

BEFORE THE SELWYN DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 66 at Maddisons
Road, Rolleston

RECOMMENDATION BY COMMISSIONER DAVID CALDWELL

Dated 22 October 2021

Hearing Held: 9 and 10 August 2021

Appearances:

Council:

Liz White – Consultant Planner for Selwyn District Council

Murray England – Council Asset Manager – Water Services

Andrew Mazey – Asset Manager – Transportation

James Bentley – Consultant Landscape Architect for Selwyn District Council

Derek Foy – Consultant Economist for Selwyn District Council (by AVL)

Applicant:

Jo Appleyard and Lucy Forrester – Legal Counsel

Tim Carter – Company Representative

Anne Wilkins – Consultant Landscape Architect

Kim Seaton – Consultant Planner

Michael Copeland – Consultant Economist

Nicholas Fuller – Consultant Traffic Engineer

Nick O'Styke – Real Estate/Industrial Land

Sam Staite – Real Estate/Industrial Land

Tim McLeod – Consultant Civil Engineer

Victor Mthamo – Consultant Versatile Soils

Submitters

Canterbury Regional Council – Nicholas Griffiths, Natural Hazard Scientist

Davina Penny

Simon Thomas

ABBREVIATIONS TABLE

CARP	Canterbury Air Regional Plan
CLWRP	Canterbury Land and Water Regional Plan
CRC	Canterbury Regional Council/Environment Canterbury
CRPS	Canterbury Regional Policy Statement
FENZ	Fire & Emergency New Zealand
IMP	Mahaanui Iwi Management Plan
LPC	Lyttelton Port Company
LURP	Land Use Recovery Plan
NESCS	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
NPS-UD	National Policy Statement – Urban Development
NPS-UDC	National Policy Statement on Urban Development Capacity
ODP	Outline Development Plan
Our Space	Our Space 2018-2048: Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrepa Nohoanga
PC1	Plan Change 1 to Chapter 6 of the CRPS
PC66	Private Plan Change 66
PDP	Proposed Selwyn District Plan
PIB	Projected Infrastructure Boundary
pNPS-HPL	Proposed National Policy Statement for Highly Productive Land
RMA	Resource Management Act 1991
RSP	Rolleston Structure Plan
SDC	Selwyn District Council
SDP	Operative Selwyn District Plan
UGO	Urban Growth Overlay
Waka Kotahi	Waka Kotahi NZ Transport Agency

INDEX

Introduction	5
PC66.....	5
Site Visit	6
Section 42A Report	6
<i>Traffic Effects.....</i>	<i>7</i>
<i>Amenity Effects.....</i>	<i>7</i>
<i>Impacts on Highly Productive Soils</i>	<i>8</i>
<i>Water Supply.....</i>	<i>8</i>
<i>Flooding.....</i>	<i>8</i>
<i>Contamination.....</i>	<i>8</i>
<i>Urban Form.....</i>	<i>9</i>
<i>Economic Effects</i>	<i>9</i>
<i>Statutory Analysis</i>	<i>10</i>
The Hearing – Appearances/Evidence	12
<i>Applicant.....</i>	<i>12</i>
<i>Submitters’ Evidence</i>	<i>18</i>
<i>Tabled Documents.....</i>	<i>19</i>
LPC	19
Ministry of Education.....	20
Council Officers’ Reply	20
Applicant’s Closing Submissions	22
Summary of Information Received and Evidence Provided	23
Statutory Tests	23
Assessment of Actual or Potential Effects on the Environment.....	24
<i>Traffic Effects.....</i>	<i>24</i>
<i>Amenity Effects.....</i>	<i>28</i>
Noise	28
Dust/Odour.....	29
Landscape and Visual Effects.....	30
Reverse Sensitivity	34
<i>Impact on Highly Productive/Versatile Soils</i>	<i>35</i>
<i>Water Supply</i>	<i>39</i>
<i>Potential Contamination.....</i>	<i>40</i>
<i>General Infrastructure Issues</i>	<i>41</i>
<i>Flooding</i>	<i>41</i>
<i>Contaminated Land</i>	<i>43</i>
<i>Urban Form.....</i>	<i>43</i>
<i>Economic Effects</i>	<i>44</i>
<i>Conclusion On Effects</i>	<i>46</i>
Potential Inconsistency Between CRPS and NPS-UD.....	46
<i>The Applicant’s Submissions.....</i>	<i>47</i>
<i>My Analysis.....</i>	<i>49</i>
Statutory Assessment	50
<i>Statutory Tests.....</i>	<i>50</i>
<i>Statutory Assessment.....</i>	<i>50</i>
NPS-UD.....	51
<i>Significant Development Capacity.....</i>	<i>55</i>
<i>Will the Proposal Contribute to a Well-Functioning Urban Environment.....</i>	<i>57</i>
<i>Overall Conclusion on NPS-UD.....</i>	<i>59</i>
CRPS	59
Chapter 6	60
Chapter 5	60
Chapter 11	61
Chapter 15	61
CLWRP and CARP.....	61
IMP	62
LURP.....	62
Section 32(1)(a) – Extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act	62
Section 32(3) – Objectives and Policies	62
Overall s32 Analysis and Conclusions	65

<i>Proposed Amendments</i>	65
<i>Outline Development Plan</i>	66
<i>Planning Maps</i>	66
<i>Objectives and Policies</i>	66
<i>Benefits and Costs</i>	66
<i>Risk of Acting or Not Acting</i>	66
<i>NPS-UD Clause 3.11 Using Evidence and Analysis</i>	67
<i>Conclusion</i>	67
<i>Section 31</i>	68
<i>Part 2 Matters</i>	68
<i>Section 6</i>	68
<i>Section 7</i>	68
<i>Section 8</i>	68
<i>Section 5</i>	68
Overall Conclusion	69
Recommendation	69

Introduction

1. I have been appointed to hear submissions and make a Recommendation on Private Plan Change 66 to the Operative SDP.
2. I attended and conducted a hearing at the Selwyn District Council Chambers on 9 and 10 August 2021.

PC66

3. PC66 is a privately initiated plan change by Rolleston Industrial Holdings Limited seeking to rezone 27.27 hectares of Rural Inner Plains land to Business 2A Zone, Maddisons Road, Rolleston. In addition to the zone change, the request seeks the insertion of a new ODP and various amendments to the Township volume of the SDP. The effect of this is, largely, to apply existing provisions to the site.
4. PC66 was formally received by the SDC on 8 October 2020. Following provision of further information it was accepted for notification and publicly notified on 27 January 2021. Submissions closed on 25 February 2021. A Summary of Submissions was notified on 31 March 2021 and further submissions closed on 16 April 2021.
5. A total of 10 submissions were received, together with 2 further submissions.
6. Two submissions were withdrawn prior to hearing.
7. By the time of the hearing, a number of amendments were proposed, largely in response to matters raised in submissions. These included:
 - The addition of a new Policy B3.1.9 addressing High Flood Hazard Areas of the Business 2A Zone;

- A new restricted discretionary activity rule for earthworks within the High Flood Hazard Area marked on the proposed ODP;
- Amending Township Volume Rule 16.1.2.1 to exclude the requirement for a landscaping strip of at least 3 metres along the frontage of Maddisons Road identified within the ODP at Appendix 43A;
- Amending Rule 16.7 to include a permitted activity rule for a new principal building located within the area of the ODP subject to a 200 year Average Recurrence Interval flood hazard event provided it complies with a minimum floor level of 300mm above a 200 year flood event;
- Addition of Rule 16.7.7 to provide a restricted discretionary activity rule for any new or extended building within a High Flood Hazard Area;
- Amending Rule 17.2 to provide a restricted discretionary activity for direct access onto Maddisons Road;
- Amending Rule 17.6 to include the establishment of a road crossing requiring a break in future planting required by Landscape Treatment 1 to be a restricted discretionary activity;
- Amending Rule 22.9 to include, as non-complying activities, any noise sensitive activity located within 80 metres of LPC Midland Port; and providing that no building is to be occupied until the overbridge of State Highway 1 is operational and vehicular access is provided between the Midland Port site and the ODP area; and
- Amending Rule 22.10 to specify that any commercial activity, or any retail activity that is not otherwise specified, is a non-complying activity.

Site Visit

8. I undertook a site visit on 17 August 2021. I attended Mr Thomas' house. I then went to the plan change site. I spent some time going around the plan change site and through to the Move Logistics site. I was accompanied by Mr Van Duyn during that part of my site visit. In addition to the time spent on the site, I spent some time familiarising myself with the surrounding area and locations identified in submissions and discussed during the hearing.

Section 42A Report

9. Pursuant to s42A of the RMA, Ms White produced a report addressing the proposed plan change. Ms White provided a site description together with a discussion of the surrounding environment in paragraphs [10] – [14] of her report. I consider that description to be accurate and adopt it for the purpose of this Recommendation.

10. Ms White also addressed the matters which she considered were raised in the submissions or necessary to be considered, which I summarise below.

Traffic Effects

11. Ms White noted that several submitters had raised concerns over anticipated increased traffic volumes including those raised by Waka Kotahi NZ Transport Agency relating to network concerns (subsequently withdrawn), LPC in relation to potential effects on the supporting transport network or clarification that the generated transport movements would not have material adverse effects, including cumulative effects, on the Midland Port's freight operation (subsequently resolved). Mr Thomas raised concerns in relation to any potential access to Maddisons Road. Ms Greenfield's submission also raised concerns relating to increased traffic, and the Ministry of Education raised a concern in relation to direct access onto Maddisons Road or Weedons Ross Road.
12. Mr Mazey addressed a number of transportation related issues in his transport comments of 7 July 2021. He generally supported the plan change subject to a number of matters including that there be no roading or other vehicular access to Maddisons Road, the ODP be amended to show principal roads (K and D), a requirement for vehicle access from the adjoining Midland Port site, and that any further traffic assessments use the latest version of Council's Rolleston PARAMICS transport model.

Amenity Effects

13. Ms White identified the submitters who had raised landscape and visual effects, noise effects and general amenity effects. She identified reverse sensitivity effects from the potential increased sensitive activities proximate to the Midland Port (LPC).¹
14. Ms White considered that visual effects resulting from the industrial activities would in effect shift the boundary at which the effects were felt on the environment and noted the consistency of the landscape treatments proposed.
15. Mr Bentley in his peer review² of the Applicant's landscape and visual effects assessment, considered the Applicant's methodology to be comprehensive and to have followed best practice. He did recommend a revisiting of the effects rating or provision of a more comprehensive understanding of how the RMA planning terms relate to the 7 point rating scale. Mr Bentley agreed that a worst-case assessment was appropriate and in terms of the mitigation proposed, he considered that sufficient to mitigate the identified adverse landscape and visual amenity effects and to sufficiently deal with the rural-urban interface.

¹ s42A Report dated 15 July 2021 at page 12

² Plan Change 66: Area Plan Change – Business 2A Zone – Landscape and Visual Effects Peer Review dated 30 October 2020

Impacts on Highly Productive Soils

16. Ms White noted that Ms D Penny, Ms C Greenfield and CRC had identified concerns on this issue. Ms White accepted the site was located on soils identified as Class 2 noting that classification applied to land on the eastern side of the existing urban area of Rolleston and the rural area beyond. She identified that the central part of Rolleston, including the remainder of the area zoned for industrial uses, contains Class 3 soils. She noted that any expansion of the industrial area into the immediately adjoining area would include some highly productive soil. She addressed the relevant policy. Overall she concluded that the expansion on to Class 2 land was a relevant matter but one which needed to be considered alongside others.³

Water Supply

17. In relation to water supply, Ms White noted the submissions of Fire & Emergency New Zealand and the Ministry of Education in relation to potential contamination of its bore supplying the Weedons School. In terms of the Ministry's concerns, she did not consider that to be a matter managed by or within the functions of SDC.⁴
18. In his officer comments, Mr England advised he was comfortable that there was available capacity within the network to service the plan change and further capacity upgrades were proposed and planned. He advised future water demand from the proposed plan change could be met. He noted that high water use industries will require specific agreement with SDC. This process was managed through the Selwyn District Council Water Supply Bylaw 2008 (Amended 2018). Overall, Mr England was satisfied that water could be made available for this plan change whilst still ensuring sufficient supply for all areas within the RSP boundary.⁵

Flooding

19. Ms White noted the submissions from CRC in relation to the potential high hazard area on the site. She noted that Mr England agreed that in relation to a 200 year ARI flood event, managing overland flow paths at the time of detailed design could be undertaken through the subdivision process. In relation to high hazard areas, she considered it would be appropriate to identify the high hazard area on the ODP so as to ensure its presence was acknowledged and more directly addressed through the subsequent subdivision process.⁶

Contamination

20. Ms White addressed the submission of CRC which identified two agricultural buildings that appeared to have been there for some time and although these sites were not listed in the Listed Land Use Register, confirmation that no sheep or stock dipping had taken place was

³ s42A Report at paragraph [71]

⁴ s42A Report at paragraph [76]

⁵ Officer Comments of Murray England dated 15 July 2021

⁶ s42A Report at paragraph [85]

advised. Ms White identified that the NESCS would be applicable at subdivision or change of use and she considered there was no need for historic activities to be investigated at this time. She did not consider it would be an impediment to the change in zone.⁷

Urban Form

21. Ms White identified that Waka Kotahi had submitted the proposed rezoning to be a logical extension to the existing Business 2A zoning and consistent with industrial development around the Izone Southern Business Hub anticipated within Our Space. (Waka Kotahi subsequently withdrew its submission.)
22. She also identified CRC's submission noted that the site is located within the PIB shown on Map A within Chapter 6 of the CRPS but was not identified as a Greenfield Priority Area for Business. She further noted that CRC accepted that planning decisions must now also give effect to the NPS-UD including Policy 8. She further identified that CRC had submitted that Our Space did not recommend any future development areas (FDAs) for business be advanced through changes to the CRPS and sought consideration as to whether it would add significant capacity and contribute to a well-functioning urban area, well-connected along transport corridors.⁸
23. Ms White recorded that LPC supported the proposed rezoning in terms of providing additional Business 2A land.
24. In her analysis, Ms White considered it relevant that the site is located within the PIB as this indicated from an integration perspective, it is within an area that she understood forms part of SDC's planning for infrastructure development and servicing. She identified that Mr England noted that the site was outside the RSP and that priority should be given to developments within the RSP but in this particular case the water and wastewater capacity could be made available while ensuring sufficient supply is available for all areas within the RSP boundary.⁹
25. Ms White also identified that the land was within the UGO of the PDP. While noting there was no specific requirement to consider the rezoning against the PDP, the identification of the site within the proposed UGO and general alignment of the site with the proposed policy direction provided some assurance that the rezoning, albeit out of sequence, was not entirely unanticipated and aligned with the future urban form outcomes anticipated for Rolleston.¹⁰

Economic Effects

26. Ms White relied on Mr Foy's peer review¹¹ of the economic assessment submitted with the request and his particular concern that the Business 2A Zone framework currently allowed for

⁷ s42A Report at paragraph [87]

⁸ s42A Report at paragraphs [89] and [90]

⁹ s42A Report at paragraph [92]

¹⁰ s42A Report at paragraphs [95] and [96]

¹¹ Plan Change 66 Economic Review 13 April 2021

a range of non-industrial activities including a diverse range of retail activities and commercial activities. Mr Foy was concerned that at some point an agglomeration of retail and commercial activities in the Business 2A Zone would begin to function as a centre, whether or not the planning environment recognised it as such. Such an outcome would be contrary, in his opinion, to Objective 4.3.8. Mr Foy's recommendation was for conditions restricting the use of the site for retail and commercial activities to be considered.

27. Ms White acknowledged his concern and recommended a non-complying activity rule for any commercial activity or any retail activity not otherwise specified.¹²

Statutory Analysis

28. Ms White, in Part 7 of her s42A Report, undertook a statutory analysis identifying the functions of territorial authorities. She agreed that the proposed ODP and amended plan change rules provide the methods for SDC to manage potential effects of the activity and demonstrated an integrated management structure.
29. Ms White identified Part 2 matters and undertook an analysis of the SDP and other relevant planning documents. She considered the NPS-UD, noting the requirements of Policy 1 in relation to the contribution of the plan change to a well-functioning urban environment. She considered that the definition includes, as a minimum, requirement for the environment to have or enable a variety of sites that are suitable for different business sectors in terms of location and site size. She considered this to be relevant. She also identified that the Applicant considered the location of the site to be significant.
30. Ms White identified and discussed the NPS-UD Policies and Clauses 3.3, 3.5 and 3.8. She considered the proposal would provide significant development capacity, noting that the plan change had been accepted by SDC for notification on that basis. It will assist in ensuring there is sufficient development capacity in respect of business land to meet the expected demands of the District.
31. She addressed and considered accessibility. In her view, the proposal provided good accessibility for all people between housing, jobs, community services, natural spaces and open space, and supported competitive operation of land and development markets. She noted in particular that it was well connected to transport corridors, including both road and rail.
32. In terms of the CRPS she addressed Objective 5.2.1 and Policy 5.3.7 in relation to adverse effects on regionally significant infrastructure and noted a potential tension with Objective 6.2.1(9), Objective 6.2.4, Policies 6.3.4 and 6.3.5, but in line with Policy 6.3.5(2) she considered these were overcome by the additional rule proposed in relation to timing of new development to coordinate with development, funding, implementation and operation of transport.

¹² s42A Report at paragraph [98]

33. She was concerned in relation to Objective 6.2.1(8) which seeks the protection of people from unacceptable risk from natural hazards. She considered changes could be made to address it.
34. She noted that the proposal was explicitly not consistent with Objective 6.2.1(3), Objective 6.2.6, Policy 6.3.1 or Policy 6.3.6 because it was proposing urban development outside an existing urban area or identified Greenfield Priority Area. She considered the key consideration to be whether or not the significance of the development capacity provided by the plan change should be given more weight than the current direction in the CRPS.
35. She also identified Chapter 11 (Natural Hazards) and Chapter 15 (Soils) as relevant. In relation to natural hazards, it would not give effect to Policy 11.3.1 which is to avoid subdivision, use and development in high hazard areas, although it was likely that changes could be made to meet the policy direction without necessitating decline.
36. Again, in terms of soil quality, she identified that the versatility of the soil and the irreversibility of impacts on it from the zoning change was raised by submitters. She considered the CRPS provisions were not specifically directed to versatile soils but were about maintaining and improving soil quality more broadly. It was her view that productive capacity would be reduced but overall productive capacity of soils within the District would still be maintained.
37. She addressed Our Space. She noted this was a strategic planning document adopted by the Greater Christchurch Partnership which sought to ensure a balance between providing sufficient capacity for growth while maintaining an urban form that achieved the vision and goals in the Greater Christchurch Urban Development Strategy. In her view, Our Space met the obligations of the previous NPS-UDC, noting that Table 4 of Our Space identified there was sufficient industrial development capacity within the Selwyn District in both the medium and long term. She noted it also identified that industrial and large format retail expansion around the Izone Southern Business Hub, benefiting from improved connections across State Highway 1, was anticipated.
38. On the basis of the assessment in Our Space, she was of the view that SDC had adequately considered the capacity provided for industrial development and as such the rezoning was not 'needed' to meet future demand for further industrial development at a broader level. In her view, however, the broad scale of Our Space meant that it did not go into detail about different types of industrial needs. She identified that here the Applicant was arguing that rezoning would make a contribution to development capacity which was significant because it provides additional land that has a common boundary with the Midland Port and this creates logistical efficiencies and significant cost-savings. It is the only land that could provide an extension to the Midland Port's three rail sidings.
39. Ms White addressed the CLWRP and CARP, considering there was no incompatibility.

40. In terms of the IMP, she agreed with the assessment of the relevant provisions undertaken by the Applicant.
41. As to consistency with plans of adjacent territorial authorities, she did not consider there are any directly relevant issues arising.
42. Ms White addressed s32, noting that the proposal did not involve any new objectives, or any changes to the existing objectives of the SDP, and the issue was therefore the extent to which the purpose of the proposal was the most appropriate way to achieve the purpose of the RMA. She identified s5 and ss6-8. Other than s6(h), she did not consider any of the remaining s6 and 8 matters were relevant to the site.
43. In summary, she considered the proposal provides for the economic and social well-being of residents of Selwyn District and Greater Christchurch; maintenance and enhancement of amenity values (s7(c)), and the quality of the environment (s7(f)) were met despite some impact on rural character and amenity; and that it was an efficient use of an existing physical resource (s7(b)) due to the site's proximity to and accessibility from State Highway 1 and the main north-south rail corridor.
44. She addressed a number of key factors which in her view needed to be weighed up before determining that the proposal was the most appropriate approach to achieving the purpose of the RMA.¹³
45. She ultimately concluded that subject to further evidence, particularly in relation to actual and likely demand for industrial land with the site specific characteristics, it was appropriate for the plan change to be approved, subject to minor amendments set out in her report.¹⁴

The Hearing – Appearances/Evidence

Applicant

46. **Ms Jo Appleyard/Ms Lucy Forrester**, in opening, provided a high-level overview of PC66 and the changes proposed, addressed the main issues in contention, responded to information tabled and introduced the relevant witnesses.
47. In relation to the High Hazard Flood Areas, Ms Appleyard introduced the evidence of Mr McLeod and his view that SDC's flood model was over-estimated, that no part of the site was a high hazard flooding area as defined in the CRPS, and any flooding which may occur could be easily and appropriately mitigated. She noted that Mr McLeod had undertaken a further analysis, confirming "inaccuracies in the LiDAR modelling" but that further assessment would be required to determine that issue finally.¹⁵ She advised the proposed policy and rule had

¹³ s42A Report at paragraph [131]

¹⁴ s42A Report at paragraph [140]

¹⁵ Legal Submissions on behalf of the Applicant at paragraph [12]

been incorporated to address uncertainty which would enable a full site specific assessment prior to seeking any resource consent.¹⁶

48. In relation to flooding, she submitted that while Policy 11.3.1 of the CRPS was an avoidance policy, it also provided for mitigation of the hazard. Ms Appleyard introduced the new proposed policy B3.1.9 which she submitted reflected the wording and intention behind Policy 11.3.1.¹⁷ She submitted the CRPS hazard provisions were given effect to through the policy and rules package.¹⁸
49. She addressed versatile soils, and introduced the evidence of Mr Mthamo. She discussed the written evidence which had been provided by Ms Penny. She submitted that Ms Penny's concerns were overstated and did not take into account the site specific complexities that would inhibit the site from being used effectively and efficiently for rural primary production.
50. Ms Appleyard addressed the NPS-UD and introduced the evidence from Mr O'Styke and Mr Staite, and to a lesser extent Mr Carter, in relation to the current need for industrial land and in particular the shortage of unencumbered freehold industrial land in Selwyn and Greater Christchurch.
51. Ms Appleyard submitted that the most relevant provisions of the NPS-UD to this particular plan change were Objective 6 and Policy 8 in relation to responsive planning.¹⁹
52. Ms Appleyard did not accept that the plan change was necessarily 'unanticipated' by planning documents as it is within the PIB. She submitted that it was appropriate that SDC was responsive to this plan change in a manner consistent with the NPS-UD. She submitted that this was exactly the type of proposal which Policy 8 of the NPS-UD sought to further enable by requiring councils to be responsive.²⁰
53. Ms Appleyard submitted that based on the evidence provided, the plan change would add significantly to development capacity to the extent that it:
 - (a) Would provide for additional industrial land which will be available as freehold and unencumbered for which there is, or is soon to be, a significant shortage and demand in Selwyn and Greater Christchurch; and
 - (b) Provides a unique opportunity for the potential to extend the Midland Port rail siding, an opportunity that could not be replicated elsewhere in the District and which would provide significant efficiencies to any future industrial land owner. Even if the rail siding is not extended, the site would nevertheless enable an open border with the Midland Port, for which very few industrial sites would have the benefit of otherwise.²¹

¹⁶ Legal Submissions on behalf of the Applicant at paragraph [13]

¹⁷ Legal Submissions on behalf of the Applicant at paragraph [17]

¹⁸ Legal Submissions on behalf of the Applicant at paragraph [18]

¹⁹ Legal Submissions on behalf of the Applicant at paragraph [35]

²⁰ Legal Submissions on behalf of the Applicant at paragraph [41]

²¹ Legal Submissions on behalf of the Applicant at paragraph [40]

54. Ms Appleyard addressed issues raised by Mr Thomas in his tabled letter. She then concluded by submitting that the evidence supports the granting of the proposed plan change.
55. **Mr Tim Carter**, a Director and owner of the Applicant, outlined his involvement and investment in development projects, and advised that Carter Group is the owner of IPort directly adjacent to and located west of the PC66 site. He advised that this was a \$500 million business park located between LPC Midland Port and Izone Industrial Park in Rolleston.
56. He discussed the diversity of land offerings IPort provides, noted its strategic position at the intersection of the South Island's freight arteries, and advised that the rezoning was sought to extend IPort and provide more land with open boundaries to Midland Port with the intention that land within the site would be sold as unencumbered freehold land.
57. He discussed the Carter Group participation in the Our Space process and identified a number of concerns the Carter Group holds in relation to Our Space. In terms of business capacity assessments, he considered these failed to take into account the significant role Rolleston has in terms of strategic freight.
58. He advised that the plan change site was identified as early as 2013 in the LURP which is why the site is included in the PIB, and noted the land was purchased with the intention of ultimately rezoning it to industrial as 'anticipated' in the planning documents. He advised that the location was considered the most logical extension to IPort and that it provided a unique opportunity for the potential to extend LPC's rail siding or the potential for other investors to establish with an open border and access to the rail siding and Midland Port.
59. **Mr Mike Copeland** provided economic evidence. He identified that Selwyn District's population has grown and is forecast to continue to grow at a rate more than twice as fast as for the Canterbury region and for New Zealand. He advised that employment growth in the Selwyn District has been much faster than the Canterbury region and New Zealand with manufacturing and construction sectors having been the District's major employment growth sectors. He advised that Selwyn District's GDP had grown by 72.5% in the period 2010-2020 as compared to the New Zealand GDP growing by 31.4%.
60. He advised that the contributing sectors to the growth had been manufacturing, construction and agriculture, forestry and fishing. He noted that manufacturing and construction were two of the three sectors specifically associated with demand for industrial land, with the third being the transport, postal and warehousing sector. He identified a number of factors which would underpin future growth and demand in the Selwyn District including the rapid growth in expected population and employment, increased significance of manufacturing, construction and related industries, a trend towards 'live, work, play' solutions in the face of the growing population within the District, and the continued increased demand for industrial land for non-labour intensive industries such as transport and logistics. He provided examples of inland ports and related activities such as packing and unpacking of containers.

61. Relying on employment numbers advised by the Applicant, and applying a multiplier of 1.5, he advised that this would be lifted to 90-120 employees or 0.4%-0.5% of the District's current workforce. Overall, the estimated GDP generated by the land covered by the proposed plan change, including multiplier effects, would be in the range of \$11.1 million to \$14.8 million per annum or 0.4%-0.5% of the District's current GDP.
62. He considered that locating industrial activities on the site would provide agglomeration economies which he defined as cost-savings or revenue increases which occur as a result of firms locating near to each other in industrial clusters. He noted the site was in close proximity to other industrial activities and close to inland ports with good access to both rail and road networks. He noted that the rezoning of the site immediately adjacent to LPC's Midland Port would enable the extension of LPC's rail siding in a straight line through the site which, if it eventuated, would be expected to help LPC meet an increase in demand for containerised cargo by facilitating longer trains and lower transport costs between Rolleston and LPC.
63. He considered that the demand for industrial land at Rolleston would be primarily driven not necessarily by future industrial employment in Selwyn but by the demand for freight and logistics based in this location given the key trade routes to and from Lyttelton Port pass through Rolleston, and the Izone and IPort industrial parks at Rolleston have two inland ports located within them. There was therefore considerable potential for growth given the growing importance of Port Lyttelton and greater use of inland ports.
64. It was also his opinion that encouraging greater choice and competition in industrial (and other) land supply markets would provide economic benefits from additional land capacity. He did not consider this plan change would give rise to any economic externalities and overall the plan change was consistent with the economic wellbeing of people and the community and the efficient development and use of resources.
65. **Mr Sam Staite**, Director of Industrial Sales and Leasing Division for Colliers Christchurch, provided evidence addressing industrial land availability in Greater Christchurch, industrial land in Rolleston, and consideration of the specific plan change site.
66. He advised that industrial land in Greater Christchurch is in high demand and that there had been increasingly high demand in the past six months for industrial zoned land with more owner-occupier interest, in particular for bare and Greenfield sites.
67. He advised that there may be a perception that there is a lot of industrial land around Greater Christchurch, however very little of it is unencumbered. The limited freehold land which could be purchased, and constraints in many of the existing industrial sites, meant that demand would substantially outweigh supply for this kind of industrial land long before 2048.
68. He noted that Rolleston was a particularly attractive hub for industrial activities due to various factors. He advised that there was current demand for occupiers for land parcels in excess of 5 hectares and there were next-to-no such options available. He provided examples of

reasonably recent industrial developments including those developed by Ngāi Tahu where the forecasts indicated they would provide 5-10 year industrial land supply but they had lasted less than 12 months and both developments he identified were in their final 5% sell-down. He advised that land demand for industrial land is at an all time high and there is simply not enough supply currently.

69. He also identified that warehousing is progressively getting bigger at both the local and international scale, and that the trend in warehousing, partially fast-tracked by Covid 19, led to there being an increase in demand for larger industrial sites capable of accommodating larger warehousing facilities. He also identified that there had been an increased reliance on efficient logistics and transport, and that this was now at the front of all consumer business decisions. He identified that reducing reliance on a congested roading network was becoming critical with the rise of corporate responsibility around greener transport options, and rail connectivity was a vastly growing trend as was evident from the Move Logistics operation established in the IPort.
70. He advised that there were no sites that he was aware of in Greater Christchurch which would provide potential to extend a port rail siding.
71. **Mr Nick O'Styke** is a Director of Industrial Sales for Bayleys Canterbury. He advised that freehold industrial land in Canterbury, in particular Selwyn, is in high demand and that while there may be land that is zoned industrial, from a practical perspective, that did not mean there was sufficient freehold industrial land supply to meet the current demand.
72. He also considered that the majority of the current market for industrial land was for owner-occupier arrangements and that there was a real shortage in that area. The demand was reflected in significant increases in the industrial list values over the last few years.
73. He noted that in ten years in the industrial land industry, he had only ever seen growth in demand and that had become exponential. He was of the view that Christchurch and in particular Rolleston was very close to an acute shortage in industrial unencumbered freehold land. He noted that land in Rolleston is now at least twice the list value in 2019. Land which was once \$100-\$140 per sqm is now in the range of \$195-\$300 per sqm. He identified a number of factors which make Rolleston attractive for industrial land investors, including proximity to the Midland Port and MetroPort and associated rail transport, better ground conditions in Selwyn comparable to sites in Christchurch, and new amenities in Selwyn including wider roads, better infrastructure and close proximity to State Highway 1 and West Coast Road.
74. Since the establishment of Izone, he estimated that over 150 businesses have moved their operations into Rolleston. He described the plan change site as unique and providing an opportunity to future developers to extend the Midland Port's rail siding and/or share an open border with the Lyttelton Port.

75. **Ms Anne Wilkins** addressed landscape. She identified the relevant plan provisions, and concluded that the extension could be suitably absorbed into the landscape character over the long term and considered that the industrial large scale developments that are both emerging and existing acted to mitigate changes made at the plan change site by effectively enveloping the site. She addressed the visual impacts, identified those potentially affected, described the proposed mitigation, and noted that overall there was agreement between her and Mr Bentley on landscape and visual matters.
76. **Mr Nick Fuller**, Transport Engineer, advised that the proposed rezoning was predicted to generate 180 vehicle movements per hour and 2,885 vehicle movements per day. He noted the primary site access would be from extensions to two roads that link to IPort Drive. He identified access arrangements, including an access to serve the LPC Midland Port which would open for LPC traffic only. He noted that no access was proposed to Maddisons Road as part of the plan change, however that could be considered as a restricted discretionary activity at a later stage.
77. He addressed wider transport effects noting that traffic modelling indicated that even without the application site, Jones Road/Hoskyns Road and Hoskyns Road/State Highway 1 intersections have approaches at or over capacity. He discussed the proposed rule which would preclude activities from commencing until such time as the State Highway 1 overbridge was completed. He considered this would allow the intersection capacity and safety issues to be resolved prior to the site generating traffic on the network.
78. He addressed matters raised by submitters before concluding that the transport effects of the proposed plan change were acceptable.
79. **Mr Victor Mthamo** addressed versatile soils noting that the soil properties at the site indicate that it falls predominantly into LUC Class 2 and were therefore classed as highly productive. He did not consider the plan change would necessarily have significant adverse effects on the District or region's versatile soils or create any shortages of land for a number of reasons which I shall return to. He responded to Ms Davina Penny's submission.
80. **Mr Timothy McLeod**, a Senior Civil Engineer, provided evidence in relation to flood risk and particularly the high hazard areas. He provided evidence in relation to the LiDAR data and modelling, which he considered demonstrated that it was not accurate due to errors in the terrain model. He discussed a further preliminary assessment that he had carried out, the results of which were inconclusive and discussed the proposed rules to allow flood hazard risk assessment during resource consenting. He considered that to be appropriate.
81. Mr McLeod also addressed the submission relating to water supply for fire fighting and agreed with Mr England that there was additional capacity.
82. **Ms Kim Seaton** provided evidence addressing planning related issues including further amendments to the proposal in response to the Officer's Report. She also provided an

analysis of the NPS-UD. She described the proposal and site, addressed the revisions to the proposal made prior to the hearing, and addressed issues raised by submitters in terms of traffic effects, amenity effects and highly productive soil. She addressed water supply, flooding, and contamination. She addressed urban form and economic effects, before referring to the s32 Report lodged with the application and addressing the NPS-UD, the CRPS, Our Space and a number of policies in the SDP.

83. Ms Seaton addressed alternatives, benefits and costs, and concluded that the proposal is the most appropriate way of achieving the purpose of the RMA. She considered that the Officer's Report over-emphasised the role of demonstrable demand for the land as a factor in determining the appropriateness of the proposal, but that the demand was nevertheless demonstrated.

Submitters' Evidence

84. **Ms Davina Penny** (Submitter PC66-0003) presented in support of her submission, particularly focusing on soil and land. Ms Penny was clear in her view that the rezoning of this land would take highly valued land out of future productive use and in addition it would have a sterilising effect on other land around the site due to reverse sensitivity effects. She considered this would start to give rise to a 'creep effect' and over time more land would be lost. Ms Penny addressed the pNPS-HPL and also noted that the CRPS had an entire chapter dedicated to the issue of protecting soils. She considered Section 15 of the CRPS to be comprehensive and also identified provisions in Section 5 of that document.
85. She expressed a concern that the Applicant had not referred to the LUC properties of the land in its initial application. She identified in particular Policy 5.3.12 in relation to maintaining and enhancing natural and physical resources contributing to Canterbury's overall rural productive economy. She identified the Issues, Objectives and Policies in Chapter 15 addressing soil degradation and also identified a number of relevant policies in the SDP.
86. She provided comments on the s42A Report and the evidence of Mr Mthamo. She concluded that it would be wrong for this land to be rezoned. She sought the protection of the land and application of the policies as they are intended to be applied. Ms Penny also supported the submission from Ms Greenfield in relation to concerns about increased levels of traffic.
87. **Mr Nicholas Griffiths** provided evidence on behalf of the Canterbury Regional Council. Mr Griffiths has been employed by the Canterbury Regional Council as a Natural Hazard Scientist since September 2011. He agreed that the LiDAR data inaccuracies would have impacted on the flood model results at the PC66 site but considered that Mr McLeod had over-stated the impact of those inaccuracies. He considered that even without those inaccuracies, modelled water depths in the channel that runs through the western part of the property would still meet the CRPS definition of high hazard areas, albeit to a differing degree and spatial extent. He advised that there was nothing in the evidence of Mr McLeod that changed the circumstances

relating to the identification of the high hazard area and he considered that any development within the high hazard area needed to be consistent with Policy 11.3.1 in the CRPS.

88. **Mr Simon Thomas** (Submitter PC66-0002) noted that there appeared to have been two changes made by the Applicant in response to his submission but neither of them met his 'fallback expectations' in the undesirable event that the plan change should proceed. He identified that his major concern regarded the establishment of a road crossing to Maddisons Road and was concerned that making such a restricted discretionary activity could see it being challenged within 'a couple of years'. He considered it should only be granted if the ODP is amended to provide a notation that there be no roading or other vehicular access to Maddisons Road. If that needed to be stated as a prohibited activity, then so be it.
89. Mr Thomas also spoke to his concerns with the proposed 2.5 metre bund on the northern and eastern boundaries and provided his view that the development would still be visible once the Landscape Treatment 1 had matured. He referred and spoke to the High Court decision in *Harewood Gravels Company Limited v Christchurch City Council and Yaldhurst Quarries Joint Action Group* [2018] NZHC 3118, 30 November 2018, highlighting various paragraphs. He noted the absence of a detailed development proposal and the resulting uncertainty that that had as to the potential landscape and rural character effects and identified what he considered to be a number of inconsistencies and gaps in the Applicant's case.
90. Overall, he considered that the application should be refused.

Tabled Documents

LPC

91. LPC provided a letter advising that it supported those aspects of the recommendation of the s42A Report to accept LPC's submission on PC66.²² It advised that it supported the proposed amendments to PC66 as detailed in Section 8 of the s42A Report and that such amendments were consistent with advice that LPC had received from its planner and traffic engineer.
92. It advised agreement with the s42A Report [64] and the reason provided in relation to the preclusion of noise sensitive activities. In relation to its preclusion of the operation of activities facilitated by the rezoning until such time as the northward access is provided from Midland Port site and legal road within the site, it advised that it agreed that the ODP would not need to be modified to notate an agreed required vehicle access connection as LPC could advise that a specific location has not yet been identified. It recorded that the transport effects associated with such a connection would appropriately be managed through subsequent consenting and engineering approval. It simply sought a cross-reference to Rule 22.9.8 on the ODP.

²² Letter LPC re Plan Change 66 – Lyttelton Port Company Submission, 22 July 2021

93. The letter also attached a letter in support from LPC to the Applicant dated 21 July 2021. This discussed the background to the Midland Port. It noted that it became operational in June 2016. It identified that the rail connection with the Port improves container freight efficiency and decreases travel time and freight costs and reduces road congestion by removing trucks on the Port route. It advised further that Midland Port is strategically positioned to offer connectivity to all transport modes throughout the South Island and a supply chain that includes Midland Port could be optimised to ensure that containers are moved to and from ports at the lowest cost.
94. The letter identified the key features of Midland Port's location in terms of the main trunk rail line, State Highway 1 and within 1 kilometre of the Southern Motorway Stage 2. It identified direct access via a dedicated rail shuttle, connections with a range of shipping services and shipping lines, rail access to all points west and south of Rolleston, and that Rolleston is at the heart of the region catering for significant amounts of both export and import cargo. The letter included support for the inclusion of the 27 hectares of land for future industrial development. It noted that the containerised cargo is forecast to increase from about 370,000 teu in 2015 to over 1 million teu by 2041. The letter stated that the Midland Port was part of LPC's long-term plan to make sure that it could meet demand and handle bigger vessels and increase volume that is expected over the next 20-30 years.

Ministry of Education

95. The Ministry of Education provided a letter dated 30 July 2021 to be tabled at the hearing. That advised that it would not attend the hearing. Having reviewed the s42A Report dated 15 July 2021 and the evidence submitted on behalf of the Applicant, it noted:
- The Ministry supported the approach in relation to the new Rule 17.2.1.2(iii);
 - The Ministry supported the landscaping treatment proposed and agreed with the reporting officer's recommendations contained in paragraphs [57] – [58] of her report; and
 - The Ministry recognised that water quality is managed by the regional council but notwithstanding this it acknowledged the work undertaken by WSP in relation to site servicing and consideration to water effects.
96. It accepted the recommendations from the reporting officer and concluded, overall, if the recommendations were adopted, its submission points were adequately addressed.

Council Officers' Reply

97. Mr Mazey noted that his evidence had highlighted a few transport matters that needed further consideration and he was satisfied that that had now occurred. He agreed with the direct reference to Rules 17.2.1.2 and 17.6, and concluded that there was agreement between SDC and the Applicant on all transport matters relating to the plan change.

98. Mr England remained confident that the plan change could be serviced. He did note that it will get to a point at some stage where upgrades would be required as a result of growth. He described the water bores and the large-scale infrastructure and its high capacity. He advised that the approach taken on infrastructure was a 'just in time' approach, as SDC did not wish to pay for infrastructure or carry unnecessary debt. He advised that issues in relation to the high hazard area were outside his area of expertise. He discussed the capacity of the Pines Wastewater Treatment Plant is approaching capacity, but it is proposed to increase the capacity to 120,000 person equivalents. In terms of trade waste, he confirmed that it could be dealt with through trade waste consents.
99. Mr Foy advised that he had reviewed the evidence and had revised some of his conclusions in relation to the application. He listed the points of agreement. He agreed with Mr Copeland's summary of relevant economic issues and his assessment of the economic benefits of PC66. He noted that he had identified a lack of evidence in relation to any need for the siding, or industrial land. He considered that those needs had been identified in evidence and noted the conclusion of Mr O'Styke and Mr Staite regarding the existing shortage of freehold industrial land, Ms Seaton's observation that the NPS-UD did not require councils to only provide enough land to meet demand, and the attendant benefits identified by Mr Copeland. He also identified that LPC's letter in support of the application explained how LPC would benefit from an extended rail siding and that the site is the only location that would provide the opportunity to accommodate such. He was satisfied that the proposed non-complying activity rule in relation to commercial or retail activity would minimise the likelihood that the site could contribute to an ongoing agglomeration of retail and other commercial activities. He concluded that there were no outstanding points of the application with which he disagreed provided the non-complying activity status was accepted.
100. Mr Bentley confirmed that he was largely in agreement with Ms Wilkins on landscape and visual matters concerning PC66. He was comfortable with the methodology employed by Ms Wilkins. He discussed plant growth rates and agreed with matters such as the height of the bund, Ms Wilkins' evidence in relation to species, noted the implicit maintenance rule, and that the retention of the existing shelterbelt on the eastern boundary may inhibit progress of the bund and establishment of the planting.
101. Ms White reviewed some of her conclusions identifying the key determination for the plan change, in terms of whether or not the rezoning is the most appropriate way to achieve the purpose of the RMA, is whether or not the significance of the development capacity it provides outweighs the inconsistency with Objective B4.3.3 of the SDP and various provisions within the CRPS and the loss of versatile soils that will result from the rezoning. She noted that her preliminary view was that further evidence was required of the demand for the type of development capacity provided for the site as a reason for its significance. She considered that sufficient evidence had been provided of the demand for this type of development capacity and she considered it appropriate for the plan change to be approved. She noted that a

number of the recommendations had been accepted or alternative ways of achieving her concerns had been agreed.

102. In terms of Policy 8 of the NPS-UD, she addressed that from a planning perspective and its relationship with the CRPS.
103. She was satisfied that the approach to the Maddisons Road boundary was appropriate and that the matters of discretion in relation to the proposed accessway were sufficient to address issues. She was comfortable with the setback of sensitive activities proposed. In terms of Ms Penny's evidence it was again her opinion that versatile soils were an important matter to weigh up but did not preclude acceptance of the plan change.

Applicant's Closing Submissions

104. Comprehensive Closing Submissions were provided addressing the potential inconsistency between the CRPS and the NPS-UD, potential scope issues I had raised in relation to the potential access along Maddisons Road, versatile soils, matters in relation to the ODP, provided further information in relation to Midland Port, addressed matters raised by Mr Thomas and provided a full updated version of the rules package and ODP together with an explanation as to why changes had been included.
105. In relation to the potential inconsistency between the CRPS and the NPS-UD, the submissions included a timetable and brief description of relevant planning documents, and in response to a question raised by me during the hearing as to whether PC1 gave effect to the NPS-UD, the Closing Submissions addressed that in some detail. Ultimately, the Applicant accepted that PC1 does, to some extent, give effect to the NPS-UD as it is required to under s62(3) of the RMA, but that it was not the end of the requirement to give effect to the NPS-UD in the Canterbury Region identifying that the report to the Minister expressly acknowledged that the proposed change did not purport to, nor was it required to, give full effect to the NPS-UD as it had not been practicable for CRC to fully implement the NPS-UD within the scope of the change being processed through the streamlined planning process and within timeframes available.
106. The submissions addressed the principles of statutory interpretation, particularly how the CRPS was to be interpreted in light of the NPS-UD, particularly given the CRPS contains an 'avoid' policy with respect to development outside Map A, yet the later in time, and higher order, NPS-UD contains Objective 6 and Policy 8.
107. It was submitted that the 'avoid' policy in the CRPS could not apply to development that is otherwise to be enabled by Policy 8 of the NPS-UD and that I was "entitled to grant this consent (*sic*)"²³ despite it being outside of the Greenfield Priority Areas and the 'avoid' objective in the CRPS provided the proposal:

²³ Closing Legal Submissions on behalf of Rolleston Industrial Developments Limited dated 25 August 2021 at paragraph [50]

- (a) Adds significantly to development capacity; and
 - (b) Contributes to well-functioning urban environments.
108. The Closing Submissions also identified a potential scope issue which I had raised in relation to access along Maddisons Road explaining that the original application sought amendment of the permitted activity Rule 17.2.1.2 to exclude access on to Maddisons Road as a permitted activity, together with amendments to the restricted activity Rule 17.6.2 and the matters of discretion in 17.6.3.

Summary of Information Received and Evidence Provided

109. I have included a comprehensive and somewhat lengthy summary of the information provided to me, and the evidence led at the hearing. All that information and evidence has informed my Recommendation and while that evidence and information provided is publicly available, this summary may assist the reader.

Statutory Tests

110. The relevant statutory considerations were summarised in Attachment 3 to the application at pages 7-36 and by Ms White in her s42A Report at paragraphs [99] – [104].
111. The Environment Court has provided a comprehensive summary of the mandatory requirements in its decision in *Long Bay*.²⁴ This was updated to reflect changes to the RMA in 2009 in the Environment Court's decision in *Colonial Vineyards*.²⁵
112. 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;²⁶
 - (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;²⁷
 - (c) When preparing its district plan (change) the territorial authority shall:
 - (i) Have regard to any proposed Regional Policy Statement;²⁸
 - (ii) Give effect to any operative Regional Policy Statement;²⁹

²⁴ *Long Bay – Okura Great Park Society Inc v North Shore City Council* A078/08

²⁵ *Colonial Vineyards Limited v Marlborough District Council* [2014] NZEnvC 55

²⁶ s74(1)(a) and (b) of the RMA

²⁷ s75(3)(a), (ba) and (c) of the RMA

²⁸ s74(2)(a)(i) of the RMA

²⁹ s75(3)(c) of the RMA

- (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,³⁰ and must have regard to any proposed Regional Plan on any matter of regional significance;³¹
- (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;³²
- (f) The plan change shall have regard to the actual or potential effects on the environment of activities including, in particular, any adverse effects.³³

113. Section 32 requires that:

- (a) The policies are to implement the objectives, and the rules are to implement the policies;
- (b) 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; and
- (c) 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.

114. Overall, the test is one of appropriateness, and the requirement is to achieve the objectives of the district plan.

Assessment of Actual or Potential Effects on the Environment

115. I consider that the key effects associated with PC66, and raised in submissions, have been identified correctly by Ms White in paragraph [31] of her s42A Report. I will use those headings.

Traffic Effects

116. A number of submitters raised concerns over increases in traffic volumes as a consequence of PC66 and the effects flowing from that primarily in relation to the functioning of the transport network and/or on amenity values of the surrounding sites.

³⁰ s75(4) of the RMA

³¹ s74(2)(a)(ii) of the RMA

³² S74(2)(b)(i) and s74(2A) of the RMA

³³ s76(3) of the RMA

117. Waka Kotahi (Submitter PC66-0005) was neutral in its submission but noted that it was proposing a series of upgrades in the vicinity of the Hoskins Road/State Highway 1 intersection which would include the closure of the intersection. The submission was subsequently withdrawn.
118. In essence Waka Kotahi, and CRC, sought deferral of development until such time as the State Highway 1 upgrades were completed.
119. LPC (Submitter PC66-0008) raised concerns that the proposal would result in increased vehicle movements on the network which may detrimentally affect network safety, efficiency and effectiveness, expressing particular concerns in relation to the impact on its main access via Jones Road.
120. To address these concerns, Rule 22.9.8 is proposed. It provides, relevantly:

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

- a. the over bridge of State Highway 1 between Rolleston Drive and Jones Road is operational; and*
- b. vehicular access is provided between the Midland Port site (Lot 2 DP 475847) and a legal road within the Appendix E43A Rolleston Business 2A Zone Maddisons Road ODP area. Such access shall be secured via a right of way easement in favour of Lot 2 DP 475847 and/or a direct connection from Lot 2 DP 475847 to a legal road vested in Council.*

121. On the basis of the evidence, I am satisfied that Rule 22.9.8 meets the traffic related concerns raised by CRC. Again I note the submission was withdrawn by Waka Kotahi but of course the issue raised is still relevant.
122. In terms of the issues raised by LPC, as noted above, I was provided with a copy of a letter dated 22 July 2021 from Ms Kelleher, the Head of Environment and Sustainability with LPC, which recorded that the transport effects associated with a proposed northward access from the Midland Port site would appropriately be managed through the subsequent consenting and engineering approval and that it was not considered necessary that a specific location for connection to Lot 2 DP 475847 be required, and a cross-reference to proposed Rule 22.9.8 on the ODP was sufficient.
123. I agree that the issues raised by the submitters in relation to effects on intersections and in particular prior to the State Highway 1 upgrades, have been addressed. The concerns of LPC have also been appropriately resolved.
124. In terms of the Ministry of Education's submission, it was supportive of the site's road access as proposed in the ODP and proposed amendments to Rules 17.2 and 17.3 in order to avoid increased traffic passed the Weedons School which was accessed via Weedons Ross Road. For completeness, it sought added reference to Rule 17.2.1.2(iii).

125. Ms Greenfield identified a concern that the expansion of the industrial zone would cause an increase in commercial and private vehicles on local roads which are rural in nature. She identified as examples Newtons Road and Maddisons Road which she submitted were not designed for large volumes of trucks and private commuter vehicles. She considered that even without direct road access onto Maddisons Road, there would be a significant number of additional vehicles which would find their way on to it as it is a very convenient link to the West Coast Road and Christchurch Airport campus. If allowed, she considered SDC needed to do the 'decent thing' and introduce well considered traffic management on the adjacent local roads.
126. While not a matter raised in her submission, Ms Penny commented in her evidence that heavy vehicle traffic on rural roads is affecting the enjoyment and amenity value of the area and that Weedons and Templeton should not be disregarded. The roads were not designed for that size, weight and volume of vehicle and is impacting on the enjoyment of users and residents of the area.³⁴ Ms Penny also identified transportation issues in terms of weighting to be given in the overall assessment, rather than as an effect of itself.
127. Mr Thomas raised a concern in relation to the traffic assessment being premised on there being no access to the site via Maddisons Road whereas PC66 itself allowed for such access by a resource consent application. His concerns related to loss of amenity to rural residents and additional cost to ratepayers. At the hearing, Mr Thomas identified that his major concern regarding the establishment of a road crossing to Maddisons Road had not been resolved. He was concerned that the Applicant making access a restricted discretionary activity rendered it subject to challenge in "no more than a couple of years" and again submitted that PC66 should only be granted if the ODP is amended to provide the correct notation that there will be no roading or other vehicular access to Maddisons Road.
128. He raised a concern that future use of Maddisons Road was not known meaning the assessment by the Applicant was "hardly definitive".³⁵
129. He raised the economic effects on ratepayers in particular of the potential impacts on roading and servicing infrastructure and again was critical that the Applicant had not even attempted to define or quantify those and considered that the traffic evidence for the Applicant led him to a view that there needed to be inclusion of his suggested 20 year restriction or making a road crossing a prohibited activity.
130. During discussions Mr Thomas described the road getting busier in the 13 years he has been living on Maddisons Road with a shift west from Christchurch and the development of the industrial land. He advised that traffic generated from the industrial areas uses Maddisons Road "quite a lot".

³⁴ Statement of Davina Penny 6 August 2021 at page 2

³⁵ Further to Submission by Simon Thomas PC66-0002 dated 6 August 2021 at paragraph [4] on page 5

131. In terms of the submissions of Mr Thomas and Ms Greenfield, Mr Fuller considered the restricted discretionary assessment matters would satisfactorily capture the key matters regarding the potential adverse effects that could occur should an access be provided to Maddisons Road. He considered the assessment matters were such that an access to Maddisons Road is not a given, as it would need to be proved that the effects on the network and passing the Weedons Primary School are acceptable.³⁶
132. In relation to Ms Greenfield's submission, he stated that the site will take access from within the IPort Industrial Park and the quickest route to West Coast Road was via Hoskins Road and West Melton Road. He acknowledged that the shortest route to the Christchurch Airport could be via Maddisons Road, but as that was a specific location it is unlikely to be an origin/destination for a high percentage of plan change generated traffic. He also stated that the narrow carriageway width of Maddisons Road and high number of cross-road intersections suggests that it would not be an attractive route, particularly for heavy vehicles. Overall, he did not consider that there would be a noticeable change in traffic on Maddisons Road as a result of the plan change.³⁷
133. Mr Mazey advised that the matters that he had identified as requiring further consideration had been addressed and he agreed with Mr Fuller's proposal. He agreed in particular to the direct reference to Rule 17.2.1.2 and Rule 17.6 on the amended ODP and he considered this to be an improvement on what had been initially proposed and suggested by him.
134. During discussions, Mr Mazey advised that on the rural roading network, the issue of amenity effects was not "really" addressed and that the focus was on safety and efficiency and effectiveness.
135. Ms Seaton agreed with Mr Fuller that a notation to the effect of "no vehicle access" on the ODP would be problematic due to the non-complying activity status afforded to any activity that does not comply with the ODP (Rule 24.1.3.11).
136. Ms White agreed with Ms Seaton's comments and did not consider there to be any outstanding traffic matters relating to the request. The reference to the rules was an existing mechanism in the plan and aligned with what had happened on Hoskins Road. She had a preference to keep, as much as possible, in accordance with the plan provisions. She noted that Mr Mazey was satisfied that such roads functioned to provide access and the issue was whether any access could be provided efficiently and safely. She considered that the matters of discretion were appropriate. In response to a question from me, she advised that there were no notification provisions which either precluded or directed notification.

³⁶ Statement of Evidence of Nicholas Peter Fuller, 23 July 2021 at paragraph [41]

³⁷ At paragraph [43]

My assessment on this issue

137. In terms of the changes proposed by the Applicant in relation to Maddisons Road, I consider they are within scope. The proposed reliance on restricted discretionary activity rules were clearly identified in the application.
138. In terms of the merits, I have thought carefully about the matters of discretion and whether they are sufficient to address all the relevant matters. From a traffic engineering perspective, and the avoidance of an inappropriate burden on ratepayers, I am satisfied that the rules which are presently incorporated into the plan, with the minor amendments proposed, will provide the appropriate mechanism for any such issues to be addressed.
139. In terms of the wider effects on the roading network, including Maddisons Road, there was no disagreement between the traffic experts. The proposed Rule 22.9.8 which provides that no building shall be occupied until such time as the overbridge of State Highway 1 between Rolleston Drive and Johns Road is operational; and that vehicular access is provided between the Midland Port site and a legal road, address, satisfactorily, the concerns raised by CRC and LPC and I note that Waka Kotahi has withdrawn its submission.
140. I acknowledge the concerns of the relevant submitters in relation to increased volumes of traffic, and particularly heavy traffic, and the particular concerns in relation to cumulative effects. I acknowledge that the increase in heavy traffic does impact on local residents and other road users but, on balance, I am of the view that the increase in heavy traffic is not of such moment as to render the plan change inappropriate. The site is very well connected to the roading network, including the State Highway. There is also significant potential for use of the rail network, particularly in relation to movements to the Port.

Amenity Effects

141. A number of submitters raised matters relating to effects on amenity values. These are summarised in the s42A Report at paragraphs [48] – [55]. I consider those paragraphs contain an accurate summary of the matters raised and I adopt that summary for the purposes of this Recommendation.

Noise

142. I did not receive any expert evidence in relation to potential noise concerns, in particular those raised by LJ & CM Manion (Submitter PC66-0004) who submitted that the noise levels applying to the Business 2A zone were too high for the adjoining Rural Inner Plains zoned houses on 4 hectare blocks and who also sought conditions relating to the Hyster container handlers.
143. In her further information request of 4 November 2020, Ms White identified, amongst other things, that the application proposed that future development would be subject to existing Business 2A noise standards. It noted that the change in zoning proposed would enable a

range of activities to take place on the site, many of which can generate high levels of noise and may not be able to meet those standards. This was to enable a proper understanding and assessment of effects on rural residents arising from the rezoning. It sought an assessment from an acoustic expert outlining the likely range of noise levels for activities enabled by the rezoning, and whether these are able, or likely, to comply with the noise limits.³⁸

144. In response, a Design Advice Memo from Mr Mark Lewthwaite at Powell Fenwick was provided. This addressed the criteria in the SDP noting that any future development of the site would be subject to those rules. In relation to the Business 2A zone noise standards, noise limits are contained in Table C9.3 and Rule 22.4.1.5 which relate to noise limits assessed in Living zones and Rural zones respectively. He stated that the noise limits applying under the Business 2A zone were “not unreasonable for a future business activity”. The report also noted that they were sufficiently permissive to allow for a range of business activities and while the business activities facilitated by the rezoning could be noisy, acoustic input at the planning stage would allow for any necessary mitigation measures to be implemented.
145. Ms White considered that the application of the default Business 2A noise limit may necessitate noise suppression of the motors of the Hyster container handlers if necessary to ensure permitted limits would be achieved. She considered that approach to be appropriate and consistent with how noise is managed under the SDP, whereas a blanket requirement for a particular type of mitigation as sought by the submitters LJ & CM Manion would be inconsistent with the current SDP approach and could be inefficient if mitigation is not required to achieve the noise limits.³⁹

My Assessment

146. I acknowledge there are some difficulties in determining noise effects at this stage. I consider that the approach adopted of applying the Business 2A zone noise limits is appropriate. Particular activities can be addressed at consent stage and there is nothing to suggest that a tailored approach is required at this point.

Dust/Odour

147. Submitters LJ & CM Manion were also concerned regarding the potential for activities to be established within the site which could cause dust or odour issues and sought specifically that no fertiliser plants, compost sites or similar, which could cause dust and odour with no option to mitigate, be banned.
148. Ms White identified that pursuant to Rule 13.1.4 various activities (which she footnoted) require consent within the Business 2A zone as a controlled activity with matters of control specifically relating to potential nuisance effects arising from dust, odour, smoke and noise. She also noted that any activities requiring an offensive trade licence, composting or disposal onto land

³⁸ Letter Selwyn District Council to Applicant dated 4 November 2020 at paragraph [5]

³⁹ s42A Report at paragraph [62]

of any organic matter, and scrapyards, expressly required consent as a discretionary activity. Ms White also noted that dust and odour are matters which are specifically managed under the CARP, which the activities within the site would also be subject to. She considered that the current Business 2A provisions in combination with the CARP were sufficient to address potential dust and odour activities arising from activities that may seek to establish.⁴⁰

149. I agree with that assessment. The adoption of the Business 2A zone rule enables an assessment of the potential nuisance effects at consenting stage.

Landscape and Visual Effects

150. As identified in the landscape and visual effects assessment which was submitted as part of the Request, there is limited certainty over the specific development that will occur as a consequence of the zoning change.
151. The assessment (which was provided as Appendix C to the application) addressed the methodology, noting that the area for the plan change use is dependent on a range of factors such as demand and operational requirements and therefore there was a degree of ambiguity in the actual appearance of the site over time. The assessment was therefore based on visibility and context. The report noted that the assessment was undertaken on the basis of the building parameters outlined in Chapter 16 of the Township volume and was based on a 'worst case' scenario being a full build-out of the site which would be facilitated/enabled under the proposed rezoning.⁴¹
152. In her evidence, Ms Wilkins confirmed that she had based her assessment upon the following:
- (a) A 'worst-case' scenario at the plan change site of built heights and without full screening achieved by planting over time;
 - (b) Buildings up to 15 metres in height and structures up to 25 metres in height;
 - (c) Building setbacks from road boundaries and rural zoned adjacent land by 10 metres;
 - (d) Landscape buffers in the form of proposed planted bunding as shown in the ODP.⁴²
153. Ms Wilkins provided a description of the receiving environment at paragraphs [15] – [20] of her evidence. I agree that that is an accurate description and coincides with what I viewed on my site visit.
154. She considered the area to be dynamic, expanding and evolving which meant the landscape was somewhat susceptible and adaptable to change. It was her opinion that the industrial and large-scale developments that are both emerging and existing, particularly the IPort and LPC

⁴⁰ s42A Report at paragraph [63]

⁴¹ Appendix C: Landscape and Visual Impact Assessment dated 9 September 2020

⁴² Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [9]

areas, acted to mitigate any changes made at the plan change site. She considered this would be read as an extension to the Business 2A zone, and would be appropriately 'enveloped' (Ms Wilkins' emphasis) within the existing development. She therefore concluded that it could be suitably absorbed into the landscape character over the long term.

155. Ms Wilkins noted that there were approximately 18-20 dwellings within 1 kilometre of the subject site. Her Figure 1 identified those properties. She noted that there were approximately 14 dwellings which were located off the intersection of Weedons Ross Road which would be in proximity to the site. From her site observation and reviews, she considered that very few of the rural residential dwellings would have direct views into the site and noted that many of those properties had established landscaping, trees and fencing preventing any wide sweeping views.⁴³ She identified that there was one relatively newly established dwelling directly across the road from the plan change site, approximately 160 metres from the northern boundary.
156. She considered that the worst case scenario of a full build-out of the site would change the current view from those parties in proximity down Maddisons Road and the change would result in new forms as well as open out more of the surrounding areas of Business 2A zoning to the south. She considered the visual impact on rural residential properties down Maddisons Road would be moderate to high, but with landscaping mitigation the impact could be reduced over time with the establishment of planting. For the other rural residential areas at a wider scale, she considered the impact as less given the distance, or existing screening, resulting in a low to moderate impact.⁴⁴
157. In terms of the residential dwellings in Rolleston and wider areas, Ms Wilkins assessed visual effects as low-moderate for those in Rolleston particularly given the foreground was already highly developed, and given the distance, and that therefore any change would largely be absorbed.⁴⁵
158. In relation to local roads, Ms Wilkins concluded that experienced at speed and temporarily, the plan change site would be absorbed into the character of the industrial area adjacent and effects on road users would be moderate but only for a limited time (i.e. transient).⁴⁶
159. In relation to the recreational areas and particularly the Weedons Reserve, she considered that limited visual impacts would be anticipated given existing vegetation, that views are limited and temporary only, and used by a limited scope of groups. She concluded the anticipated effects on those areas would be low.⁴⁷
160. My site visit to the Weedons Ross Reserve and surrounding areas, supported that description.

⁴³ Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [32]

⁴⁴ Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [35]

⁴⁵ Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [38]

⁴⁶ Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [42]

⁴⁷ Statement of Evidence of Anne Eleanor Wilkins dated 23 July 2021 at paragraph [45]

161. Ms Wilkins addressed design and mitigation and made several recommendations, before providing a direct response to the submitters and the officers report.
162. I spent some time during the hearing discussing with Ms Wilkins these issues and clarifying matters of uncertainty. Those discussions were useful.
163. Mr Bentley attended the hearing and provided clarification of comments made in his peer review. He was comfortable with the methodology employed by Ms Wilkins. He confirmed that he agreed with the proposed bunds and their associated landscape treatment. He considered those would greatly assist to mitigate visual effects in the short term and effectively in the long term as the vegetation matured.
164. In relation to the providing of detailed species, he noted that a list of species was provided in Ms Wilkins' evidence which was consistent with those listed in Rule 24.1.3.13 and they contribute primarily to screening rather than an amenity effect. He considered with further design, additional species could be included to ensure a level of amenity consistent to Maddisons Road.
165. He addressed management of planting. He considered that while that was a level of detail not required at this stage of the process, there was an implicit maintenance rule around the replacing of dead and dying or damaged species. He advised that it was likely that some form of irrigation would be required.
166. In terms of the retention of the shelterbelt along the eastern boundary of the site as sought by Mr Thomas, Mr Bentley agreed with Ms Wilkins that its retention may inhibit progress of the bund and establishment of planting. He recommended that the landscape treatments occur as a matter of priority and, as far as possible, constructed in advance of the remainder of the site.
167. Overall, he considered that the requirements specified were sufficient to mitigate the identified adverse landscape and visual effects and sufficiently deal with the rural-urban interface.
168. I took the opportunity to discuss landscape matters with Mr Thomas. He was concerned that while there had been a concession by the Applicant in relation to the implementation of the 2.5 metre bund on the northern and eastern boundaries, that did not include the change from Landscape Treatment 1 to Landscape Treatment 4 on the northern boundary which he had sought. He considered the development would still be visible once Landscape Treatment 1 had matured.
169. I discussed with Mr Thomas the existing landscape and whether the existence of the Midland Port affected him. He advised that at times they could see the lights of the Midland Port at night and could occasionally hear backing signals but it was not really seen. His concerns were this plan change would bring the activity closer.

Analysis

170. I attended Mr Thomas' dwelling on my site visit, and this was helpful. Undoubtedly there will be a change from a landscape perspective, but I consider, in light of the expert evidence and particularly the mitigation measures now proposed by the Applicant, the effects of the change are appropriately addressed.
171. LJ and CM Manion (Submitter PC66-0004) who own a property bordering LPC, raised several issues. First, they had concerns about the impacts of allowing containers up to six containers high. They considered that to be visually unappealing, resulting in blocking of views and shade on their property in the afternoon.
172. They also submitted that the landscaping in Area 4 would take too long to establish and that as a result, sought a 3 metre high landscaped earthbund between their property and the site.
173. Ms Wilkins expressly addressed their concerns in her evidence.⁴⁸ She noted that the Boffa Miskell Report went into detail of shipping container heights, assessing them as buildings and therefore subject to the same rules, being that of a 15 metre height limit. She agreed that this would generally entail five stacked containers.
174. In terms of the effectiveness of landscape, she agreed that it would take time to grow and be effective in screening. She noted however that the Landscape Treatment Area 1 and 4 is required to be at least 1 and 2 metres at the time of planting so that some additional screening were present. She also noted that the planted height would additionally be added to the height of earthbund which, as noted on the ODP, includes a 2.5 metre high (minimum height) landscape bund along the north, south and east rural zone boundaries.
175. She concluded that with these requirements, the landscaping would be sufficiently effective, and increasingly so over time. She noted pursuant to Rule 24.1.3.13 there was a requirement for landscape planting to be established and located in accordance with the landscape provisions prior to the construction of any new principal buildings associated with the plan change.
176. I accept Ms Wilkins' evidence on these matters. I also note that Mr Bentley considered the container height issue noting that it was likely that five containers could be stacked as a permitted activity but that if six containers would exceed the 15 metre height limit, then a resource consent would be required. He considered that if there was to be any exceedance, that, and the transient nature of containers, could be considered.
177. Ms White considered that there was not sufficient reason to apply a lower height limit to the site for containers than that applying at other Business 2A zoned land, being 15 metres for

⁴⁸ Statement of Evidence of Anne Eleanor Wilkins dated 24 July 2021 at paragraph [54]

buildings and 25 metres for structures. She also noted a 10 metre setback is required from boundaries adjoining rural zoned land pursuant to Rule 16.7.2.7.⁴⁹

178. Overall, I consider the concerns expressed by LJ and CM Manion have been appropriately addressed. The changes made to the ODP in relation to bunding in particular, increase the mitigation of amenity effects on surrounding rural/rural residential sites.
179. Ms Wilkins also addressed the further submission by V Croft. She acknowledged the risk of fringe effects and of industrial creep, but considered that the site was suitably encapsulated, being bordered on two sides by an existing industrial zone so that any adverse effect is minimised. I agree.
180. In relation to the wider effects on the amenity values of the area raised by Ms Greenfield and others, they have been appropriately addressed.
181. I have no doubt that there will be a noticeable change to the environment from moving of the industrial zoning closer to the rural residential properties in Maddisons Road in particular. In relation to the bulk of those properties, given the location of the dwellings and distance, those effects are likely to be moderate to high initially but will be reduced over time. I agree with Ms Wilkins that overall, the impact is likely to be low to moderate.⁵⁰ I note Mr Bentley agreed that the adverse visual effects for houses assessed off Maddisons Road would likely be in the moderate to high category but when considered in conjunction with landscape treatment, they would reduce over time as the planting matures.
182. I have carefully addressed the level of change with both of the experts and I am satisfied that in the wider environment the effects are likely to be acceptable. The Applicant has proffered additional landscape treatment. I accept that this site, given that it is adjacent to the IPort land, and the LPC site, does, to a degree, nestle within the existing industrial zoning.

Reverse Sensitivity

183. Reverse sensitivity was addressed by Ms White in her assessment of amenity effects. She acknowledged that clearly reverse sensitivity effects arise from effects on amenity. The Applicant has proffered, and LPC has accepted, a non-complying activity rule for development of any noise sensitive activity located within 80m of the Midland Port site.
184. Ms White assessed the appropriateness of that rule notwithstanding that it was agreed. She noted that the concern raised by LPC already arises in terms of other Business 2A zonings located in proximity to its operations. She considered that restricting noise sensitive activities near the interface with the Midland Port was generally consistent with the approach taken in the PDP and was supported by a direction in the CRPS.

⁴⁹ s42A Report at paragraph [60]

⁵⁰ Statement of Evidence of Anne Eleanor Wilkins dated 24 July 2021 at paragraph [35]

185. This was also raised by Ms Penny in terms of a sterilisation of land use. Given the nature of the industrial land use, the landscape treatment, bunding and similar, I do not consider that a sterilisation effect is likely to occur.
186. Overall, I am satisfied that reverse sensitivity issues have been appropriately addressed.

Impact on Highly Productive/Versatile Soils

187. Three submitters, D Penny (Submitter PC66-0003), C Greenfield (Submitter PC66-0010) and CRC (Submitter PC66-0007), and S Carrick, a further submitter (PC66-0014), all raised the issue of the loss of highly productive soils. Ms Penny appeared. CRC appeared but did not address this issue, rather focussing on flooding.
188. For the Applicant, Mr Mthamo provided expert evidence. Mr Mthamo has been involved with PC66 since May of 2021 when he was engaged by the Applicant to carry out a desktop study of the effects of the proposal on the potential loss of productive land resulting from a change of land use from Rural to Business.
189. Mr Mthamo holds a Bachelor of Agricultural Engineering (Honours) with a major in Soil Science and Water Resources (University of Zimbabwe), a Master of Engineering Science in Water Resources (University of Melbourne) together with other qualifications. He is a member of Engineering New Zealand and a Chartered Professional Engineer and an International Professional Engineer. He is a past Technical Committee Member of Water New Zealand and New Zealand Land Treatment Collective.
190. Mr Mthamo described the existing soils of the site. He stated that highly productive land or versatile soils are regarded as the best possible land or soils for agricultural production because of their properties. He noted that various documents and statutory planning tools in New Zealand provide definitions of versatile soils and he therefore considered it necessary to provide a common understanding of what versatile soils are. Mr Mthamo discussed the New Zealand Land Resource Inventory and the classification system. He addressed the CRPS and the description that:

Soil versatility is an expression used to describe the land use capability of soils. A highly versatile soil has few limitations for use, that is it will be suitable for primary production with few inputs such as additional water or nutrients. Less versatile soil will need more inputs to achieve similar production or will simply be unsuitable for agriculture or forestry.

191. He also referred to Policy 5.3.12 of the CRPS before summarising the CRC's definitions as defining versatile soils as those that are in LUC Classes 1 and 2, with the total area in LUC Classes 1 and 2 in Canterbury being 293,700 hectares.
192. He noted the objectives and policies of the SDP and also addressed the pNPS-HPL which he noted was still in a consultative stage.

193. In his Summary of Evidence, Mr Mthamo considered that the proposed plan change would not necessarily have adverse significant effects on the District or region's versatile soil resource nor would it create a shortage of land or soil resource for other activities in the future for several reasons including:
- (a) The land is currently used for pasture production and is not intensively farmed. There were limitations under the CLWRP and in particular the Selwyn Te Waihora Sub-regional Plan leading to a view that intensive farming may not be possible due to restrictions on nutrient losses;
 - (b) Advances in technology and farming techniques have been such that the removal of 27.28 hectares is unlikely to result in any significant loss of production as it can be made up elsewhere in the District;
 - (c) The developable area in the context of the LUC 1 and LUC 2 soils in the District and the region is very small (0.05% and 0.009% respectively) and the actual developed area is less. He considered the reduction in agricultural productivity would be insignificant and the productivity from the area could be made up elsewhere within the irrigated land;
 - (d) He also identified potential for reverse sensitivity issues constraining the future use of the land for rural activities and also identified some limitation with the soils. He considered that removal of this land may lead to increased reliability on irrigation for the remainder of the 117 hectares if consented, and, depending on crop yields, it is possible that the increase in productivity may compensate for the removal of the 27.28 hectares.
194. Mr Mthamo then addressed the submissions of Ms Penny in some detail.
195. Given the importance of this topic, I spent some time discussing with Mr Mthamo aspects of his evidence, including assumptions and other matters relied on.
196. Ms Penny provided and presented a comprehensive statement addressing the properties of the soil and land. She stated that it is LUC 2 land that is highly valued for its productive potential and that the rezoning of this land would take it out of future productive use. She considered further that land around the site would be rendered unusable due to reverse sensitivity effects so not only would the 28 hectares be taken out of use, the surrounding LUC 2 or 3 land would also be rendered sterile. This, in her submission, gave rise to a 'creep effect' which should not be allowed to even start.
197. She addressed what she described as the 'forthcoming National Policy Statement' (being the pNPS-HPL) and submitted that while the timing of the release of the pNPS-HPL was not clear, regard should be given to it. She considered it would be "unethical" to grandfather in consents so close to the release of the key requirement. She was critical that the Applicant did not identify the LUC properties of the land in its initial application and submitted that there was ample evidence to indicate that there was no valid reason to grant the consent and allow this land to be rezoned. She submitted it was contrary to policy, plans and the forthcoming NPS.

198. She noted the significance of primary production in Canterbury's rural areas and its contribution to the economic and social wellbeing of Canterbury's people and communities. She stressed the importance of managing resources and activities in rural areas so that the foreseeable potential of the rural primary base of Canterbury is maintained. She identified 5.3.12 of the CRPS being to maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas which are valued for existing or foreseeable future primary production by:

1. *Avoiding development, and/or fragmentation which:*
 - a. *forecloses the ability to make appropriate use of that land for primary production; and/or*
 - b. *results in reverse sensitivity effects that limit or precludes primary production.*

199. Ms Penny spent some time on Chapter 12 of the CRPS referring me to 15.1 issues – soil degradation, Objective 15.2.1 – maintenance of soil quality, and Policy 15.3.1 – avoid, remedy or mitigate soil degradation in relation to soil, and requested that I consider Chapter 15 as a whole.

200. Ms Penny also identified Policy B1.1.8 in particular, which provides:

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.*

201. Ms Penny submitted that both aspects were applicable as the land was appropriate for other activities and there are other areas adjoining that do not contain versatile soils. She provided an image which illustrated the proximity of the site to non-LUC classified land being approximately 2.5 kilometres away.

202. Ms Penny addressed the s42A comments recording her understanding that the pNPS-HPL is currently proposed, but in any event there are adequate provisions in the CRPS to which the SDP should be giving regard together with provisions in the SDP. She noted that SDC already had 170 hectares of LUC 2 and 3 land consented for land use in 2020 and it was unacceptable to keep granting consents in clear contravention of current and proposed requirements to act responsibly and ensure such land is safeguarded for long term and future use.

203. Ms Penny addressed Mr Mthamo's evidence in some detail. She submitted that the requirements to reduce nitrate discharge would apply across various sectors and it was not appropriate to assume that this would result in reduced productivity and requested this be regarded with caution.

204. She commented on Mr Mthamo's evidence as to the quantity of LUC 1 and 2 in the Selwyn area. She submitted that each small amount adds up. She commented on Mr Mthamo's reference to case law. She focused her comments in relation to the case on comments made regarding cumulative loss of productive land resources.
205. By way of conclusion, she submitted it would be wrong for this land to be rezoned and that the reasons to decline outweigh the reasons to grant. She noted that the fact that it is 'only' 28 hectares is irrelevant as it does not take many such consents to add up and reduce the available land for production. She considered the 'death by a 1000 cuts' was appropriate in these circumstances.
206. Both Ms Seaton and Ms White addressed the versatile soil issues. Ms Seaton acknowledged the presence of versatile soils but relying on Mr Mthamo, the loss was not considered significant. She did not consider the adverse effects of the versatile soil lost should prevail over the potential benefits of the proposal. Ms Seaton considered Policy B1.1.8 of the SDP. She considered the proposal had some tension with that policy but was not contrary to it. Ms White had a similar opinion and overall considered the loss of versatile soils to be a relevant matter for consideration but one which should form part of the overall evaluation.

My Analysis

207. I discussed Policy B1.1.8 and its avoidance nature with both Ms Seaton and Ms White. Ms Seaton accepted that on its text, it appeared to be a directive and avoidance based policy, but the explanation identified that factors other than its physical qualities were relevant including distance to markets, climate, water resources and activities on surrounding sites.
208. The explanation notes that if a site is useful for production purposes, the second limb of Policy B1.1.8 applies, and that is to avoid rezoning that site if there are alternative sites adjoining the township which are suitable for erecting new buildings and do not contain versatile soils. The explanation also records that the RMA does not recognise adverse effects of activities on soils as having primacy over adverse effects on other parts of the environment.
209. There is no dispute that the soils at the site are classed as highly productive. As Mr Mthamo stated in his summary, the soils are classed as highly productive regardless of whether the definition from the CRPS or the pNPS-HPL are applied. Their importance is recognised in both the CRPS and the SDP.
210. In my view, the identification of the soil as LUC 2 provides a starting point for my consideration of effects. The soils have inherent properties which must be considered carefully.
211. I agree with Ms Penny that care needs to be taken to avoid 'death by a 1000 cuts' and that cumulative effects are relevant.
212. Mr Carrick, in his further submission, also identified cumulative loss and referenced the Our Land 2021 report. Ms Greenfield's submission touched on that issue.

213. Nevertheless, neither the RMA, the CRPS or the SDP place primacy on soils over other natural and physical resources which allow people and their communities to provide for the needs of current and future generations.⁵¹
214. The case law referred to by Mr Mthamo, and particularly the *Canterbury Regional Council v Selwyn District Council* [1997] NZRMA 25 case, is instructive in that Judge Treadwell provided a comprehensive list of factors that need to be considered in determining if land is productive. These were broader than land use capability.
215. Mr Mthamo has carried out such an assessment. He has identified a number of factors relevant to this site which he considers would limit the productive use of the soil. I agree that a number of those are relevant to this site. The land is clearly capable of sustaining productive activity to a degree. Somewhat unusually it is irrigated. I accept Mr Mthamo's evidence there are likely to be limitations in relation to future use, particularly in relation to nitrate discharges. While I do not consider that productive values of soil should be assessed, in essence, on the ability or otherwise of intensification of land use for productive activities, I accept that that may be relevant for the overall assessment.
216. Overall, I agree with Ms White that the loss of the productive soils is a relevant matter to be considered alongside other relevant matters. I do not consider the actual and potential effects on highly productive soils, either by reference just to this particular proposal, or cumulatively, are sufficient to justify rejecting this proposal.

Water Supply

217. FENZ (Submitter PC66-0006) considered that there was an absence of information and lack of clarity in relation to water supply and there was a risk that insufficient water supply for firefighting may be provided into the site.
218. In terms of the issue raised in that submission, Mr England, the Council's Asset Manager – Water Services, provided comments. He noted that the Rolleston scheme was designed as a domestic supply that complies with the NZ Fire Fighting Code of Practice.
219. He further advised that SDC requires all new subdivisions to be designed and constructed in accordance with the SDC's Engineering Code of Practice. Section 7.5.4 addresses fire service requirements including compliance with the Fire Service Code of Practice. He also noted that the SDC's Engineering Code of Practice, Section 7.5.4, places the obligation on site owners for providing fire services which are designed to meet the requirements of the New Zealand Building Code. By way of summary, he stated that reticulated water supply for this proposed plan change would need to be designed to meet firefighting standards. Where the future development of the individual sites requires specific requirements, these would need to be provided by the applicant as on-site solutions.⁵²

⁵¹ SDC Baseline Assessment Versatile Soils (DW015)

⁵² Officer Comments of Murray England at paragraph [19]

220. Mr McLeod for the Applicant referenced Mr England's report. He advised that the design of the earlier stages of the IPort Business Park included making provision for extending water mains into the proposed PC66 area and design checks were carried out at that time by staff working under his direction to confirm the water mains installed on the earlier stages had sufficient capacity to supply the proposed PC66 area to meet firefighting standards for FW4 classification. He agreed with Mr England that SDC existing standards and design processes were sufficient to ensure that adequate water supply for firefighting was achieved.⁵³
221. Ms White noted that the provision of water for firefighting was an existing matter for discretion at the time of subdivision (Rule 24.1.4.3) and referenced Mr England's statement detailing the requirements placed on subdivisions in relation to firefighting capacity under SDC's Engineering Code of Practice.⁵⁴
222. Ms Seaton acknowledged that the Applicant had volunteered a suite of provisions to be inserted into the SDP requiring adequate firefighting water supply. On the basis of Ms White's report, Mr McLeod's evidence, and Mr England's opinions, she accepted that it was unnecessary for the proposed new firefighting water supply rules to be included.
223. Overall I am satisfied that the concerns raised by FENZ can be addressed without the need for specific provisions.

Potential Contamination

224. The Ministry of Education (Submitter PC66-0009) expressed concerns about potential contamination effects of the activities enabled under the Business 2A zoning on the bore which supplies the Weedons School drinking water.
225. Ms White considered that water quality was not a matter managed by SDC or within the functions of territorial authorities under the RMA. She noted that in the response to a request for further information in relation to servicing of the site, a Memorandum by WSP addressed wastewater and concluded that the wastewater network had the capacity to receive wastewater flows predicted from the development of the site and that increased wastewater flows from the rezoning were not predicted to cause any capacity issues in the gravity pipe network during peak wet weather flow. She referred to Mr England's statement confirming that there is a viable means to dispose of wastewater from this plan change site. She concluded that the site was able to be serviced by SDC's wastewater network and would not result in discharges to ground from wastewater.⁵⁵
226. Ms White also identified that in relation to stormwater discharges, any discharges to ground would need to meet the requirements of the CLWRP, either in terms of meeting permitted activity conditions or through a resource consent. Again, Ms White referenced Mr England's

⁵³ Statement of Evidence of Timothy Douglas McLeod at paragraphs [19]-[25]

⁵⁴ s42A Report at paragraph [75]

⁵⁵ s42A Report at paragraphs [76]-[77]

report and his opinion that the proposed discharge of stormwater to ground via sump to soakhole is appropriate and that authorisation of such discharge would be required from CRC in order for a subdivision consent for the site to be granted. He further agreed that there was a viable means of stormwater disposal from the site. In reliance on those matters, and noting that CRC's submission did not raise a concern in relation to stormwater management, she did not consider the Ministry's concerns sufficient to preclude the site's rezoning.⁵⁶

227. On the basis of the evidence referred to above, I am satisfied that, to the degree they are within SDC's jurisdiction, the risk of any contamination is not of such moment as to preclude the site's rezoning. Any proposed discharge of stormwater to ground will require authorisation from CRC in order for a subdivision consent to be granted. Effects can be properly assessed and addressed at that stage.

General Infrastructure Issues

228. While no general concerns were raised by submitters in relation to infrastructure (other than as noted above), I am satisfied, primarily on the basis of Mr England's report, that the site can be appropriately serviced. I comment on this in the following paragraphs addressing Urban Form.

Flooding

229. CRC (Submitter PC66-0007) identified concerns in relation to flooding and particularly raised concerns in relation to what are described as two well-defined overland flow paths carrying reasonable flows during 200 and 500 year ARI events.
230. Its submission recorded that the water depth and the flow speeds in the western channel were such that this area would meet the definition of a high hazard area in Chapter 11 of the CRPS and any development should ideally be avoided. If the rezoning were approved, it sought that the development is undertaken in such a way that the channels are maintained in their current form or realigned so the water could enter and exit the site in the same fashion and with sufficient capacity to avoid overflows into other areas and address potential diversion issues.
231. In the s42A Report, Ms White identified Policy 11.3.1 of the CRPS which directs that new subdivision, use and development of land in high hazard areas is avoided, unless it meets the criteria specified in that policy. She identified the relevant requirements being that the subdivision, use and development:
- Is not likely to result in loss of life or serious injury in the event of a natural hazard occurrence; and
 - Is not likely to suffer significant damage or loss in the event of a natural hazard occurrence; and

⁵⁶ s42A Report at paragraph [78]

- Is not likely to require new or upgraded hazard mitigation works to mitigate or avoid the natural hazard; and
 - Is not likely to exacerbate the effects of the natural hazard.
232. At the time of her s42A Report, Ms White was not satisfied that the policy had been given effect to through the proposal, and particularly the proposed rule package only required the new principal buildings located within areas subject to a 200 year ARI flood event to achieve a minimum floor level. She was concerned about a lack of technical evidence to determine if this was sufficient to avoid any likely loss of life or injuries or significant damage or loss. She was also concerned that the minimum floor levels may exacerbate the effects of the natural hazard by displacing flood flows and she did not consider it clear how the proposed bunding may affect the high hazard areas.
233. In light of the strong direction in the CRPS, it was her opinion, at that stage, that it would be appropriate to identify the high hazard area on the ODP and preclude permanent built development within that area or, alternatively, if the high hazard area flow path was to be realigned, then that could be undertaken in a way that met the direction in Policy 11.3.1 of the CRPS, or alternatively add a further standard and term related to matters of discretion in relation to the subdivision rules.
234. As noted in the earlier summary of evidence, Mr McLeod identified LiDAR inaccuracies. Given his preliminary assessment was not conclusive, he still held sufficient doubts around the accuracy of the LiDAR modelling across the site and further upstream to consider it possible that the site is not a high flood hazard area. In any event, he noted that the Applicant was now proposing rules which would allow for the flood hazard risk to be assessed at a proposed development stage. He considered that appropriate given the uncertainty as to whether the site did in fact contain a high flood hazard. It was his opinion that engineering solutions can allow development to occur in high hazard areas, where the effects of the hazard are adequately mitigated. In this case, he considered it appropriate that this be considered on a case by case basis at resource consent stage.
235. Mr Griffiths for CRC provided evidence focusing on the LiDAR inaccuracies and concluded that they were likely to have had an impact on the 500 year ARI modelled results of the PC66 site, but even if they did not exist, the channel through the western part of the site would still meet the CRPS definition of a high hazard area.
236. In discussions, Mr Griffiths noted that with channelised hazard areas, it required more thought as to how it would be addressed while allowing the flows to pass through. Mr Griffiths considered the proposed rules in relation to the high hazard areas may assist in addressing the high hazard issue, but there may still be other issues in relation to the 1:200 year event.

237. At the hearing, Ms White advised that, in her view, the amendments proposed in relation to the high flood hazard area were appropriate to address the matters raised in her report, and the approach proposed would give effect to the CRPS.
238. Overall, I am satisfied that the identification of the area subject to the potential 1:500 hazard, together with the policy proposed B3.1.9, the proposed new rule in relation to earthworks and similar are sufficient to address flood hazard effects.

Contaminated Land

239. As noted in the s42A Report, CRC (Submitter PC66-0007) noted that an aerial imagery for the site showed two agricultural buildings that appeared to have been there for some time and that although the site was not listed in the Listed Land Use Register, confirmation that no sheep or stock dipping has taken place in the area historically is advised with an investigation if required to evidence it.
240. Ms White provided her analysis of this submission in paragraph [87] of her s42A Report and recorded her view that there was no need at this point in time for historic activities to be investigated and, given the limited scale of the land which may be considered contaminated, this did not amount to an impediment to the change in the zone and was a matter which could be appropriately addressed through the NESCS in the future. I agree.

Urban Form

241. CRC identified in its submission that the site is located within the PIB shown on Map A within Chapter 6 of the CRPS but further noted it was not identified as a Greenfield Priority Area for Business. It was therefore inconsistent with Objective 6.2.1 of the CRPS.
242. The submission also recorded that planning decisions must now also give effect to the NPS-UD, including Policy 8.
243. Ms White addressed a number of issues in her analysis at paragraphs [92] – [94]. She noted that the site was located within the PIB as shown on Map A, and that Mr England was satisfied that water and wastewater capacity could be made available for the plan change area while ensuring sufficient supply is available for areas within the RSP boundary.⁵⁷
244. Ms White then addressed Mr Foy's report in relation to economic benefits and whether there was sufficient industrial land zoned and the need for additional industrial land to be zoned at this time.
245. Ms White also addressed the PDP and particularly the Urban Growth Chapter. She identified that new urban areas have an underlying General Rural zoning but are identified within an UGO. She identified that UG-P2 directs that rezoning of land to establish new urban areas

⁵⁷ S42A Report at paragraph [92]

within the UGO is provided for; while UG-P3 directs the avoidance of zoning to establish new urban areas/township extensions outside the UGO. She identified that PC66 was within the UGO. Ms White then set out the relevant policies in the PDP which she considered the proposed rezoning generally aligned with, apart from those relating to high hazard areas, recognising and providing for the finite nature of versatile soil, and extending the township boundary in UG-P15.

246. Ms Seaton expressed her view that the matters raised in relation to this issue by Ms White indicated that the analysis was primarily around whether the proposal is an appropriate extension of the urban area and existing industrial zone. Her reading of Ms White's report was that it sought to address two issues being; is the extension appropriate in the physical location; and is the extension necessary. Ms Seaton noted that those considerations fed into a wider discussion later in the report around the NPS-UD and she would reserve a fuller consideration of that for later in her evidence.
247. Ms Seaton noted that Mr England had confirmed the site could be adequately serviced and that servicing would not occur at the expense of existing urban zoned areas. She noted further that the site sits within the PIB of the CRPS, is contained within the UGO of the PDP, and there was therefore general agreement that the extension of the existing Business 2A zone or some other form of business zoning was anticipated at some point in the foreseeable future.
248. Ms Seaton considered these matters reinforced her own view that the location of the extension is appropriate, being adjacent and bordered on two sides by existing Business 2A zoning, adjacent an existing rail siding with potential to be extended, and in close proximity to State Highway 1 with attendant transport efficiencies.⁵⁸
249. Ms Seaton addressed issues of demand and whether they were relevant before recording her view that the proposal does provide for an appropriate extension of the existing urban form.⁵⁹
250. I address issues in relation to the NPS-UD subsequent in my Recommendation, but in reference to the urban form, I accept the proposal is not entirely unanticipated, that it aligns with future urban form outcomes anticipated for Rolleston and its location adjacent to the existing Business 2A zoning leads to an appropriate urban form.

Economic Effects

251. In terms of economic effects, there were initially some differences between Mr Copeland and Mr Foy. Ultimately those areas of disagreement were resolved to the degree that there were no matters in dispute. Mr Foy's Summary Statement presented at the hearing (by AVL) explicitly recorded agreement with Mr Copeland's assessment of the economic benefits of PC66 and in particular:

⁵⁸ Statement of Evidence of Kim Marie Seaton at paragraph [52]

⁵⁹ Statement of Evidence of Kim Marie Seaton at paragraph [56]

- (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. 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 will increase local employment opportunities for Selwyn residents, thereby reducing their commuting costs;
- (f) The site has unique locational advantages, being adjacent to LPC's Midland Port, and the existing rail spur that finishes just south of the site.

252. Mr Foy further accepted:

- (a) The conclusions of Mr O'Styke and Mr Staite regarding the existing shortage of freehold industrial land in Greater Christchurch, particularly in Rolleston;
- (b) Ms Seaton's observation that the NPS-UD does not require that councils should provide only enough land to meet demand and that greater availability of land should not be foreclosed, having, as it does, the attendant economic benefits identified by Mr Copeland;
- (c) LPC's letter (appended to Mr Carter's evidence) in support of the application explains how the company would benefit from an extended rail siding, and that the site is the only location that would provide the opportunity to accommodate an extended siding.

253. Mr Foy also confirmed that non-complying activity status in relation to commercial or retail activity would minimise the likelihood that the site could contribute to an ongoing agglomeration of retail and other commercial activity within the Business 2A zone and agreed that it was an appropriate mitigating factor that should be included if the application is approved.

Conclusion on Economic Effects

254. I have summarised Mr Copeland's evidence in paragraphs [59] – [64] and I do not repeat it. I accept the opinions of the expert economists, informed by the evidence of Mr O'Styke and Mr Staite, and LPC's advice in relation to the benefits to it. The economic benefits extend well beyond direct benefits accruing to the Applicant. The economic costs arising from the loss of agricultural activity are considerably less than minor.

Conclusion On Effects

255. Overall, having considered all the submissions, evidence and the additional matters proposed to address specific issues which have arisen, I consider the effects on the environment are adequately addressed in so far as relevant at this stage. A number of effects will of course be subject to further scrutiny at consent stage in accordance with the framework proposed.

Potential Inconsistency Between CRPS and NPS-UD

256. Before I assess this plan change against the relevant statutory documents, it is appropriate I address the potential inconsistency between the CRPS and NPS-UD.
257. The NPS-UD, and particularly Policy 8 of the NPS-UD, was addressed briefly in opening submissions. It was submitted that it was appropriate that SDC be responsive to this plan change in a manner that is consistent with the NPS-UD. Ms Appleyard submitted that this proposal was exactly the type of proposal which Policy 8 of the NPS-UD sought to enable by requiring councils to be responsive.
258. The s32 report forming part of the Request expressly identified that the plan change was not located within an identified priority area for urban development within Greater Christchurch but the NPS-UD Policy 8 provides for inconsistency with this requirement.
259. It further acknowledged, in relation to Objective 6.2.6 of the CRPS, that the proposal would provide for industrial development adjacent to, but not within an existing industrial area and not within a Greenfield Priority Area.
260. Ms White identified that the plan change is not consistent with Objective 6.2.1(3), Objective 6.2.6, Policy 6.3.1 or Policy 6.3.6 because it proposed urban development outside an existing urban area or identified greenfield areas. Her opinion was that a key consideration for whether this plan change be approved or declined comes down to whether or not the significance of the development capacity provided by the plan change should be given more weight than the current direction in the CRPS.
261. Ms Seaton, in her written evidence, addressed Ms White's comments in paragraph [113] of the Officer's Report in relation to the inconsistency with the relevant objectives and policy. Ms Seaton considered PC66's capacity would be significant, and it was therefore appropriate for SDC to be responsive to the plan change and approve it in accordance with the NPS-UD, regardless of the inconsistency with existing restrictive CRPS urban boundary policies.
262. I discussed this issue with Ms Appleyard, Ms Seaton and Ms White during the hearing and particularly the inconsistency with relevant objectives in the CRPS and queried how the NPS-UD applied in circumstances where there were clear avoidance policies in the CRPS. Following those discussions, I asked Ms Appleyard to provide further comment on that issue in her closing submissions.

263. CRC's submission identified that Chapter 6 seeks that development is located and designed in a way that achieves consolidated and coordinated urban growth that integrates with the provision of infrastructure. The submission noted that the site is located within the PIB shown on Map A but was not identified as a Greenfield Priority Area for business. The plan change request is therefore considered to be inconsistent with the land use and infrastructure framework of Objective 6.2.1(3) which *"avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS"*.

264. CRC's submission acknowledged that planning decisions must now also give effect to the NPS-UD and that Policy 8 of the NPS-UD requires local authorities to be responsive to unanticipated or out-of-sequence plan change proposals etc. The decision sought in relation to this issue was:

To give careful consideration through the hearing process and the section 32 analysis to whether the proposed Plan Change will add significant development capacity and contribute to a well-functioning urban environment that is well-connected along transport corridors in the Greater Christchurch area.

265. CRC neither supported nor opposed the proposal.

266. I record that this was not an issue in dispute. None of the submitters on this proposal argued, or even suggested, the responsive planning provisions of the NPS-UD were not available to me.

The Applicant's Submissions

267. I have summarised the Applicant's submissions on this issue earlier in my Recommendation.⁶⁰ The submissions included a table which had also been provided to the Panel hearing the PDP which provided a timeline and brief description of the relevant planning documents related to this issue. The table identified the LURP which took effect in December 2013 and amended the CRPS to include Chapter 6 (Recovery and Rebuilding of Greater Christchurch Area) and identified Greenfield Priority Areas. The document also introduced the first iteration of Map A in the CRPS.

268. The NPS-UDC took effect in December 2016. Ms Appleyard described its purpose as being to ensure that councils enabled development capacity for housing and businesses (through the land-use planning infrastructure) so that urban areas could grow and change in response to the needs of the community. She noted the emphasis was to direct councils to provide sufficient development capacity and enable development to meet demand in the short, medium, and long term.

269. The next document referred to was Our Space, which was endorsed by the Greater Christchurch Partnership in June 2019 and was prepared to give effect to the NPS-UDC and particularly the provision of sufficient development capacity.

⁶⁰ Paragraphs [104] - [106]

270. Our Space proposed that Map A of the CRPS be amended to include Future Development Areas which would give effect to the NPS-UDC. Ms Appleyard pointed my attention to the note at the bottom of the map which provides:

While it is intended Our Space provides some direction to inform future RMA processes, [this map] is indicative only.

271. The NPS-UD took effect in August 2020. Ms Appleyard identified as being of particular relevance the following change in the direction to councils to *“at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term”*.
272. The table records that it also introduced a range of policies and objectives not contemplated in the NPS-UDC and particularly Objective 6 and Policy 8.
273. The next document was PC1 which was made operative in July 2021. It was approved by the Minister for the Environment under the Streamlined Planning Process and amended the CRPS to include in Map A the Future Development Areas identified in Our Space. This document also introduced new objectives and policies around the Future Development Areas. The comments state that it did not fully give effect to the NPS-UD as it includes only the Future Development Areas from Our Space which only gave effect to the NPS-UDC.
274. In response to a question which I raised at the hearing, Ms Appleyard addressed the issue of whether PC1 gave effect to the NPS-UD.
275. Ms Appleyard accepted that PC1 does, to some extent, give effect to the NPS-UD as is required under s62(3) of the RMA, but it is submitted that it is not the end of the requirement to give effect to the NPS-UD in the Canterbury Region. She submitted it does not in and of itself give effect to the NPS-UD in its entirety and identified relevant passages from the report to the Minister acknowledging this.
276. Ms Appleyard then addressed the principles of statutory interpretation and the hierarchy of planning documents, cited various passages from *EDS v New Zealand King Salmon* [2014] NZSC 38, discussed the reconciliation approach, submitted that adopting the interpretation of ‘avoid’ in the context of interpreting the CRPS would not reconcile it with Policy 8 of the NPS-UD and that a rigid interpretation of the word ‘avoid’ inherently prevents local authorities from being responsive or even considering the merits of a plan change that would otherwise add significantly to development criteria and contribute to well-functioning urban environments where these fall outside of Greenfield Priority Areas.⁶¹
277. She submitted further that the requirement of the NPS-UD, that local authorities be responsive to development capacity meeting certain criteria even if it is unanticipated or out-of-sequence, is clearly intended to target exactly this type of objective in the CRPS and to say that the ‘avoid’

⁶¹ Closing Legal Submissions on behalf of Rolleston Developments Limited dated 25 August 2021 at paragraph [33]

policy in the CRPS prevents all developments that fall outside of Map A would be to act in a manner contrary to the specific direction in Policy 8.

My Analysis

278. I considered seeking an opinion from SDC's solicitors on this issue, or providing the submitters with an opportunity to address me on it, particularly given the detailed submissions Ms Appleyard made in her closing. Ultimately, I did not consider that necessary, or indeed, given the nature of CRC's submission, appropriate. This issue was simply not a matter in dispute on this proposal. I am aware, as Commissioner on a number of other private plan changes, that the relationship of the NPS-UD and the CRPS is a much more controversial and central issue attracting full argument.
279. With no disrespect to Ms Appleyard's comprehensive submissions, I am of the view that this issue can only be addressed in so far as it relates to the particular proposal before me. In the absence of full argument, it would be inappropriate for me to purport to make a finding of general application. My Recommendation on this plan change is based on the submissions and evidence which have been put before me which should not be taken as in any way determining the outcome of those arguments.
280. On the basis of my careful consideration of the NPS-UD, and having some regard to the Ministry for the Environment guidance material provided, I consider that the restrictive objectives and policies of the CRPS, and particularly Objective 6.2.1, do not, in the particular circumstances of this proposal, act as a veto on my ability to assess the merits of the proposal and making my Recommendation.
281. In the context of this proposal, I consider such a veto would lead to an absurd outcome and one which would seem to undermine the purpose of the responsive planning provision which enable, in appropriate circumstances, the consideration of unanticipated or out-of-sequence land development.
282. In terms of this particular proposal, I am comfortable that my consideration and Recommendation on the merits is not directly in conflict with the relevant provisions of the CRPS when properly understood. This location is within the PIB identified in Map A. It directly adjoins a Business 2A zone and, acknowledging little if any weight can be provided to the PDP, is identified within the Future Growth Overlay. It is not locationally in accordance with Map A in that it is not identified as a Greenfield Development Area. It does not otherwise confront the Objective 6.2.1.

Statutory Assessment

Statutory Tests

283. The plan change is of course subject to a range of provisions in the RMA. As identified earlier in my Recommendation, there are a number of matters on which I need to be satisfied. These include that the plan change:

- (a) Is in accordance with:
 - (i) The Council's functions as set out in s31 of the RMA;
 - (ii) The purpose and principles in Part 2 of the RMA;
 - (iii) The Council's duty under s32 of the RMA;
- (b) Gives effect to:
 - (i) Any relevant national policy statement;
 - (ii) Any relevant national environmental standard;
 - (iii) The CRPS;
- (c) Have regard to:
 - (i) Any relevant management plans and strategies under other Acts;
 - (ii) The extent to which the district plan needs to be consistent with the plans and proposed plans of adjacent territorial authorities;
 - (iii) The actual and potential effects of activities on the environment;
- (d) Must not be inconsistent with an operative regional plan for any matter specified in s30(1) or a Water Conservation Order;
- (e) Must take into account any relevant planning documents recognised by iwi authority;
- (f) Must not have regard to trade competition or the effects of trade competition.

Statutory Assessment

284. The request for the plan change was accompanied by a comprehensive s32 evaluation and assessment against the statutory framework.

285. In relation to the statutory framework, it identified ss74 and 75 of the RMA. In terms of its s31 functions, the report noted that any plan change must assist SDC to carry out its functions so

as to achieve the purpose of the RMA. It identified that the functions of the territorial authority 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 the use and development of land.

286. It noted that the proposal provides for the use and development of land for industrial activities and seeks to implement existing SDP Business 2A zone provisions over the site with only such amendments as are necessary to recognise the site, the proposed ODP and any issues that are particular to the site. It considered that 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.

287. In terms of s75, it noted that s75 requires a district plan to state objectives for the district, policies to implement the objectives and rules to implement the policies. As proposed, the proposal did not introduce any new, or alter any existing, objectives.

288. The application identified that pursuant to s75(3)(a), (b) and (c), a district plan is required to give effect to any National Policy Statement, Coastal Policy Statement and the CRPS.

289. The application identified that the New Zealand Coastal Policy Statement was not relevant to the site given the large distance between the site and the coastal environment. I agree.

290. The application identified the National Policy Statement for Renewable Energy Generation 2011 but recorded it did not involve nor was it located in proximity to any renewable generation activity or any main electricity transmission lines nor substations. It considered the National Policy Statement for Electricity Transmission 2008 was not relevant. Again, I agree.

291. In terms of the National Policy Statement for Freshwater Management 2020, the application identified that stormwater and wastewater discharges would be dealt with at a future consenting stage but there were no practices or effects anticipated that would be inconsistent with it. Again, I agree.

NPS-UD

292. In relation to the NPS-UD, the application identified the matters of principle relevance to the plan change as:

- Objective 1, as defined by Policy 1 to seek a well-functioning urban environment;
- Recognise that urban environments, including their amenities values, develop and change over time (Objective 4);

- Objective 6 – that local authority decisions on urban development are integrated with infrastructure planning and funding decisions, and strategic over the medium term and long term, and responsive, particularly in relation to proposals which would supply a significant development capacity;
- In relation to Policy 1, the application recorded that planning decisions must contribute to well-functioning urban environments, defined as an urban environment that, among other matters less relevant to this application, provides for accessibility for all people between housing, jobs, community services, natural spaces, open space;
- It identified Policy 2 in relation to the obligation for local authorities at all times to provide at least sufficient development capacity to meet expected demand for housing and business land over the short term, medium term and long term;
- It further identified that Policy 6 requires decision-makers to have particular regard to matters including: the planned urban built form in those RMA planning documents that have given effect to this NPS may involve significant changes in an area, including detracting from amenity values appreciated by some people but improve amenity values appreciated by other people, communities and future generations.

293. Overall, the assessment was that the plan change was generally consistent with the objectives and policies of the NPS-UD and in particular it would provide for a compact urban shape and well-functioning urban environment, being an extension of an existing zone into an area that whilst not identified as a Priority Greenfield Area by the CRPS, was nevertheless within the PIB and therefore anticipated for future urban development. It also stated that the site was able to be serviced adequately and would allow for both land use and transport efficiencies, noting its proximity to strategic transport routes. It noted that the site was able to be serviced adequately.

294. Policy 8 was identified as being particularly relevant to the proposed plan change. That policy provides:

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

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

295. The assessment noted that it was largely unanticipated by the SDP and CRPS, but again identified that it was within the PIB noted on Map A of the CRPS. The assessment provided that the plan change was considered to add significantly to development capacity. It considered that the contribution would be significant noting that the existing area of Business 2A zoning in Selwyn District is all in Rolleston and is 342 hectares. The proposed 27 hectare extension to the Business 2A zoning was an 8% increase on what is currently within the

District. The existing combined area of Business 2A and Business 2 zoning in Rolleston is 387 hectares. The proposed extension would be a 7% increase in that zoning representing a 6% increase to the Business 2 and 2A zoning across the entire Selwyn District.

296. The application identified that the 27 hectare extension also provided an 84% increase on the Business 2A zoning that has a common boundary with the Lyttelton Port's Midland Port. It stated there were great logistical efficiencies and significant cost-savings for enterprises to locate within the Business 2A zoned land that has an open boundary to Lyttelton Port's Midland Port, meaning that containers can be moved by heavy Port vehicles that are not legally allowed to operate on the road. It noted that there is currently 31.9 hectares of land that has an open boundary to Lyttelton Port's Midland Port, and that this proposal would increase the land with an open boundary by 84%.
297. It noted that the site is the only land which can provide an extension to the Lyttelton Port's three rail sidings that have been constructed within its area. Containers could only be efficiently loaded and unloaded on the straight portion of the rail siding and the potential extension utilising this 27 hectares would be 563 metres. This would increase the potential for a straight efficient rail siding by 104%. It noted that the longer the trains, the lower the transport costs and more containers that would be removed from the roading network between Midland Port and Lyttelton Port's water site operation. This was considered to be a significant increase in development capacity.
298. In her report, Ms White largely agreed with the matters identified but considered that the directions in Part 3 of the NPS-UD were relevant. She noted Clause 3.3 which requires that "at least" sufficient development capacity is provided within the District to the expected demand for business land, including different business sectors, in the short, medium and long terms. She considered this to be important because Our Space had assessed and determined there was sufficient capacity for industrial land within Greater Christchurch already. She noted however that the NPS-UD policy only requires that sufficient capacity is provided, not that more is precluded.
299. Ms White also identified Clause 3.5 which requires that local authorities be satisfied that additional infrastructure to service the development is likely to be available. She considered this had been demonstrated through the request, particularly in the response to the request for further information addressing servicing capacity and this had been confirmed by Mr England.
300. Ms White also identified Clause 3.8 which provides direction on how local authorities are to consider plan changes that provide significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release. She noted this required particular regard to be had to development capacity, provided that capacity would contribute to a well-functioning urban environment, be well connected along transport corridors, and meet the criteria in a regional policy statement for determining what is considered to add significantly to development capacity. She confirmed, and there was no dispute on this, that there were

as yet no criteria in the CRPS. Ms White was of the opinion that the proposal provided significant development capacity. She noted that it had been accepted by SDC for notification on that basis.

301. Ms White considered the proposal would provide good accessibility for all people between housing, jobs, community services, natural spaces and open space, and that it would have, or enable, a variety of sites suitable for different business sectors in terms of location and size and supported the competitive operation of land and development markets. Overall, Ms White considered that the rezoning would contribute to a well-functioning urban environment as defined under the NPS-UD and it was well-connected to transport corridors, including both road and rail network.
302. Ms White noted that development capacity was a matter to which particular regard must be had but it was not, of itself, a 'trump card'; rather the significance of the capacity provided needed to be weighed up against the other matters.
303. At the time of her report, Ms White noted the comments by Mr Foy, where he expressed concerns in relation to a lack of information in relation to how any additional demand for port activity would translate into additional industrial land needed to support the expansion of LPC activity.
304. By the time Ms White presented her oral comments and summary at the hearing, she confirmed that in light of Mr Foy's satisfaction in relation to the need for additional industrial land in Rolleston, as well as for the rail siding, there was sufficient evidence of demand for the type of development capacity provided by the site.
305. On that basis, she considered it appropriate for the plan change to be approved. Ms White had a slightly different view on the relevance of demand for land than Ms Seaton, in that she considered demand was relevant when considering whether the rezoning was more appropriate than the status quo in achieving the plan's objectives and purpose of the RMA, particularly given the inconsistency of the proposal with the provisions of the CRPS and SDP objectives. In the end, she did not consider that difference of opinion to be relevant, because additional evidence had been provided demonstrating demand.
306. At the hearing, Ms Seaton noted the general agreement that the proposal gave effect to the NPS-UD, including that it would provide a well-functioning urban environment and that the proposal would provide significant development capacity. She also identified that there was some disagreement in relation to the extent of the significance, considering that Ms White, and the CRC's submission, had placed undue emphasis on the demand for industrial land as a requisite for approval of the plan. She advised that the evidence from Mr O'Styke and Mr Staite demonstrated that demand but considered that the NPS-UD did not require rezoning proposals to be limited by demonstrable demand. Local authorities must provide "at least" sufficient development capacity to meet expected demand for the short, medium and long term.

307. Ms Seaton also considered that the Officers Report had placed unnecessary emphasis on the rail siding extension as a necessary element to ensure the proposal was significant. On the basis of the documentation provided by LPC, the evidence of Mr Staite, Mr O'Styke and Mr Copeland, the opportunity to extend the rail siding was considered to be a distinguishing characteristic of the site but not the only one. She considered it clear that even without that, it would remain nevertheless a significant addition to the Selwyn and Greater Christchurch's industrial land capacity.
308. Ms Seaton's evidence identified that there were a range of matters which needed to be considered, or had particular regard to, in order to determine whether PC66 gives effect to the NPS-UD. She set out a number of the objectives and policies in a tabular form together with her comments in relation to the same.
309. This table provided a helpful and thorough summary of the relevant objectives and policies and spanned some four pages of Ms Seaton's evidence.⁶²
310. In her view, the key considerations in the NPS-UD, in respect of this plan change, were:
- (a) Whether the proposal provides '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
 - (a) Is it well-connected along the transport corridors (Clause 3.8).
311. While I have considered the NPS-UD as a whole, I agree that they are the key considerations.

Significant Development Capacity

312. Objective 6 of the NPS-UD provides: (my emphasis)

Local authority decisions on urban development that affect urban environments are:

- (a) integrated with infrastructure planning and funding decisions; and*
- (b) strategic over the medium term and long term; and*
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.*

313. Policy 2 provides:

⁶² Statement of Evidence of Kim Marie Seaton dated 23 July 2021 at paragraph [61], pages 12-16

Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.

314. Policy 6 identifies that any relevant contribution that will be made to the requirements of the National Policy Statement to provide or realise development capacity is one of the matters which I must have particular regard to.

315. Policy 8 provides:

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

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

316. Clause 3.3 again addresses the capacity issue. It provides:

Sufficient development capacity for business land

(1) Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet the expected demand for business land:

- (a) from different business sectors; and*
- (b) in the short term, medium term, and long term.*

317. Clause 3.3(2) identifies, or in essence defines, what development capacity must be in order for it to be sufficient.

318. As can be seen by even a summary reading of the above objectives and policies, the provision of at least sufficient development capacity is an important plank of the NPS-UD. In my view, it is not about increasing development capacity at any cost. It is however clearly one of the drivers.

319. Ms White, in her s42A Report, discussed Our Space and identified that SDC had adequately considered capacity provided for industrial development and it was not therefore demonstrated that the rezoning was needed.⁶³ Ms Seaton did not share Ms White's then apparent confidence that Our Space in fact evidenced adequate consideration of capacity. Ms Seaton noted that while the Hearing Panel Report on Our Space stated that it accepted the capacity assessment at that time was adequate for its present purposes, it specifically recommended further work be done in the next capacity assessment in relation to demand and location of industrial and business land in close proximity to freight hubs. Ms Seaton's understanding was that this arose specifically in response to Rolleston and IPort.⁶⁴

⁶³ S42A Report at paragraph [120]

⁶⁴ Statement of Evidence of Kim Marie Seaton dated 23 July 2021 at paragraph [83]

320. I have referred to the evidence of Mr Staite or Mr O'Styke earlier in this Recommendation. Both of those witnesses, who are actively engaged in the industrial land market, identified limitations on land capacity at perhaps a more nuanced level. It was the evidence of both of those witnesses that there was very limited availability of the type of land which this proposal was seeking to provide and particularly freehold industrial land. I found their evidence quite compelling.
321. In the end, there was no material disagreement between Ms White and Ms Seaton in relation to this issue. There was also clear agreement between the economists in relation to demand and capacity. Mr Carter provided additional evidence, based on his experience, in relation to demand and current limitation on capacity.
322. Overall, I am satisfied that development capacity provided by this proposal is significant. Its significance results not only from its scale, but its location adjacent to the existing Business 2A zone and the Midland Port, together with the potential for the rail siding extensions to occur. The addition of land with an 'open border' to the LPC site also supports a finding of significance. My site visit provided a clear understanding of the relevance of that particular aspect, particularly given the open border between the Move Logistics site and the Midland Port.

Will the Proposal Contribute to a Well-Functioning Urban Environment

323. Policy 1 defines a well-functioning urban environment as one that, as a minimum: (relevantly)
- (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 impacts on, the competitive operation of land and development markets; and*
 - (e) *support reductions in greenhouse gas emissions; and*
 - (f) *are resilient to the likely current and future effects of climate change.*
324. Ms Seaton addressed this issue quite carefully.⁶⁵ In terms of the variety of sites that are suitable for different business sectors in terms of location and site size, she considered that was achieved, firstly because of its location immediately adjoining Midland Port and the particular freight-heavy industries it may attract as a result, or because it would enable LPC itself to expand in the future. She also considered the provision of large, unencumbered greenfield industrial sites, based on the evidence of Mr Staite and Mr O'Styke, would lead to that being achieved.

⁶⁵ Statement of Evidence of Kim Marie Seaton dated 23 July 2021 at paragraphs [67] – [72]

325. Ms White considered that the rezoning would contribute to a well-functioning urban environment as that is defined under the NPS-UD.⁶⁶
326. In relation to the remainder of the relevant provisions of Policy 1, Ms White and Ms Seaton were in agreement. They both considered it to be well connected along transport corridors, with Ms Seaton noting its proximity to the State Highway, north-south rail corridor and the deferral of development until such time as certain transport upgrades are undertaken. While public transport may be somewhat limited at the moment, that is clearly a matter which is outside of the Applicant's control and, in my view, is more relevant to housing development.
327. In terms of (c), I agree that it is located close to the existing Rolleston residential area with good and improving transport links. Ms Seaton acknowledged that it could not be said to provide any notable access to community services and natural open spaces except in so far as the site is part of Rolleston Township. I agree with Ms Seaton's view that accessibility is less of an issue for industrial development than it would be for residential development. I also agree that with it adjoining an existing industrial area it is not disjointed from the current urban boundary, providing for a compact and logical extension of the urban area.⁶⁷
328. In relation to (d), again on the basis of Mr Copeland's evidence, the level of agreement between Mr Copeland and Mr Foy, and the evidence of Mr O'Styke and Mr Staite, I consider this proposal will support, and limit as much as possible, adverse effects on the competitive operation of land and development markets.
329. In terms of (e), I agree that the opportunity for an extended siding, and the proximity to the north-south rail corridor and State Highway 1, are likely to support reductions in greenhouse gas emissions from heavy freight.
330. On this point, I asked about the use of the Midland Port during the hearing. The comment was made during the hearing that almost all containers between Midland Port and the Lyttelton Port were by rail. In her Reply, Ms Appleyard advised that she had confirmed with LPC that almost 100% of all containers travelling between Midland Port and Lyttelton Port travelled by rail. It was only where they have missed the train due to logistical reasons that containers may travel by road. Ms Appleyard also advised that there were on average 18 trains per week with three per day Monday to Friday, two on Saturday, and one on Sunday travelling between Midland Port and Lyttelton Port.⁶⁸ That reinforces, in my view, the potential to support reductions of greenhouse gas emissions from heavy vehicles.
331. In relation to (f) and effects of climate change, I accept that given its distance from any coastal location, sea level rise and inundation is not relevant. Ms Seaton identified the potential increases in the frequency and severity of storms and flood hazards were relevant. On the

⁶⁶ S42A Report at paragraph [109]

⁶⁷ Statement of Evidence of Kim Marie Seaton dated 23 July 2021 at paragraph [68]

⁶⁸ Closing Legal Submissions on behalf of Rolleston Industrial Developments Limited dated 25 August 2021 at paragraph [69]

basis of Mr McLeod's evidence, she considered that hazard could be appropriately managed at the time of development or subdivision. I agree.

Assessment

332. As noted in paragraph [309], Ms Seaton provided a summary of, and assessment against, the relevant objectives and policies of the NPS-UD. This was provided in a tabular form. This appears in the table included in paragraph [61] of her evidence of 23 July 2021.
333. I have considered both Ms Seaton's evidence, and Ms White's report and subsequent evidence in relation to the various relevant objectives and policies of the NPS-UD. I largely accept Ms Seaton's assessment as recorded in that table, and largely accepted by Ms White.

Overall Conclusion on NPS-UD

334. I have carefully considered the evidence and submissions in relation to this issue. As noted, I largely accept the evidence of Ms Seaton and the position of Ms White in relation to the application of the NPS-UD. Ms White's position at hearing essentially reflected agreement between herself and Ms Seaton. I agree that it is appropriate for SDC to be responsive in relation to this plan change. It clearly provides significant development capacity notwithstanding the fact that it is not entirely anticipated by the CRPS, or the SDP. It will, in my view:

- (a) Contribute to a well-functioning urban environment; and
- (b) Is well connected along transport corridors.

335. It contributes to well-functioning urban environments as defined in Policy 1. It assists in the provision of at least sufficient development capacity to meet the expected demand for business land over the short term, medium term and long term, in terms of Policy 2. It has appropriate rules in terms of building heights and density relative to the business use in that location. I have had particular regard to the matters identified in Policy 6. Without limitation, in my view this will have considerable benefits consistent with a well-functioning urban environment and will make a relevant contribution to provide development capacity.

336. In my view, the evidence clearly supports a finding that approving this application would give effect to the NPS-UD.

CRPS

337. The request expressly identified that the SDP was required, pursuant to s73(4) of the RMA, to give effect to the CRPS.⁶⁹ The s32 assessment addressed the CRPS at paragraph [81] through to [83].

⁶⁹ Attachment 3: s32 Evaluation at pages 26-32

338. Ms White assessed the CRPS in paragraphs [112] to [116] of her report and generally concurred with the Applicant's assessment in relation to Chapters 5, 6, 7, 14 and 16. She noted however, a tension with Objective 5.2.1 and Policy 5.3.7 relating to potential adverse effects on regionally significant infrastructure and similar tensions with Objective 6.2.1(9), Objective 6.2.4, Policy 6.3.4 and 6.3.5, but considered that those tensions were overcome by the additional rule which had been proposed by the Applicant to amend the plan change in a manner that ensured the timing of new development was coordinated with the development, funding, implementation and operation of transport.⁷⁰
339. Ms White also identified that in its then form, it did not give effect to Objective 6.2.1(8) which requires the protection of people from unacceptable risk from natural hazards. She considered that could be addressed by an amendment to the plan and she confirmed at the hearing that she was satisfied that the changes proposed did that.
340. As was expressly acknowledged by the Applicant, the plan change is not consistent with Objective 6.2.1(3), Objective 6.2.6, Policy 6.3.1 or Policy 6.3.6 because it proposed urban development outside an existing urban area or identified greenfield priority area. She then addressed Chapter 11 (Natural Hazards) and Chapter 15 (Soils), which were not assessed in the request.

Chapter 6

341. In terms of the identified inconsistency with Objective 6.2.1(3), Objective 6.2.6, Policy 6.3.1 or Policy 6.3.6, I have addressed that earlier in this Recommendation. But for the NPS-UD, this application would have faced a significant, if not insurmountable, hurdle.
342. My findings in relation to that matter does not of course mean those policies are irrelevant. As noted earlier, in my opinion, this proposal is not one which could be described as being directly at odds with the purpose of those provisions, other than in terms of location. As I have noted, it is within the PIB on Map 1. While I can give little weight to it at this stage, the land is also identified in the PDP as within the UGO.
343. As noted earlier, CRC did not oppose the proposal, but sought careful consideration of whether the plan change would add significant development capacity and contribute to a well-functioning urban environment that is well connected along transport corridors in the Greater Christchurch area. I have done so. I am satisfied that in the context of this particular plan change, the inconsistency does not act as a veto.

Chapter 5

344. I accept the Applicant's assessment, and my view is that it is consistent with the relevant objectives and policies of Chapter 5.

⁷⁰ S42A Report at paragraph [112](a)

345. I note Ms Penny identified Chapter 5 and particularly the importance of primary production in Canterbury's rural areas. Ms Penny specifically referenced Policy 5.3.12 1. being:

Maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas which are valued for existing or foreseeable future primary production, by:

1. *avoiding development, and/or fragmentation which;*
 - a. *forecloses the ability to make appropriate use of that land for primary production; and/or*
 - b. *results in reverse sensitivity effects that limit or precludes primary production.*

346. I acknowledge of course that policy. In my view it is not one which is intended to lock up rural areas. Rather, it anticipates an assessment of the existing or foreseeable primary production values. As noted earlier, I have received considerable evidence from Mr Mthamo in relation to the limitations on the use of this particular site for primary production. Overall, and on the basis of Mr Mthamo's evidence, this is not a policy I have attached significant weight to. This site does not appear to be an area which is valued for existing and foreseeable future primary production.

Chapter 11

347. In terms of Chapter 11, Ms White identified Policies 11.2.1, 11.2.2, 11.3.1 and 11.3.2.

348. Those provisions were properly identified by Ms White. In the circumstances, I consider that the methods identified by the Applicant appropriately addresses those policies.

Chapter 15

349. Chapter 15 was not addressed by the Applicant in its s32 report, and Ms Greenfield and Ms Penny specifically identified this issue. Ms Penny addressed Chapter 15 in her evidence and, as summarised earlier in this Recommendation, addressed in a very clear manner her concerns in relation to loss of highly productive or versatile soils.

350. I have carefully considered the matters she raised but overall I agree with Ms White that while the productive capacity of the soil will be reduced, the overall productive capacity of soils within the District will still be maintained.

CLWRP and CARP

351. Ms White and Ms Seaton were in agreement that the establishment of activities within the site would either need to meet the permitted activity conditions of those plans, or require a resource consent. The effects associated with discharges from future development of the site would therefore be considered at the time of detailed development. Ms White considered that there was nothing particular about the site or its proximity to other land uses which would impede

the ability to appropriately mitigate effects. She also noted that no issues of concern were raised in relation to incompatibility of the development for a range of industrial uses with the provisions of the LWRP or CARP.

352. I do not consider that PC66 is inconsistent with either of those documents.

IMP

353. The IMP is recognised by an iwi authority and lodged with the Council. The request included an assessment of the relevant provisions within the IMP and provided (as Appendix E) correspondence from Mahaanui. It noted that the proposal had been assessed by Mahaanui Kurataiao against the IMP and that comments were made in relation to it. It did identify that concerns were raised about the future water takes or discharges that might be needed. The assessment itself was contained in paragraphs [89] – [96] of the s32 evaluation, and I agree with that assessment.

LURP

354. Again this was assessed in the s32 evaluation. It noted that the LURP anticipates the provision of additional industrial business land to accommodate industrial sector growth which is to be achieved via rezoning of greenfield priority areas. The assessment noted that the proposal was inconsistent with the greenfield priority area provisions, although consistent with the general thrust of providing for additional industrial land for business growth.

355. I consider that Policy 8 of the NPS-UD provides for inconsistency with the LURP where significant development capacity is provided and a well-functioning urban environment is ensured.

Section 32(1)(a) – Extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act

356. The proposal does not involve any new objectives, or any changes to the existing objectives within the SDP. The assessment required under s32(1)(a) relates to the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the RMA. As noted by Ms White, the stated purpose of the proposal is to provide for the establishment of new industrial development on the site. Ms White noted that the request evaluated the extent to which the enabling the establishment of industrial development on the site achieves the purpose of the RMA.

Section 32(3) – Objectives and Policies

357. Given the proposal did not propose any alterations to the objectives, I need to determine whether the proposed rezoning is the most appropriate means of achieving the relevant objectives of the SDP and whether it implements the policies having regard to their efficiency

and effectiveness and taking into account the benefits and costs and the risks of acting or not acting.

358. The s32 report contained a detailed assessment of the relevant change provisions against the objectives and policies of the SDP. In terms of land and soil – Objective B1.1.2, this provides that new residential and business activities do not create shortages of land or soil resources for other activities in the future.
359. While some loss of soil resource will inevitably occur, I acknowledge the assessment that the loss of soils is small relative to the wider rural zone.
360. In terms of water, Objective B1.2.1 seeks that expansion of townships maintain or enhance the quality of ground or surface water resources. Objective B1.2.2 seeks that activities on land and the surface of water in Selwyn District do not adversely affect ground or surface water resources, wahi tapu or wahi taonga, maintain or enhance the ecological and habitat values of water bodies and their margins, maintain and enhance the water quality and ecological values of sites for mahinga kai and promote public access along rivers and streams.
361. Policy B1.2.1 is to ensure that all activities and townships have appropriate systems for water supply, and effluent and stormwater treatment and disposal to avoid adverse effects on the quality of groundwater or surface water bodies. Policy B1.2.2 is to ensure that 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 soil surface water bodies. Policy B1.2.5 requires sewage treatment and disposal to be reticulated.
362. As noted in the assessment, the objectives and policies generally seek to protect water quality within the District, for the benefit of communities, maintaining cultural values and maintaining ecological systems and habitats. As noted, the proposal is able to be adequately serviced, it does not contain any sensitive waterways, and it is anticipated that stormwater will be able to be disposed of to ground subject to regional council consents.
363. In relation to transport networks, the s32(3) evaluation addressed the various objectives and implementing policies. The assessment noted that the primary road access to the proposal would be via the existing Business 2A zone that adjoins and with no direct access to a State Highway or arterial road. It also noted that of particular value is the site's ability to extend rail infrastructure on the adjoining LPC Midland Port and main rail corridor to directly serve the new zone, or an extension of the Midland Port, if desired. It noted further that any new road, access or vehicle crossing to Maddisons Road would require resource consent and overall considered that the proposal would achieve the transport related objectives and policies of the SDP. I agree.
364. In relation to the new Rule 22.9.8 which requires no occupation of buildings until such time as the overbridge over State Highway 1 between Rolleston Drive and Johns Road is operational, and vehicular access is to be provided directly to Midland Port, or otherwise would be a non-

complying activity, again I consider that to be efficient and effective. In terms of cost, the rule in relation to the non-occupation of buildings prior to the overbridge being constructed, that has some potential costs in terms of delay, but I note it is addressing occupation and as such will not necessarily slow the overall development of the site.

365. In terms of the stipulation in relation to bunding requirements on rural boundaries on the ODP and consequent rule changes to allow road crossing breaks in the bund, I agree that they are appropriate. The bunding provides benefits in terms of landscape and visual effects. I note that any road crossing break would need to assess not only issues in relation to vehicle access to Maddisons Road, but also landscape and visual amenity effects. The prohibition on any such access for a period of 20 years as sought by Mr Thomas, would in my view be inefficient and may have unanticipated costs.
366. Policy B2.2.1 addresses servicing and utilities. I consider that has been appropriately addressed.
367. In terms of natural hazards, relevant objectives include B3.1.1, B3.1.2 B3.1.3 and Policies B3.1.2 and 3.1.6.
368. The s32 report identified that parts of the plan change site are known to be subject to potential flood hazards and the rule had been proposed to ensure principal buildings located in the areas of known flood hazard had been adequately addressed.
369. Additionally, a specific policy and rule has been introduced to address the potential high hazard area. This requires assessment pursuant to s32AA. Section 32AA provides further evaluation for changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed.
370. Section 32AA enables that assessment to be referred to in the decision-making record in sufficient detail to demonstrate that further evaluation was undertaken in accordance with this section.
371. On the basis of the evidence, I consider the additional policy and rules are efficient and effective. These include policies and rules which require the extent of any high flood hazard to be assessed at the time of development. If there is a high flood hazard present which cannot be mitigated, development is to be avoided. If it is present but can be effectively mitigated, resource consent may be obtained to enable the development. If a high flood hazard is not present, no further consideration of high flood hazard is required. The ODP was amended to indicate where a high flood hazard may be present based on present monitoring. Those provisions are sufficient to ensure that any significant flood risk is appropriately addressed.
372. In terms of the quality of the environment, these were addressed on page 20 of the evaluation and I agree that the existing Business 2A zone rules, together with the additional landscape treatment proposed, will appropriately address amenity character and similar values. I agree

that the plan change will provide for a compact urban form with a high level of connectivity to the existing industrial business area.

373. In relation to noise, I am satisfied that the relevant policies are met. Policy B3.4.12 which addresses night-time glare can be met by the plan change area being subject to the existing lighting rules.
374. In terms of Policy B3.4.14 which addresses the avoidance of dust nuisance, that will be appropriately addressed through the construction and consenting process.
375. In relation to landscaping and amenity planting, Policy B3.4.32 encourages sites fronting roads to be landscaped or screened. The proposed ODP and additional rules meet that requirement.
376. I consider the rule addressing setbacks from LPC appropriately address the risk of reverse sensitivity issues. It will have some cost in terms of development potential, but that cost is in my view acceptable.
377. In terms of the growth of the township, while the plan change site is not within a greenfield priority area, it is located within the PIB and the ODP proposed is consistent with the ODPs of the adjoining Business 2A zone. The site will be serviced with infrastructure and will be developed with efficient infrastructure links. It will, in my view, provide for a compact urban shape. With respect to Policy B1.1.8 and the loss of versatile soils, I agree that there is some tension with that policy. In terms of costs, I accept, on the basis of the evidence of Mr Mthamo, Ms Seaton and Mr Copeland that the proportion of versatile soils to be lost is small, the soils are subject to some nutrient loss and soil characteristic constraints (potentially) and that the loss is not significant. There are, in my view, significant potential benefits arising from this rezoning in providing for the well-functioning urban environment in a compact form and the potential transport efficiencies.
378. In terms of the Rolleston specific policies, again these were addressed in the s32 evaluation. Policy B4.3.71 is to avoid rezoning land for new residential or business development (other than Business 2 and 2A zoning) west of State Highway 1 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 State Highway 1, preferably adjoining the existing Business 2 or 2A zone.
379. Overall, I consider that the proposal is consistent with the objectives and policies of the SDP.

Overall s32 Analysis and Conclusions

Proposed Amendments

380. The proposed amendments to the SDP have been identified and summarised in paragraph [7].

Outline Development Plan

381. Having reviewed the revised ODP, I consider that it addresses all of the necessary matters and is consistent with other ODPs contained within the SDP.

Planning Maps

382. Any changes to the planning maps will be necessitated as a function of the rezoning.

Objectives and Policies

383. PC66 did not propose any alterations to the objectives. The additional policy addressing natural hazards has been assessed.
384. I consider that the proposed rezoning, and the associated provisions, are the most appropriate means of achieving the relevant objectives of the SDP.
385. I consider the respective rules, including some modifications pre and during the hearing, and discussed throughout this Recommendation, implement respective policies and that the provisions, which include a combination of operative and introduced rules, operative policies, and an introduced policy, are the most appropriate to achieve the objectives.

Benefits and Costs

386. I accept that PC66 has significant benefits as addressed throughout this Recommendation. It, in my view, leads to an efficient use of land use, increased industrial land choice, and provides considerable opportunities for an efficient use of infrastructure, including the rail network and State Highway network.
387. I consider that the costs are limited. These relate to costs incurred by the Applicant in pursuing the plan change and of course the development costs associated with the ultimate land development. I acknowledge that there may be some amenity costs experienced by neighbouring property owners, and there will also be a loss, albeit small, of productive soils. In my view, the costs are at most modest and can be appropriately managed by the overall rules and methods.

Risk of Acting or Not Acting

388. I am satisfied that there is sufficient information that the risks associated with acting or not acting have been identified and considered.
389. In relation to alternatives, they appear at this stage to be somewhat limited. One alternative is of course to leave the land zoned as it presently is and for the Applicant, if it so chooses, to rely on a resource consenting process. I do not consider that approach to be efficient.

390. No suitable alternative sites were identified. In any event, in my view this site has considerable benefits with any potential costs being limited, appropriately addressed, or capable of mitigation. In particular, I accept the location adjacent to an existing Business 2A zone and key transport corridors will mitigate potential adverse effects and enable ready access by vehicular and rail transport methods. The potential effects of the proposal are acceptable and able to be avoided or mitigated.

NPS-UD Clause 3.11 Using Evidence and Analysis

391. I have considered Clause 3.11 of the NPS-UD which provides local authorities must clearly identify the resource issues being managed and use evidence about land and development markets, and the results of monitoring required by the NPS-UD, to assess the impact of different regulatory and non-regulatory options for urban development and their contribution to:

- (a) Achieving well-functioning urban environments; and
- (b) Meeting the requirements to provide at least sufficient development capacity.

392. Clause 3.11(2) requires that I must specifically refer to those matters in relevant evaluation reports and further evaluation reports prepared under s32 and s32AA of the RMA.

393. The resource management issues being addressed have been identified throughout this Recommendation. I have used the evidence available to me about land development markets. Only regulatory options are within my jurisdiction. Different regulatory options appear to be approving the plan change; declining and leaving it to the Applicant to pursue resource consents if it chooses; awaiting the outcome of the PDP or awaiting the outcome of the review of the CRPS. In my view, the most appropriate option is the approval of this plan change.

Conclusion

394. I consider overall that PC66 is efficient and effective and contains benefits which in my view are significant. It provides additional choice for industrial land, it addresses connectivity issues, it has economic benefits which have ultimately been agreed between the experts in those areas. It provides significant opportunities.

395. I consider it will implement the policies of the SDP, recognising that there is some tension in limited areas including in relation to productive soil and growth of townships.

396. Overall, having reviewed all of the relevant objectives and policies, the changes proposed and having considered the benefits, costs and risks, I consider that PC66 is the most appropriate means of achieving the objectives.

Section 31

397. I am satisfied that in terms of servicing and consolidation of urban development, PC66 will achieve integrated management of effects and will enable additional industrial capacity and choice in a manner that can be achieved without creating any significant actual or potential effects on the environment.

Part 2 Matters

398. I agree with the assessment contained in the additional request, and addressed in the evidence of Ms Seaton and Ms White.

399. For completeness, I briefly address those provisions now.

Section 6

400. Other than s6(h), I agree there are no matters of national importance which are directly relevant to this site and proposal.

Section 7

401. Section 7 sets out the matters to which I am to have particular regard. Of particular relevance in my view is s7(b) relating to the efficient use and development of natural and physical resources; s7(c) relating to maintenance and enhancement of amenity values, and s7(f) in terms of the maintenance and enhancement of the quality of the environment.
402. While I acknowledge the concern addressed by some of the submitters in relation to amenity values and the quality of the environment, I consider those matters are appropriately addressed.
403. Notwithstanding the loss of versatile soils, I consider that PC66 represents a more efficient use of the land resource than its current rural zoning.

Section 8

404. Section 8 requires that I take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). I accept that there are no explicit s8 matters at play in this particular application.

Section 5

405. The ultimate purpose of the plan change is to achieve the purpose of the RMA as defined in s5. I consider that in general terms the purpose can largely be assessed in the detail and breadth of operative objectives and policies which are not sought to be changed. There are some additional matters which I have addressed, particularly in relation to the proposed additional policy.

Overall Conclusion

406. Overall, I consider that PC66 is appropriate in terms of the s32 tests and that it meets the purpose and principles set out in Part 2 of the RMA. It will enable people and communities to provide for their economic and cultural wellbeing while providing greater industrial land capacity. PC66, in my view, promotes sustainable management.
407. In terms of the amendments which have been made post submission, they have been addressed in this Recommendation. I consider that they are practical and effective and efficient in terms of ensuring subsequent development is appropriately managed, particularly in relation to the potential hazard issue. The deferral of occupation pending development of the Rolleston overbridge appropriately addresses transportation network concerns. It may have some potential effect on timing of development going to market but given it is based on occupation, it enables the Applicant to get on with the development in the meantime.
408. The identification of the flood hazard, and rules to address it, are entirely appropriate. The additional rule proposed (rendering any commercial activity, or retail activity that is not otherwise specified in Rule 22.10.1.3 as non-complying (proposed Rule 22.10.4)) is entirely appropriate and avoids potential retail distribution effects. The proposed Rule 22.9.7 in relation to noise sensitive activities located within 80 metres of the LPC Midland Port as a non-complying activity is again entirely appropriate. It may restrict some areas of development on the site, but it recognises the importance of the Midland Port as regionally significant infrastructure.
409. I have additionally addressed s32AA in the body of my Recommendation.

Recommendation

410. 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 66 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.**



David Caldwell
Hearing Commissioner

Dated: 22 October 2021