

BEFORE THE SELWYN DISTRICT COUNCIL

IN THE MATTER OF Clause 21 of the First Schedule of the
Resource Management Act 1991

AND

IN THE MATTER OF Private Plan Change 80
Two Chain Road Limited
Applicant

RECOMMENDATION OF COMMISSIONER DAVID CALDWELL

Dated 16 February 2023

Hearing Held: 20 and 21 October 2022

Appearances:

Council:

Ms Liz White – Consultant Planner for Selwyn District Council
Mr Greg Burrell – Ecology (no questions)
Mr Derek Foy – Economist
Mr William Reeve – Acoustic Engineer
Mr Murray England – Asset Manager Water Services for Selwyn District Council
Mr Mat Collins – Transportation planner and engineer
Ms Bron Faulkner – Landscape architect

Applicant:

Ms Jo Appleyard and Ms Lucy Forrester, Chapman Tripp – Legal Counsel
Mr Tim Carter – Director and owner of Two Chain Road Limited
Mr Mark Everest – Farm consultant (agriculture and primary industry)
Mr Victor Mthamo – Versatile soils and water supply
Mr Sam Staite – Industrial broker (real estate)
Mr Nick O'Styke – Director for industrial sales (real estate)
Mr Chris Blackmore – Senior transportation planner (transportation modelling)
Mr Nick Fuller – Traffic engineer (transport)
Mr Mark Lewthwaite – Acoustic consultant (noise)
Mr Paul Farrelly – Consultant (greenhouse gas emissions)
Mr Mark Taylor – Ecologist (ecology)
Mr Tim McLeod – Civil Engineer (infrastructure and servicing)
Mr David Compton-Moen – Landscape architect (landscape, visual amenity and urban design)
Ms Nicole Lauenstein – Urban design
Ms Natalie Hampson – Economist (economic)
Mr Ben Turner – Rural real estate agent
Ms Kim Seaton – Planner (planning)

Submitters

Ms Andrea Millar and Mr Maurice Dale (planner) for Ara Poutama Department of Corrections
Mr David Middleton, Ms Suzanne Middleton, Ms Sandra Combe, and Ms Michelle Mehlhopt (Submitter PC80-0010)
Mr Mike Brown for KiwiRail Holdings Limited
Waka Kotahi NZ Transport Agency (tabled evidence of Stewart Fletcher)
New Zealand Defence Force (tabled letter of 10 October 2022 from Rebecca Davies, Principal Statutory Planner)

ABBREVIATIONS TABLE

CLWRP	Canterbury Land and Water Regional Plan
CRC	Canterbury Regional Council/Environment Canterbury
CRPS	Canterbury Regional Policy Statement
GCP	Greater Christchurch Partnership
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NPS-UD	National Policy Statement – Urban Development
NPS-UDC	National Policy Statement – Urban Development Capacity 2016
ODP	Outline Development Plan
Our Space	Our Space 2018-2048: Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrapa Nohoanga
PC80	Private Plan Change 80
PDP	Proposed Selwyn District Plan
RMA	Resource Management Act 1991
SDC	Selwyn District Council
SDP	Operative Selwyn District Plan
WWTP	Waste Water Treatment Plant

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Introduction

1. I have been appointed to hear submissions and make a Recommendation on Private Plan Change 80 to the Operative SDP.
2. I attended and conducted the hearing at the Selwyn Health Hub on Thursday 20 and Friday 21 October 2022. The Applicant's reply was received on 1 December 2022. The hearing was formally closed on 8 December 2022.
3. Following the closure of the hearing, I became aware that the MfE Guide to Implementation of the NPS-HPL was published on 16 December 2022. I issued a Minute on that providing the parties with an opportunity to provide comment on that guidance. This was in light of the importance of the NPS-HPL.
4. I have not included a specific summary of all of the documents considered, evidence provided and submissions made. All of that information is publicly available and has been uploaded to SDC's plan change site at www.selwyn.govt.nz/pc80. I refer to the relevant evidence, submissions and other documents, when addressing the particular issues and statutory provisions. I have carefully considered all of the relevant documents, evidence and submissions.

PC80

5. PC80 is a private plan change initiated by Two Chain Road Limited to rezone the site from Rural Inner Plains to Business 2A. In addition to the rezoning the Request also seeks the provision for an ODP which includes landscaping requirements on Two Chain Road frontage and road link location. PC80 generally adopts existing Business 2A zone rules with amendments to reflect the intended new Business 2A area and ODP and to provide for site specific mitigation.
6. There are restrictions on direct vehicle access to Two Chain Road and Walkers Road. There are a number of rules relating to occupation of buildings on the site pending specified roading upgrades being undertaken. There are further restrictions on any development prior to the commencement of other specific roading upgrades.

7. A number of revisions were made to the proposal following the officer's report, and in response to matters directly raised in submissions and, I was advised, discussions with submitters.
8. The amendments included a 2.5m high earth bund on the Two Chain Road frontage with landscaping and a restriction on potential extension of rail sidings to the southern side of the east-west orientated primary road. PC80 now incorporates a number of changes to the status of activities to list a range of heavy industrial activities as either discretionary or non-complying within 500m of the Walkers Road boundary with Rolleston Prison; direct vehicle access to Walkers Road north of the primary intersection only by way of resource consent; and by amending proposed Rule 22.9.x so that it provides buildings must not be constructed prior to identified roading upgrades. An additional Rule 22.9.x is sought specifying that any business operating between 10.00pm and 7.00am within 500m of the Walkers Road boundary of Rolleston Prison is a restricted discretionary activity. The amendments also provide for an increased landscape strip width on Two Chain Road to a minimum of 15m with amendments to the list of plants required for secondary planting strip. A new Rule 24.1.3.x is proposed for Chapter C24 BZ Subdivision specifying that no development (which includes earthworks) is to occur prior to the commencement of the upgrade of the State Highway 1/Dunns Crossing Road/Walkers Road intersection and no subdivision is to occur until a potable water supply is available.
9. PC80 was formally received by SDC on 5 October 2021. On 9 November 2021 a request for further information was made. A substantive response to that request was provided by letter dated 11 February 2022. PC80 was formally accepted for notification at SDC's meeting on 23 March 2022, publicly notified on 6 April 2022 with submissions closing on 9 May 2022. 10 submissions were received on PC80. Two further late submissions were received on 25 and 30 May 2022. I note that they were received prior to the notification of the further submissions period and were included in the Summary of Submissions notified on 8 June 2022. The further submissions period closed on 22 June 2022 with no further submissions being received.

Site Visit

10. I undertook my site visit on 3 November 2022. I was escorted on my visit to the site by Mr Bruce Van Duyn. Mr Van Duyn identified a number of points that I had indicated I was interested in, including the location of the features associated with the stockwater race system.
11. I spent some time going around the surrounding area. I went on to the properties owned by a number of submitters. These included the properties owned by Mr David Middleton, Mr Donald Fraser and Ms Mehlhopt which are all located on Two Chain Road opposite the site.
12. I also took the opportunity to refamiliarise myself with the existing industrial development in Rolleston and how that interrelates with the surrounding rural land, and with this site. I viewed the Rolleston Prison site, the Burnham Military Camp and Te Puna Wai o Tuhinapo location from Runners Road.

The Site and Surrounding Environment

13. The site and surrounding environment is described in paragraphs [4] and [5] of the s32 Evaluation.¹ It was also described in the s42A Report.² Those descriptions were helpful. In summary, the site is located at Two Chain Road, between Walkers and Wards Road to the west and east respectively, and the Main South Rail corridor and State Highway 1 to the south. It is held in a number of titles. The site is generally flat and is of a triangular shape. There are multiple crossings of Two Chain Road and Runners Road.
14. To the west, and across Walkers Road, there is the Rolleston Prison and Periodic Detention Centre, the Te Puna Wai o Tuhinapo, subject to Designation MC1, and further distant, the Burnham Military Camp. The land immediately to the north of the site and Two Chain Road is zoned Rural Inner Plains and contains a number of small rural landholdings with associated dwellings. The southern boundary of the site adjoins the rail corridor which then abuts State Highway 1. On the opposite side of State Highway 1 the land is both zoned and developed for residential purposes.
15. To the east, the site is adjacent to the edge of the current Industrial zone and a small area of Rural Inner Plains.
16. In terms of its relationship to Rolleston's existing urban boundary, as noted by Ms White, Rolleston Township straddles State Highway 1 and the main trunk railway with the residential areas among commercial areas located south of State Highway 1/the railway and its industrial area located to the north of State Highway 1 and the railway line.³
17. The existing Business 2A zone which is commonly referred to as IZone contains a large industrial area.
18. For completeness, the Urban Design, Landscape and Visual Impact Assessment attached as Appendix C1 to the Request provides a detailed description of the site and surrounding environment.⁴ This described the urban form and landscape/rural character. It described the receiving environment as having a rural, semi-open character transiting to urban fringe/peri-urban with various structures including dwellings, auxiliary structures, power lines and exotic vegetation clustered throughout the landscape typical of rural landscape.⁵

Statutory Framework

19. The Environment Court has provided a comprehensive summary of the mandatory requirements in its decision in *Long Bay*.⁶ This was updated to reflect changes to the RMA in 2009 in the Environment Court's decision in *Colonial Vineyards*.⁷

¹ s32 Evaluation at paras [4] and [5]

² s42A Report at paras [9] – [13]

³ s42A Report at para [12]

⁴ Urban Design, Landscape and Visual Impact Assessment 9 February 2022 at 3.1

⁵ Urban Design, Landscape and Visual Impact Assessment 9 February 2022 at 3.1.2

⁶ *Long Bay – Okura Great Park Society Inc v North Shore City Council* A078/08

⁷ *Colonial Vineyards Limited v Marlborough District Council* [2014] NZEnvC 55

20. The general requirements are:

- (a) The district plan (change) should accord with and assist the local authority to carry out its functions under s31 and to achieve the purpose of the RMA;⁸
- (b) When preparing the district plan (change) the territorial authority must give effect to any National Policy Statement, a National Planning Standard, the New Zealand Coastal Policy Statement and the operative Regional Policy Statement;⁹
- (c) When preparing its district plan (change) the territorial authority shall:
 - (i) Have regard to any proposed Regional Policy Statement;¹⁰
 - (ii) Give effect to any operative Regional Policy Statement;¹¹
- (d) The district plan (change) must not be inconsistent with an operative Regional Plan for any matter specified in s30(1) or a Water Conservation Order,¹² and must have regard to any proposed Regional Plan on any matter of regional significance;¹³
- (e) The territorial authority must also have regard to any relevant management plans and strategies under other Acts, and must take into account any relevant planning document recognised by an iwi authority and lodged with a territorial authority, to the extent that its contents has a bearing on the resource management issues of the district;¹⁴
- (f) The policies are to implement the objectives, and the rules are to implement the policies;¹⁵
- (g) The plan change shall have regard to the actual or potential effects on the environment of activities including, in particular, any adverse effects.¹⁶

21. Section 32 requires that:

- (a) Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account the benefits and costs of the proposed policies and methods, and the risk of acting or not acting if there is uncertain or insufficient information;

⁸ s74(1)(a) and (b) of the RMA

⁹ s75(3)(a), (ba) and (c) of the RMA

¹⁰ s74(2)(a)(i) of the RMA

¹¹ s75(3)(c) of the RMA

¹² s75(4) of the RMA

¹³ s74(2)(a)(ii) of the RMA

¹⁴ s74(2)(b)(i) and s74(2A) of the RMA

¹⁵ s75(1)(b) and (c) of the RMA

¹⁶ s76(3) of the RMA

- (b) If a National Environmental Standard applies, and the proposed rule imposes a greater prohibition or restriction than that, then whether the greater prohibition or restriction is justified in the circumstances;
- (c) The objectives of the proposal (here the stated purpose of the proposal) are to be the most appropriate way to achieve the purpose of the RMA;¹⁷
- (d) The provisions in PC80 are the most appropriate way to achieve the objectives of the SDP and the purpose of the proposal.¹⁸

Assessment of Actual or Potential Effects on the Environment, Matters Raised in Submissions, Matters Necessary to be Considered

22. Ms White identified and addressed the key matters either raised by submitters, or necessary to be considered in ensuring that SDC's statutory functions and responsibilities are fulfilled, at paragraph [29] of her s42A Report. These were identified as:

- (a) Traffic effects;
- (b) Character and amenity effects;
- (c) Supply, demand and urban expansion;
- (d) Other economic effects;
- (e) Water supply (and other servicing matters);
- (f) Ecological effects;
- (g) Contaminated land considerations;
- (h) Geotechnical considerations; and
- (i) Other matters.

Traffic effects

23. A number of submitters raised issues in relation to potential transportation effects. Those submitters were identified, and their concerns summarised, by Ms White.¹⁹ Very much in summary, Ara Poutama/Department of Corrections (PC80-0002) acknowledged the provision of upgrades were proposed but expressed a concern relating to acquisition of land for the proposed State Highway 1/Walkers Road/Dunns Crossing Road roundabout and the lack of specific funding for the widening and strengthening of Walkers Road. It also raised concerns about the generation of significant additional heavy freight traffic movements along Walkers

¹⁷ s32(1)(a)

¹⁸ s32(1)(b)

¹⁹ s42A Report at [30] – [39]

Road. It was particularly concerned around any potential adverse effect on the timing of the State Highway intersection upgrade, and to manage any risk of development on the site going ahead of those identified upgrades.

24. The NZ Defence Force (PC80-0005) expressed a concern that in the absence of appropriate upgrading and management, the safe and efficient access to Burnham Military Camp could be affected.
25. Waka Kotahi (PC80-0007) raised a number of concerns relating to traffic associated with the plan change. It sought confirmation on a number of matters. It also raised issues of uncertainty and supported a restriction on buildings being erected prior to the principal works being undertaken.
26. D & H Fraser (PC80-0008) and D Middleton (PC80-0010) (group submission) expressed concerns in relation to traffic and particularly heavy vehicle movements on Two Chain Road and the impact that would have on families, pets, stock and amenity. Submitter PC80-0008 supported the proposed restriction on individual site access to Two Chain Road. They sought further that only one road crossing/intersection at the eastern end of the site be provided with a maximum of two other breaks to enable additional pedestrian/cycle linkages only.

Analysis

27. Before addressing the wider transportation issues, I address the issues raised by Waka Kotahi.
28. Mr Stewart Fletcher, a consultant planner, provided a written brief of evidence dated 12 October 2022. That was uploaded onto the Council's Private Plan Change website and was available to all parties and commented on in the Applicant's evidence.
29. He advised that since lodging the submission, matters had progressed and a number of the issues raised had been considered as part of various reports and evidence. His evidence therefore focused on the timing of the development of the plan change area in comparison to works being undertaken by Waka Kotahi as part of the NZUP project and coordination with other network improvements required along Two Chain Road and Jones Road.
30. Mr Fletcher identified the response to the issues raised which were addressed in Ms Seaton's evidence, particularly her paragraphs [23] and [24]. Mr Fletcher's evidence advised that on the basis of the analysis that had been undertaken and amendments to the proposal, the matters raised by Waka Kotahi had been satisfactorily addressed. His evidence recorded that Waka Kotahi was no longer opposed to the plan change, subject to the conditions, and instead took a neutral position.²⁰ Waka Kotahi did not attend the hearing.
31. In light of the clear statements contained in that evidence, I do not address the Waka Kotahi concerns further. It is clear that the changes proposed by the Applicant in response to the

²⁰ Evidence of Stewart Fletcher on Behalf of Waka Kotahi NZ Transport Agency dated 10 October 2022 at [7.1]

Waka Kotahi submission address its concerns. I am satisfied that the changes are appropriate.

32. From a transport safety and efficiency perspective, Table 4 to Mr Collins' transportation hearing report provides a very helpful summary. Mr Collins is an experienced transportation engineer. He is employed by Flow Transportation Specialists and holds the position of Associate and Regional Manager at Flow Canterbury. In addition to the Waka Kotahi matters identified above, he noted by summary that Walkers Road is classified as an arterial road and is anticipated to carry significant volumes of traffic. In relation to Two Chain Road, he considered that the frontage upgrade identified in the ODP and proposed rules will ensure that Two Chain Road is upgraded to an appropriate standard (likely to be either a rural arterial or urban arterial standard) through the future consenting process and that direct vehicle access to Two Chain Road had been addressed.
33. In relation to the NZ Defence Force (PC80-0005) submission, he considered that very little traffic was anticipated to route via Two Chain Road west of Walkers Road and that the immediate effects on the Burnham Military Camp were likely to be limited to the State Highway 1/Ellesmere Road intersection. While that had not been specifically addressed, he considered it was sufficiently remote from PC80 to not warrant any further consideration.
34. In terms of potential restriction of access to Two Chain Road to one crossing/intersection at the eastern end of the PC80 site, Mr Collins considered it was not warranted based on transport safety and efficiency effects. He considered providing several access points on Two Chain Road would help distribute traffic across the site more evenly and would result in site access points operating more efficiently.

Applicant's Evidence

35. Mr Blackmore, a senior transportation planner at Abley, provided traffic modelling evidence. He advised that he had undertaken modelling of the future transport environment using the Rolleston Paramics microsimulation model which had been updated in 2019 for SDC by himself and the Abley team and had subsequently been used to support transportation planning across the township. He confirmed that the plan change model used represented a full development scenario and included all currently zoned residential, commercial and industrial land, as well as development of the private plan changes that had been lodged and assessed. He identified the 2033 future year as a nominal year which corresponds with a full development of all the plan changes that have been lodged and assessed, based on Statistics New Zealand's growth forecast and is realistically a high growth 35 year forecast model.
36. Following Mr Collins' review of the modelling presented, he advised that he had revisited several assumptions and updated the modelling accordingly. He considered the modelling that had been undertaken was in line with the best practice and appropriately demonstrated the cumulative effects of the plan changes on the Rolleston transport network.

37. Mr Fuller, a principal transport engineer at Novo Group Limited, provided a comprehensive brief of expert evidence. In his summary presented at the hearing, he noted that the transport matters raised in the s42A transport report and the Waka Kotahi submission had been addressed through revisions to the ODPs. He recorded his understanding that there were no points of disagreement between himself and those parties regarding the transport effects of the proposed plan change.
38. He advised that specific consideration of the traffic operation of the State Highway 1/Dunns Crossing Road/Walkers Road intersection had been undertaken. He advised that the roundabout was predicted to become congested with the inclusion of the traffic from the plan change (and other notified Rolleston plan changes) on the road network but this was anticipated to be beyond 15 years away. He considered the level of congestion predicted was consistent with other urban locations. Overall, it was his opinion that the traffic effects at that location, and the road network in general, were acceptable. He considered the site had good accessibility and provides for a range of transport modes and could be integrated with the existing passenger transport routes. He concluded that PC80 was acceptable from a transport perspective.
39. In his summary presented at the hearing, Mr Collins commented on the additional traffic modelling information included in the evidence of Mr Blackmore. He agreed with a number of Mr Blackmore's points. He considered it was likely that the Paramics models were likely to be over-predicting the congestion effects at the State Highway 1/Dunns Crossing Road intersection in 2033. He considered the proposed dual laned roundabout at State Highway 1/Dunns Crossing Road was sufficient to support traffic from the PC80 site. Mr Collins addressed Mr Fuller's evidence in relation to the timing and funding of transport infrastructure upgrades and commented particularly on developer agreements which he considered can work well. He addressed the clarification of what constitutes an "upgrade" as clarification had been sought by Waka Kotahi. He supported the amendments to proposed Rules 22.9.x and 24.1.3.x to clarify what each upgrade includes.
40. He agreed with Mr Fuller that a single access point onto Two Chain Road could be made to operate acceptably from a transport safety and efficiency perspective but that a single access point would create a low level of resilience and a less efficient transport network. He confirmed that he preferred to maintain at least two intersections onto Two Chain Road.

Finding

41. I have received comprehensive evidence and submissions in relation to transportation effects. I have carefully considered the expert evidence provided by Messrs Blackmore, Fuller and Collins. There is a very high level of agreement and a very thorough assessment undertaken. On the basis of the expert evidence, I am satisfied the safety and efficiency aspects of the transportation network can be appropriately addressed. The amenity effects are addressed in the next section of my Recommendation.

Character and amenity effects

42. A number of submitters raised concerns relating to character and amenity effects. These were identified and summarised in Ms White's report.²¹ I accept that is an accurate summary and I adopt it for the purposes of this Recommendation.
43. The issues of concern were wide-ranging. They included noise, night-time light spill, odour, air pollution, visual impact, amenity effects of increased traffic, impacts on current rural outlook and environment and visual impacts.²²
44. In my view, character and amenity effects and their significance needs to be undertaken on a broad basis. Approaching the assessment on a compartmentalised basis can lead to the overall effects being underestimated. Nevertheless, it is helpful to address the key effects identified, particularly by reference to the expert evidence where such has been provided.
45. Before undertaking the overall assessment, I address the submission of Ara Poutama/Department of Corrections (PC80-0002). Ara Poutama is the operator of the Rolleston Prison. This is located on a designated site on the western side of Walkers Road and directly opposite the site's western edge.
46. In its submission, it advised that the Rolleston Prison opened in 1958 and has a current maximum capacity for up to 500 people accommodated within six units. The remainder of the 63 ha site comprises agricultural and horticultural land as well as two building refurbishment and construction yards to support trade-training activity. Its submission noted the important social and cultural benefits it provided and the importance of the effective operation of the prison and services not being comprised by other surrounding activities.
47. It advised that prisons are places of residence, with people sometimes serving long sentences and, unlike the general population, people held in prison facilities are unable to avoid the effects of surrounding activities they may be subjected to. It also noted that a number of people within its care have high rates of mental health disorders, history of trauma, and poorer physical health than the general population and therefore are particularly sensitive to external environmental factors.
48. It was concerned that the "relatively unconstrained heavy industrial activity" that would be enabled by the Business 2A zoning would lead to generation of significant levels of traffic, noise, air emissions and adverse nuisance effects which would not be conducive to maintaining an appropriate level of amenity and environmental effects at the interface with the prison site and enhancing the health and wellbeing of the people living there. It expressed a concern in relation to a lack of consultation and considered the environmental effects and sensitivity of the prison had not been properly considered.

²¹ s42A Report at [49] – [59]

²² PC80-0001, PC80-0003, PC80-0008, PC80-0010, PC80-0011

49. Ms Seaton, an experienced resource management planner who had prepared the s32 report for the plan change, advised that she had participated in direct engagement with the Department of Corrections in regard to their submission. She advised that in that engagement the Department confirmed that it did not seek any amendment to the 3m wide landscape strip requirement, that it would be opposed to the establishment of an earth bund on Walkers Road for security reasons, and that any specification of high and dense planting would also be undesirable from a security viewpoint.²³ She advised that the engagement with the Department of Corrections helpfully provided further insight into the specific concerns. She advised that the Department had particularly expressed concern over the potential for heavy and noisy or odorous industry to locate in closer proximity to the prison, advising that prison residents may reside on site for many years and in some cases may be required to remain in their cells for up to 23 hours a day. She also noted the Department had advised that it was currently undertaking master planning exercises at various sites and that as the site was designated for prison use, there was potential for new cell blocks to be established anywhere on the site.²⁴
50. Ms Seaton advised that the Applicant had accepted that the Department of Corrections' concerns could be distinguished from that of a more typical rural or rural-residential site.
51. She recommended a number of rules to address the Department of Corrections' concerns and the particular circumstances. The rules included, in summary: amendments to the list of heavy industries that are controlled activities under Rule 13.1.4 so that the list applies only to the part of the PC80 site that is greater than 500m from the Walkers Road boundary of Rolleston Prison; a new Rule 13.1.7.3 specifying a list of heavy industries that would be a discretionary activity within 500m of the Walkers Road boundary of Rolleston Prison and added a new Rule 13.1.11.3 specifying four additional heavy industrial activities that are non-complying activities within 500m of the Walkers Road boundary of the prison. Further, amendments were made to the vehicle accessways, site access and road crossings rules (17.2.1.2, 17.3.1.7 and 17.6.2) so that no accessways or crossings were permitted to Walkers Road north of the primary road intersection to PC80, and added additional matters of discretion so that they included effects on the Rolleston Prison accommodation units and those residing within the units.
52. Ms Andrea Millar, Manager, Resource Management and Land Management at Ara Poutama, and Mr Maurice Dale, Planner, appeared at the hearing.
53. Ms Millar provided evidence in relation to issues peculiar to prisons. She noted that in New Zealand, 75% of all crime occurs in about 3% of the population and flowing from that small group a select few regularly go to prison. She advised that many prisoners have high lifetime exposure to potentially traumatising events and that the statistics suggest high rates of trauma within the prison population. She advised that trauma exposure can have a range of long term

²³ Evidence of Kim Seaton (planning) dated 5 October 2022 at para [35]

²⁴ Evidence of Kim Seaton (planning) dated 5 October 2022 at para [36]

impacts including the development of PTSD or other “mental disorders”. She advised that a recent study had found that in New Zealand 52% of female prisoners and 40% of male prisoners have a lifetime diagnosis of PTSD and addressed the adverse impacts on behaviour in prison that can have.

54. She identified that international studies suggest that the prisoner population is even more sensitive to noise effects than the general population, noting that prisoners and staff are in settings where noise levels must be endured for long stretches of time, and this is experienced for days, weeks, months and years. She advised that the residents were present involuntarily and they were likely to feel they have little or no control over sources of, or amount of, exposure to noise. She stated further that prisons are also environments where those affected are likely to be exposed to multiple stresses including crowding, boredom and fear, and that such could multiply the impacts of any individual stressor, noting that the opportunities to escape or otherwise avoid noise levels were limited in a prison environment.
55. Overall she concluded that prisons are places where there is a need to be especially careful about noise effects because of the severe consequences including that any such “thing” has potential to worsen the mood, increase argumentativeness and levels of hostility and aggression between prisoners (or staff).
56. Mr Dale, a qualified and experienced planner who holds the position of Senior Principal and Planner with Boffa Miskell in its Christchurch office, provided thorough and helpful planning evidence. He advised that the Applicant had engaged constructively with Ara Poutama. He identified the volunteered changes. He stated that subject to some minor amendments the changes satisfactorily addressed the concerns raised in Ara Poutama’s submission. Those changes would ensure the continued effective operation of the prison and that the wellbeing of its residents was less likely to be compromised by unconstrained heavy industrial activity.
57. He considered the changes would ensure PC80 as it relates to Rolleston Prison gives effect to or would not be inconsistent with the policy direction of relevant planning documents under s75(3) and (4) RMA, is appropriate to achieve the purpose of the RMA under s32(1)(a), and is efficient and effective under s32(1)(b) RMA.

Assessment

58. There were a number of discussions during the hearing as to whether the objective and policy sought by Ara Poutama was necessary or appropriate. Ms Seaton considered they were not. She identified a number of reasons for her view. These included that it would require considerable changes to the package and that the existing objective and policy framework was sufficient. As an alternative to the objective and policy sought, she proposed the inclusion of a specific reference in the explanation and reasons to Policy B3.4.6 to recognise the sensitivity of the prison residents and that development controls were included to ensure the safe and efficient operation of the Rolleston Prison is not constrained or compromised by activities occurring within the Business 2A zone.

59. I was subsequently advised, by email from Mr Dale (through the Hearings Officer), that having reviewed the changes, Ara Poutama confirmed that they were acceptable in place of the introduction of the new objective and policy as proposed in his evidence.

Finding in relation to the submission of Ara Poutama

60. Having carefully considered the evidence and submissions in relation to the potential effects on the operation of the prison and those residing there, and in light of the level of agreement, I am satisfied the changes are appropriate. I agree that they better give effect to the policy direction of the relevant planning documents under s75(3) and (4) of the RMA, are appropriate to achieve the purpose of the RMA pursuant to s32(1)(a) and are efficient and effective under s32(1)(b) of the RMA.

More general application of the proposed changes

61. In discussions at the hearing, I raised the issue as to whether the amendments proposed in relation to the concerns of Ara Poutama, or modified amendments, could potentially be an appropriate method of addressing the concerns raised by the residents on the opposite side of Two Chain Road largely identified in submission PC80-0010. I advised Ms Appleyard that I considered it appropriate to provide the submitters with the opportunity to comment on those amendments and to advise as to whether they would go any way toward addressing their concerns.
62. I issued a further Minute²⁵ in which I provided an opportunity for the owners and/or occupiers of the properties directly opposite the PC80 site as identified in the group submission to comment on the additional rules. I note that Minute also recorded my view that it would be very helpful if the Applicant's representatives were able to explore with this submitter whether there was any potential common ground in relation to a potentially modified version of the rules. I did not make any specific direction in that regard but raised it as something for the Applicant and submitter to consider.
63. A response to my Minute was provided by Mr Middleton "for and on behalf of concerned residents living on lifestyle blocks opposite the site on Two Chain Road PC80".²⁶
64. The response noted the Business 2A policy statement that "The Business 2A Zone does not adjoin any residential area and as such caters for a larger scale of activities than other Business 2 Zones". They considered that in light of that direction, if PC80 were to be approved, the creation of a substantial buffer zone was needed to separate the Business 2A activities within the proposed PC80 site and the adjoining "residential" areas on Two Chain Road.
65. The response recorded, as a starting point, that the residents would agree with a zone extending 500m from the frontage of residential properties across Two Chain Road into the

²⁵ Minute No 2 Addressing Site Visit and Related Matters, 28 October 2022

²⁶ Email D Middleton dated 3 November 2022 at 5.29pm

proposed site where controlled development would align with the revisions agreed to by the Applicant and representatives of the Rolleston Prison. The submitters advised this would mitigate some concerns relating to noise, light pollution and particulates.

66. The submitters also considered that the hours of operation for activities within that area should be restricted during the hours of 10.00pm and 7.00am. This was on the proviso that a clear definition of the restrictions was agreed and that such was a condition of purchase or lease for future site occupants. The response also stated that a restriction on any potential container stacks and operating equipment height would *“negate the impending environmental deterioration for all neighbouring residences”*. While no specific height limit was proposed, the response stated that it would need to be in keeping with a “clear view requirement” for all urban residential and rural residential areas in the general location.
67. Overall, while the response recorded the appreciation of the identification of the matters raised in Minute 2, it identified there were difficulties given the complicated nature of the Request, numerous submissions and amendments, and advised that they were still not entirely clear as to what was being proposed or considered for approval given the Applicant’s concessions during the hearing. Their concerns specifically related to the types of activities, location of those activities, access points for the site and the size of the site given the ‘finding’ of productive land within the site.
68. Following receipt of the response, I issued a further Minute,²⁷ providing the Applicant with the opportunity to file any further evidence and/or submissions on that particular issue, and for any submitter and reporting officer to provide any evidence/submission in response.
69. In response to that Minute I received:
- (a) Supplementary evidence of Mark Lewthwaite (noise);
 - (b) Supplementary evidence of Dave Compton-Moen (landscape, visual amenity and urban design); and
 - (c) Supplementary evidence of Kim Seaton (planning).
70. I also received a response from the reporting officers dated 18 November 2022 which was prepared by Ms White and incorporated comments from Ms Faulkner (landscape) and Mr Reeve (acoustics).

Response – Acoustics

71. Mr Lewthwaite’s supplementary evidence²⁸ noted that his evidence to date had not recommended such setback restrictions principally because the PDP proposes noise limits to protect against unreasonable noise levels, and these align with the limits most typically

²⁷ Minute No 3 Addressing Further Information, The Site Visit and Containing Further Directions dated 8 November 2022

²⁸ Supplementary Evidence of Mark Lewthwaite (noise) dated 15 November 2022

referenced in New Zealand from NZS 6802:2008. He noted further that due to the predicted road traffic noise levels expected following state highway network changes, there was no clear justification to target lower noise limits. Mr Lewthwaite considered that due to the width of the Two Chain Road and the bund proposed along the majority of the length of Two Chain Road, appreciable reduction of noise from activities undertaken on the ground within the immediate sites will occur. This meant that a variety of industrial activities could take place along the Two Chain Road frontage and be compliant with the noise limits, with appropriate assessment of noise generation and mitigation. He noted that if the activity cannot comply with the noise limits, then a resource consent would be required.²⁹

72. He advised that should mitigation measures not be practicable, businesses could choose not to operate, or limit their operations, within night-time hours. He also advised that the overall site width allowed for higher noise generating activities to establish at greater distance from noise sensitive activities.³⁰
73. He considered that defining by reference to heavy industry category would be somewhat coarse and rules requiring resource consent for heavy industrial activities would manage or restrict some activities from taking place near the perimeter of the PC80 site which would otherwise have been able to take place in a noise compliant manner. Conversely, he considered that loud activities that are not restricted by that category may have false confidence to establish.
74. He noted that he had given initial consideration to the appropriateness of setback rules on the Walker Road side in regards to the Corrections site. He was unaware of any studies addressing the matter of concern expressed regarding prisoners confined to the site, and considered that many people living in urban environments may also be subject to similar external noise environments throughout their day/week. He noted however that the Applicant had offered those setback rules which may also have benefits other than noise.³¹
75. He considered that the benefits from heavy industrial setback were unclear due to a number of factors including the coarseness of the categories listed; that louder activities forced further from the perimeter may then have reduced noise mitigation resulting in similar noise outcomes; and that activities may still apply for resource consent and from a noise perspective may be deemed suitable if they meet the noise limits. He considered that setback rules do not *guarantee* (his emphasis) lower noise outcomes within adjacent sites, although a restriction on night-time activities would of course reduce noise levels during that period. It was his view that the wider expected noise environment did not justify elimination of noise from the PC80 site.
76. As relayed through Ms White, Mr Reeve broadly agreed with the comments of Mr Lewthwaite's supplementary evidence including that the application of the PDP noise limits would ensure a

²⁹ Supplementary Evidence of Mark Lewthwaite (noise) dated 15 November 2022 at para [4]

³⁰ Supplementary Evidence of Mark Lewthwaite (noise) dated 15 November 2022 at para [5]

³¹ Supplementary Evidence of Mark Lewthwaite (noise) dated 15 November 2022 at para [7]

reasonable protection of residential amenity for nearby dwellings and other noise sensitive activities and that it would be practical for many activities establishing on the site to comply. Mr Reeve did however note there was some residual risk including activities may establish and then not comply requiring enforcement action to be undertaken which may result in residents being exposed to higher levels for a period. He also noted that there are activities that establish which could, because of their particular character, cause complaints from residents despite complying with the noise limits although he noted that the PDP limits would allow appropriate adjustments to be made for character/impulsive noise.

77. He also considered that if there were multiple activities producing noise close to the limit this could result in higher cumulative noise levels at nearby properties, however this was not a common problem. He agreed with Mr Lewthwaite that a heavy industrial category does not necessarily mean high noise and vice versa for activities not restricted by category, and that ultimately as activities are constrained by the noise limits at notional boundaries, the setback rules do not necessarily guarantee lower noise outcomes. Mr Reeve did identify that the restriction on the hours of operation might reduce the types of residual risk which may occur, but the 500m sought by the submitter would be unreasonably large.

Response – Urban Design/Landscape

78. In relation to urban design, landscape and visual amenity, Mr Compton-Moen focused on my request in relation to information regarding the stacking of containers. On the assumption that a container was a building, containers could be stacked up to 15m in height. Given that Two Chain Road is a double width road, being 40m in width, and given the distance between the proposed zone and the rural properties to the north, he advised there would not be any visual dominance issues created by the storage of containers. He noted there would be a change in character but one which would be addressed by the proposed landscape treatments which he had reviewed.
79. Again as relayed by Ms White, Ms Faulkner concurred that the amended Landscape Treatment 5 would be sufficient to mitigate potential adverse effects from any container storage within the site, for the Two Chain Road residents.

Response – Planning

80. Ms Seaton's supplementary evidence³² recorded her opinion (in summary) that no additional amended provisions were required to address potential adverse effects on the residents to the north of Two Chain Road, beyond what had already been volunteered by the Applicant and set out in her evidence in chief. She did however consider that as an exception to this, an amendment to the Landscape Treatment 5 rule should be added for certainty that the landscape treatment would mitigate stacked containers and other tall structures.

³² Supplementary Evidence of Kim Seaton (planning) dated 15 November 2022

81. Overall she remained of the opinion that the proposal as was then currently put forward was consistent with Policy B3.4.6 which she considered contained no direction that proposed zonings must provide additional separation between industrial activity and rural dwellings. Further, she did not consider there to be any need for a “buffer zone”. Ms Seaton provided a helpful table setting out the Landscape Treatment 3 which applied to Armack Drive and that proposed for Landscape Treatment 5 (Two Chain Road). Overall, she considered the proposed Landscape Treatment 5 would provide a greater level of buffering/screening of industrial activity than that required on Railway Road, notably through the addition of a requirement for a 2.5m high earth bund and the minimum landscape treatment width of 15m.
82. In terms of the operational restrictions, she referred to paragraph [6] of her evidence in chief which summarised the factors that differentiated the Rolleston Prison site from the generality of more typical residential activity, or rural dwellings. It was her opinion that the area to the north of Two Chain Road did not share the same sensitivity to adverse effects as the Rolleston Prison site and that the additional restrictions on activity within 500m of the Two Chain Road frontage were not justified.
83. She considered the existing Business 2A zone provisions as modified in Appendix 2 of her evidence in chief were sufficient to address potential adverse effects. She noted that this includes a requirement for resource consent for many heavy industrial activities in accordance with the existing SDP provisions in Chapter C13 BZ Status Activities.
84. As I understand it, Ms Seaton’s point was that the absence of additional restrictions does not mean that there would be no restrictions on heavy industrial activity. The existing restrictions which have been deemed to be appropriate on all other rural/Business 2A zone interfaces in the district remained appropriate in the case of Two Chain Road with the addition of the 15m wide landscape buffer and bund requirements.
85. Ms White considered, after taking into account Mr Reeve’s and Ms Faulkner’s comments as well as those of Mr Lewthwaite and Mr Compton-Moen, that the provisions proposed by the Applicant are sufficient to address effects on Two Chain Road. She considered it would be inefficient to apply a further restriction to address potential residual effects identified by Mr Reeve given that the outcome sought is already implemented in the SDP through the application of noise limits. She agreed with Ms Seaton that no additional amended provisions were required to address adverse effects on residents to the north of Two Chain Road beyond what the Applicant has proposed. She recorded her agreement with Ms Seaton’s evidence that, given the Rural Inner Plains zoning of the properties to the north of Two Chain Road, they were not a residential area in terms of what the explanation to Policy B3.4.6 was referring to and the costs of the additional restrictions, which would apply across the majority of the PC80 site, would be unlikely to outweigh any potential benefits.³³

³³ I am somewhat confused by the use of the word ‘unlikely’ in paragraph [9] of Ms White’s response. Given Ms White was agreeing with Ms Seaton, I have taken “unlikely” to be a typographical error and read it as “likely”

Findings in relation to additional provisions, including setback along Two Chain Road

86. I have carefully considered all of the evidence in relation to this issue, including the responses to my Minute. I have also carefully considered the matters raised by Mr Middleton on behalf of the submitter (PC80-0010). Overall, I do not consider it is appropriate to extend the provisions applying to the Walkers Road setback. I accept that the Rolleston Prison has a number of characteristics which distinguish it from the Two Chain Road frontage. Those characteristics restrict the boundary treatment due to security concerns. Walkers Road does not provide the degree of separation from the Prison that Two Chain Road provides from the rural residents. The width of Two Chain Road and the landscape treatment, including bunds, offer a level of mitigation that is not, for the reasons expressed by the witnesses for Ara Poutama, appropriate for the Walkers Road boundary.
87. I accept the expert evidence provided. I find a blanket transference of the agreed and proffered rules is neither necessary, nor in my view the most appropriate method to achieve the objectives of the proposal and SDP.
88. I consider it would impose additional unnecessary costs. On the evidence of Ms Seaton, the additional restrictions, based on the 500m setback from the Two Chain Road boundary, would apply to all but approximately 7.5 ha of the proposed zone. If the volunteered activity restraint setback from Walkers Road is added, then approximately only 1.5 ha of the zone would be free from additional activity restraint and around 4.5 ha of the zone would be free from the night-time operation constraint.³⁴
89. I now return to the more general assessment of character and amenity effects.

Noise effects

90. A number of submitters raised concerns with noise effects. I touched on these concerns in my discussions on the general application of the changes proposed to address concerns raised by Ara Poutama. The Request included a noise assessment.³⁵ This identified the Inner Plains areas to the north would be the more sensitive receiving environment due to the residential activities – in comparison to the living zones across the railway and highway, as the north side of Two Chain Road would not be subject to the same rail and road noise. Appendix L addressed the noise standards and concluded that the SDP limits for noise generation at rural zoned properties were sufficiently permissive to allow for a range of business activities at the proposed plan change site. It also considered that noise generation from any zone at living zoned properties of 50 dB LA10 applicable during the daytime and 35 dB LA10 applicable during the night-time were sufficiently permissive for a range of activities given the setback of around 70m and that noise from such low levels was not expected to be significant given the elevated noise levels from State Highway 1 and the Main South Line.

³⁴ Supplementary Evidence of Kim Seaton (planning) dated 15 November 2022 at para [20.i.]

³⁵ Appendix I

Technical experts

91. Mr Reeve, a Senior Acoustic Engineer with Acoustic Engineering Services, was engaged to undertake a peer review of the PC80 noise assessment. In that peer review,³⁶ Mr Reeve addressed the noise limits in both the SDP as well as the PDP. He considered that the latter was relevant as if the rezoning is accepted, it is likely that the limits that will apply at the time new activities are established would be those within the PDP.
92. He considered that achieving compliance with the currently proposed limits would ensure that reasonable protection of residential amenity is provided for nearby residents and similar noise sensitive activities.³⁷ Mr Reeve's peer review advised that activities fronting Two Chain Road may need to control their noise output to meet the noise limits and that this may require a robust acoustic assessment being undertaken to ensure compliance with the limits, as well as consideration of the location of activities within the overall site. He noted that a meaningful zone-wide setback or other control in the ODP did not appear to have been considered.
93. He identified that traffic resulting from the plan change on nearby roads, particularly heavy vehicles, had not been considered in the noise assessment and that was likely to be a key noise effect for neighbours, particularly if there are large increases in traffic volumes from the baseline at certain times of the day, or increases in the number of heavy vehicles at night. He also identified that the Request could result in changes to rail noise in the area and considered that a further assessment should be provided.
94. Mr Lewthwaite, an Acoustic Consultant with Powell Fenwick, provided further evidence. Mr Lewthwaite was the author of the Powell Fenwick Design Advice Memorandum which was provided as Appendix 1 to the Request. His evidence was comprehensive and helpful.
95. In terms of noise generation, he identified that when considering noise generation effects on neighbouring activities, the relative levels of site noise generation and the neighbouring site noise sensitivity need to be considered. He identified that the Inner Plains zone to the north, and current accommodation areas of Rolleston Prison to the west, were some of the more sensitive receiving environments in proximity to the site, followed by the residential areas across the Main South Line and State Highway 1 which he noted were subject to more elevated rail and road noise.³⁸
96. He identified that the rural zones have protection from noise generation within industrial zones in both the SDP and the PDP. He noted that the PDP noise limits have been altered from those in the SDP Rule 22.4.1.5 which dictates limits within rural sites and Business 2A zone activities. He advised the comparison was complex due to a number of matters. Broadly, the evening is now part of the daytime period not the night-time period. This would enable the evening time average limit to be 10 dB more lenient and not subject to a maximum noise event

³⁶ Letter William Reeve to Liz White dated 16 September 2022

³⁷ Mr Reeve, Section 1.2, page 2

³⁸ Evidence of Mark Lewthwaite (noise) dated 5 October 2022 at para [51]

limit; the daytime noise average limit was proposed to be 5 dB more stringent and was not subject to a maximum noise event limit; and the night-time time-average limit is proposed to be 5 dB more lenient.³⁹

97. He considered the maximum compliant noise generation from the site, at the PDP daytime compliance limits when received outside rural dwellings, would be at the World Health Organisation Guidelines for Community Noise 1999 (**WHO**) outdoor living area guidance for onset of serious annoyance of 55 dB $L_{Aeq(16h)}$ and in the order of or less than guidance for indoor speech intelligibility and onset of moderate annoyance at 35 dB L_{Amax} . He noted the internal level assumes windows are closed and they are well maintained and that with the windows open, indoor levels would be in the order of 5 dB above the guidance. He noted this would be less than the exceedance expected from regular road traffic following highway changes.
98. He considered that most industrial activities, if operating overnight, would need to take place at reduced levels and that those fronting Two Chain Road may need to control noise output in order to meet the 45 dB L_{Aeq} / 70 dB L_{Amax} noise limits applicable within the adjacent rural zone, although he noted that the road corridor width of 40.23m and setbacks to notional boundaries did provide a useful buffer.
99. He made a number of recommendations in relation to assessments required at initial planning stages to mitigate noise effects and compare noise outcomes to the compliance limits.
100. In response to Mr Reeve's report, he noted that noise from public roads was not controlled in the SDP or the PDP. He commented on the changes in public road noise based on indicative forecast traffic information from Mr Fuller. He noted that Two Chain Road was currently an arterial road and that it was expected to become significantly busier due to changes to the State Highway 1 corridor proposed by Waka Kotahi which would make Two Chain Road a more important access link to/from the industrial areas of Rolleston given that there would be reduced accessibility at Hoskyns Road.⁴⁰
101. He identified that without PC80 traffic generation, the traffic volume on Two Chain Road was estimated to be 8,100 vehicles per day (**vpd**) of which 15% would be heavy vehicles. The traffic volume on Walkers Road was estimated to be 9,500 vpd of which 15% would be heavy vehicles. He predicted the averaged noise limits over a 24 hour period would be 59 dB $L_{Aeq(24h)}$ at an example of 35m from the road edge to a dwelling alongside Two Chain Road, and 60 dB $L_{Aeq(24h)}$ from the road edge to a cell block alongside Walkers Road.⁴¹
102. He advised that the PC80 generated traffic linking to State Highway 1 was expected to be split evenly between the eastern Two Chain Road and the southern Walkers Road entrances. With the PC80 traffic generation, he noted that the traffic volume at the eastern end was estimated

³⁹ Evidence of Mark Lewthwaite (noise) dated 5 October 2022 at para [53]

⁴⁰ Evidence of Mark Lewthwaite (noise) dated 5 October 2022 at para [66]

⁴¹ Evidence of Mark Lewthwaite (noise) dated 5 October 2022 at para [67]

to be 11,800 vpd, including 18% heavy vehicles, and at the southern end of Walkers Road was estimated to be 13,250 vpd, including 18% heavy vehicles.

103. Due to that traffic generation and using traffic noise prediction methods, he advised that the noise level would be expected to increase by 1-2 dB at the eastern end of Two Chain Road and the southern end of Walkers Road. He advised that that prediction did not factor in additional noise from accelerating and decelerating vehicles, nor did it consider the likely lower speed of those vehicles. He considered that individual louder vehicle movements to/from the site would be distinguishable but at a similar level to louder vehicle movements passing on the road.
104. In relation to the western section of Two Chain Road and the northern section of Walkers Road, he predicted noise levels would be largely unchanged.
105. He advised that regarding night-time awakenings, it was foreseeable that heavy vehicle passings could cause maximum noise events from louder exhausts, tyre noise or rattles up to and in the order of 70 dB L_{Amax} at a rural dwelling say 35m from Two Chain Road and that the highway changes would increase the regularity of such events. He advised that night-time traffic generation from the PC80 site was uncertain but he understood that there was a potential doubling of traffic volumes overnight along the east section of Two Chain Road and south section of Walkers Road. He advised that those added movements were not expected to increase the maximum event noise, rather further increase the regulatory or density of vehicle noise.
106. He advised that the maximum events could result in internal levels above the WHO recommended maximum event criteria inside a bedroom of 45 dB L_{Amax} . He advised that road vehicle noise is to some degree less sensitising than some noise sources, where reasonably continuous in nature reduces the suddenness of louder events, and due to the prevalence of road corridors is mostly tolerated out of necessity. In the case of the rural dwellings along the west section of Two Chain Road and the Rolleston Prison cell blocks along Walkers Road, he noted that the majority of the additional movements were remote from those areas and that was not expected to result in a readily observable change.
107. In terms of increased noise from increased rail activities, he advised that a site specific assessment could not be carried out due to a lack of detail as to the design, layout and activities that might produce noise from rail sidings. He noted that the noise from train movements within the rail corridor, including shunting of wagons from sidings where within the rail corridor, was permitted under the PDP but he expected that the loading and unloading of wagons would typically take place on private sidings within private lands and would be subject to PDP noise limits. He expected the daytime limits could readily be met but more intensive activities or activities carried out at night may also meet the noise limits, subject to an appropriate noise assessment and, where necessary, mitigation. He noted that the proposed ODP now included a restriction on the extent of rail sidings ensuring sidings cannot be located in close proximity to the Two Chain Road frontage, without resource consent being obtained.

108. Mr Lewthwaite provided a response to submitters that had raised noise issues. In relation to submitter Jason Lemmon (PC80-0001) who had requested SDC to require the PDP noise rules to be enforced, Mr Lewthwaite noted that the evidence focused on the PDP noise rules.
109. In terms of the matters raised by Ara Poutama, he referred to his assessment of noise in that evidence which included the prison activities as sensitive to noise, equivalent to living in rural or living zones. He was not aware of any objective standards or guidance that would direct a lower noise limit was appropriate for those in prisons but notwithstanding that, he acknowledged some prisoners could be located in their cells for up to 23 hours a day and therefore would not gain the same respite from noise that a typical resident would. He identified the amendments that had been made.
110. In terms of Oranga Tamariki–Ministry for Children and their concerns in relation to potential adverse effects from noise, he considered that given the proposed noise limits would apply at the notional boundary of Corrections cell blocks, the noise received at the youth facility (being further away) would be well below those limits and not expected to cause nuisance.
111. He responded to the submission of Donald and Hayley Fraser noting they supported a noise bund and that noise should be measured at the zone boundary. He identified that when the development was operational it is expected to be subject to the PDP noise rules which support a notional boundary assessment position, however at a lower daytime noise level.
112. In relation to the Two Chain Road group submission (David Middleton et al), he addressed construction noise, noting that it is typically louder than operational noise sources and can cause nuisance although the width of Two Chain Road and setback to dwellings meant noise effects should be less than the same construction taking place in a more intensified area such as a Living zone. In relation to rail siding noise, he referred to his earlier comments and identified that noise and vibration from main line freight movements was unlikely to differ significantly given there are already typically 16 train movements per day, but he had no information from which to estimate a potential increase in noise from rail traffic.
113. He considered the noise environment at the properties on the north side of Two Chain Road will be identifiably more traffic dominated following the increased traffic volumes related to state highway changes. He noted that incremental increase in road traffic noise is expected at the east end of Two Chain Road due to the operation of the PC80 site and there was a likelihood that the industrial activity generated noise would be audible, but it was unlikely to dominate the road traffic noise. He identified that the PDP noise limits reflect the levels recommended in the New Zealand Standard (6802:2008).
114. He concluded that regarding noise generation within the site and off-site effects, the PDP limits could be met by industrial activities, with attention given to locating, enclosing and screening of louder activities, and that while there would likely be an observable change in the noise environment the noise limits proposed were consistent with NZS 6802:2008 which is broadly applied in the New Zealand setting.

115. Mr Reeve attended the hearing and provided a summary of his evidence. He noted that the peer review primarily focused on the Applicant's noise assessment by Mr Lewthwaite but that he also reviewed and provided comment on submissions. He confirmed his view that if the activities establishing comply with the PDP noise limits, that would ensure that there is a reasonable protection of residential amenity for nearby dwellings and other noise sensitive locations as the limits represent values that should not be exceeded to provide "reasonable protection of health and amenity" for residential land use from NZS 6802:2008. He noted that if the plan change were to be approved, then it was those limits which were likely to be applicable to activities establishing on the site.
116. He noted that the ODP had been amended to require a 2.5m high earth bund on the Two Chain Road frontage which he considered would provide beneficial acoustic screening for nearby dwellings. He also noted the limit on any potential extension of rail sidings to as far as the east-west primary road.
117. In terms of traffic noise on nearby roads, Mr Reeve agreed with Mr Lewthwaite's predictions of a 1-2 dB $L_{Aeq(24h)}$ at the eastern end of Two Chain Road and the southern end of Walkers Road and that they were expected for the forecasted change in traffic volume and composition. He noted that the original Integrated Traffic Assessment outlined that the current volume of Two Chain Road was 1,800 vpd and Walkers Road had a current volume in the order of 1,700 vpd and there would therefore be a significant increase in the forecasted without PC80 scenario of 8,100 vpd at the eastern end of Two Chain Road and 9,500 vpd at the southern end of Walkers Road.
118. It was his understanding from the traffic evidence that the traffic volumes and associated noise levels in the vicinity of those roads would increase markedly in the next 10-20 years – by in the order of 6–8 dB $L_{Aeq(24h)}$ and residential amenity would be degraded when compared to the current situation. He noted those changes are expected to occur independent of PC80 which would mean an additional 1–2 dB $L_{Aeq(24h)}$ of traffic noise. He considered that if the PC80 traffic growth occurs more rapidly than the other forecasted increases to traffic growth then the changes to traffic noise as a result of PC80 in the short term would be more evident than Mr Lewthwaite's analysis and could represent an obvious change. However, he was of the view that when considered alongside other anticipated changes to the network, the future change in traffic noise would be small. If the growth in traffic from PC80 occurs at a similar rate to other changes in traffic in the area, it may be difficult to distinguish between them.
119. He agreed that individual louder vehicle movements to/from the site would be distinguishable but at a similar level to louder vehicle movements passing on the road. He noted that generally the dwellings on Two Chain Road that were east of the indicative primary roads were setback more than 34m from the existing carriageway of Two Chain Road, but there appeared to be a dwelling at 90 Two Chain Road which was in the order of 21m from the road. For that dwelling, he considered it likely that noise levels from a heavy vehicle on Two Chain Road would exceed the WHO recommended maximum event criteria of 45 dB L_{Amax} inside bedrooms. He

considered that while a number of potential awakening events at this dwelling may increase as a result of PC80, the heavy vehicle movements on Two Chain Road, including at night, are likely to be prevalent as a result of anticipated network changes in the area. He considered that while a resident of that dwelling may be required to adapt their behaviour, or the dwelling, to manage road noise and sleeping areas, that effect is likely to occur regardless of PC80.

120. Mr Reeve also addressed rail noise. Given the limit on the location of potential rail sidings proposed, the fact that loading and unloading activities are anticipated to be subject to the PDP rules, and the additional bunding along the Two Chain Road which was now proposed, he was satisfied that noise effects from this aspect of the proposal could be adequately controlled at sensitive receivers.

Evaluative experts

121. Ms Seaton noted that the officer's report had requested the potential effects of road and rail noise on rural residents be assessed and that had been undertaken. She identified the uncertainty as to whether the PDP noise rules applied to activities other than loading or unloading of trains on private properties as it was unclear whether private rail sidings form part of the rail corridor. To assist in minimising potential for rail siding activity to disturb residents north of Two Chain Road, Ms Seaton noted that the proposed ODP had been amended to make it clear that rail sidings may not extend further into the site than the east-west aligned primary road. On the basis of Mr Lewthwaite's evidence, it was her view that while there was likely to be some increase in the ambient noise environment for the Two Chain Road residents as a result of the PC80 land being developed, the increase would be small, would be experienced in the context of upgrades to the Two Chain Road and heavy vehicle increases that would occur regardless of the outcomes of PC80, and would be experienced primarily at the eastern end of Two Chain Road.
122. In Ms White's s42A Report, she identified it would be useful to understand the scale of the impact on the surrounding area in order to confirm that it would not be of such a level that would compromise Objective B3.4.2. She did take into account that traffic noise is ultimately not something that is controlled under the district plan and that it is the function of a road to carry traffic. She noted however that ultimately noise resulting from the increased traffic is a direct consequence of the change in land use facilitated by the proposed rezoning and has the potential to impact amenity values. She considered that a greater assessment and consideration of that was required.
123. In her summary presented at the conclusion of the hearing, she agreed with Ms Seaton's evidence that the evidence of Mr Lewthwaite indicated that while the development of the PC80 site would result in increased noise levels for residents on Two Chain Road, the increase would be small, and would be in addition to other increases that would result from roading upgrades and additional heavy traffic movements that would occur regardless. As such, while she accepted there would be an adverse effect, she did not consider it to be of such significance as to preclude the rezoning.

Assessment and findings in relation to noise effects

124. I have considered all of the evidence and submissions made. In my view it is clear that there is a risk of increased noise from the future activities on the site, including the rail sidings and individual activities that may be established. The approach that has been taken is largely one of relying on the existing and proposed noise rules and limits.
125. I acknowledge that there is clear evidence that traffic volumes on Two Chain Road are likely to increase considerably, irrespective of PC80. That is largely as a result of the Waka Kotahi proposals in relation to the state highway that goes along the current edge of the Rolleston township. There is a clear intention that heavy vehicle movements to access the existing industrial area of Rolleston will be removed from the state highway in this location and onto the Walkers/Two Chain/Jones Road network.
126. On the evidence from the acoustic experts, if the intended traffic changes occur, then the increase in noise is likely to be 1–2 dB. While noticeable, that will not be significant.
127. Overall, relying on the expert evidence of Mr Lewthwaite and Mr Reeve, I consider that compliance with the SDP or the PDP noise standards will provide adequate health and amenity protection. I have carefully considered the matters raised by the submitters but overall I agree with Ms White that the acoustic effects are not such as to render the rezoning inappropriate. This is particularly in light of the additional mitigation proposed along the Two Chain Road frontage and in particular the 2m high bund, together with the setback from residential activity provided by Two Chain Road and the frontage treatment, provide some benefits. Controls on the location of any future rail sidings, in that they will not extend north of the primary route through the site, will assist in addressing risks of noise effects from that activity.

Reverse sensitivity

128. NZ Defence Force (PC80-0005) identified that the Burnham Military Camp is defined as strategic infrastructure and regionally significant infrastructure in the CRPS and sought a no complaints covenant to all new titles. Ms Rebecca Davies, Principal Statutory Planner, Defence Estate and Infrastructure, provided a letter dated 10 October 2022. This was placed on the PC80 webpage. The letter indicated that the submitter would appear but ultimately they elected not to do so.
129. The letter described in some detail the activities associated with the Burnham Military Camp, including noise generating activities, and was therefore sensitive to reverse sensitivity effects. It identified the land on the eastern side of the military camp was used for NZDF training exercises which again include noise generating activities including blank and dry firing and that it had been used to host Short Range Inert Practice Projectile training activities and were likely to be used for more intensive and frequent training over the next five years. The letter discussed the provision of no complaints covenants and noted the 'precedent' of a covenant to address reverse sensitivity effects on NZDF bases and facilities have been established

through the operative provisions of the Auckland Unitary Plan. It advised that they had been successfully applied to the Whenuapai Precinct 1 development near the RNZAF Whenuapai Airbase.⁴² The letter noted that the Business 2A zoning rules did not appear to preclude the establishment of a broad range of activities, including noise sensitive activities such as educational and health care facilities within the area and that no complaints covenants were necessary.⁴³

130. Mr Lewthwaite noted that the noise effects when the military camp was designated were presumably deemed appropriate for adjoining sensitive land uses such as may have included 250-534 Two Chain Road dwellings, along with the youth facility in Rolleston Prison. He identified that rezoning would introduce less sensitive activities, further away and therefore those effects would also be considered acceptable.
131. Ms White noted the NZ Defence Force had requested that no complaints covenants be imposed along allotments created within the PC80 land to ensure reverse sensitivity effects did not arise regarding the Burnham Military Camp activities. Ms White noted that sensitive activities are not anticipated by the Business 2A zoning and she was not clear as to how the activities facilitated by the zoning might give rise to reverse sensitivity effects, particularly given those facilities are located at least 900m away. She identified Mr Reeve's view that reverse sensitivity is unlikely to be a key concern for development of Business 2A zoned sites in this area.
132. Ms Seaton in her summary evidence addressed Ms Davies' letter. It remained Ms Seaton's view that a no complaints covenant was not warranted noting several points. These were that the NZ Defence Force had not provided any technical evidence to demonstrate the reverse sensitivity effects (noise) are likely to arise; Rolleston Prison would be more sensitive to noise than the industrial occupants and is closer to the NZ Defence Force land; the proposed zone is very large and she questioned whether the occupants at the eastern extent of the zone would be sensitive to NZ Defence Force activity even if occupants of the western were; and visitor accommodation and dwellings other than custodial or security dwellings were a discretionary activity in the Business 2A zone and could not be established as a permitted activity.⁴⁴ While she agreed that educational activities such as a preschool are not restricted in the Business 2A zone, nor healthcare facilities, she did not consider that those activities were any more likely to give rise to reverse sensitivity effects/noise complaints than Rolleston Prison.

Assessment

133. Relying on the clear evidence from both the technical noise experts, and the evaluative planning experts, and having taken into account the Applicant's legal submissions, in my view reverse sensitivity effects are not likely given the nature of the zoning which is sought, and the

⁴² NZ Defence Force letter 10 October 2022 at para [10]

⁴³ NZ Defence Force letter 10 October 2022 at paras [11] and [12]

⁴⁴ Summary of evidence of Kim Seaton (planning) dated 20 October 2022 at para [19]

distance from the NZ Defence Force activities. I consider no complaints covenants are not necessary or appropriate.

Landscape and visual effects

134. The Request included an Urban Design, Landscape and Visual Impact Assessment prepared by Mr Compton-Moen.
135. It described the methodology advising that the urban design, landscape and visual impact assessment considers the likely effects of the proposal in a wholistic sense identifying three components to the assessment being:
- (i) Identification of the receiving environment and a description of the existing urban and landscape character, including natural character;
 - (ii) An assessment of the proposal against the existing urban and landscape values as outlined in the Objectives and Policies of the Operative District Plan;
 - (iii) The visual impact assessment is primarily concerned with the effects of the proposal on visual amenity and people, evaluated against the character and quality of the existing visual catchment.
136. In terms of the existing site character and urban form, the assessment recorded that located on the northern edge of Rolleston the plan change area immediately adjoined the existing industrial areas of IZone, was bounded by the Main South Rail Line and State Highway 1 to the south, Walkers Road to the west, Two Chain Road to the north and West Coast railway line and IZone to the east. It described IZone and the typically large scale of the buildings. It states that the receiving business environment is undergoing a significant degree of change with the continued development of IZone and the inland port, and that the existing built character of the western side of Hoskyns Road was typified by large industrial buildings with significant setbacks, storage yards and large bulk warehousing-like building forms between 6 – 15m high. It described the IZone and IPort Business Park. It noted that the landscape bunds, the Main South Rail Line and State Highway 1 visually separates the proposal from residential areas of Rolleston located to the south. It described those areas noting there was an existing earth bund, estimated to be 3m high with a 1.8m fence on top and planted with well-established nature trees which ran parallel to State Highway 1 for the majority of Rolleston's northern edge with State Highway 1.
137. In 3.1.2 it described the landscape (including rural) character noting that the receiving environment was located within the Lower Canterbury Plains and that the existing site was bounded by State Highway 1 to the south and Two Chain Road to the north. It identified that dwellings to the north have a typical rural character and are separated by large open fields and clusters of vegetation. It noted they had an irregular bulk and location and were often supported by auxiliary structures such as sheds. It identified that development to the west includes Rolleston Prison, again to the east the industrial zone. Overall the receiving

environment was described as a rural, semi-open character transiting to urban fringe/peri-urban and within the existing environment there were various structures, including dwellings, auxiliary structures, power lines and exotic vegetation clustered throughout the landscape typical of rural landscapes.

138. It assessed effects on urban and landscape character. It considered that in terms of urban character, the plan change would be viewed as an extension of the IZone and IPort business zones to the east and as a result of the state highway and rail line along the existing bund plus landscape treatment on the northern edge of the existing residential development, the proposed plan change would not have an effect on the residential character of Rolleston to the south.
139. Again in describing the landscape character of the area to the west of the plan change site, this was described as a mix of semi-open rural land use principally for agricultural and institutional purposes and smaller compartmentalised lots. The assessment noted that the proposed development would modify the landscape from one that is semi-open and agricultural in character to one that is characterised by large-scale industrial warehouse buildings, large areas of hardstand and landscape planting. It advised however that aspects of rural character can and will be maintained through the retention of existing vegetation along the Two Chain Road frontage while within the site the character would be consistent with that of the IPort and IZone areas. It considered that from within the site and along Two Chain Road and State Highway 1, the plan change would be viewed as an extension of the business areas to the east.
140. It acknowledged that for the rural properties on Two Chain Road the rural character of the area would change with the Magnitude of Change considered to be Low-Moderate. This reflected the activities that are possible within the Inner Plains rural area noting that large-scale buildings up to 500m² in area and 12m in height are possible. It also noted the existing planting along Two Chain Road would be retained and supplemented with limited access onto Two Chain Road and it was possible that activities within the site would be screened. It identified the 40m wide road reserve provided by Two Chain Road and recorded an understanding that Waka Kotahi was planning that Walkers and Two Chain Roads would become the main commuter and freight route between the southern access into the existing industrial area of Rolleston. That would lead to significant changes in the character of the road corridors.
141. It noted that the plan change seeks to control the number of accessways onto Two Chain Road and that the retention and supplementation of planting would assist. It considered that the natural character of the area was already highly modified and considered that the existing amenity of the natural landscape would be enhanced and retained through the planting and development of a green corridor along Two Chain Road bounding the proposal. It accepted there would be a shift from open and agriculturally focused to industrial character but that through mitigation the adverse effects on the Two Chain Road frontage could be addressed.

142. After addressing the relevant objectives and policies of the SDP, effects on visual amenity were addressed. The visual context of the receiving environment was considered to be a 1km offset from the edge of the proposed development. That had been adopted due to the receiving environment's flat topography, resulting in views from further away either not being possible or being indiscernible at a distance. A series of key viewpoints were identified with photographs provided.
143. The assessment provided, in tabular form, an assessment of effects on visually sensitive receptors and concluded that in terms of landscape character and values of the area, that subject to mitigation measures proposed, the proposal would result in a Low-Moderate Magnitude of Change on the existing rural landscape character and associated values, essentially arising from the change in character to a more industrial and compartmentalised one but viewed as an extension to the existing industrial area.
144. It concluded that in terms of visual amenity the adjacent rural properties would experience a change in surroundings from semi-open views across the rural land to views that are more restricted and screened by vegetation and those overlooking this plan change area would have a mix of partial and screened views of the development, and again the changes to be experienced by those residents was considered to be low given boundary treatment, existing width of Two Chain Road and the level of surrounding development which already exists.
145. Ms Bronwyn Faulkner, an Independent Consultant Landscape Architect, was engaged by SDC to carry out a peer view of the Urban Design, Landscape and Visual Impact Assessment. She noted her review was restricted to landscape and visual aspects and did not comment on urban form or urban design matters.
146. Her review also recorded that she had recently had discussions with Mr Compton-Moen regarding mitigation proposed and following those discussions an amended typical section (27 September 2022) had been provided. Her review was based on that amended version. Ms Faulkner noted that her review was to appraise the landscape assessment rather than provide a parallel assessment. She was satisfied that the components of the assessment were generally consistent with industry best practice, noting that it was prepared prior to the adoption of the recent NZILA assessment guidelines. Ms Faulkner considered that the assessment described the existing environment by physical character but did not identify the settled nature of the adjoining rural area on Two Chain Road as being rural residential in character rather than simply rural. She noted that by her count there were 13 rural residential properties that front or have access onto Two Chain Road and noted that a rural residential environment has a different character to open farmland and is potentially more sensitive to changes of this nature and scale due to having a resident population.⁴⁵
147. In terms of the proposal's detail, she considered the assessment would have benefited from a more detailed description of the landscape related features/activity that would result from the

⁴⁵ Statement of Evidence of Bronwyn Eizabeth Faulkner on behalf of Selwyn District Council – Landscape (& Visual) dated 27 September 2022 at para [15]

changed land use such as building heights, density, setbacks, traffic entrance, heavy traffic movement, signage, lighting, noise, dust and 24 hour activity. She acknowledged the assessment relied on what the SDP provisions allow in Business 2A zones but given the potential effects were largely external to the site it would have helped the assessment process to fully visualise the changes that the proposal will introduce into the local area. She noted that some of the items listed above were beyond the scope of a landscape architect but collectively they potentially impact on rural amenity of the surrounding area.

148. Ms Faulkner identified that she considered the effects of the new activity on the relevant objectives and policies of the rural zone needed consideration as these were still the outcomes sought for, and applying to, the adjoining areas regard less of the rezoning of the PC80 site. She identified specifically Section B3.4 – Quality of the Environment, which states *"The effects of activities on the amenity values of the rural area – its character and quality of the environment and reverse sensitivity effects"*. Effectively she saw this as giving effect to s7(c) and (f) of the RMA. She noted this had been raised in the RFI but she remained of the view that rural amenity and quality of the environment issues are pertinent to the application and she discussed them in her evidence. She noted Objective B3.4.1 – The District's rural area is a pleasant place to live and work in, and Objective B3.4.2 seeking a variety of activities are provided for in the rural area and also seeks to maintain rural character and avoid reverse sensitivity effects.
149. In relation to assessment of landscape effects, Ms Faulkner stated that while visual amenity had been assessed, that was just one component of rural amenity. She commented on the terminology "magnitude of change" when defining the quantum of effects on visual amenity, landscape character and nearby residents. She did not consider that magnitude of change to be the same as the level of an effect on something. Change in itself is not an effect – effects are the consequence of the change on landscape values, neighbours etc taking into account various factors. She assumed the author to have conflated the two terms and where reference to *change* was used in the summary statements about the effects of the proposal, she has read that as *effect*.
150. She identified that it seemed that permitted baseline activities had been taken into account when evaluating the effects of the proposal, identifying the second paragraph, 3.1.4 of the Landscape Assessment and second paragraph, section 3.2 p11 Landscape Assessment. It was her view that taking the permitted baseline into account was "not really a relevant comparison" in this situation particularly in regard to site coverage given that Rule 3.11.1.1 limits site coverage in the Rural Inner Plains zone to 5% for sites larger than 1 ha. A development with larger buildings occupying 5% of the site would result in a very different type of built form than could be constructed in the Business 2A zone where there was no limit on density other than setback requirements. She referenced the existing industrial zone nearby as demonstrating the scale and nature of the built environment possible and that was a much more intensive built form than would be possible in the rural zone. She considered that the

apparent reliance on the permitted baseline could have influenced (downplayed) the nature and magnitude of any effects resulting from the development of the Business 2A zoned land.

151. In relation to effects on landscape character, Ms Faulkner agreed with the description of the changes that would occur within the site but considered the effects on the rural character of Two Chain Road would be greater than assessed when taking into account the significant changes the proposal will bring to its existing rural edge including the addition of multiple large scale buildings, signage, large scale road entrances, lighting, noise, 24 hour/day activity and the general bustle of increased movement and turning of heavy traffic.
152. In relation to visual amenity, she agreed that from the dwellings on Two Chain Road the site is unlikely to be very visible and the level of visual effects would be low but the change to the existing visual amenity in the Two Chain Road and Walkers Road corridors would be greater and that the road environments would be more urban in character.
153. Ms Faulkner made a number of recommendations including a restriction of site access on Two Chain Road to one entrance located at the eastern end of the site. She considered this to be an essential measure to minimise the adverse impact for the residents on Two Chain Road. She made recommendations in terms of the Two Chain Road landscape treatment, rail/State Highway 1 boundary landscape treatment, and the retention and maintaining of the existing trees on the kerbed boundary.
154. In his evidence, Mr Compton-Moen confirmed his view that PC80 is an appropriate change to the existing land use, which is considered to be a natural extension of the existing industrial areas of Rolleston. He noted that the adjacent rural properties would experience a change in surroundings from semi-open views across the rural land to views that are more restricted and screened by vegetation but overall considered the changes experienced by those residents was low given the proposed edge/boundary treatments, existing width of Two Chain Road and the level of surrounding development which already exists. He did not consider the state highway to be a sensitive environment and that any residential properties to the south of PC80 were well separated.
155. Overall, he considered that the proposed boundary treatments along each edge were sufficient to address amenity concerns raised by the submitters. These he identified as including limiting access points, retention of existing planting, installation of a 2.5m high bund and additional landscape planting along Two Chain Road. At all other boundaries he considered the existing landscape provisions for the Business 2A zones were sufficient.
156. In her summary at the hearing, Ms Faulkner confirmed that the proposed mitigation depicted in the amended typical section which had been provided would sufficiently mitigate the landscape related effects of the activities occurring within the site for the Two Chain Road residents. She sought additions to the Landscape Treatment 5 details at page 32 of Attachment 2 to Ms Seaton's evidence to ensure that the existing trees would be managed

and maintained to provide dense visual screening of at least 8m in height and that dead or dying trees would be replaced as required.

157. Her preference remained for one entrance at the eastern end of the site but considered that two entrances were certainly preferable to the three being sought in the plan change Request. She remained of the view that the State Highway 1/rail corridor is part of Rolleston Township, not simply a road passing through it, and believed that it was valid to consider the quality and amenity of the corridor environs and the impacts that activities along its edge may have. She noted that industrial development on the site would create a 2km long industrial interface with the southern gateway approach to Rolleston and therefore the long term visual amenity of the corridor should, in her view, at least be maintained or enhanced. She considered the proposed industrial area would have a prominent and enduring presence in the community and quality design outcomes were therefore warranted. While she acknowledged that gaps in the planting would be required to facilitate future rail siding access to the site, that did not in her view necessarily justify having no planting at all along the 2km interface. She also remained of the view that the presence of a stand of substantial trees on the kerbed eastern boundary should be retained to provide a natural counterpoint to the built environment.
158. For completeness, Ms Lauenstein provided expert urban design evidence. I will address Ms Lauenstein's evidence more fully in my discussions in relation to the NPS-UD which follow. Ms Lauenstein did address issues which had been raised by submitters in relation to character and amenity effects. In terms of Walkers Road, she noted that the Business 2A zone rules require a 3m landscaped strip to mitigate, or partially screen, the bulk and height of the larger buildings and other associated industrial activities. She identified that those were specifically developed to provide the appropriate level of screening, while still allowing for legibility of access points, passive surveillance, etc, and would be the primary mitigating measures along that interface. She identified that no specific vegetation screening had been proposed for reasons which she identified and which related to the proposed intersection upgrade of State Highway 1/Walkers Road and Dunns Crossing Road. She considered that any larger screening vegetation along the western boundary should be avoided until the new road design is fully resolved and passive surveillance requirements over the road are identifiable. She also noted that in terms of the neighbouring prison, that presented with larger buildings well set back from the road boundary and due to their internalised activities, they did not overlook the site. She noted that the prison grounds were sparsely vegetated and dominated by fencing and lighting structures and noted that Ara Poutama staff had specifically indicated they would prefer not to have high, dense planting located on the Walkers Road frontage for security reasons.
159. In terms of the Two Chain Road and rural properties, she considered that the rerouting proposed by Waka Kotahi would largely instigate the change in character with intersection upgrades and that the expected increase in traffic movements and its impact on the amenity of adjacent properties mainly through noise disturbance and possible vibration was a direct flow-on effect of those proposed changes. She identified that PC80 does benefit from this

rerouting and that the location of the access points on Two Chain Road had been carefully and strategically placed avoiding alignment with existing houses on the adjacent rural residential properties.

160. She noted Mr Compton-Moen's comments in relation to structures which are anticipated in rural zones, but identified that the industrial zone would bring with it a more varied built form consistent with potentially larger structures and definitely arranged with a higher density and less open gaps between the built form. She also identified that it brings with it more roading, hardstand areas and a different type of fencing, signage and street lighting etc.
161. In summary she concluded that PC80 will introduce a change from rural to industrial and this change can affect the street character of Two Chain Road. She considered that was mitigated by the proposed edge treatment measures with the key component of that with regard to visual amenity and character being the retention of the existing boundary vegetation, the earth bund and the additional planting requirements. Combined, she considered those measures would continue to present a vegetated edge to the road that is sufficient height to screen most of the industrial scale buildings introduced by PC80.

Assessment

162. Overall, I consider that there are likely to be adverse landscape and visual effects on those residing in the properties on the northern side of Two Chain Road. I accept the evidence of Ms Faulkner, which was to a degree supported by Ms Lauenstein, that there will be a considerable magnitude of change experienced by a number of those residents, particularly those where the dwellings are located closer to the Two Chain Road frontage. I consider the effects on those residents will be greater than as assessed by Mr Compton-Moen. I accept Ms Faulkner's evidence that what can be described as the rural residential environment along that frontage has a different character to open farmland and is potentially more sensitive to changes of the nature and scale of the activities which would be enabled by this plan change, due to it having a resident population.
163. I do not consider there is any form of a permitted baseline or similar to provide a helpful comparison. In my view it is clear that what is proposed would enable development of this nature, scale and density not anticipated in the Rural zone. In my view, it is appropriate that additional mitigation from that originally proposed, is required.
164. Mr Compton-Moen outlined the proposed landscape provisions in paragraph [36] of his evidence of 5 October 2022. In summary these are as follows:
- (a) The number of public roads off Two Chain Road is limited to 3;
 - (b) A shared pedestrian cycle path is formed along the Two Chain Road and Walkers Road frontage to provide connectivity;

- (c) A 15m wide landscape strip is created along the Two Chain Road frontage which consist of:
- (i) A landscape strip of 5m width incorporating the retention and supplementation of existing shelterbelts (except where access is required) within 3m of the road boundary. It notes that where existing gaps occurs, tree species of either Cupressus macrocarpa, Leyland cypress or Pinus radiata are to be planted at 3m centres;
 - (ii) There is provision for a maintenance access on the southern side of the retained shelter belts;
 - (iii) There is construction of a 2.5m high earth bund with a northern slope of 1:3 and a southern slope which may be between 1:1 and 1:4;
 - (iv) There is a planting of two rows of native plants on the upper section of the northern slope and on the top of the earth bund. Those rows are to be 2m apart, with plants at 1.5m centres and alternative offsets to create a dense native belt of 3-5m in height. The plant species shall be selected from species identified. They are to be in 0.5L pots with a minimum height of 300mm at the time of planting.

165. In addition to the matters raised in Mr Compton-Moen's evidence, in response to my query regarding the stacking of containers, he stated that in his opinion the proposed landscape treatment was sufficient to mitigate potential adverse effects from any container storage or operating equipment but recommended two further provisions to Landscape Treatment 5 rules, these being a minimum height limit for the existing shelterbelt and a maintenance requirement.
166. Those additions have been accepted by the Applicant and included in the proposed provisions for Landscape Treatment 5.
167. Ms Faulkner confirmed, in her summary statement of 20 October 2022, that the proposed mitigation depicted in the amended typical section would sufficiently mitigate the landscape related effects of the activities occurring within the site for the Two Chain Road residents.⁴⁶ Just for ease of reference, I **attach** the amended typical section to this Recommendation.
168. I accept the expert evidence that the now proposed mitigation satisfactorily addresses and mitigates the landscape related effects of the activities.
169. In relation to the issue of the accessways onto Two Chain Road, Ms Faulkner considered there should only be one road entrance located near the eastern end of Two Chain Road. In her

⁴⁶ Summary Evidence of Bronwyn Elizabeth Faulkner dated 20 October 2022 at para [7]

summary of evidence, she confirmed that while her preference remained as one, two would be better than the three proposed in the ODP.

170. I note there appears to be a discrepancy between the wording of the proposed ODP and the plan itself. The wording discusses three as permitted. The ODP diagram shows two. Ms White identified this discrepancy in her report. She proposed an amendment to the new Rule 17.6.x and Rule 17.6.2 as follows:

17.6.x The establishment of up to ~~three~~ two road crossings from Two Chain Road into the area identified on the Outline Development Plan at Appendix 43B is a permitted activity.

17.6.2 The establishment of a road or rail crossing requiring a break in the existing primary shelter belt or future secondary planting strip required by Landscape Treatment 3 in Rule 24.1.3.14 along the Railway Road frontage of the Business 2A Zone, or the establishment of a road crossing requiring a break in the future planting strip required by Landscape Treatment 2; or the establishment of a road crossing requiring a break in the future planting strip required by Landscape Treatment 1 as depicted on the Outline Development Plan in Appendix 43A, or the establishment of more than ~~three~~ two road crossings requiring a break in the existing primary shelter belt or future secondary planting strip required by Landscape Treatment 5 as depicted on the Outline Development Plan in Appendix 43B, or the establishment of a road crossing from Runners Road into the area identified on the Outline Development Plan at Appendix 43B, shall be a restricted discretionary activity.

171. In coming to her conclusion, Ms White acknowledged Ms Faulkner's recommendation remained that a single entrance would be preferable in terms of mitigating effects on the amenity of residents along Two Chain Road, but she considered that needed to be balanced against other considerations. Taking into account the transport evidence from both Mr Collins and Mr Fuller, as well as the urban design evidence of Ms Lauenstein, Ms White was comfortable with retaining two accesses onto Two Chain Road. She accepted that would have potentially greater impact on the amenity of the residents along Two Chain Road, but noted that this is in the context of other changes to the traffic environment which will occur regardless of PC80. She considered the effects on amenity were therefore not sufficient to outweigh the costs associated with limiting the site to one accessway off Two Chain Road.
172. She identified that if a third road crossing was proposed in the future, that would then trigger consent as a restricted discretionary activity, with the matters of discretion including consideration of: the extent and nature of any other planting to mitigate potential impact on amenity of the removal of a portion of planting (17.6.3.2); the extent to which sites and industrial activities within the Business 2A zone become visible from sites outside of the Business 2A zone (17.6.3.3); and cumulative effects of multiple breaks in the planting (17.6.3.4). It was her view this would allow for a case-by-case consideration of the impact of any potential third road crossing to address the matters of concern to Ms Faulkner.⁴⁷

⁴⁷ Summary Statement, Planning, Selwyn District Council at para [12]

173. I conclude that, taking into account the landscape, urban design and transportation evidence, the establishment of up to two road crossings as a permitted activity is the most appropriate. The two crossings will provide the level of resilience referenced by the traffic engineers, but will also avoid unnecessarily opening up areas of the site for vehicular access with potential additional impacts on the Two Chain Road residents. I consider some changes to the rules are necessary to ensure that the potential impacts on the Two Chain Road residents are addressed. I address those in my s32AA evaluation.
174. I consider the treatment of the Walkers Road frontage is acceptable and appropriate. It will provide an adequate degree of mitigation for road users and others in the area, while avoiding the particular difficulties identified by Ara Poutama.
175. Regarding Ms Faulkner's opinion that landscape treatment should be required along the southern boundary of the site, I have thought carefully about that issue. While the residential areas on the far side of the state highway largely turn away from the site and further landscaping on the PC80 site would not necessarily provide any notable benefits for those residents, I agree with Ms Faulkner's opinion that the users of the state highway should not be ignored. The state highway is an important corridor. I agree with Ms Faulkner that the SH1/rail corridor is a part of the Rolleston Township and not simply a road passing through it.⁴⁸ As she identified, industrial development on the site would create a 2km long industrial interface with the southern gateway approach to Rolleston. I agree that the proposed industrial area would have a prominent and enduring presence in the community and that quality design outcomes are warranted.
176. Both Ms Seaton and Ms White addressed this. Ms Seaton did not support that largely for practical reasons as well as the lack of sensitivity of the rail corridor and SH1.⁴⁹ Ms White, after taking into account various matters including the existing boundary landscape treatments and the adjoining Business 2 area where the Business 2 zone boundary adjoins the railway, and the length of the site, some form of landscape treatment is reasonable but that must be practicable and not preclude gaps for rail sidings.
177. I consider that Ms White's proposed Rule 16.1.4A is an appropriate resolution to this issue. It provides for landscaping along that boundary between any new principal buildings and the boundary with the railway reserve, except where those areas are proposed to be used for rail sidings. While perhaps not ideal, for the reasons expressed by Ms White, I consider it a realistic and sensible approach.

Overall conclusion on character and amenity effects

178. For the reasons I have summarised above, on a careful consideration of all of the evidence and submissions, I do not consider the character and amenity effects are such to render rezoning inappropriate.

⁴⁸ Summary Evidence of Bronwyn Elizabeth Faulkner dated 20 October 2022 at para [12]

⁴⁹ Evidence of Kim Seaton (planning) dated 5 October 2022 at para [91(ii)]

179. Overall, I consider the existing rules controlling industrial activity which address matters such as height, building location, noise, lighting and similar, together with the regional plan rules controlling air and odour discharge, combined with the substantial changes and improvements which have been made to the Two Chain Road frontage, are sufficient to ensure that the health, wellbeing and amenity of adjoining areas can be adequately protected.
180. I accept that there will be a change in amenity presently enjoyed by the residents of Two Chain Road adjacent to the site. That amenity, in terms of traffic noise and similar, is likely to change as a result of processes outside of this plan change, particularly the redirection of heavy traffic. I accept the amended boundary treatment on Two Chain Road in particular entails a comprehensive approach of addressing adverse effects emanating from the site.

Supply, demand and urban expansion

181. Ms White's report identified a number of submissions relating to this issue. These were summarised in her paragraphs [72] – [75]. I accept that Ms White's report identifies the relevant submissions as being S Scott (PC80-0003), CRC (PC80-0009), D Middleton (group submission) (PC80-0010) and KiwiRail (PC80-0012).
182. The Request included an economic assessment as Appendix D and referenced and identified a shortage of industrial land within Greater Christchurch. As outlined by Ms White in her report, that issue was subject to requests for further information.⁵⁰ The response to the request for further information referenced evidence provided in support of PC66 by Mr O'Styke and Mr Staite and summarised their evidence.⁵¹
183. Mr Foy, a director of Formative Limited, an independent research consultancy, was commissioned to undertake a review of the economic assessment and other relevant matters, including the information which had been provided by way of response. Overall he agreed with the assessment in relation to matters relating to demand for industrial activity. He considered there would be a strong demand for LPC's Midland Port and other industrial land with access to rail sidings in Rolleston to handle increased container volumes in the future. He considered that further information was required and noted that there was, at that stage, a lack of clarity about how much vacant capacity there was on the LPC site, or the PC66 site, to accommodate inland port related growth, or with the extent to which the PC80 site is expected to be required to accommodate additional industrial activities.
184. Mr Foy noted in his peer review that providing for additional industrial zoned land in Selwyn has limited economic costs if the plan change area can be supported by either existing or new infrastructure (at the developer's expense). He advised that work undertaken showed that some additional industrial land was projected to be required to provide for long term growth and PC80 would contribute to that provision. He also agreed that there were locational benefits to the site in terms of access to the rail siding.

⁵⁰ SDC Request for Further Information, 9 November 2021 at paras [22] and [23]

⁵¹ PC80: Response to Request for Further Information, 11 February 2022 at para [50]

185. Mr Foy's review responded to several submission points. His response is summarised in paragraph [82] of Ms White's report. That summary records Mr Foy did not consider it appropriate to rely on land provision in Christchurch to provide for Selwyn's land demand, noting the limited availability of land in Sockburn and Hornby South, and that those locations were less accessible to the Main South Railway Line; there were limited economic downsides to providing industrial land in excess of current estimated demand; and that Rolleston was an appropriate place to accommodate a majority of new industrial land.
186. Ms Hampson, a director of Market Economics Limited, provided comprehensive economic evidence for the Applicant. Ms Hampson was the principal developer and author of the 2017 Business Development Capacity Assessment (BDCA) for Queenstown Lakes District Council under the NPS-UDC 2016 and a subsequent update under the NPS-UD. She was also the principal developer and author of the 2021 BDCA for Rotorua District Council under the NPS-UD and has a detailed understanding of Council requirements under the NPS-UDC and NPS-UD.
187. Ms Hampson advised that in 2018, the SCGM showed significant surplus capacity relative to projected industrial land demand in the GCP area of the Selwyn District over the long term. Ms Hampson spent some time in her evidence focusing on that business demand and capacity modelling. She noted that the SCGM was first built by Market Economics for SDC in 2017 from a 2016 base year for demand, capacity and sufficiency. That had been used to inform SDC's contribution to GCP HBDCA 2018 under the NPS-UDC which in turn contributed to the GCP Our Space 2018-2048 report. She advised that since 2018 the SCGM had undergone a series of updates and modifications which she discussed.
188. She considered a key challenge in determining SDC's current position on business land sufficiency is that the business demand and capacity results were last (publicly) published in 2018. She identified that since then there had been several Council documents and memos to/from Council but a clear picture of changing sufficiency over recent years was difficult to gauge. She considered that includes the effect that the new employment projections have had on land demand over the long term and the ongoing consumption (through development) of vacant zoned land.⁵² She considered that it was clear from her high level review that changes have been made on both the demand and capacity side of the business model over time. In and of itself, she considered that made comparability of results between the versions difficult. She considered the review was a matter best left for Council. She then spent some time addressing the SCGM update implications and limitations.
189. She noted the projections are not forecasts and they show employment growth based on a range of input assumptions. She considered they are more reliable in the short term and become less reliable over the medium and long-term. She noted that there were real limitations with the Economic Futures Model (**EFM**) and noted that those limitations were documented and well understood by partner councils. She identified, for example, that the EFM does not

⁵² Evidence of Natalie Hampson (economics) 5 October 2022 at para [30]

capture road improvements that make Rolleston even more accessible to Central Christchurch or the airport/ports and that at the time of its development, the IPort Business Park in Rolleston was only just developing. She considered that the limitations of the EFM signal that at the very least, demand results from the HBDCA 2018 need to be relied on with care, particularly in the medium and longer term results.

190. She identified that the SCGM 2019 replaced the EFM employment projections with a new Employment Forecast Model. She noted that it was important that projections are reviewed and updated regularly, particularly given SDC's strong growth and other changes in regional and national economic drivers. She advised that the new projections which were published by the SDC as part of their LTP show much stronger total employment growth for Selwyn District than the earlier EFM, including a steadier growth in industrial sector employment.
191. Ms Hampson identified that a key input into the SCGM to determine floor space demand is the work space ratio (**WSR**). She advised that this ratio is an estimate of the intensity of the use of floor space in the business zones of the District. It is an average ratio that is used for all future employment growth assigned to the Business 2/Business 2A/Business 2B zones across the district. It is used to convert projected employment in the Business 2 zones into projected realisable development floor space demand based on observed development patterns.
192. She considered a limitation of the WSR is that it is an average of the Business 2 zones across the district and does not represent the nature of industrial development in the Business 2A zone or the direction of anticipated growth in that zone. She considered the WSR under-represented industrial floor space demand.
193. She also identified average floor ratio area – land demand and capacity. She advised that the analysis under that had been done at a parcel level in each zone but that the analysis only assessed properties that have floor space. Vacant properties were excluded.
194. After further discussions on her evidence in relation to the models and issues which may arise, Ms Hampson provided a current estimate of vacant industrial land in the Greater Christchurch area of the Selwyn District.
195. In preparing her evidence, she carried out a desktop survey of vacant land in the Rolleston industrial zones. She advised this was ground truthed by Mr Carter and his team. She focused on the whole of the sites unless there was a clearly delineated developable area that was not currently being regularly used. She excluded the inland ports from vacant capacity due to the fluctuating container storage activity and provided, in her Figure 5, the estimates of vacant parcels in the Rolleston industrial area as at July 2022.
196. On the basis of her estimates and assumptions, she considered that the combined total of industrial vacant land capacity in the GCP area of the Selwyn District was 163 ha to meet short – medium term demand (or 151 ha excluding the area set aside for the LVR).⁵³ She advised

⁵³ Evidence of Natalie Hampson (economics) 5 October 2022 at para [90]

that this compares although not directly with the 245 ha of vacant industrial land reported in the HBDCA 2018 which may suggest that vacant capacity is reduced by just under 82 ha between 2016 and 2022. Ms Hampson identified that even taking into account PC66 which added approximately 27 ha of gross vacant Business 2A zoning to Rolleston, the total industrial zoned area in the Greater Christchurch area was approximately 390 ha, or 378 ha excluding the LFR precinct, and vacant industrial capacity increases to an estimated 190 ha, or 178 ha excluding the LFR precinct (with 167 ha of this in Rolleston). She advised that net vacant capacity of 190 ha (or more accurately 178 ha excluding the LFR precinct) is still a significant drop relative to the 245 ha reported in 2018 if based on similar vacant assumptions.⁵⁴ She advised that Table 4 (and Figure 5) provide further insight on current vacant capacity in the operative industrial zones and that analysis allows understanding on what vacant capacity might look like in the near future and some of the nuances of industrial land demand and capacity in Rolleston.⁵⁵

197. She considered that the truly vacant land that is to be assumed to be available to the wider market to purchase or lease at present (that is land which is not under construction, not already consented for development, not being land banked by existing industrial businesses) equated to 142 ha of the 190 ha of total vacant capacity, including the 27 ha added through PC66.⁵⁶
198. Ms Hampson's evidence did not include long term industrial capacity in Rolleston in her "high level analysis" but noted that this can include land identified for future business growth in a growth strategy, here within the Projected Infrastructure Boundary identified in the CRPS Map A of Chapter 6 meeting that criterion. Ms Hampson identified some possible constraints on some of the land identified.
199. Ms Hampson responded to Submitter PC80-0003, which stated that a significant portion of the land in the IZone was still available for development and that in addition to significant business zones in Hornby and Sockburn, the proposal was not needed. Ms Hampson advised that she had not examined development capacity in Christchurch as part of the evidence (and accepted the evidence of Mr Foy on that issue), but her analysis showed that the amount of Business 2A zoned land likely to be available to provide medium to long term industrial growth is substantially less than what may appear to be undeveloped land.⁵⁷ She also noted that demand for industrial land in Rolleston is strong, driven by strategic location and transport attributes. In her view it was timely to ensure that suitable additional industrial land is zoned now (keeping in mind the lag between decision-making and lots being released to the market) to provide confidence to the market that growth will not be constrained and to ensure that land that offers further opportunities to create rail sidings is not lost to other competing land uses in the future.

⁵⁴ Evidence of Natalie Hampson (economics) 5 October 2022 at para [94]

⁵⁵ Evidence of Natalie Hampson (economics) 5 October 2022 at para [95]

⁵⁶ Evidence of Natalie Hampson (economics) 5 October 2022 at para [95.4]

⁵⁷ Evidence of Natalie Hampson (economics) 5 October 2022 at para [100]

200. In response to ECan's submission (PC80-0009), Ms Hampson considered it was relevant that all of the business priority greenfield areas in Rolleston have already been zoned and that this highlighted that Map A was no longer very forward-looking. She stated that leaves just the area within the Projected Infrastructure Boundary in Map A to provide for long term growth. She advised that this is best shown on the online PDP maps where the Projected Infrastructure Boundary is renamed the Urban Growth Overlay. She identified an area to the north-west of approximately 49 ha gross and to the east an approximately 51 ha gross. She calculated that as total gross area of 100 ha or indicatively 70-80 ha of net developable land once roads etc have been provided and identified that the long term identified capacity is additional to the vacant capacity estimated in the already zoned industrial areas assessed in her Table 4.⁵⁸ She advised that only the eastern future growth area provided the opportunity for industrial development with access to a rail siding and noted that the eastern area did not follow current property boundaries and it was unknown if both of the areas are in multiple or single ownership which can affect the way and rate at which it is brought to market.⁵⁹
201. She also identified that the north-west area contained an area of the Greendale fault avoidance overlay in the PDP. She noted that while industrial development in this area need not be avoided under Policy NH-P15 of the notified PDP, rezoning and subdivision of that land was restricted under Policy NH-P18 unless further assessment was carried out and risks can be remedied or mitigated.⁶⁰
202. After identifying the constraints to the north-west, she considered that both the north-west and eastern areas indicated that 70-80 ha net development capacity could be zoned industrial and developed at some point in the future but considered it important to take a strategic and long term view when planning for industrial growth with Rolleston relatively unique in terms of drivers for demand. She considered that it was necessary to look beyond the growth areas identified in the CRPS.
203. In response to Submitter PC80-0010 relating to concerns regarding the out-of-sequence nature of the proposal and that it should be left to the wider planning processes to determine, she considered that while the CRPS provides some guidance on the long term direction of suitable industrial land (with respect to the Projected Infrastructure Boundary), it was not forward-looking enough in light of the rapid uptake of capacity in the Business 2A zone. She also identified that the district plan review did not result in any additional industrial zoning to provide for medium term growth and observed that the recent wider planning processes that affect Selwyn District are not responding in a way or a rate that provides long term certainty to the community.⁶¹
204. Mr Foy, in his evidence at the hearing, generally agreed with the evidence of Ms Hampson. In particular, he agreed:

⁵⁸ Evidence of Natalie Hampson (economics) 5 October 2022 at para [104]

⁵⁹ Evidence of Natalie Hampson (economics) 5 October 2022 at para [105]

⁶⁰ Evidence of Natalie Hampson (economics) 5 October 2022 at para [106]

⁶¹ Evidence of Natalie Hampson (economics) 5 October 2022 at para [112]

- Vacant capacity is constantly changing as development takes place, and snapshots quickly become out of date, making projections of industrial land supply sufficiency challenging;
- Selwyn's industrial land demand-supply balance has changed since the HBDCA Summary March 2018, BDCA October 2018 and Our Space 2018-2048;
- The HBDCA and Our Space are the most recent publicly available documents that quantify the sufficiency of industrial zones in Greater Christchurch. He identified that a more recent industrial land assessment had been undertaken by his company and that a memo had been supplied to Ms Hampson and was provided as (an early) part of the next industrial land assessment Council has commissioned his company to undertake. He noted that assessment has resulted in changed conclusions as to industrial land demand and supply;
- That some of Selwyn's industrial land that was identified as vacant in the HBDCA has since been developed, meaning the industrial land supply has decreased from the level assessed in the HBDCA notwithstanding the addition of 27 ha of additional industrial land that was zoned by PC66. In his opinion Ms Hampson's assessment of vacant industrial land in the GCP area of Selwyn District of 163 ha is reasonable. He did not consider it appropriate to exclude from that 163 ha the vacant land that is owned by existing businesses and land banked for their own future business development and land that is consented for development, as that land remains available to accommodate industrial growth until it is developed or occupied by an activity. He advised that nevertheless the land banked land etc made little difference to the overall conclusions as to sufficiency of industrial land supply; and
- Future demand for industrial land is now projected to be higher than was modelled in the HBDCA. The increase in the projections is due to intervening changes in several growth drivers, as referred to by Ms Hampson, including population and employment growth, different mixes of industrial activities influencing workspace ratios, and changing site coverage/building density trends.

205. He advised that he had been undertaking an ongoing assessment throughout 2022 and that assessment was in the process of being finalised. He advised that the assessment had resulted in changed conclusions as to industrial land demand and supply. He advised that while that was not finalised, it was close enough to being finalised to be able to conclude that the projections indicate that it is now expected that Rolleston will have an undersupply of industrial land sometime in the long term (10-30 years) assuming that the Growth Overlay Areas become zoned industrial land, but excluding PC80. With PC80's 98 ha supply, and again including the Growth Overlay Areas, it would exceed projected demand for at least the next 30 years.

206. There were no outstanding points of the Request with which he disagreed (other than a non-complying rule for the Rule 22.10.4 which was accepted by the Applicant).

Conclusion in relation to supply and demand

207. While I return to this issue in my discussion on the NPS-UD, there is clearly agreement between the economic experts that it is expected Rolleston will have an undersupply of industrial land sometime in the long term even assuming that the growth overlay areas become zoned industrial land. There was also considerable evidence, which I address subsequently, in relation to demand.

Urban expansion

208. Ms White's evidence and report identified that there was a real benefit in the location of the site with respect to its accessibility to the rail corridor, its location adjoining the existing industrial area and that those benefits may not apply to other sites. She considered the suitability of the site for industrial activities, particularly given its locational benefits, as one matter that is particularly important in its overall consideration. I agree.
209. Mr Brown spoke on behalf of Kiwi Rail at the hearing. He noted that there had been a considerable growth in demand for rail transport as a result of the decarbonisation of transport. He noted that there was considerable pressure from producers and others for the rail system to be used. He confirmed that the 2km long frontage would provide a significant and he considered rare opportunity for new long rail sidings to be established adjacent to the Rolleston Township and the existing industrial areas. He advised that the submission confirmed that new rail sidings allow, particularly of this length, for significantly improved efficiency of freight movement through the Canterbury region and in turn the South Island. He considered the location was important.

Overall conclusion on issues of demand and urban expansion

210. While I address some of these issues further in my discussions on the NPS-UD, I accept that the evidence is clear that long term demand is not met. I accept that there is significant demand for land in this area and that the site has key locational attributes which may not apply to other sites. Overall I find the expert evidence on all of these matters to be compelling. Mr Brown's evidence reinforces the locational advantages of this site.

Other economic effects

211. An issue was identified by Mr Foy regarding potential for the site to be used for non-industrial purposes under the Business 2A framework. That has been addressed by the including of Rule 22.10.4 being amended to apply to this site. As noted by Ms White, the effect of this is that except for particular retail activities otherwise specified in Rule 22.10.1.3, other retail

activities, as well as any commercial activities, are automatically classified as a non-complying activity.⁶²

Water supply (and other servicing matters)

212. FENZ (PC80-0004) identified that it had an interest in the land use provisions to ensure that where necessary appropriate consideration was given to fire safety and operational firefighting requirements, particularly in relation to adequate water supply and access. Mr Horne (PC80-0011) expressed some concern in relation to the increased pressure that the Request would place on water supply.
213. Mr McLeod, a Senior Civil Engineer at Inovo Projects Limited, provided expert evidence addressing infrastructure requirements, stormwater and flood risk, and earthworks construction. He considered that from an infrastructure and servicing perspective, it would be practicable to develop the site in accordance with the proposed plan change. In relation to water supply, he identified that water supply to the site could be provided by extending the SDC potable water supply conveyance network from Jones Road and along Two Chain Road.⁶³ He identified that analysis of the network demand carried out by WSP demonstrated that sufficient pipe capacity is available for the proposed rezoning from Jones Road once network upgrades in IZone Drive near the IZone water supply headworks were completed.⁶⁴ In his summary of evidence he identified that the majority of the businesses expected to be established in the plan change would be expected to be freight logistics or light industry with relatively low water use. Any high water use or wet industries may need to develop their own on-site water supply to meet water demand.⁶⁵
214. In terms of wastewater, he advised that the existing wastewater system within the Rolleston Township and industrial area is principally via gravity reticulation to catchment pump stations with flows ultimately pumped to the Pines WWTP in Rolleston. He identified that the existing wastewater gravity mains are in Jones Road to the north-east and running past the site in Walkers Road to the south-west.⁶⁶ He considered that wastewater reticulation can be provided to the site by extending the existing SDC gravity network in Jones Road under the Midland Line railway and westward along Two Chain Road. He noted that two-thirds of the site would require either low pressure sewer or a lift station to pump up to this gravity network extension.⁶⁷
215. He identified that the existing gravity main in Walkers Road had potential to service the entire site by gravity reticulation but noted that that part of the network also received wastewater pumped from West Melton and there could be capacity constraints in the pipe network

⁶² s42A Report at para [84]

⁶³ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [16]

⁶⁴ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [17]

⁶⁵ Summary of evidence of Tim McLeod (infrastructure and servicing) dated 20 October 2022 at paras [4] and [5]

⁶⁶ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [21]

⁶⁷ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [22]

downstream of Walkers Road which could result in surcharging during dry weather flows and flooding during wet weather flows if the entire site were to connect to that gravity line.⁶⁸

216. He identified that the final configuration of the sewer network would be determined at subdivision stage during consultation with SDC and there may be some limitations placed on peak flows or timing of discharges if certain types of wet industries were developed.⁶⁹
217. And finally on this point, he identified the additional load from the proposed plan change to industrial use was within the scope of the projected growth for the WWTP.
218. In terms of stormwater, he was of the opinion that primary stormwater can be managed on-site and directly discharged to ground via soak pits or drainage trenches as is common in the Rolleston area and that a site-specific resource consent for stormwater discharge would be required from Environment Canterbury before any subdivision consent could be approved. Overall it was his conclusion that there were viable means of providing for infrastructure.
219. Mr England, Asset Manager Water Services, concluded that the conveyance of wastewater to the Pines WWTP was feasible and would be subject to an engineering approval process. He noted the extension of the Pines WWTP to 120,000 PE capacity had been identified and funded in the LTP, with design and consenting works programmed for the forthcoming years to allow for development within the district, including that proposed in the plan change Request. He noted that depending on the type of industry proposed, flow limitations may need to be imposed or in some instances declined. That process was managed through the Trade Waste Bylaw 2016. He identified that if the plan change area was to be approved, development contributions would be payable for any additional lots.
220. He was satisfied that stormwater discharge to ground was appropriate. He noted resource consent for stormwater discharge from Environment Canterbury would be required. In terms of the water race, he identified that that flows in a north to south direction within the western end of the site. He identified that there were a number of ways to manage the water race but closure of the water race was unlikely to be an option due to its downstream use through the Stonebrook subdivision. Ultimately the treatment of the water race could be determined at or before subdivision consent stage.
221. Mr England expressed a concern in relation to water supply, essentially in relation to pressure on the consented allocation through township growth. His view is that the priority for allocation needs to be given to the developments within the Rolleston Structure Plan area. Given that this plan change area is outside of that, consented water would need to be made available for the plan change area to be developed. He was satisfied in terms of firefighting capacity which would need to be designed in accordance with the rules.

⁶⁸ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [23]

⁶⁹ Evidence of Tim McLeod (infrastructure and servicing) dated 5 October 2022 at para [24]

222. Mr Mthamo addressed Mr England's concerns in relation to water supply. He identified that there was no site-specific available water supply for the PC80 area and did not have any existing consents to take and use groundwater. He confirmed that the Applicant proposed to transfer consents from the groundwater consents it has control over in the PC69 area. He noted they have an estimated annual volume of 856,299 m³ per year. The PC69 proposal would require 430,604 m³ per year, leaving a surplus of 425,636 m³ per year and that was more than the potable and firefighting requirements required for PC80.⁷⁰ He used the methods in Schedule 13 of the CLWRP to estimate annual volumes.
223. For completeness, he discussed water supply from other sources, and in particular water reuse. He estimated the potential volumes that could be harvested from stormwater and concluded that if stormwater from 10% of the site was collected and stored, that would be sufficient to provide the minimum volumes required for firefighting.⁷¹ If that were increased a further 10%, there would be sufficient volumes for firefighting, irrigation of lawns/gardens and other non-potable uses.⁷²

Assessment

224. On the basis of the expert evidence, there do not appear to be any infrastructural restraints which would render the rezoning inappropriate. In terms of potable water, I requested, in my Minute 4, that the Applicant address the issue of the transfer of water consent in light of the Court of Appeal's recent decision.⁷³ Ms Appleyard, in her reply submissions, submitted that the PC80 situation could easily be distinguished from the *AWA* case as here the Applicant was not seeking to change the irrigation consent to allow for a new and different use. Unlike the *AWA* case, it is able to utilise rules specific to the Selwyn Te Waihora subregion in the CLWRP that specifically contemplate a change of use as part of a transfer of water permits.⁷⁴ The reply submissions confirmed that the transfer of irrigation water would be for community water supply purposes and that an application would need to be made to the Canterbury Regional Council pursuant to Rule 11.5.38.
225. Ms Appleyard submitted that if the application to transfer the water permit is ultimately made by the Applicant, there would be nothing in the CLWRP which would prevent any such application being made or granted. She noted that the groundwater allocation zone might be overallocated but the consent sought would not be for a new take which would be a prohibited activity. In any event, she noted that the Applicant could seek to purchase and transfer other industrial water takes to utilise for the site and identified that the proposed rule package includes Rule 24.1.3.x(b) which ensures that water is made available prior to any subdivision of the site. Mr England, in his summary at the hearing, advised that the proposed rule that no

⁷⁰ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [96]

⁷¹ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [106]

⁷² Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [107] and Summary of evidence of Victor Mthamo (versatile soils and water supply) dated 20 October 2022 at para [24]

⁷³ *Aotearoa Water Action Incorporated v Canterbury Regional Council & Ors* [2022] NZCA 325

⁷⁴ Closing Legal Submissions on behalf of Applicant 1 December 2022 at para [53]

subdivision of land shall take place until a potable water supply is available which is capable of servicing all the lots within the subdivision addressed his concerns.⁷⁵

226. Overall, in light of the amendments to the rules in relation to water availability, and the evidence overall, infrastructural issues have been appropriately addressed and considered and are not such to render rezoning as inappropriate.

Ecological effects

227. The Request included an ecological assessment which was updated in response to the request for further information. That was reviewed by Dr Greg Burrell who provided a memorandum dated 19 August 2022 which formed part of the officer's report.
228. Dr Burrell was of the view that the combination of desktop and field-based assessment which had been undertaken was appropriate for the highly modified agricultural setting where ecological values were anticipated to be low. He noted that the October 2021 ecology report identified a water race (part of the Paparua race network) flowing across the south-western end of the PC80 block. He noted that had identified the water race may support native eels and upland bullies which are commonly found in similar habitats. He also identified that the report recommended against piping the waterway. Dr Burrell noted that retention of the water race and application of the SDP's 10m setbacks were included in the ODP. Overall he agreed with the ecology report conclusions and considered the proposed approach to managing the water race would avoid adverse effects on its ecological values.
229. The ecological assessment provided field investigations of five potential wetlands and again Dr Burrell agreed with the methods used. He noted that the ODP had been updated to identify sites where further investigation would be undertaken at the time of subdivision.
230. Mr Taylor provided a brief of evidence. He attended the hearing. Mr Taylor noted the aquatic habitat values on the site which comprised one irrigation race with a perennial flow. He noted that would be retained as a surface flow with a 10m development setback. He identified that there were two habitats of ephemeral wetland status, associated with old soak holes, which would be subject to further ecological assessment at the subdivision stage.

Assessment

231. I viewed the areas identified in the ODP for further investigation. I also viewed the water race as it enters and traverses the site. I accept the ecological issues have been appropriately considered through an appropriate assessment methodology. There are no ecological matters that would render the rezoning inappropriate.

⁷⁵ Summary Statement of Murray England dated 20 October 2022 at para [7]

Contaminated land considerations

232. A Preliminary Site Investigation was included with the Request. Through the further information process, matters that had been identified by Canterbury Regional Council had been addressed. These include mapping of additional HAIL areas. Canterbury Regional Council considered that a Detailed Site Investigation (**DSI**) is required prior to large-scale earthworks and that if it identifies contamination that exceeds the relevant soil contaminant standards, then a remedial action plan should be prepared and a site validation report be submitted detailing any remedial works undertaken.
233. I agree with Ms White that the appropriate mechanism for managing that issue is through the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**). This would apply to any subdivision or change of use and would apply to the development of the PC80 site. It will need to be undertaken prior to development and I agree with Ms White that there are no contaminated land issues which would preclude the rezoning.

Geological considerations

234. The Request included a geotechnical assessment. That was peer reviewed by Mr McCahon of Geotech Consulting Limited. He considered that the testing coverage is sufficient and meets the intent of the MBIE Guidance and there would be a very low risk of liquefaction at the site given the gravel soils and depth to groundwater. He considered the TC1 classification to be appropriate and that s106 hazards were either not present or can be properly mitigated. He concluded that the site area was geotechnically benign and agreed with the geotechnical assessment.
235. I am satisfied that there are no geotechnical matters that would preclude the rezoning of the site.

Other matters

236. As identified by Ms White, D Middleton (PC80-0010) raised concerns that the rates valuation for the site had already been changed and the site was listed as "Vacant Industrial, Provincial". He queried why that category had changed given the plan change had not been approved. He also identified concerns regarding lack of notification to other residents in the area beyond those directly notified. He considered that the entire population of the Rolleston area and those travelling to or through Rolleston would be negatively impacted.
237. I discussed those issues with Mr Middleton at the hearing. I do not consider that the valuation issues raised by Mr Middleton and the group submitters raises any issues in relation to the appropriateness or otherwise of the plan change. The concern appeared to be that the valuation issue evidenced that this Request may have been pre-determined. As advised to Mr Middleton, my recommendation is made on the basis of the documents and evidence available to me.

238. In relation to the notification, as identified by Ms White, those requirements are directed under Clause 5(1A) of Schedule 1 to the RMA including public notification of the proposal as well as sending copies of the public notice to any person who, in the Council's opinion, is likely to be directly affected by the plan change. She noted that the full public notification allows for any person to make a submission and that submissions were received from parties who were not directly notified.
239. I have considered this issue. I do not have any evidence that the Schedule 1 process undertaken by Council was flawed. I acknowledge there have been submissions received by SDC from those both in the immediate surrounds, and those further distant. It has been fully publicly notified and submissions received. My focus in this Recommendation is on the merits or otherwise of this proposal.
240. For completeness, in terms of Mr Horne's submission that because PC73 had been declined, PC80 should be, I agree with Ms White that the fact that PC73 was declined does not automatically mean that this plan change should also be declined. They were very different plan changes and I agree that the issues of urban form effects and reverse sensitivity do not arise to the same degree on PC80.

Statutory Analysis

Functions of Territorial Authorities

241. Ms White identified the functions of councils as set out in s31 of the RMA at paragraph [108] of her s42A report. Very much by way of summary, the SDC has the functions of the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district;⁷⁶ the establishment, implementation and review of objectives, policies and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district;⁷⁷ and the control of any actual or potential effects on the use, development or protection of land, including for the specified purposes.⁷⁸
242. The Request identified s31 and noted the functions include
- Establishing, implementing and reviewing objectives, policies, and methods to achieve the integrated management of the effects of the use and development of land; and
 - Controlling actual or potential effects of use and development of land.
243. The Request stated that the plan change accords with the statutory functions, providing for the use and development of land for industrial activities and seeks to implement existing district

⁷⁶ s31(1)(a)

⁷⁷ s31(1)(aa)

⁷⁸ s31(1)(b)

plan Business 2A zone provisions over the site, with any amendments as are necessary to recognise the site and any issues particular to it. It stated further the proposed ODP and the amended SDP rules provide the methods for SDC to manage potential effects of this activity and demonstrates an integrated management approach.⁷⁹

244. Ms White agreed that the ODP and the amended plan rules provide the methods for SDC to manage potential effects of this activity and demonstrate an integrated management approach.
245. Having considered all of the evidence, and having identified the primary effects and related matters earlier in this Recommendation, I consider that the SDP accords with and assists the SDC to carry out its functions under s31 and to achieve the purpose of the RMA. The adoption of the Business 2A rules, together with the ODP and the more specific rules proposed, will enable and facilitate the control of any actual and potential effects of the use, development or protection of land.
246. In relation to s31(1)(aa), I will address this further in my following discussions on the NPS-UD in particular but I record the plan change would accord with that function.

Part 2 Matters

247. As identified by Ms White, pursuant to s74(1)(b) any changes to the plan must be in accordance with the provisions of Part 2 of the RMA. Ms White was of the view that notwithstanding the notification of the PDP, the purpose of the RMA is currently reflected in the settled objectives and policies of the SDP which PC80 does not seek to change. Rather PC80 seeks to change the plan's zoning pattern and make related changes to the provisions in relation to how the change in zoning is effectively implemented.
248. I agree with Ms White that there are no matters of national importance (s6) that are of relevance to PC80.
249. I have had particular regard to the relevant s7 matters. These are identified by Ms White as the efficient use and development of natural and physical resources (s7(b)), the maintenance and enhancement of amenity values (s7(c)) and the quality of the environment (s7(f)), and the finite characteristics of natural and physical resources (s7(g)).
250. Section 7 matters have largely been considered in my earlier consideration of effects and other matters raised in submissions and also within my subsequent assessment under the NPS-UD.

⁷⁹ s32 Evaluation at para [84]

Statutory Documents

NPS-UD – Responsive Planning

251. An issue which has arisen on a number of recent plan change hearings, including PC67, PC73 and PC69, is that of the relationship between the NPS-UD and the CRPS. That has been the subject of considerable debate and discussion. The issue is in essence whether or not the avoidance objectives and policies of the CRPS, as implemented by Objective 4.3.8 and Policy B4.3.1 of the SDP, mean that the proposal must be declined or whether the NPS-UD responsive planning provisions offer a pathway for approval of appropriate plan changes.
252. The CRC submission (PC80-0009) raised this issue again. Unlike in earlier plan change hearings, it did not provide evidence or legal submissions. The submission identifies that the CRPS provides a clear and directive urban growth framework for the Greater Christchurch area and that PC80 relates to land which has not been identified as a Greenfield Priority Area or Future Development Area on Map A, nor is it development of the land for urban purposes expressly provided for in the CRPS. The submission is that the plan change Request is therefore considered to be inconsistent with Objective 6.2.1(3) – “avoids urban development outside of existing urban areas or Greenfield Priority Areas for development”; Objective 6.2.2 – “consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas”; Objective 6.2.6 – “to identify and provide for Greater Christchurch’s land requirements for the recovery and growth of business activities in a manner that supports the settlement pattern brought about by Objective 6.2.2”; and Policy 6.3.1(4) – “ensure new urban activities only occur within existing urban areas or identified Greenfield Priority Areas as shown on Map A, unless otherwise expressly provided for in the CRPS”.
253. The submission includes an acknowledgment that planning decisions must now also give effect to the NPS-UD. It identified Policy 8 of the NPS-UD which requires local authority decisions affecting urban environments to be responsive to plan changes that would add significantly to development capacity and attribute to well-functioning urban environments, even if the development capacity is unanticipated or out-of-sequence with planned land release. The submission also identified Clause 3.8 requires that a local authority must have particular regard to the development capacity provided by the plan change if that development capacity:
- (a) Will contribute to a well-functioning urban environment; and
 - (b) Is well-connected along transport corridors; and
 - (c) Meets the criteria set and included in a regional policy statement, which determines what plan changes will be treated as adding significantly to the development capacity.
254. The submission also records that “we” will expect to see a detailed analysis of the availability of industrial development capacity within existing zoned and Greenfield Priority Areas for business to support an argument that the proposal would provide significant development

capacity by way of addressing an unmet need for land suitable for industrial development, together with an evaluation of the likely impact of the provision of additional industrial zoned land on existing zoned areas to support an argument that the proposal would contribute to a well-functioning environment.⁸⁰

255. Ms Appleyard in her opening identified that at previous hearings, which I had been involved in, CRC argued that Policy 8 of the NPS-UD could not be relied on to enable the rezoning of land outside of the Greenfield Priority Areas because of the strong directives in the CRPS.⁸¹
256. Ms Appleyard submitted that it did not appear that CRC was making the same argument here, but for completeness, addressed the relationship. She submitted:
- (a) The NPS-UD and the CRPS are able to be read together in a way that reconciles the apparent inconsistencies between the two documents;
 - (b) To do so, the NPS-UD must be given more weight as a clear national level direction which is both a higher order document, and later in time, noting that the CRPS will in its next review have to give effect to the NPS-UD;
 - (c) It is appropriate to 'read down' or 'soften' the interpretation of 'avoid' in the CRPS to give effect to the NPS-UD (at least until such time as the CRPS gives full effect to the NPS-UD). In light of the NPS-UD the objective in the CRPS should now be read as meaning "except if otherwise provided for in the NPS-UD, avoid..."
257. I have carefully considered the CRC's submission and Ms Appleyard's legal submissions on this issue. I confirm my view is that Policy 8 specifically identifies responsiveness in the context of plan changes. "Unanticipated" must be read to include circumstances where planning documents (and here the CRPS as reflected in the SDP) contain avoidance objectives. Development in areas outside those identified in Map A is clearly 'unanticipated' and 'out-of-sequence'. In general terms I accept Ms Appleyard's submissions.
258. Overall, it is my view that in light of the position the NPS-UD holds in the hierarchy of documents, that it is the latter in time, promulgated in the context of a housing crisis, and after carefully considering its text, its purpose and other contextual matters, the NPS-UD enables appropriate plan changes to be assessed and determined on their merits, notwithstanding the avoidance objectives and policies in the CRPS.
259. That does not render the provisions of Chapter 6 of the CRPS irrelevant. Chapter 6 of the CRPS clearly remains an important part of the overall planning framework for Canterbury.

⁸⁰ Submission PC80-0009 at para [13]

⁸¹ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [8]

NPS-UD – Assessment

260. Ms Seaton reiterated her view, as expressed in other recent plan changes, that the key considerations of the NPS-UD are:⁸²

- (a) Will the proposal provide ‘significant’ development capacity (Objective 6, Clause 3.8);
- (b) Will the proposal contribute to a well-functioning urban environment (Objective 1, Policy 1, Policy 6, Clause 3.8, Clause 3.11);
- (c) Is the site able to be adequately serviced with infrastructure (Objective 6, Policy 10, Clause 3.5); and
- (d) Is it well-connected with transport corridors (Clause 3.8).

261. I agree with Ms Seaton they are the key considerations and I adopt those headings in my assessment against the NPS-UD.

Significant Development Capacity

262. Both Ms Seaton and Ms White considered that the proposal would provide significant development capacity.

263. Mr Staite, an Industrial Broker and Director of the Industrial Sales and Leasing Division for the Colliers Christchurch office, provided evidence which identified the increasing high demand for industrially zoned land with more owner-occupier interest and the lack of unencumbered freehold land which could be purchased throughout Greater Christchurch. He considered that the need for bare industrial sites had increased in the wake of the COVID-19 pandemic and noted that globally, onsite sales had increased dramatically. Further, supply chain disruptions led to companies holding more product. He advised this had been a “building trend” for the last five years. He considered that the PC80 site was significant in terms of its characteristics and the 98 ha site would go a significant way to meeting the growing need. Aside from the general demand for this type of site on the market, he considered it filled a particular demand by providing developers/businesses with a rare and unique opportunity to establish along a substantial rail siding.

264. Mr O’Styke, who is a Director of Industrial Sales for Bayleys Canterbury, again addressed the demand for industrial land in Rolleston. He considered this demand was reflected in the significant increases in industrial land pricing. He identified a number of factors which rendered Rolleston extremely attractive for industrial land investors. He considered the site to be “unique”. He identified benefits of being located close to IZone and considered there were efficiencies in locating industrial uses in close proximity to one another. He considered the site would go a long way to satisfying a current need in the industrial land market for unencumbered freehold land in Rolleston. He also commented on the opportunity for future

⁸² Evidence of Kim Seaton (planning) dated 5 October 2022 at para [65]

developers to utilise the Main South Line rail siding which he considered would create real efficiencies in respect of freight and transport. If that were to occur, he considered it would be unique. He advised that there was nothing else like it currently, or likely to enter, the industrial market.

265. Ms Hampson considered that the proposed land would provide additional feasible capacity which would allow Rolleston to enhance its reputation as a key freight focused industrial hub.
266. I have addressed Mr Foy's evidence earlier.

Discussion and Findings

267. I consider it is clear on the evidence that there is a risk of not providing sufficient development capacity in the long term. I consider it is very clear, on the evidence which I have summarised above, and the evidence discussed in my discussions on supply, demand and urban expansion, that the capacity enabled by PC80 is significant. It provides considerable capacity in the location where there is clear demand for industrial property, particularly unencumbered freehold land. Its location adjacent to IZone, and to the rail corridor, clearly adds to its significance. For the avoidance of doubt, it is my view that whether the plan change ultimately is of 98 ha, or 80 ha (depending on my subsequent findings), it provides significant development capacity.

Is there sufficient development capacity to meet expected demand at all times

268. Policy 2 requires Teir 1, 2 and 3 local authorities, at all times, to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.
269. Clause 3.11 of the NPS-UD directs that when making plans, or changing plans, in ways that affect the development of urban environments, local authorities must:

(b) *use evidence, particularly any relevant HBAs, about land and development markets, ... to assess the impact of different regulatory and non-regulatory options for urban development and their contribution to:*

...

(ii) *meeting the requirements to provide at least sufficient development capacity.*

270. "Sufficient development capacity" is defined as:

(a) Plan enabled, that is in the short term, zoned in an operative district plan; in relation to the medium term, zoned in an operative or proposed district plan; and in the long term, zoned or identified for future urban use or intensification in an FDS;⁸³

⁸³ NPS-UD 2020 Part 3 – Subclause 1, Clause 3.4(1)

(b) Infrastructure ready – in the short term development infrastructure is adequate to support the development of the land; in the medium term, either there is adequate existing development infrastructure or funding for adequate infrastructure to support development identified in a LTP; or, in the long term, identified in a local authority's infrastructure strategy;⁸⁴ and

(c) Feasible and reasonably expected to be realised.

271. Again, I have had considerable evidence from experts in the real estate industry, from Mr Carter, and from Ms Hampson and Mr Foy in relation to development capacity. In my view it is clear on that evidence that there is a risk that there is not sufficient development capacity at all times, and particularly in the long term. There is clearly significant demand for, and limited supply of, industrial land in Rolleston in particular.

272. I have addressed Mr Foy's and Ms Hampson's evidence earlier and do not repeat it here.

Will the plan change contribute to well-functioning urban environments

273. Policy 8 of the NPS-UD sets out two prerequisites for unanticipated or out-of-sequence developments. The proposal needs to:

(a) Add significantly to development capacity (which I have found this does); and

(b) Contribute to well-functioning urban environments.

274. Policy 6 provides that when making planning decisions that affect urban environments, decision-makers are to have particular regard to the following matters:

(a) *the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*

(b) *that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*

(i) *may detract from amenity values appreciated by some people but improve amenity values appreciated by others ...*

(c) *the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*

(d) *any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*

(e) *the likely current and future effects of climate change.*

275. Clause 3.8(2) specifies that for unanticipated or out-of-sequence developments that provide significant development capacity, particular regard to the development capacity is to be had if the development capacity:

⁸⁴ NPS-UD 2020 Part 3 – Subclause 1, Clause 3.4(3)

- (a) Contributes to a well-functioning urban environment;
- (b) Is well-connected along transport corridors; and
- (c) Meets the criteria set out in clause (3) (I note no criteria has been set).

276. Again Policy 1 directs that planning decisions contribute to well-functioning urban environments that, as a minimum (relevantly):

- (a) ...
- (b) *Have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *Have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
- (d) *Support, and limit as much as possible adverse effects on, the competitive operation of land and development markets; and*
- (e) *Support reductions in greenhouse gas emissions; and*
- (f) *Are resilient to likely current and future effects of climate change.*

Policy 1(b)

277. I consider that PC80 clearly assists in meeting Policy 1(b). It will enable a variety of sites and contributes to meeting the needs of different business sectors in terms of location and site size.

278. I find this on the basis of the evidence that I have outlined previously including that of Ms Hampson, Mr Foy, and Messrs Staite and O'Styke, and in particular the identified shortage of large unencumbered greenfield industrial sites.

Policy 1(c)

279. In relation to Policy 1(c) there was a significant level of agreement between Ms White, Ms Seaton, Mr Collins, Mr Fuller and Ms Lauenstein in terms of accessibility particularly given its proximity to the Rolleston residential areas. I note here in terms of Clause 3.8(2)(b) that there was a significant level of agreement between the experts that the site is well-connected along transport corridors, and notable by the site's location immediately adjacent to the main rail corridor and State Highway 1.

280. Ms Seaton's view was that the site cannot be said to provide any notable access to community services and natural open spaces except in so far as the site is part of the Rolleston Township. I agree but accept her opinion that this accessibility is less of an issue for industrial development than it would be for residential. The site does immediately adjoin what is in essence an existing industrial area and does in my view provide for a compact and logical extension of the urban form.

281. In my view it is well connected to and along transport corridors and it will provide for employment opportunities for those residing in Rolleston and may potentially therefore reduce, or at least not contribute to, commuting to Christchurch City.

Policy 1(d)

282. Policy 1(d) is to support, and limit as much as possible adverse effects on, the competitive operation of land and development markets. On the basis of the expert evidence from Ms Hampson and Mr Foy, and taking into account the evidence from Messrs Staite and O'Styke, together with Mr Carter's evidence, the proposal will support and provide for additional choice and competition within the industrial land market.

Policy 1(e)

283. In relation to Policy 1(e), the opportunity for extended rail sidings, and the proximity to the north/south rail corridor and State Highway 1, provides the opportunity for a reduction in greenhouse gas emissions from heavy freight.
284. Mr Farrelly, a principal consultant at Lumen in their dedicated energy and carbon team, provided expert evidence in relation to greenhouse gas emissions. He identified that the Climate Change Response (Zero Carbon) Amendment Act 2019 sets out in legislation targets for the reduction of net emissions of all greenhouse gases (except biogenic methane) to zero by 2050 and reduce emissions of biogenic methane to 24-47% below 2017 levels by 2050, including to 10% below 2017 levels by 2030.⁸⁵ He identified that in response to that legislation the government has developed a comprehensive Emissions Reduction Plan (**ERP**) which was released on 16 May 2022 and sets out how New Zealand will achieve the emissions reduction targets and identifies a comprehensive set of actions and additional targets that will support achievement of the overall goals.⁸⁶
285. He noted that it was extremely difficult to predict future greenhouse gas emissions with any precision and that any calculation of future greenhouse gases arising from a development requires one to make assumptions about the future, based on information that exists today. He identified that in particular future transport related emissions associated with PC80 are a function of many factors that could not be predicted with any certainty today. He identified, for example, that one could not with any certainty predict exactly what businesses would choose to locate in the PC80 development, nor where the employees of the businesses may reside, nor how they choose to travel and could not therefore accurately calculate what future employee commuting related emissions are.
286. Given the various uncertainties identified, he considered it important to focus on a big picture look at how the development impacts on greenhouse gas emissions at a higher level, identifying, for instance, that there is currently a shortage of employment opportunities in

⁸⁵ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [20]

⁸⁶ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [21]

Rolleston which is one of the reasons why Rolleston residents commute to Christchurch. He considered it logical to expect that the creation of more employment in Rolleston, such as by development of PC80, would result in less commuting to Christchurch (and lower relative emissions) than would be the case if such developments did not proceed. He noted again that it was not feasible to accurately model the extent of future emissions reductions that would occur because of this.⁸⁷

287. He addressed the emissions from the existing land use noting that the most significant emissions from the current land use arise from methane associated with livestock but, given the relatively low levels of stocking, the emissions were relatively minor. He also identified the partial tree coverage and the small pine forestry block and considered the low tree coverage meant that there is limited level of carbon sequestration currently occurring on the land and that a similar, or greater sequestration could likely be achieved through the retention of as many existing trees as possible, and through additional plantings, i.e. along the northern boundary and road boundaries.⁸⁸
288. In relation to the emissions from the proposed land use, he identified that like any new commercial development, the greenhouse gas emissions would be emitted during different stages of the project being construction of infrastructure required to support the development; construction of commercial buildings; and emissions arising from the operations of businesses based in the buildings – primarily energy usage.⁸⁹ He also identified emissions will arise from travel associated with the businesses including commuting, travel of customers to and from the site, and transportation of goods (inbound and outbound) to the premises.⁹⁰
289. In terms of infrastructure work, he identified the site was relatively flat which limited the requirements for earthworks; some soil may need to be removed but that he had been advised that any excess soil was likely to be used to form the landscaping bund along the northern boundary. He identified that there was currently limited scope to avoid the use of greenhouse gas producing construction material but lower emissions materials are being developed all the time. He identified that the bulk are likely to be road related, water piping and electrical infrastructure and identified that one advantage of the site compared to other potential greenfield industrial sites was that the materials required for construction could be transported to the site using rail which would minimise the transport related emissions compared to delivery by truck.⁹¹
290. He considered that PC80 supported greenhouse gas emission reductions primarily as it will enable the mode shift of a substantial number of South Island freight movements from road to rail. He identified the movement of freight is a significant contributor to the country's greenhouse gas emissions with freight making up 25% of the transport emissions and that one way of reducing freight emissions was by using low emission modes of transport such as rail

⁸⁷ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [39]

⁸⁸ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [48]

⁸⁹ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [50]

⁹⁰ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [51]

⁹¹ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [52]

and coastal shipping to transport goods around the country. He identified that freight that is transported by rail emits just 20% of the equivalent of the freight transported by heavy vehicles. He considered the plan change supported the New Zealand Government's target of reducing emissions from freight transport by 35% by 2035, again as it would enable significantly improved efficiency of freight movements through the Canterbury region.

291. He identified the operation of LPC's Midland Port facility located in Rolleston and considered that served as a good example of the impact that moving freight off road and onto rail can have not only on emissions, but also reducing road congestion. He identified that a LPC case study from 2019 noted that up to 195 one-way truck trips (70,000 trips per annum) had been taken off the road each day since the Midland Port opened. He stated that the case study highlights the example of emissions reductions that have been achieved by the Warehouse, who have mode-shifted freight movements from LPC to the Warehouse's South Island distribution centre located in IZone. Previously, freight was distributed from Lyttelton by truck, whereas now the freight is transported from Lyttelton on rail to Midland Port and then by truck to the distribution centre resulting in a 50% emissions reduction from the end to end journey.⁹²
292. He also identified Synlait's new rail siding, located at their milk processing plant in Dunsandel noting it opened in May 2021 and was noted in various media articles that this would result in 16,000 less truck movements between Dunsandel and LPC per annum.⁹³
293. He considered those examples served to highlight the significant possibilities for freight mode shift, and associated emissions reductions in the South Island, that could be enabled by the development of Two Chain Road. He noted the Warehouse having chosen to locate its main South Island distribution centre at Rolleston highlighted the strategic nature of Rolleston as a freight hub, particularly for large national organisations.⁹⁴
294. Mr Farrelly also identified that development of the site would result in a significant increase in employment opportunities within Rolleston which may likely reduce the average commuting distance for employed residents of Rolleston and that its proximity to the residential areas of Rolleston was expected to result in a significant proportion of commuting to be via active travel modes.
295. Mr Farrelly also identified that as a greenfield development they were expected to be well suited to solar power and the nature of the site and its proximity to electrical infrastructure allowed for suitable electrical infrastructure to be deployed to enable electrical charging of vehicles, which he considered could be expected to result in a more rapid uptake of lower emission vehicles compared to alternative industrial locations.
296. Overall he concluded that the proposed rezoning supports greenhouse gas emissions reductions primarily as it will enable the mode shift of a substantial number of South Island

⁹² Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [88]

⁹³ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [89]

⁹⁴ Evidence of Paul Farrelly (greenhouse gas emissions) dated 5 October 2022 at para [90]

freight movements from road to rail which have between 50–70% lower freight emissions per trip; supports the New Zealand Government's target of reducing emissions from freight by 35% by 2035; it significantly increases employment opportunities within Rolleston; it is expected to have good accessibility via active modes of transport, particularly if suitable pedestrian and cycling access is provisioned for in the development of the Dunns Road Crossing/State Highway 1 intersection and that that, combined with the site's close proximity to residential areas, is expected to result in a significant proportion of commuting to be via active zero emissions travel modes. This could be further reduced by the introduction of a local Rolleston bus network.

Finding

297. I have considered this issue very carefully. Mr Farrelly's evidence is comprehensive. I have carefully considered that evidence. In relation to rail, Mr Farrelly's evidence is supported by the submission and evidence from KiwiRail. While there can be no absolute certainty, in my view it is very clear that PC80 will enable the supporting of reductions in greenhouse gas emissions, particularly from heavy freight. Further, its proximity to Rolleston significantly increases employment opportunities there which may impact on commuting to Christchurch.

Policy 1(f)

298. I agree with Ms Seaton that the site is sufficiently distant from any coastal location that sea level rise and inundation is not a relevant issue. In terms of potential increases in the frequency and severity of storms and flood hazard, Ms Seaton noted that as the site was not known to be subject to a significant flood hazard any flood hazard could therefore be appropriately managed at the time of development or subdivision, by mitigation measures.
299. Overall I accept Ms Seaton's evidence and consider that as a result of its location, the plan change proposal is resilient to likely current and future effects of climate change.

Overall Finding

300. Overall, on the basis of all the evidence that I have considered and addressed above, I agree with Ms Seaton and Ms White that the proposal contributes to a well-functioning urban environment. The development capacity enabled is significant and overall I consider the proposal gives effect to the NPS-UD and in accordance with Objective 6 and Policy 8 of the NPS-UD, it is therefore, in my view, appropriate for SDC to be responsive to this proposal.

National Policy Statement on Highly Productive Land 2022

301. The NPS-HPL came into force on 17 October 2022. It is relevant given that the very eastern portion of the site (some 18 ha) contains LUC Class 3 soils. J Horne (PC80-0011) raised the issue in terms of the loss of prime growing and producing land for industrial development.

302. Ms White addressed the NPS-HPL in paragraphs [123] – [130] of her s42A report. She identified that the objective of the NPS-HPL is that highly productive land is protected for use in land-based primary production, both now and for future generations. She identified Policy 5 that directs that urban rezoning of highly productive land is avoided, except as otherwise provided for in the NPS-HPL itself. She noted that while the NPS-HPL directs that regional councils map highly productive land, until that is undertaken, highly productive land is that which is zoned general rural or rural production and LUC Class 1, 2 or 3 land which is not identified for future urban development or subject to a Council initiated or adopted plan change.⁹⁵
303. The NPS-HPL is obviously a document of considerable importance. It sits with the NPS-UD in the hierarchy of planning documents. It contains one Objective being “highly productive land is protected for use in land based primary production, both now and for future generations”. There are a number of key policies. These include: the recognition of highly productive land as a resource with finite characteristics and long term values for land based production (Policy 1); the identification and management of highly productive land in an integrated way (Policy 2); that the use of HPL for land-based primary production is prioritised and supported (Policy 4); that urban rezoning of HPL is avoided, except as provided in the NPS-HPL (Policy 5).
304. In terms of other policies which are helpful in informing decisionmakers are the following: the subdivision of HPL is avoided, except as provided in the NPS-HPL (Policy 7); HPL is protected from inappropriate use and development (Policy 8); reverse sensitivity effects are managed so as not to constrain land-based primary production activities on HPL (Policy 9).
305. Part 3 “sets out a non-exhaustive list of things that local authorities must do to give effect to the objective and policies of the NPS-HPL, but nothing in this Part limits the general obligation under the Act to give effect to that objective and those policies”.⁹⁶
306. The most relevant of the implementation clauses is 3.6. For ease of reference, I set that out in full:

3.6 Restricting urban rezoning of highly productive land

- (1) *Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:*
 - (a) *the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and*
 - (b) *there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and*

⁹⁵ Policy 3.5(7)

⁹⁶ NPS-HPL 3.1 – Outline of Part

- (c) *the environmental, social, cultural and economic benefits of rezoning outweigh the long term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*
- (2) *In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:*
 - (a) *greater intensification in existing urban areas; and*
 - (b) *rezoning of land that is not highly productive land as urban; and*
 - (c) *rezoning different highly productive land that has a relatively lower productive capacity.*
- (3) *In subclause (1)(b), development capacity is **within the same locality and market** if it:*
 - (a) *is in or close to a location where a demand for additional development capacity has been identified through a Housing and Business Assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and*
 - (b) *is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).*
- (4) *Territorial authorities that are not Tier 1 or 2 may allow urban rezoning of highly productive land only if:*
 - (a) *the urban zoning is required to provide sufficient development capacity to meet expected demand for housing or business land in the district; and*
 - (b) *there are no other reasonably practicable and feasible options for providing the required development capacity; and*
 - (c) *the environmental, social, cultural and economic benefits of rezoning outweigh the environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*
- (5) *Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.*

307. Ms Appleyard addressed the NPS-HPL in her opening legal submissions in some detail. She submitted that it was clear that the NPS-HPL does not seek to provide absolute protection of highly productive land, nor does it specify that there should be no loss of highly productive land within a region or a district.⁹⁷ Ms Appleyard identified that Clause 3.6 – Restricting urban

⁹⁷ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [20] citing NPS-HPL – s32 evaluation report, at p6

rezoning of highly productive land – applied to PC80. She submitted that provides a pathway for urban zoning of highly productive land where:

- (a) It is required to provide sufficient development capacity to meet demand for business land to give effect to the NPS-UD; and
- (b) There are no other reasonably practicable and feasible options for providing that capacity within the same locality and market while achieving a well-functioning urban environment; and
- (c) The environmental, social, cultural, and economic benefits of rezoning outweigh the long term costs associated with the loss of the HPL, taking into account both tangible and intangible values.

308. Relying on Ms Hampson's evidence and Mr Foy's peer review, Ms Appleyard submitted that the current Council demand modelling for industrial land shows insufficient industrial capacity to meet long term demand. She submitted the rezoning was therefore required in order to provide sufficient development capacity.⁹⁸
309. As to whether there are reasonable, practical and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment, Ms Appleyard noted that the most recent business capacity assessment was in 2018. On the basis of Ms Hampson's evidence, that was clearly outdated. Ms Appleyard also identified that was prepared under the NPS-UDC 2016, not prepared or determined in accordance with the NPS-UD.
310. She submitted that where an HBA for a particular locality/market has not been prepared in accordance with the NPS-UD, it is necessary to look to further information and evidence to demonstrate whether it is close to the location where a demand for additional capacity has been identified and the market for the types of business land that is in demand.
311. In terms of locality, she submitted the urban environment of Rolleston is the most relevant; noting that it is a Key Activity Centre, is the main industrial hub for Selwyn, and is serviced by two key rail lines. She submitted that an industrial operator looking to establish in Rolleston was unlikely to look much further.⁹⁹
312. In terms of the market, she referenced the evidence of Ms Hampson, Mr O'Styke and Mr Staite which she submitted all demonstrated that there is a specific market for this particular type of business land, particularly in this location.
313. In determining whether there were other reasonably practicable and feasible options for providing the development capacity, she submitted that case law on the term 'reasonably

⁹⁸ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [28]

⁹⁹ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [35]

practicable' has emphasised this is not an absolute, but rather an objective test that must be considered in an overall weighing exercise.¹⁰⁰

314. In terms of the requirements of Clause 3.6(2), including a consideration of whether greater intensification in existing urban areas, rezoning of land that is not highly productive as urban, and rezoning different highly productive land that has relatively lower productive capacity, Ms Appleyard submitted those options could be discounted as they were not feasible and did not achieve a well-functioning urban environment.
315. She further submitted that just because one of those options was available, that does not mean the proposed urban rezoning cannot proceed. She submitted that well-planned urban growth on the urban edge and on highly productive land will generally be preferred over sporadic urban development on non-highly productive land away from urban centres with less cohesion, accessibility, diversity and so on.¹⁰¹
316. Attached to Ms Appleyard's submissions as Appendix 1 was a map of the various constraints applying to development in Rolleston. Ms Appleyard submitted this demonstrated there were no other reasonably practicable or feasible options for providing further industrial land.¹⁰² She noted that it would not result in a well-functioning urban environment to rezone any land south of State Highway 1 industrial. Relying on Ms Lauenstein's evidence, she submitted that the highway, along with the rail corridors, provides a "hard" urban boundary separating urban residential, commercial and community growth to the south of State Highway 1, and industrial to the north. She submitted it would simply not be appropriate to rezone any land south of State Highway 1 as industrial.¹⁰³ She submitted that further to the east and north of the existing IZone and the Midland Port that there were large continuous areas of LUC Class 2 and 3 soils. It was those that were likely to be more productive than the LUC Class 3 land in question given the size of those sites, and the constraints that exist for the PC80 site.¹⁰⁴
317. Ms Appleyard noted that PC80 is located west of the IZone. She submitted that other land west of the IZone could well be utilised for industrial zoning (which is not highly productive land, or at least contains less highly productive land than the LUC Class 3 land). That however would not result in a well-functioning urban environment as it would result in a gap or pocket between State Highway 1 and any proposed industrial zone of rural land surrounded on three sides by urban zoning.¹⁰⁵
318. She submitted that the benefits of PC80 outweigh the costs and substantially so. She noted that in terms of the loss of the land-based production, the evidence of Mr Mthamo, Mr Turner and Mr Everest demonstrated that the costs of the loss would not be significant as the LUC

¹⁰⁰ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [38.1] citing *Royal Forest and Bird Society of New Zealand Incorporated v Whakatane District Council* [2017] NZEnvC 51

¹⁰¹ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [38]

¹⁰² Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [39]

¹⁰³ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [39.1]

¹⁰⁴ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [39.2]

¹⁰⁵ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [39.3]

Class 3 land within the PC80 site has a number of long term constraints that mean it could not be used for economically viable land-based primary production for at least 30 years.¹⁰⁶

319. Ms Appleyard also addressed Clause 3.10 – the exemption for highly productive land subject to permanent or long term constraints. She considered it helpful to look at that to inform the Clause 3.6 analysis. This was particularly around what could be considered another reasonably foreseeable option, consideration of land that has relatively lower productive capacity, as well as with regard to the costs/benefits analysis. Ms Appleyard then stepped through the provisions of Clause 3.10 and, on the basis of the evidence of Mr Mthamo and Mr Everest, submitted that both demonstrate that there are two key long term (and most likely permanent) constraints in relation to the land, being soil deficits and irrigation availability, and nutrient discharge constraints.¹⁰⁷
320. Fragmentation and reverse sensitivity effects were also identified as constraints. Overall, Ms Appleyard submitted that the constraints meant that land-based primary production on the LUC Class 3 land would not be economically viable for at least 30 years, and ultimately she submitted that the LUC Class 3 land is able to be rezoned urban under Clause 3.6 in order to provide sufficient development capacity while achieving a well-functioning urban environment.
321. She identified that both Mr Mthamo and Mr Everest recorded that the applicable groundwater zone is overallocated, making applications to take groundwater for irrigation prohibited activities and that a consent to transfer existing irrigation water rights to another location would be difficult and require the acquisition of a consent that is double the annual volume required for irrigation of the site.
322. Ms Appleyard noted that Mr Everest had suggested that it might be possible to obtain irrigation water from CPW but that on Mr Everest's evidence, that would only be available if the whole of the PC80 site was proposed to be irrigated – not just the LUC Class 3 land. She submitted that Mr Mthamo and Mr Everest both considered that constraint was unlikely to change over the next 30 years. She submitted that likewise, in terms of nutrient discharge constraints, this was identified by Mr Mthamo and Mr Everest. She submitted that the Selwyn Te Waihora Catchment is zoned as overallocated with respect to nutrient losses. Given the productivity of the blocks had always been low, the baseline nitrogen leaching rates were also very low and that restricted the productivity and yield of the PC80 site.
323. Ms Appleyard identified that Mr Everest had advised that CPW may have a nutrient load available but submitted there was a significant uncertainty as to whether that would ever be allocated to this particular site.
324. Given the significance of this issue, and that it had only come into force on 17 October 2022, I requested that Ms Appleyard address this issue further in her reply. The reply submissions confirmed that the LUC Class 3 land within the site was highly productive land for the purposes

¹⁰⁶ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [41]

¹⁰⁷ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [46]

of the NPS-HPL given that the required mapping had not been undertaken. The reply largely repeated the opening submission that it was clear from the objectives and policies of the NPS-HPL that it does not seek to provide absolute protection of highly productive land, nor does it specify that there should be no loss of highly productive land within a region or a district.

MfE Guide to Implementation

325. In the course of my deliberations I became aware that a Guide to the implementation of the NPS-HPL had been published on 12 December 2022. I issued a Minute on 18 January 2023 providing the parties with an opportunity to comment on the relevant provisions of the guidance.¹⁰⁸
326. I received a response from Mr Lemmon (PC80-0001). While he had not raised versatile soils in his submission, he urged me to fully consider the NPS-HPL guidance publication for reasons he outlined.
327. The CRC provided a brief statement highlighting relevant commentary and identified that “we” believe the guidance document (alongside the NPS-HPL) strengthens the reasons for CRC’s opposition to proposed PC80 as outlined in its original submission. Again I note that versatile soils was not raised in its original submission.
328. Ms White provided additional comments as reporting officer. She commented that the Guide indicates that further tests/direction in Clause 3.6(2) and 3.6(3) are fundamentally about demonstrating that there are no reasonably practicable options, for providing at least sufficient development capacity within the same locality and market, while achieving a well-functioning urban environment.¹⁰⁹ She commented that the Guide recognises that there are often more limitations on options that can be assessed where a private plan change is involved but that consideration of the listed options in Clause 3.6(2) and other reasonably practicable options were still required for private plan changes. She also identified that the Guide comments, in relation to private plan changes, that the territorial authority will need to ensure there is a robust assessment of reasonably practicable options on non-HPL land and this was not to be limited to the preferred site for the developer. She considered that the assessment undertaken in relation to PC80 included a robust assessment of other reasonably practicable options and was not limited to the application site.¹¹⁰
329. Ms White also addressed Clause 3.6(3) guidance, noting that she considered it indicates that it is about ensuring that a “like for like” assessment of other options is undertaken. In discussing the locality aspects more specifically, she noted the Guide indicates that the intent of the clause is to ensure that the options assessed in essence provide the required development capacity as close as possible to where it is needed. She considered this was to avoid situations where a sufficient development capacity can be provided on non-HPL, but

¹⁰⁸ Minute No 6 Addressing Matters Relating to the NPS-HPL and Recent Guide to Implementation dated 18 January 2023

¹⁰⁹ Comments from Reporting Officer on NPS-HPL Guide to Implementation dated 25 January 2023 at para [5]

¹¹⁰ Comments from Reporting Officer on NPS-HPL Guide to Implementation dated 25 January 2023 at para [8]

that capacity is not in the right locality to meet the identified demand. Overall, she considered the Applicant's assessment of the locality and market to be appropriate and in line with what the Guide indicated is the intent of Clause 3.6(1)(b).

330. Counsel for the Requester responded by way of Memorandum. The Memorandum recorded that they had addressed in detail why they say the NPS-HPL allows for rezoning of the land in closing legal submissions and they did not repeat that. The Memorandum addressed whether their views as expressed in those legal submissions was consistent with the Guide and whether the Guide otherwise provides any helpful insights as to the intended interpretation and implementation of the NPS-HPL.¹¹¹ They set out that the Guide is a guide noting that while it may provide a helpful starting point for interpretation, it does not form part of the NPS-HPL and has no legal effect.¹¹² They considered the Guide generally confirms their interpretation of the NPS-HPL as set out in the closing submissions in particular in relation to Clause 3.6 being the appropriate clause when considering a request to rezone HPL; and that the NPS-HPL takes a more enabling 'restrict' approach (rather than 'avoid') for urban rezoning on HPL which recognises the need for HPL to be used in some circumstances to provide sufficient development capacity while ensuring a robust assessment of alternatives is undertaken before this occurs.
331. They submitted the Guide supported the interpretation that within the same locality and market must mean Rolleston.¹¹³ They considered it appropriate to look behind a published HBA to ensure that the conclusions it draws about capacity are up to date. If they are not, it would be appropriate to take into account other factors in that assessment.¹¹⁴ They identified that urban rezoning may minimise the loss of HPL by being predominantly on non-HPL and some smaller areas of LUC Class 3 land while deliberately avoiding larger areas of LUC Class 1 and 2 land and while still maintaining a well functioning urban environment. They considered PC80 to be a good example of a rezoning that does that.¹¹⁵
332. The Memorandum spent some time discussing the approach in the Guide in relation to Clause 3.6(1)(a). The Guide states that rezoning HPL to an urban zone to provide for long term development would not meet this test. This is to avoid the premature loss of HPL to urban rezoning and ensure the maximum amount of HPL remains available for land-based primary production until it is actually needed to be rezoned to provide sufficient development capacity.¹¹⁶
333. They submitted this was inconsistent with and wrongly interpreted Clauses 3.4 of the NPS-UD and 3.6(1)(a) of the NPS-HPL for reasons which they expanded on. They submitted the Guide's view focuses too heavily on the second aspect of the definition of 'plan enabled' in a way that concludes that under Clause 3.6 of the NPS-HPL land to enable capacity into the

¹¹¹ Memorandum of Counsel dated 25 January 2023 at para [6]

¹¹² Memorandum of Counsel dated 25 January 2023 at para [7]

¹¹³ Memorandum of Counsel dated 25 January 2023 at para [8.3]

¹¹⁴ Memorandum of Counsel dated 25 January 2023 at para [8.4] referencing page 45 of the Guide

¹¹⁵ Memorandum of Counsel dated 25 January 2023 at para [8] referencing page 59 of the Guide

¹¹⁶ Memorandum of Counsel dated 25 January 2023 at para [11] referencing page 42 of the Guide

long term cannot be rezoned if it is not included in an FDS or strategic document.¹¹⁷ They submitted that was not what the plain and ordinary meaning of Clause 3.6 says. They submitted that nowhere in Clause 6 does it state that this test for rezoning only applies where land is required for short or medium term capacity but not for the long term. They noted the obligation under the NPS-UD is to provide for all short, medium and long terms and if the Government had intended the NPS-HPL to apply in the way asserted by the Guide, it would have expressly stated so.¹¹⁸

334. They submitted that both the Applicant's and Council's economic evidence concluded that there is a shortfall of long term industrial land capacity and the Council was not currently meeting its obligations in terms of Policy 2 of the NPS-UD. The Memorandum went on to state that Clause 3.6 of the NPS-HPL applied to PC80 on a plain and simple reading of that clause as the Council is not currently meeting its long term capacity requirements and the rezoning in its entirety is required to provide sufficient development capacity under the NPS-UD.

Evidence

335. Mr Carter identified that the only way the Rolleston Industrial Zone could expand that avoided locating on highly productive land was to the west. He provided a figure with his evidence identifying the location of the existing industrial zone and the PC80 site, overlaid with the LUC Classes 1 – 3.
336. Mr Everest is a farm consultant at Macfarlane Rural Business and holds a Bachelor of Agricultural Science (Hons) from Lincoln University and a certificate in Advanced Sustainable Nutrient Management. His evidence addressed the availability constraints of nutrients and water irrigation required to enable the use of land for productive agricultural purposes; the regional impacts of land productivity of increased productive intensity of the 18.1 ha LUC Class 3 land; potential constraints to traditional productive agricultural uses as a result of reverse sensitivity; and the agronomic and economic viability of using the land classified as LUC Class 3 land for productive agricultural purposes.
337. He addressed the availability constraints of nutrients and irrigation water. He advised that groundwater for irrigation was not available as the property is in an overallocated zone. He advised that surface water may be available via CPWL's irrigation scheme which PC80 could potentially utilise. He advised that CPWL would need to install a pipeline 3,780m from the corner of Aylesbury Road and Two Chain Road, along Two Chain Road to the property boundary.
338. He advised that water sales from CPWL to new shareholders are considered on an economic viability basis, typically water take applications of less than 20 litres per second (33 ha) are not granted. On that basis the HPL would only be irrigated by CPWL if the LUC Class 4 land

¹¹⁷ Memorandum of Counsel dated 25 January 2023 at para [16]

¹¹⁸ Memorandum of Counsel dated 25 January 2023 at para [17]

was also irrigated, thus creating a constraint to just the LUC Class 3 land.¹¹⁹ He identified the costs of getting CPWL water conveyed to the property (on the assumption it was possible). He noted that while the property titles added up to 98.3 ha, most properties are only 90% irrigated due to infrastructure complexities and capital costs trade-offs. To irrigate 88 ha, the total costs of irrigation water acquisition would be \$1,743,000.¹²⁰

339. Mr Everest discussed resource availability in terms of nutrients. He identified that under the CLWRP for the Selwyn Te Waihora catchment, Rule 11.4.13, farms must reduce their nitrogen loss to water from the baseline which is defined as the nutrient loss averaged over the 48 month consecutive period within the period 1 January 2009 to 31 December 2013. He advised that satellite imagery of both the LUC Class 3 and LUC Class 4 land indicated that the land use through the baseline period was low intensity stock farming. He advised that Overseer indicates that a basic farm system representative of grass only sheep and beef farming would result in a nitrogen loss of 6kgN/ha/year. As the farm was not located in a phosphorus risk zone, that would increase to 15kgN/ha/year. Due to those low nutrient baseline limits, the productive activities would essentially be restricted to dryland farming or low intensity irrigated farming.¹²¹
340. He also identified the National Environmental Standards for Freshwater 2020 applies further restrictions on land. This precluded operators from undertaking intensification changes from the reference period which was defined as 1 July 2014 to 30 June 2019. Any change to include dairy or dairy support would require a land use consent and farms seeking to increase intensive winter grazing in an area greater than 10% or 50 ha of the total area of the farm also require consent.¹²²
341. He advised that if the property were to obtain water resource from CPWL, there is nutrient allocation available (subject to application), but due to the overarching NES-F and CLWRP regulations, the property would be precluded from introducing intensive winter grazing area, introducing dairy heifers, or converting to dairy farming which combined meant that the property could only consider trading livestock, horticulture and arable crops as farm system options.¹²³
342. Mr Everest considered that retaining the LUC Class 3 land as highly productive agricultural land would result in increased nutrient loss to the catchment. He identified that while the land units including LUC land on its own or LUC Class 3 and LUC Class 4 run contiguously it could theoretically generate sufficient cash surpluses to provide the owner adequate remuneration for their efforts, in some instances, the return on capital of any assessed productive farm system fail to meet the 4% ROC threshold and he did not consider productive agriculture to be an economically viable use (having considered that over a 30 year timeframe) of the LUC Class 3 land in the PC80 site.

¹¹⁹ Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [14]

¹²⁰ Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [15]

¹²¹ Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [20]

¹²² Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [21]

¹²³ Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [22]

343. He considered that the nutrient loss and water use required to make the LUC land sufficiently productive would be at the cost of a further 13-25% of land remaining elsewhere in the region being less productive. He considered alone the LUC Class 3 land to be rezoned as industrial would result in higher environmental (and consequently cultural) and productive (social) outcomes for the Selwyn Te Waihora catchment. He considered that the scale of the LUC land precludes it from being irrigated on its own. It would only be productively viable if the whole 98 ha block on Two Chain Road was retained as productive agricultural land.
344. He also discussed reverse sensitivity and concluded that his concern for productive and economic viability for the LUC Class 3 land in the proposed site was extenuated by the threat of neighbouring properties objecting to necessary agricultural practices such as late night noise and chemical spraying in future years.¹²⁴
345. Mr Everest also responded to the officers report and submissions. In terms of the submission of Mr Horne, he did not consider the 18 ha classified as LUC Class 3 land was prime growing or productive land as it was constrained by residential pressures against productive agricultural practices and, it is not economically viable as productive land. He considered that while the land is classed as LUC Class 3 and highly productive, his analysis indicated the land is not capable of being highly productive due to social pressures regarding agricultural practices and efficiency of available irrigation water and nutrient allocation.
346. Mr Mthamo is a principal consultant for the environmental science, engineering and project management consultancy Reeftide Environmental and Projects Limited. He has worked in the area of environmental science and engineering for over 27 years. He holds a Bachelor of Agricultural Engineering (Hons) with a major in Soil Science and Water Resources; Master of Engineering Science in Water Resources; Master of Business Administration. He also holds an Advanced Certificate in Overseer Nutrient Management modelling qualification and is a member of Engineering New Zealand and a Chartered Professional Engineer. He advised that he has considerable experience in the design and implementation of on-farm irrigation schemes, soil investigations and land use assessments both in New Zealand and abroad.
347. Mr Mthamo described the site, current land use, current zoning and the Request. He identified that the Two Chain Road site comprises a total of 98 ha of land, 77 ha of that (at 77, 113-139 and 183 Two Chain Road) was under single ownership with the remainder (7, 15, 25, 93 and 97 Two Chain Road) under multiple ownership comprising lifestyle blocks ranging in size from 3.77 ha to 4.59 ha. He advised that the site generally has a long history of use for lifestyle living and low intensity dryland grazing purposes with the more specific land uses including low stocking rate grazing for dairy cows, yearling steers and bulls on winter feed, oats and grass or kale, a horse training establishment and sheep and small livestock grazing on some of the lifestyle blocks. He identified that the land across and north of Two Chain Road is generally lifestyle blocks with grazing and some home businesses.

¹²⁴ Evidence of Mark Everest (agriculture and primary industry) dated 5 October 2022 at para [43]

348. He advised that the S-Maps Online and Canterbury Maps provided details of the soils which are primarily Lismore, Eyre and Templeton soil and provided an attachment showing the location of soil types, areas of each soil subclass and properties of the soils. He advised that 78.8% of the soils on the site were the shallow stony Lismore soils which do not hold water very well given they are very permeable and that this affects the soils productive potential.¹²⁵
349. Mr Mthamo identified that the PC80 land comprises an area that has 18.1 ha of LUC Class 3 soils and 80.2 ha LUC Class 4.¹²⁶ He considered that the LUC Class 3 soils within the PC80 area to be lower productive soils in Rolleston which were contemplated in Clause 3.6.
350. He undertook an assessment of the site soils against the NPS-HPL. Having reviewed the site and considered the site specific factors, he was of the opinion that there are some short term and long term constraints that qualify the site for exclusion under Clause 3.10 in terms of soil moisture deficits and irrigation availability. In terms of the availability of water for irrigation, he considered this to be restricted and a long term productivity constraint given that the zone is fully allocated and that no new water for irrigation purposes was available.
351. He identified that the only other possible option to acquire water for irrigation would be to buy and/or transfer of existing consent to the site. Regarding the transfer, he advised that the CLWRP subregional plan (Chapter 12) required 50% of any volume transferred to be surrendered and this meant that a consent or consents for the combined annual volume of 225,092 m³/year would have to be purchased to provide the annual volume of 112,556 m³/year for the LUC Class 3 area within PC80.¹²⁷
352. He advised that transfer of consents for irrigation purposes is getting difficult and expected that to worsen with time due to climate change induced increases in irrigation water demand and increasing shortages in consents available for transfer.¹²⁸ He considered dryland farming not to be economically viable for this site as the yields are generally low due to moisture deficits.
353. He considered the nutrient limiting policies and rules to be a permanent long term constraint for the site.¹²⁹ He identified when the leaching rates exceed 15kg N/ha/year further nutrient restrictions are required. He considered those to be long term constraints as the groundwater nutrient concentrations being observed now within the groundwater catchment are primarily from activities of the past several decades since the 1970s, 1980s, 1990s and early 2000s. He considered that the effects of the more recent 1980s to the present day intensification in dairying and other farming activities will manifest over the next several decades and that the effects will be considerably worse than what the catchment is experiencing now due to that intensification.¹³⁰

¹²⁵ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [30]

¹²⁶ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at paras [37] and [38]

¹²⁷ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [57]

¹²⁸ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [58]

¹²⁹ Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [67]

¹³⁰ Summary of evidence of Victor Mthamo (versatile soils and water supply) dated 20 October 2022 at para [7.2(a)]

354. He considered that the mitigation measures being implemented in compliance with the CLWRP would unlikely restore the nutrient levels to the pre-intensification levels. He therefore considered the limits on nutrient use and applications as being a permanent constraint.¹³¹ Overall he considered that nutrient limiting policies and rules are a permanent long term constraint for the site.¹³²
355. He also identified fragmentation of ownership. He considered it is unlikely the productive potential of the LUC Class 3 soils would ever be realised for the Two Chain Road site even assuming other constraints such as lack of irrigation could be addressed. He anticipated the existing fragmentation to persist into the future given the multiple ownership of the land. As a result of the land fragmentation, the site is not highly productive.¹³³ In terms of the reduction of highly productive land in the region as a result of this proposal, he identified those as 0.0022% and 0.013% respectively which he considered to be insignificant.
356. In terms of cumulative potential reduction in productive soils since January 2018 up to September 2022 and including the proposed plan change, he identified those as 0.77% within the Selwyn District and 0.13% within the region. He considered the changes in the proportion of highly productive land as a result of the proposed rezoning and other plan changes which have occurred since 2018 to be small and there has been no significant loss in the amount of highly productive land in the district.
357. Given his view that there were multiple long term constraints to the 18.1 ha of the LUC Class 3 soils on the PC80 site, he considered that the loss of those soils would not result in a significant loss.
358. In his summary at the hearing, he provided additional comments on the PC80 productive capacity. He had reflected on the relevance of Clause 3.4 of the NPS-HPL. He identified Clause 3.4(5)(d) which states *"small, discrete areas of LUC 1, 2, or 3 land need not be included if they are separated from any large and geographically cohesive area of LUC 1, 2, or 3 land"*. He appended as Attachment 1 to his summary a plan which he advised showed the 18.1 ha of LUC Class 3 land did not form part of a large or cohesive area with the rest of the LUC land beyond the site due to the railway line, State Highway 1 and Rolleston Township separating the PC80 LUC area from the LUC Class 3 area to the south and south-east of the site; the IZone industrial development to the north and north-east forming a boundary; and Two Chain Road isolating the LUC Class 3 area within PC80 from the rest of the LUC mapped land in the area. He considered that Wards Road and Railway Road also add to that separation.
359. He was also of the opinion that applying Clause 3.4(5)(b) to the land beyond the site, the LUC Class 3 mapped land bounded by the IZone industrial area, Railway Road, Wards Road and Two Chain Road was not large and cohesive.

¹³¹ Summary of evidence of Victor Mthamo (versatile soils and water supply) dated 20 October 2022 at para [7.2(b)]

¹³² Summary of evidence of Victor Mthamo (versatile soils and water supply) dated 20 October 2022 at para [7.2(c)]

¹³³ Summary of evidence of Victor Mthamo (versatile soils and water supply) dated 20 October 2022 at para [7.3(a)]

360. Overall he considered that the 18.1 ha of LUC Class 3 land in the PC80 area was not highly productive land and is unlikely to be mapped as such by the Regional Council when it undertakes the required mapping under the NPS-HPL.
361. Mr Ben Turner, a Rural Real Estate Agent with Bayleys Canterbury, provided evidence in relation to the selling of rural productive land. In terms of the potential market for the LUC land, he considered that if the LUC land comprising PC80 (whether on its own or in combination with any other land comprising PC80), he would not foresee any potential market for anyone looking to use the land in a productive way.¹³⁴ He noted that it was due to a number of constraints present on the site which he touched on briefly, noting that the evidence of Mr Mthamo and Mr Everest in particular addressed these issues from a technical perspective.
362. He identified that productive farming purchasers would be disincentivised from purchasing this land purely from the perspective that it is so close to other urban development, in particular residential and lifestyle properties, raising potential reverse sensitivity effects.¹³⁵ After identifying the constraints, and based on his experience, he did not consider the site would be profitable within the next 30 years, even when considering less intensive productive uses for land such as grazing or cut and carry operations. He considered that if the properties were listed as they currently are, the potential market was from people looking to purchase for lifestyle reasons due to the proximity to the heart of Rolleston and that in his experience there was no interest from productive farmers to purchase the land.
363. Ms Seaton and Ms White agreed that in the absence of any Regional Council mapping, the LUC Class 3 soils must be considered highly productive. They also agreed that the NPS-HPL provides for an exclusion of small, discrete areas of LUC Class 1, 2 and 3 land from mapping. Ms Seaton anticipated the LUC Class 3 class soils within the PC80 area would be excluded from any future mapping exercise and there would be little logic in including the land as an isolated pocket of highly productive land as it would be difficult to farm economically.
364. Ms Seaton considered that the key issue with regard to Clause 3.6 in the NPS-HPL is a reference to the housing and business assessment in subclause (3)(a) and (3)(b). She noted that subclause (3)(a) also makes reference to “or some equivalent document”. It was Ms Seaton’s understanding that the 2018 Greater Christchurch Partnership HBA does not clearly identify demand for additional industrial land but she accepted Ms Hampson’s view, which was supported by the evidence of Mr Staite and Mr O’Styke, that the HBA analysis underestimates long term demand for industrial land in Rolleston and that the 2018 HBA is out-of-date. Ms Seaton was unable to reach a conclusion on the extent to which the merits or adequacy of the 2018 HBA were relevant, or the interrelationship of NPS-UD Policy 8 with the NPS-HPL.

¹³⁴ Evidence of Ben Turner (real estate) dated 5 October 2022 at para [11]

¹³⁵ Evidence of Ben Turner (real estate) dated 5 October 2022 at para [13]

Assessment

365. The issue of whether or not the 18.1 ha of LUC Class 3 soils at the eastern end of the site constitute highly productive land for the purposes of the NPS-HPL is not in dispute. As recorded earlier, in Opening Counsel stated: *“The LUC3 land within the site is therefore ‘highly productive land’ for the purposes of the NPS-HPL”*.¹³⁶
366. They submitted further: *“Nor does it specify that there should be no loss of highly productive land within a region or a district”*.¹³⁷
367. The sole objective of the NPS-HPL is that highly productive land is protected for use in land based primary production, both now and for future generations.
368. Policy 5 provides that the urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.
369. The implementing Clause 3.6 is titled “Restricting urban zoning of highly productive land”. Clause 3.6(1) provides that Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:
- (a) The urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and
 - (b) There are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and
 - (c) The environmental, social, cultural and economic benefits of rezoning outweigh the long term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.
370. Clause 3.6(2) sets out, that in considering whether the requirements of subclause (1)(b) are met, a range of reasonably practicable options for providing development capacity including:
- (a) Greater intensification in existing urban areas;
 - (b) Rezoning of land that is not highly productive land as urban;
 - (c) Rezoning different highly productive land that has a relatively lower productive capacity.
371. Clause 3.6 and its ‘restricting’ of urban rezoning can be contrasted with Clause 3.7 and the avoiding of highly productive land for rural lifestyle except as provided for in Clause 3.10.

¹³⁶ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [17]

¹³⁷ Opening Legal Submissions on behalf the Applicant 20 October 2022 at para [20]

372. I have been assisted by the Guide to Implementation¹³⁸ and the submissions and comments on that document.
373. I consider the Guide provides a helpful starting point for interpretation. To the best of my knowledge, the NPS-HPL and its application has not been considered by the Environment Court. The guidance notes that the NPS-HPL provides a more stringent 'avoid' approach for rural lifestyle zoning on HPL given that it is an inefficient (and generally inappropriate) use of this finite resource. A more enabling 'restrict' approach provides for urban rezoning on HPL. This recognises the need for HPL to be used in some circumstances to provide sufficient development capacity for housing and business land while also ensuring a robust assessment of alternatives is undertaken before this occurs, advising *"this also recognises that urban rezoning typically provides significantly greater benefits than rural lifestyle zoning in terms of efficient use of land as it can minimise the loss of HPL by allowing for more intensive urban development on a smaller area of land"*.¹³⁹
374. In my view, the key issue in relation to the HPL is whether the rezoning of that part of the site (18.1 ha) meets the requirements of Clause 3.6(1). SDC may only allow that urban rezoning of that HPL only if (my emphasis) the subclauses are met.

Is the urban rezoning required – 3.6(1)(a)

375. I have addressed the issue of sufficient development capacity earlier in this Recommendation and I do not repeat that analysis. The economic witnesses ultimately agreed that the growth modelling showed insufficient industrial capacity to meet long term demand. Very much by way of summary, Ms Hampson considered that the BDCA 2018 is likely to have underestimated long term demand for industrial land in Rolleston and therefore overstated long term sufficiency. She considered the 2018 findings to be outdated and potentially limited in their ability to accurately reflect demand and capacity for Rolleston's remaining vacant industrial land. In her assessment, demand for Rolleston's industrial land is now higher than previously reported and capacity has continued to reduce due to strong uptake of vacant sites since 2016. She considered that while there had been additions to capacity thanks to PC16, the net vacant capacity available for industrial and service activity is considerably less than reported in 2018. She considered that given the likelihood that industrial land sufficiency is lower than previously understood, a precautionary approach is needed which is consistent with the NPS-UD which encourages the provision of more capacity rather than less.
376. In her summary at the hearing, she noted that Mr Foy had now confirmed at a high level that based on Formative's work for SDC, a shortfall of industrial capacity to meet long term demand in the Selwyn District has now been estimated. She referred to the Memo of 4 October 2022 prepared by Mr Foy.

¹³⁸ National Policy Statement for Highly Productive Land Guide to Implementation December 2022

¹³⁹ National Policy Statement for Highly Productive Land Guide to Implementation December 2022 at page 39

377. As I have noted earlier, Mr Foy advised that his 2022 industrial land assessment was not finalised, it was “close enough to being finalised” to be able to conclude the projections indicate that it is now expected that Rolleston will have an undersupply of industrial land some time in the long term (10-30 years). That was on the assumption that the Growth Overlay Areas become zoned industrial land but excluding PC80. He stated that with the PC80’s 98 ha, supply (including the growth overlay areas) would exceed projected demand for at least the next 30 years. He concluded that PC80 would assist Rolleston’s industrial land supply being sufficient to meet demand for the duration of the NPS-UD long term.
378. Ms Seaton addressed Clause 3.6(5). It was her view that the extent of highly productive land that would be rezoned for urban use through PC80 is the minimum necessary to provide the industrial land capacity identified by Mr Foy and Ms Hampson as necessary to maintain long term supply. She also considered that no other Business 2 or Business 2A zone expansion can occur in Rolleston without affecting the same amount or more highly productive soil.¹⁴⁰
379. The evidence, in its entirety, is clear that the rezoning will assist in ensuring that there is at least sufficient development capacity to meet the demand for business land and to give effect to the NPS-UD. The NPS-HPL is worded slightly differently but not, in my view, materially. They can be read together.
380. The Guidance states that the intention of the test is to support the rezoning of HPL to an urban zone if needed to provide for short term and/or medium term sufficient development capacity as this is required to be zoned for housing and business land for it to be ‘plan-enabled’. It states further that rezoning HPL to an urban zone to provide for long term development capacity would not meet this test. It states further that this is to avoid the premature loss of HPL to urban rezoning and ensure the maximum amount of HPL remains available for land-based primary production until it is actually needed to be rezoned to provide sufficient development capacity.
381. I have referred to the submissions from the Applicant’s Counsel on this point earlier in this discussion. I do not repeat those submissions here. I agree with the submission that the Guide to Implementation does appear to place a gloss on the clear wording of the NPS-UD. I consider 3.6(1) is met. My assessment on this issue is, by its very nature, site-specific. It relates to this particular land in this particular location. I accept that it is HPL and, as noted, there is no dispute about that.

Clause 3.6(1)(b)

382. The evidence is clear that there are no other reasonably practicable and feasible options in terms of Clause 3.6(1)(b) and those matters have been fully traversed in the Applicant’s evidence and submissions. In my view, there has been a robust assessment of reasonably practicable options for providing the required development capacity on non-HPL land. I am

¹⁴⁰ Evidence of Kim Seaton (planning) dated 5 October 2022 at para [81]

also satisfied that the assessment has not been limited purely to one of preference for the developer. I agree with Ms White's opinion that the assessment undertaken in relation to PC80 included a robust assessment of other reasonably practicable options, including the matters listed, and was not limited to the application site. Ms White identified her concern about whether or not the specific wording in Clause 3.6(3) in terms of the reference to the HBA was, in essence, a bar. As Ms White noted, the Guide does not particularly address that aspect. Ms White considered the Applicant's assessment of the locality and market to be appropriate, and in line with what the Guide indicates is the intent of Clause 3.6(1)(b).¹⁴¹ I agree.

Clause 3.6(1)(c)

383. In terms of Clause 3.6(1)(c), I am satisfied, on the basis of the comprehensive expert evidence that I have received, that the environmental, social, cultural and economic benefits of rezoning outweigh the long term environmental, social, cultural and economic costs associated with loss of highly productive land for land based production taking into account both tangible and intangible values.
384. Also relevant to my consideration is the urban design evidence. Ms Lauenstein advised that should the eastern area of the proposed site be excluded due to the NPS-HPL, that would not necessarily impact the ability of the remaining site to provide a functioning industrial zone but from an urban perspective, it would be better to have the proposed site and the IZone to visually connect directly without an undeveloped gap.
385. Mr Compton-Moen, while considering that the site's connection to the existing commercial areas is important from an urban form and connectivity perspective, considered that the possibility of removing the eastern section of the site due to versatile soils was a negative outcome from an urban design perspective but agreed with Ms Launstein that physical connectivity (i.e. road and pedestrian/cycle links) would be maintained regardless of the zoning of the versatile soils. He considered that the exclusion of the versatile soils area from the industrial rezoning, whilst not ideal, nevertheless would not render industrial zoning across the remainder of the site inappropriate from an urban form and landscape perspective.¹⁴²
386. Mr Carter, in response to questions, advised that while bigger was always better they would still develop the site if the 18 ha was not included.
387. Having considered all of the submissions and the evidence on this issue, and having had regard to the Guide to Implementation, I consider that the urban zoning of LUC Class 3 is appropriate and meets the requirements of Clause 3.6. On the clear evidence, it is required to provide sufficient development capacity to meet demand for business land to give effect to the NPS-UD 2020; there are no other reasonably practicable or feasible options for providing at least sufficient development capacity within the same locality and market while achieving a

¹⁴¹ Comments from Reporting Officer on NLP-HPL Guide to Implementation dated 25 January 2023 at para [10]

¹⁴² Evidence of Victor Mthamo (versatile soils and water supply) dated 5 October 2022 at para [25]

well functioning urban environment; and the environmental, social, cultural and economic benefits of the rezoning outweigh the long term environmental, social, cultural and economic costs associated with the loss of the HPL taking into account both tangible and intangible value.

388. Additionally, I have had clear evidence and conclude that a range of reasonably practicable options for providing required development capacity have been addressed.
389. I stress, that my assessment is very much based on this proposal in this location. I have not simply considered an assessment of the economic benefits of the industrial zoning from the developer's perspective. I have also had very clear and comprehensive evidence in terms of long term constraints on any use of the productive soils. The land is subject to several constraints. I note that Clause 3.10 and its exemption addresses activities not otherwise enabled under Clauses 3.7, 3.8 or 3.9. The Guidance states that Clause 3.10 cannot be used as a pathway for urban rezoning if a proposal has not met the requirements of Clause 3.6. It states that if there is justification for land that is subject to a permanent or long term constraint being zoned urban, then it should be able to pass the tests in Clause 3.6 on its own merits. It goes on to state further that urban rezoning of HPL always has a potential pathway under Clause 3.6 whereas rural lifestyle rezoning and other types of subdivision and land use activities do not have pathways under Clauses 3.7, 3.8 and 3.9, and for those activities Clause 3.10 is the only available pathway.
390. I accept that the constraints do not provide an alternative pathway for rezoning. I do however consider that the constraints are relevant in informing an overall decision. It would in my view be artificial to ignore the comprehensive evidence of Mr Everest and Mr Mthamo. There are also issues in relation to the ownership and the size of the lots which contain the LUC Class 3.
391. I agree with the evidence that the land could not properly be said to be part of a large and geographically cohesive area and leaving the land with its present zoning in essence sandwiched between two industrial zones would not, in my view, meet the purpose of the RMA. I am satisfied that the requirements of implementing Clause 3.6 have been properly assessed and met.
392. For completeness, in terms of Clause 3.6(5), while the economic evidence did not drill down to the level of detail in relation to the spatial extent of the urban zone, I am satisfied that the spatial extent is the minimum necessary to provide the required development capacity. As I have noted, the evidence is that PC80 would still contribute to achieving a well-functioning urban environment even without that land. However my reading of the evidence is that the development capacity enabled by the rezoning of the 18.1 ha is required.

393. The Request identified the relevant objectives and policies of the CRPS.¹⁴³ It acknowledged that the plan change was not consistent with Objective 6.2.1(3), Objective 6.2.6, Policy 6.3.1 or Policy 6.3.6 as it proposed urban development outside an existing urban area or identified greenfield priority area.
394. CRC (PC80-0009) submitted that the site was not identified as a greenfield priority area or future development area on Map A, nor was the development of the land for urban purposes expressly provided for in the CRPS. It submitted that it was therefore inconsistent with various objectives and policies in the CRPS in relation to urban development. It stated the suitability of the site for urban development would be more appropriately addressed through the spatial planning exercise initiated by the Greater Christchurch Partnership. Overall, it submitted that the Request was inconsistent with the policy direction in the CRPS and the strategic subregional land use and infrastructure planning framework for Greater Christchurch.
395. Ms White considered the Applicant had identified the relevant provisions and she generally concurred with the assessment against those provisions. She noted however that in terms of Objective 5.2.1 and Policy 5.3.7, the conclusion that the proposal would have no adverse effects on any regionally significant infrastructure (which by definition includes the state highway) and the safe and effective functioning of the strategic land transport network, that was reliant on the matters identified by the submitters, particularly Waka Kotahi with respect to the timing of the development in relation to the upgrading of roads being appropriately addressed.
396. She considered there were similar tensions with Objective 6.2.1(9), Objective 6.2.4, Policy 6.3.4 and Policy 6.3.5, but in line with Policy 6.3.5(2) she considered these were overcome by the rules proposed by the Applicant which would ensure the timing of new development was coordinated with development, funding and implementation and operation of transport. Ms White considered that the inconsistency with Objective 6.2.1(3) and 6.2.6, and Policies 6.3.1 and 6.3.6 was a key consideration which she considered came down to whether or not the significance of the development capacity provided should be given more weight than the current direction in the CRPS.
397. In relation to water supply, she identified several provisions which she considered were relevant in relation to the integration of strategic and other infrastructure and services with land use development and, in her view, unless consented water could be made available, the rezoning of the site would be in conflict with the provisions of the CRPS.
398. Ms Seaton's evidence referred to the s32 Evaluation. She noted that assessment and that of Ms White were generally in accord. In relation to water supply, she noted that Mr McLeod and Mr Mthamo had confirmed that there was adequate water supply available to service the PC80

¹⁴³ s32 Evaluation, paras [97]-[99] and Table 3

land. She recommended a new rule requiring potable water to be confirmed as available prior to the creation of any new allotments on the site, and it was her opinion that that resolved the tensions Ms White identified with Objective 6.2.1 and Policy 6.3.5.

399. She considered Policy 8 of the NPS-UD overcame the inconsistency with Objectives 6.2.1(3) and 6.2.5 and Policies 6.3.1 and 6.3.6.

Assessment

400. There is a clear tension with the objectives and policies in the CRPS that are directive of greenfield growth. Those strong avoidance objectives and policies do complicate the issue of whether or not PC80 gives effect to the CRPS.
401. I have carefully considered all of the expert evidence, informed by the evidence of the lay submitters. Most of the effects and issues which give rise to a potential inconsistency with relevant objectives of the CRPS have been addressed earlier in this Recommendation. Given the various amendments to the rules in particular in relation to the relationship with infrastructure provision and upgrading, overall I am satisfied that the plan change is consistent with the relevant objectives and policies of the CRPS, other than the locational directives.
402. Policy 8 of the NPS-UD provides a pathway for this rezoning and given my earlier findings in relation to the NPS-UD.

Our Space 2018-2048

403. As identified by Ms White, Our Space is a strategic planning document adopted by the Greater Christchurch Partnership with a focus on how to best accommodate housing and business land needs in a way that integrates with transport and other infrastructure provision, builds greater community resilience, and contributes to a sustainable future for Greater Christchurch. It seeks to ensure a balance between providing sufficient capacity for growth while also maintaining an urban form that achieves the provision and goals of the Greater Christchurch Urban Development Strategy prepared in 2007 and updated in 2016.
404. Our Space identified that there was expected to be sufficient industrial capacity within the Selwyn District in both the medium and long terms. Ms White's understanding was that the assessment undertaken was of a broad scale and did not go into the detail about different types of industrial needs.¹⁴⁴
405. I have addressed the supply and demand issue earlier and there is clear evidence that there is considerable demand for this type of development in this location. There are locational benefits from this proposal, particularly given its relationship to the rail corridor and the state highway network. I agree with Ms White that this is more relevant to the consideration of PC80 than the findings of Our Space.¹⁴⁵

¹⁴⁴ s42A Report at para [137]

¹⁴⁵ s42A Report at para [138]

406. Ms Seaton noted the evidence of Ms Hampson, the review of Mr Foy, together with the evidence of Mr Staite and Mr O'Styke, which confirmed that the availability and capacity for development of industrial land is insufficient in the long term. I agree.

Canterbury Land and Water Regional Plan and Canterbury Air Regional Plan

407. Ms White identified that pursuant to s75(4)(b) of the RMA, the District Plan cannot be inconsistent with a regional plan, which in respect to this Request she considered included the CLWRP and the Canterbury Air Regional Plan. She agreed with the Applicant's assessment that the establishment of activities within the site will either need to meet the permitted activity conditions of those plans, or be required to obtain a resource consent. She agreed further that the effects associated with discharges from future development of the site would be considered at the time of detailed development. She did not consider there to be anything particular about the site or its proximity to other land uses that she would consider would impede the ability to appropriately mitigate such effects. She noted that the CRC in their submission did not raise any concerns with incompatibility.¹⁴⁶

408. Overall I conclude that there is no inconsistency.

Mahaanui Iwi Management Plan (IMP)

409. As identified by Ms White, the IMP is a planning document recognised by an iwi authority and lodged with the Council, which includes content that relates to the district's resource management issues.
410. Pursuant to s74(2A) of the RMA, I must take this into account.
411. The Request includes an assessment of the relevant provisions within the IMP.¹⁴⁷ In response to the request for further information, Mahaanui Kurataiao Limited (**MKT**) provided a Manawhenua statement which includes identification of relevant provisions and recommendations to align with those.¹⁴⁸ Ms White considered that a number of the recommendations related to matters which would be considered at the time of subdivision and the recommendations in relation to stormwater discharge would be addressed under the CLWRP.
412. MKT sought the existing waterway be naturalised and a minimum 10m setback be provided including a 5m planted buffer. As noted by Ms White, the water race is proposed through the ODP to be retained and that a 10m setback is proposed to apply. That reflected the existing approach contained within the District Plan. Ms White considered there was nothing particular about the site to justify requiring further naturalisation and additional planting and similar could be considered at the time of subdivision.

¹⁴⁶ s42A Report at para [139]

¹⁴⁷ Attachment 3: s32 Evaluation, at paras [105] – [112]

¹⁴⁸ Appendix J to response to request

413. I accept any matters of concern can be considered at the time of subdivision.

Consistency with plan of adjacent territorial authorities

414. Ms White identified that matters of cross boundary interests are outlined in the ODP (Section A1.5 of the Township Volume). I agree with Ms White that none of the identified issues are applicable to PC80.

Other matters – Plans and Strategies prepared under other Acts

415. While not addressed by either of the planners in their evidence, I am familiar with Selwyn 2031 which is Selwyn's district development strategy. Given it has not been the focus of evidence or submissions, I simply record that I have had regard to it. A number of the matters identified in that document relating to infrastructure development capacity and similar have been more specifically addressed. It is in accordance with the concentration of urban expansion within the Greater Christchurch area in and around Rolleston in particular.

Consideration of Alternatives, Costs and Benefits – Section 32

416. The proposal does not include any new objectives, or changes to the existing objectives within the SDP. The assessment required is whether the provisions of the proposal are the most appropriate way to achieve the objectives of both the proposal and existing district plan objectives, having regard to efficiency and effectiveness of the provisions and having considered other reasonably practicable options (s32(1)(b)).

417. In regard to the more general objective of the proposal – the purpose of the proposal, this is stated as:

... to provide for the establishment of new industrial development on the site.¹⁴⁹

418. Ms White, having identified the proposal did not involve any new objectives, or any changes to the existing objectives of the SDP, considered that the assessment required under s32(1)(a) was as to the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the RMA. She identified the stated purpose of the proposal and addressed the s32 evaluation of the extent to which enabling the establishment of industrial development on this site achieves the purpose of the RMA.

419. She noted the Applicant considered the proposal achieves the purpose of the RMA for the following reasons:¹⁵⁰

- It proactively and specifically manages the development of industrial land adjoining the existing industrial zone boundary;

¹⁴⁹ s32 Evaluation at para [62]

¹⁵⁰ s42A Report at para [146]

- The site is located in close proximity to key transport links, including State Highway 1 and the main north-south rail corridor;
 - The location of the site immediately adjacent the rail corridor will allow for rail sidings into the site if desired, potentially enabling further freight efficiencies;
 - The concentration of buildings and activities adjacent State Highway 1/the rail corridor and existing Rolleston urban boundary to the south, and existing business zone to the east, assists with reducing the adverse rural character and visual effects that might otherwise arise;
 - Potential adverse effects from industrial development on the site can be effectively avoided or mitigated through compliance with the proposed ODP and associated rules;
 - The proposal enables the community to provide for its economic wellbeing, thereby contributing to its social wellbeing; and finally
 - The life-supporting capacity of water and soil can be addressed through requirements for earthworks and construction management in accordance with existing rules within the SDP, with additional controls through the Regional Council requirements.
420. She noted the submissions raised amenity values and quality of the environment which had been considered. It was her view that the rezoning is likely to achieve s7(c) and s7(f) of the RMA provided further assessment of noise effects are undertaken which demonstrated they were acceptable. That has now been done.
421. She considered the location of the site outside the areas identified for urban development in the CRPS to be relevant in considering whether the proposal results in efficient use of natural and physical resources. She identified these include various infrastructure such as transport networks and reticulated services. She was satisfied that the proposal results in an efficient use of the transport network, and noted the requirement for additional water.¹⁵¹
422. She considered that the key issues in the assessment that needed to be weighed up before determining whether the proposal is the most appropriate approach is whether the significance of development capacity outweighs the inconsistency of the proposal with the CRPS objectives and policies relating to urban development outside of existing urban areas.¹⁵²
423. As to whether the provisions of the proposal are the most appropriate way to achieve the objectives, she considered the Request appropriately identified the reasonably practicable options for achieving the purpose of the proposal, and agreed that the other reasonably practicable options had been identified. She generally concurred with the assessment.

¹⁵¹ s42A Report at para [148]

¹⁵² s42A Report at para [149]

424. Ms White also generally agreed with the assessment of the existing objectives of the SDP taking into account the additional recommendations.
425. Ms White identified Objective B3.4.1 and B4.3.2 which relate to the quality of the environment in rural areas, as relevant to the consideration of the Request given the effects of activities on the site have the potential to impact on nearby sites that continue to have a rural zoning and it was therefore necessary in her view to ensure that the rezoning did not compromise achievement of those objectives.¹⁵³ She identified that the proposal did not achieve Objective B4.3.3 which seeks that within the Greater Christchurch area, new business development is contained within existing zoned areas or priority areas identified in the CRPS.
426. Ms Seaton's evidence responded to Ms White's report. Ms Seaton considered noise effects had been addressed and the rezoning would achieve s7(c) and s7(f) of the RMA. In relation to water supply, she confirmed that adequate sources could be available via the transfer.
427. As to whether the proposal was the most appropriate way of achieving the purpose of the RMA, it was her opinion that the evidence presented established that PC80 would provide significant development capacity and would support a well-functioning urban environment. She considered PC80 to be a logical extension of the urban form and in particular noted the absence of highly productive land across the majority of the site. In light of the identified shortage of industrial land, the ability to avoid or mitigate adverse effects associated with rezoning and the consolidation of Rolleston's urban form, she considered the rezoning to be the most appropriate way to achieve the purpose of the RMA.
428. In relation to whether it was the most appropriate way of achieving the purpose of the objectives, she noted the additional assessment regarding noise had been undertaken, and on the basis of the evidence of Mr Compton-Moen and Ms Lauenstein she considered it would maintain the quality of the rural area. She identified that character and amenity of the rural area in the vicinity of PC80 would change from purely a rural or rural residential to a rural urban interface but with the landscape treatment proposed, inclusive of the large earth bund and minimum 15m landscape strip with two planting strips, that was adequate to ensure adverse effects are kept to an appropriate level. She noted that there were multiple existing locations in Rolleston where the Business 2A zones interfaced with rural areas, including Hoskyns and Maddisons Roads and Railway Road. She considered there would be no reason why a rural industrial interface would not be acceptable at the PC80 location.

Operative Selwyn District Plan

429. Section 32(3) requires an examination of whether the provisions of the proposal are the most appropriate way to achieve the objectives of the SDP to the extent that those are relevant.

¹⁵³ s42A Report at para [154]

430. Table 2 of the s32 Evaluation provided an assessment of the proposed plan change against the relevant existing objectives of the district plan.¹⁵⁴ The table addressed Township Volume – B1 Natural Resources. In terms of land and soil, that identified Objective B1.1.2 – New residential or business activities do not create shortages of land or soil resources for other activities in the future; Policy B1.1.3 – Avoid adverse effects on people’s health or well-being from exposure to contaminated soil; and Policy B1.1.8 – Avoid rezoning land which contains versatile soils for new residential or business development if:
- The land is appropriate for other activities; and
 - There are other areas adjoining the township which are appropriate for new residential or business development which do not contain versatile soils.
431. The comment/assessment addressed those objective and policies noting that some loss of soil resource would inevitably occur through the physical establishment of industrial development and, at that time adopting the CRPS definitions of versatile soils, there would be no versatile soil loss from the rezoning and site development.
432. I have addressed that issue in more detail in my analysis of the NPS-HPL.
433. The assessment also addressed water, identifying Objective B1.2.1 – Expansion of townships in Selwyn District maintains or enhances the quality of ground or surface water resources; and Objective B1.2.2 – Activities on land and the surface of water in Selwyn District:
- Do not adversely affect ground or surface water resources;
 - Do not adversely affect waahi tapu or waahi taonga;
 - Maintain or enhance the ecological and habitat values of waterbodies and their margins;
 - Maintain or enhance the water quality and ecological values of sites of mahinga kai (food gathering); and
 - Promote public access along rivers and streams, where appropriate.
434. The assessment also identified Policy B1.2.1 – Ensure all activities in townships have appropriate systems for water supply, and effluent and stormwater treatment and disposal to avoid adverse effects on the quality of ground water or surface waterbodies; Policy B1.2.2 – Ensure land rezoned to a Living or Business zone can be serviced with a water supply and effluent and stormwater disposal without adversely affecting groundwater or surface waterbodies; and Policy B1.2.5 – Requiring any sewage treatment and disposal to be reticulated in various townships, including Rolleston.

¹⁵⁴ s32 Evaluation Table 2 at page 17

435. I am satisfied that those objectives and policies have been appropriately considered and addressed. The proposal can be serviced, stormwater can be appropriately disposed of subject to any regional resource consent and the artificial waterway is to be retained and subject to existing rules specifying setbacks.
436. In terms of the Township Volume B2 Physical Resources, again they were assessed in some detail. Objective B2.1.1 – An integrated approach to land use and transport planning to ensure the safe and efficient operation of the District's roads, pathways, railway lines and airfields is not compromised by adverse effects from activities on surrounding land or by residential growth; Objective B2.1.2 – An integrated approach to land use and transport planning to manage and minimise adverse effects of transport networks on adjoining land uses, and to avoid "reverse sensitivity" effects on the operation of transport networks. Objective B2.1.3 was also identified – this addresses the promotion of transport choice and provision of a range of sustainable transport modes, and alternatives to road movement of freight such as rail. The ability to extend the rail infrastructure clearly meets that objective. Objective B2.1.4 addressing the adverse effects of land transport networks on natural or physical resources or amenity values, are avoided, remedied or mitigated, in my view that is appropriately addressed by the proposal with amendments. Transport matters have been fully assessed by the experts.
437. Clearly, in terms of Objective 4.3.3 and Policy B4.3.1, those provisions give effect to the CRPS direction regarding growth areas. The proposal is clearly contrary to those in so far as they relate to the CRPS direction regarding growth areas within the Greater Christchurch area and new business development is contained within existing zoned areas or priority areas identified in the CRPS. I have addressed the NPS-UD earlier in this Recommendation and those policies are subject to the same assessment for an "unanticipated" proposal. That objective and supporting policy must therefore be read as being subject to the NPS-UD provisions.
438. In terms of Objective B1.1.2 and Policy B1.1.8, there is a degree of tension as some loss of soil resource will inevitably occur, as addressed earlier in my Recommendation.
439. In terms of the water related objectives and policies, Objective B1.2.1, Objective B1.2.2 and Policies B1.2.1, B1.2.2 and B1.2.5, as assessed previously, the proposal is able to be adequately serviced. The existing artificial water race is to be retained and subject to setbacks.
440. In relation to the transport network objectives and policies, these have been previously assessed. The site has access to two arterial roads and with a restriction in relation to individual property access recognising their arterial function. Upgrades will be undertaken. I consider Policy B2.1.17 – encourage viable alternatives to road transport such as the movement of freight via rail – is supported by this proposal.
441. The natural hazards objectives and policies are met. As noted previously, the site is not subject to any notable flood hazard or other known hazards.

442. In terms of the quality of the environment the relevant objectives are Objective B3.4.1 – Objective B3.4.5. The assessment recorded that the plan change site will be subject to existing Business 2A zone rules which have already been deemed acceptable to provide a pleasant working place and to protect the character and amenity values of the Business 2A zone. It also considered that the plan change would provide for a compact urban form, with a high level of connectivity to the existing industrial and business areas. I accept that assessment is appropriate but I do agree with Ms Faulkner that the relevant objectives of the rural zone in so far as they relate to effects on the rural residents. That is made clear by Objective B4.3.1 which provides:

The expansion of townships does not adversely affect:

- *Natural and physical resources;*
- *Other activities;*
- *Amenity values of the township or the rural area; or*
- *Sites with special ecological, cultural, heritage or landscape values.*

443. I note again that the proposal largely adopts the Business 2A zone rules which have generally been treated as addressing issues at the interface. I accept that there will be some adverse effects on the amenity values enjoyed by the residents of the rural area on the northern side of Two Chain Road.

444. In terms of the Rolleston specific policies, Policy B4.3.71 is to avoid rezoning land for new residential or business development (other than Business 2 and 2A zonings), west of SH1 and the South Island Main Trunk Line. Policy B4.3.73 is to encourage land rezoned for new business development to adjoin an existing Business zone of similar character, where sites are available and appropriate for the proposed activity, and Policy B4.3.74 is to encourage additional Business 2 or 2A Zones to locate west of SH1, preferably adjoining the existing Business 2 or 2A zone. The proposal is certainly consistent with that policy. It is clearly not consistent with Policy B4.3.1 which seeks to ensure that development is within the areas identified within the CRPS and priority area. There is also some tension with the objectives and policies relating to soil but the evidence is clear that this rezoning will not create shortages of land or soil resource for other activities in the future. The highly productive soils issue has been thoroughly traversed in the earlier part of this Recommendation.

445. Overall, I conclude that subject to the comments made and changes incorporated, PC80 is consistent with the objectives and policies of the SDP.

Proposed District Plan

446. There is no specific requirement to consider a plan change against the PDP, particularly given that the urban provisions are subject to a significant number of submissions and no decisions have been released.
447. I do not consider the provisions of the PDP have any material influence on the relevant issues before me. The PDP is still at a relatively early stage and there are a number of hearings to be completed and decisions to be made. I do not regard it as having any material relevance.

Benefits and Costs

448. The s32 Evaluation identified and addressed the benefits and costs of the plan change and identified and assessed four options. These were:
- (a) The proposal;
 - (b) Through applying for resource consents as required for new industrial developments on the subject site (the status quo);
 - (c) Pursue a plan change through the Selwyn District Plan Review via submission; or
 - (d) Await further strategic review of business capacity by the Greater Christchurch Partnership, and review of the CRPS.
449. The s32 Evaluation noted that establishing new industrial developments through a resource consent process would be very uncertain given the existing suite of objectives, policies and rules applying to the Rural (Inner Plains) zone. It further considered that process to be inefficient and costly.¹⁵⁵
450. In relation to the district plan review, it noted that the site was the subject of a submission seeking rezoning through that process. It considered a private plan change application to the SDP, concurrent with the district plan review is a preferred option, primarily for reasons of expedience relative to the longer and less certain timeframes for completion of the district plan review process.¹⁵⁶
451. In relation to future strategic review and review of the CRPS, the evaluation identified issues with considerable uncertainty and delay in review of the CRPS. Following any changes to the CRPS, there would then be further delay waiting for the district plan to be changed to rezone.¹⁵⁷
452. Overall, it concluded that the requested plan change was the most reasonably practicable and appropriate option.

¹⁵⁵ s32 Evaluation at para [68]

¹⁵⁶ s32 Evaluation at para [69]

¹⁵⁷ s32 Evaluation at para [70]

453. In terms of assessing the benefits and costs of the proposal when assessing efficiency and effectiveness, the evaluation noted the consideration is directed by s32(2)(a)(i) and (ii) to include consideration of opportunities for economic growth and employment. It noted that all effects are to be quantified where practicable (s32(2)(b)) and the risk of acting or not acting if there is any uncertainty or insufficient information about the subject matter (s32(2)(c)). Table 1 to the Request provided the assessment of efficiency and effectiveness in tabular form addressing the costs, benefits and risk of acting or not acting.

Assessment

454. I accept that the s32 Evaluation has largely identified the relevant benefits and costs of the options. I have considered that carefully. In terms of leaving the land in its present zoning, that does have a potential benefit of enabling its rezoning to be more fully investigated through a more comprehensive assessment of the growth needs in Rolleston. In terms of rezoning through the district plan review process, as noted, the site is subject to the submission seeking a rezoning through that process and the hearing is, I understand, scheduled. Given the timing of this hearing, the relative expedience of this process may not be significant but that does not render this approach inappropriate.

455. In relation to the future strategic review, and review of the CRPS, the Request records an understanding that the CRPS will not be reviewed until 2024 and that even if the site is included in Map A as part of that review, there will be considerable time delay in waiting for the review process to conclude and further delay while the district plan was changed.

Benefits and Costs

456. Section 32(2) provides that in assessing the efficiency and effectiveness of the provisions in achieving the objectives, the assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provision, including opportunities for economic growth that are anticipated and employment that are anticipated to be provided or reduced and, if practicable, quantify the benefits and costs.¹⁵⁸

457. Table 1 of the s32 Evaluation provided an assessment of efficiency and effectiveness. It identified costs of the proposed provisions including environmental effects of potential adverse effects on rural character, landscape and amenity for the adjoining rural residents and considered those effects could be minimised through location immediately adjacent an existing industrial zone and adherence to the Business 2A zone rules/standards together with long term landscape mitigation. It also identified the potential construction effects of noise and dust on rural residents and employees in the adjoining Business 2A zone during construction; the loss of rural land for agricultural and horticultural purposes and the loss of potentially productive soils where the building and hard surfacing occurs. As to benefits, it identified the

¹⁵⁸ s32(2)(a)(i) and (ii) and (b)

traffic benefits of location adjacent to the state highway and the main rail corridor, and economic effects.

458. The Request also included an assessment of economic impacts prepared by Mr Mike Copeland. That concluded that the proposal would provide for efficient development of industrial activities on the site; that if it attracts industrial activities which would not otherwise be located within the Selwyn District, it would contribute to the economic well-being of the Selwyn District by providing employment and incomes for local residents and businesses, and by providing the local economy with greater diversity and resilience. It also concluded that it would maintain and improve resource efficiency by increasing economic activity and population in the Selwyn District, enabling increased economies of scale and local provision of goods and services, increase competition and choice in industrial land market, reducing commuting costs for local residents and providing the potential for agglomeration economies to occur.

459. Mr Foy agreed with Mr Copeland's assessment of the economic benefits of PC80. He identified in particular:¹⁵⁹

- (a) The site is an appropriate site on which to accommodate industrial activity;
- (b) Economic benefits will arise from businesses choosing to establish on the site, arising from the economic efficiency of co-locating with other industrial businesses;
- (c) If activities on the site are new to Selwyn, there will be additional employment, incomes and expenditure generated for the local district economy, both directly and through induced effects, and the magnitude of those effects will be relatively small in a district-wide context;
- (d) The loss of agricultural activity on the site will be very small;
- (e) The proposed rezoning would enable increased local employment opportunities for Selwyn and reduce their commuting costs; and
- (f) The site has unique locational advantages as it would provide direct access to rail sidings.

460. Table 1 also identified in terms of costs the costs of undertaking the plan change including administrative costs, potential impacts on roading and servicing infrastructure through any upgrade and social effects from increased traffic. It also identified cultural effects noting uncertainty as to the method and extent of discharges to air, stormwater and treated wastewater prior to detailed development design and regional council resource consent applications.

¹⁵⁹ Summary statement of position, Economics, Selwyn District Council 21 October 2022

461. It noted however that the social effects would include new direct or indirect employment opportunities giving rise to potential benefits and social well-being, and identified that the site is not located with any sites or areas of known significance to iwi nor does it contain or closely adjoin any natural waterways. It noted that works near waterbodies can be controlled through adherence to existing district plan and regional plan rules. Overall, in terms of effectiveness and efficiency, the s32 Evaluation considered that the proposed plan change, being to establish a Business 2A zone and the application of the existing suite of district plan Business 2A rules with only such changes as are necessary to account for the plan change site and the ODP to be an effective means of achieving a Business 2A zone expansion at Rolleston. In terms of efficiency, it noted that with reference to the costs and benefits outlined the potential benefits of the proposed plan change were considered to outweigh the costs and it was therefore considered to be an efficient means of achieving the objective.

Overall Conclusion on Benefits and Costs

462. Overall, I conclude that PC80 has a number of significant benefits. In particular, those benefits relate to the provision of additional capacity in a location where there is clearly a significant demand. The rezoning and ultimate development in accordance with that will have significant economic benefits. The location has, in my view, considerable benefits and I have had clear evidence in relation to those. The potential for rail sidings is significant.

463. I acknowledge of course that there will be some amenity costs to those residents of Two Chain Road in particular, but the treatment of that frontage has been improved considerably through this process. There is also the loss of potential agricultural production but, again on the evidence, that is clearly minor. Overall, in my view, the benefits of the rezoning significantly outweigh the costs.

Risks of Acting or Not Acting

464. I am satisfied that I have sufficient information before me to identify the risks associated with acting or not acting. They have been addressed and considered in this Recommendation.

Section 32AA

465. Section 32AA requires a further evaluation of any changes that have been made to the proposal since the evaluation report was completed. As has been discussed in my Recommendation, there have been a number of changes proposed to the ODP and to the rules package. I have considered the benefits and costs of those, their efficiency and overall appropriateness.

466. The changes to Rule 17.2.3.4, 17.3.9.4, 17.6.3.7, and the reduction from three to two permitted road crossings onto Two Chain Road are, in my view, appropriate for ensuring that potential effects, including those on the residents of this part of Two Chain Road, are considered on any further access proposed. In my view, this is appropriate and efficient, particularly given

the number of dwellings and the proximity to this site and to Two Chain Road. The benefits of that, in my view, outweigh any potential costs associated with consenting.

467. Overall I consider the changes proposed have significant benefits in terms of addressing the amenity issues raised by the submitters, in particular the Two Chain Road frontage treatment. There were other specific changes made to address concerns raised by Ara Poutama. While they may impose some costs in terms of additional consenting or potentially restriction on activities which may establish, the Applicant has in essence proffered those.

Section 31

468. Approving PC80 will certainly assist in enabling additional business capacity and choice. Overall I consider that it accords with and assists in achieving the integrated management of effects, particularly in light of the changes which have been incorporated.

Part 2 Matters

469. The relevant Part 2 matters have been addressed in this assessment and also in the assessment against the objectives and policies of the SDP. I am satisfied that the proposal will ultimately achieve the purpose of the RMA. It has been comprehensively assessed through the evidence, reports and submissions, and within the body of this Recommendation.

Overall Conclusion

470. In terms of the ultimate objective of the plan change and whether it achieves the purpose of the RMA, I conclude that it does. That conclusion has been reached after consideration of all of the issues which have been identified in the body of this Recommendation and having considered all of the documents, evidence and submissions provided.
471. I have had particular regard to the relevant matters including the significant development capacity enabled by this rezoning. I acknowledge that there will be a loss of LUC Class 3 soils which constitute, pursuant to the NPS-HPL, highly productive land. Ultimately I conclude that PC80 in its amended form is the most appropriate method for achieving the objectives of the proposal, and giving effect to the objectives and policies of the relevant statutory documents. I have carefully considered the NPS-UD, the NPS-HPL, the CRPS and the SDP. As noted, it will provide considerable development capacity. The effects identified by the submitters have, in my view, been appropriately considered and addressed. I am satisfied the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA, the objectives of the SDP and the purpose of the proposal.

Recommendation

472. For the reasons above, I **recommend** to the Selwyn District Council:

- (1) Pursuant to Clause 10 of Schedule 1 of the Resource Management Act 1991 the Council approves Plan Change 80 to the Selwyn District Plan as set out in Appendix A.
- (2) That for the reasons set out in the body of my Recommendation, and summarised in Appendix B, the Council either accept, accept in part or reject the submissions identified in Appendix B.

A handwritten signature in blue ink, reading "D Caldwell", is positioned above a horizontal line.

David Caldwell
Hearing Commissioner

Dated: 16 February 2023