 38:

- (a) Whether the pattern of development and subdivision is consistent with the Outline Development Plan in Appendix 38;
- (b) Whether local roading, and trees and planting on roads and lots, are proposed in general accordance with the Outline Development Plan, road cross section(s) and associated planting schedules and requirements shown in Appendix 38;
- (c) Whether the roading and lot pattern follow a rectilinear pattern with orientations generally established by the surrounding road network, consistent with the typical subdivision patterns of the Rolleston rural area;
- (d) Whether the roading pattern and proposed hard and soft landscape treatments in the road reserve will create a rural character to the development and distinguish it from conventional suburban development;
- (e) Whether suburban road patterns and details such as cul de sac, arbitrary curves, and kerb and channels are avoided;
- (f) The extent to which the maximum of 51 lots within the area defined by the Outline Development Plan in Appendix 38 is met.
- (g) Whether the creation of open space in rural production areas is consistent with the Countryside Areas identified on the Outline Development Plan in Appendix 38.
- (h) Whether at least 20ha of land is developed as a Lower Density Area with larger allotments (4ha or more) in general accordance with the location identified on the Outline Development Plan in Appendix 38.
- (i) In the event that it is developed first, whether the development of a Lower Density Area in advance of other development avoids frustrating the intentions of the Outline Development Plan or the ability to achieve integrated development over the Outline Development Plan Area.
- (j) Whether shelterbelt planting will achieve screening of activities occurring on Lot 3 DP 20007.

Amendment 47 Insert the following matter over which Council has restricted the exercise of its discretion at Clause 12.1.4.78 (Page C12-023) as follows:

In relation to the Countryside Area Management Plan required for the Living 3 Zone west of Dunns Crossing Road, Rolleston as shown in Appendix 38:

- (a) The adequacy of the management plan to achieve open space and/or rural character across the Countryside Area(s) in a manner that is compatible with the surrounding rural residential environment;
- (b) The adequacy of proposed mechanisms to maintain and manage the Countryside Area(s) long term in a consistent manner;
- (c) Whether rural landscape, visual and amenity value characteristics of the Countryside Areas are able to be maintained;
- (d) The extent to which potential adverse nuisance effects on occupiers of adjacent rural residential allotments will be internalised within the Countryside Areas;
- (e) The extent to which adverse effects of plant pests and fire hazard risks will be avoided or remedied; and
- (f) The suitability of proposed access within the Countryside Area(s) along Dunns Crossing Road.

Amendment 48 Insert the following Rule 12.1.7.8 (page C12-025) as follows:

Any subdivision that does not comply with Rule 12.1.3.39

Amendment 49 Insert the following new paragraph 6 in 'Reasons for Rules' (Page C12-031) as follows:

Rule 12.1.3.39 has been incorporated to ensure that no development has occurred until a publicly-owned sewerage system is available to service the site. Experience has shown that the Council is likely to be called upon to take over the ownership and operation of privately-owned sewerage systems serving multiple properties.

Amendment 50 Amend Appendix 13 – Transport 'Table E13.9 – Roding Standards' (Page E13-009) as follows:

Type of Road	Legal Width (m)		Carriageway Width (m)		Kerb and Channel	Footpath(s)
	Min	Max	Min	Max		
<u>Local Roads – Living 3 Zone at Rolleston (as shown within the Outline Development Plan at Appendix 38)</u>	<u>18m</u>	<u>20m</u>	<u>6m</u>	<u>6.5m</u>	<u>nil</u>	<u>One side only</u>

Amendment 51 Insert new standard E13.3.1.5 for Appendix 13 – Transport; Roding Standards to include (Page E13-009) as follows:

Any local road in the Living 3 Zone at Rolleston shall be constructed in substantial accordance with the recommended road cross section shown in the Outline Development Plan in Appendix 38.

Amendment 52 Include the Outline Development Plan attached at Appendix E to this document (Plan no 1021 – 127337 Version 18) as a new Appendix 38 to the District Plan, further modified to include;

- a) (the establishment of shelterbelt planting comprising three rows of Leyland Cypress along the common boundary with Lot 3 DP 20007; as required by Amendment 42, and
- b) An odour constrained area including all that part of the site 260 metres from its northern boundary with Lot 3 DP 20007,

Amendment 53 Any consequential amendments and renumbering of provisions as required to give effect to the plan change request.

Appendix 3 – Decisions on Submissions

The reasons for the decisions are set out in the main report, but specific points raised in submissions are discussed briefly below. Decisions on submissions are grouped into the topics to which they relate.

1 Amend noise rule - Allow

The Holmes block is adjacent to State Highway 1 along its northern boundary and dwellings closest to that boundary could be adversely affected by traffic noise. Various versions of a rule to mitigate this effect were suggested but all concerned seemed to accept a rule put forward by the reporting officer Mr Cleave, so I have inserted this in the Schedule of plan amendments.

2 Archaeology - Reject

The submission requested that there be an advice note attached to the decision relating to the possibility of unknown archaeological sites on the land. I do not consider that attaching an advice note to the decision would be an effective means of addressing this issue as the decision itself is unlikely to be read after the conclusion of these plan change proceedings. It is only when earthworks were being carried out on site that anything might be discovered, at which time it is unlikely that anyone would be consulting the decision. In such event the provisions of the Historic Places Act apply. No person may destroy an archaeological site without authority from the Historic Places Trust. In any case it seems unlikely that any archaeological remains could have survived the processes of establishing the two sites in forestry and then clearing it and restoring the sites to farmland.

3 Better locations exist for rural residential development - Reject

Many submitters suggested that these sites were not the best locations for rural residential development. Some of them preferred the Rural Inner Plains Zone, which lies closer to Christchurch. Some were keen to promote the use of sites they have an interest in, possibly including processes under PC 17. However, this is not an exercise in establishing the best possible sites for rural residential development. I need only to be satisfied that these sites are suitable, not the best possible sites that could be found. In any case I was in no position to judge the merits of the other sites which were suggested to me. PC 17 and to a lesser extent PC1 are concerned with establishing a strategic, district and region wide approach to rural residential development. When completed these may include limits on locations and numbers. Until they are complete, I have to have regard to these two changes but am not bound by them. As discussed below, I consider that PC 17 is still too early in its journey through the RMA process to be given much weight in this process. It may well change substantially before it is completed.

4 Conflict of Interest - Reject

Although the Selwyn District Council has an interest in the Selwyn Plantation Board, the plan changes have been prepared and assessed independently of the Council and heard and reported on by an independent commissioner. This is as much as could be done in the circumstances and can be regarded as best practice under the Resource Management Act for such situations.

5 Contrary to statutory purposes in s5 and 7 RMA - Reject

See the main decision where this is discussed and the conclusion is reached that the plan changes conform to the purposes and principles of the Resource Management Act.

6 Contrary to District plan objectives and policies – Reject

See main decision where it is concluded that neither plan change, as modified, would be contrary to the District Plan objectives and policies.

7 Contrary to PC1 Commissioner's recommendations not to leave choice of rural residential sites to developers - Reject

Despite the recommendation of the PC1 Commissioners, the Selwyn Plantation Board is entitled to apply for the plan changes and the Council is obliged to consider and decide them. PC 17 is part of this Council's response to that recommendation, but is too early in its process to affect the outcome.

8 Contrary to RPS – Reject.

See main decision where this is discussed and the conclusion reached that neither plan change is contrary to the operative Regional Policy Statement.

9 Contrary to Rural Residential Background report - Reject

The Rural Residential Background Report stops short of making specific recommendations about sites, but makes a number of recommendations about principles. Whether or not PC8 and 9 implement those principles, the document itself is not binding. It would be unfair to apply its conclusions inflexibly to the current applications which were in preparation before the Report was published.

10 Contrary to UDS - Reject

The plan changes are not contrary to the UDS. That submission may come from confusing rural residential development with full residential urban growth. The UDS is a strategic rather than a regulatory document but is largely reflected in PC1 in any case.

11 Density of development is too high - Reject.

If rural residential development is to be allowed at all, it is appropriate that it proceed at a density of about 1 site per hectare, as set out in PC1. These sites achieve about that average density. Expert evidence was led by the applicants indicating that many people prefer sites in this size range.

12 Develop existing zoned areas first - Reject

There is no general reason under the RMA to insist on developing existing zoned areas first, although there may sometimes be particular reasons, such as efficiency in providing infrastructure for example. Evidence was led indicating that there could be a shortage of zoned rural residential sites in the near future, especially near Rolleston.

13 Earthquake considerations - Reject

The earthquakes are not relevant to these Plan Changes.

14 Excessive commuting to Christchurch promoted - Reject

It is true that rural residential owners will often be commuting to Christchurch for employment and other needs. That is possibly a reason for limiting the amount of rural residential development, as PC1 seeks to do, and for finding sites as close as is reasonable to Christchurch. On the other hand Rolleston is no further from Christchurch than many other likely sites, and at least is well provided with public transport, and developing employment, commercial and community facilities of its own.

15 Excessive share of PC1 quota - Reject

PC1 proposes that there be no more than 600 further rural residential lots established in the Selwyn district by 2041. These plan changes as originally advertised would have claimed 225 of those, although following all the revisions this would be reduced to 148, and it may be unfair

to count the 11 x 4 ha lots in that tally as these would be accepted as rural lots in other parts of the district and Greater Christchurch. That is seen as unfair by many who have development aspirations of their own. That may well be true, but PC1 itself gives no guidance about location or fairness of allocation and until PC17 is further advanced, as discussed below, neither does anything else I can rely on. Unfortunately the RMA sometimes has to allocate scarce resources.

16 Increase to 1 ha minimum lot size - Reject

This submission is based on a misunderstanding of the revised definition of rural residential in PC1, which can be read as meaning that. It can also be read as requiring either an average or a maximum lot size of 1 ha. The PC1 definition is difficult to understand. Evidence led was that the size range was appropriate for the market, and the size of some of the lots would not adversely affect rural character because of the design features included.

17 Inner Plains zone more suitable for Rural residential - Reject.

The Rural Outer Plains is very close to the western side of Rolleston, so a blanket avoidance of rural residential in the Outer Plains zone would result in no more rural residential allotments on that side of Rolleston. There are already some rural residential lots west of Rolleston.

18 Land values would increase in the vicinity - Reject.

This is not something that is relevant under the RMA.

19 The process makes a mockery of existing planning work - Reject

Projects such as PC17 and the Rural Residential Background Report can be pre-empted before they are completed by privately requested plan changes. That is a consequence of the RMA. Until exercises such as PC17 are further advanced, they cannot be implemented in full and may have to be adapted in the light of other exercises coming ahead of them.

20 Boundaries of the sites are not logical - Reject

The boundaries of the sites are cadastral only. They do not follow some strong physical feature to set them apart and confine them, as preferred by the Rural Residential Background Report. Selwyn District has a largely flat open terrain with few physical points of difference to define boundaries of zones. The Holmes Block is reasonably well contained by the State Highway, and the wastewater disposal sites. The Skellerup Block is less well contained. It is a factor to be weighed up but not so important as to suggest either site should be rejected.

21 PC8 may compromise reticulation - Reject

This was not borne out by the evidence which is that PC8 can be accommodated by the reticulation being installed for subdivisions across Dunns Crossing Rd.

22 Precedent - Reject

Under case-law precedent is not a relevant issue when considering plan changes, but is more relevant to resource consents, especially non-complying activities. These have the potential to affect the integrity of the plan, if the plan remains unchanged but is regularly being departed from. However a plan change by its very nature means the appropriateness of the plan is being reconsidered. If one plan change application meets the relevant statutory tests then it may well be that another will also.¹⁴ If a plan change is able to comply with existing objectives and policies, then that is a powerful reason why it should be granted, regardless of whether or not there is a precedent created. If the Council considers an undesirable trend is becoming established, it has the option of reviewing those objectives and policies.

¹⁴ See Canterbury Fields Management Ltd v Waimakariri District Council Decision C99/2011, starting at paragraph 93 for a discussion of precedent in regard to plan changes

23 Refer to intensive farm rather than poultry breeder farm - Allow

The operators of the poultry breeder farm adjacent to the Skellerup block would prefer the rules refer to an intensive farm rather than a poultry breeder farm, to preserve their flexibility to make changes to their operation within existing use rights. It is a fair point and easily accommodated within the rules.

24 Retain the land for future effluent disposal, dairy run-off or forestry - Reject

There was no evidence of any need for more land for wastewater disposal, nor any evidence that there was any shortage of land for agricultural or forestry uses or why these would be more suitable than the plan changes.

25 Reverse sensitivity for utilities and surrounding farmers – Allow in Part

This has been discussed above. Increased separation distances are being recommended for both the Resource Recovery Park and the Wastewater Treatment Plant disposal area, and there was no evidence of significant effects on neighbouring farmers.

26 Rolleston Structure Plan inconsistency - Reject

The Rolleston Structure Plan does not attempt to deal with rural residential land.

27 Adverse Effects on Rural Amenity - Reject

Evidence for the applicant was that rural residential activities are generally quiet, that there are rural activities which could create more noise and that if serious noise problems arose then the council would have powers to deal with it.

28 30 Rural character – Allow in part

With the design features agreed upon between the applicant and Council's urban design and landscape witnesses there will not be an adverse effect on rural character.

29 31 Section 32 analysis inadequate - Reject

See main report where it is concluded that the plan changes satisfy the requirements of section 32 of the RMA.

30 Scale and numbers of allotments should be reduced – Allow in part.

The number of allotments has been reduced quite significantly since the plan changes were first notified. The applicant has demonstrated that with careful design it is possible to exceed the limit of 50 lots recommended in the Rural Residential Background Report without creating adverse effects.

31 Urban design.

This point is discussed in depth in the main report where it is concluded that the plan changes are well-designed, and would not have adverse effects on the compact form of Rolleston.