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# PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

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**DATE:** 21 November 2018

**TOPIC NAME:** Residential

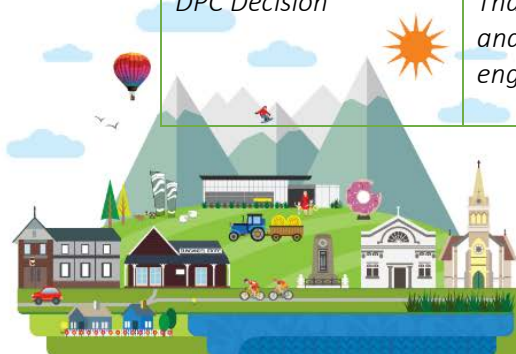
**SCOPE DESCRIPTION:** District Wide Urban Growth, Versatile Soils and Deferred Zones

**TOPIC LEAD:** Jocelyn Lewes

**PREPARED BY:** Jocelyn Lewes

## EXECUTIVE SUMMARY

Issue(s)	<ol style="list-style-type: none"><li>1. Whether the current urban growth objectives and policies respond to, and align with, national and regional policies or with the strategic direction of the Council.</li><li>2. The extent to which the management of versatile soils may need to be recognised in the Proposed District Plan</li><li>3. How existing deferred zones should be addressed in the Proposed District Plan.</li></ol>
Preferred Options	<ol style="list-style-type: none"><li>1. That the existing overarching urban growth objectives and policies in B4.3 be carried through into the Proposed District Plan, and that the specific township policies be rationalised as there is significant duplication.</li><li>2. That objectives and policies which seek to encourage compact and consolidated urban growth be carried through in favour of specific provisions that explicitly seek to protect versatile soils.</li><li>3. That existing deferred zonings are removed through the DPR process such that no deferred zonings are carried through into the Proposed District Plan.</li></ol>
Recommendation to DPC	That the preferred options for District Wide Urban Growth, Versatile Soils and Deferred Zones are endorsed for further development and engagement, Section 32 evaluation and drafting phases.
DPC Decision	That the preferred options for District Wide Urban Growth, Versatile Soils and Deferred Zones are endorsed for further development and engagement, Section 32 evaluation and drafting phases.



## 1.0 Introduction

Three baseline reports support this preferred options report – District Wide Urban Growth (RE019), Versatile Soils (DW015) and Deferred Zones (RE015). These baseline reports all address similar matters – how should the Proposed District Plan respond to future urban growth within Selwyn – but have slightly different focuses. These baseline reports have all sought to better understand the issues associated with urban growth within a wider context, be that the direction required by higher order documents like the Canterbury Regional Policy Statement (CRPS) or by strategic documents prepared by Council such as the Selwyn 2031: District Development Strategy (Selwyn 2031), as well as considering the effectiveness of the Operative District Plan provisions. The baseline reports are attached as **Appendix 1, 2 and 3**.

This Preferred Options Report provides a summary of the baseline reports and identifies the issues and options for broadly addressing the management of urban growth within the District. Several preferred options have been identified and are outlined. If endorsed by Council, these preferred options will form the basis of further engagement as part of the District Plan Review.

## 2.0 Summary of Issues

### 2.1 Urban Growth

The Selwyn District Council has taken a strategic approach to planning for township growth for some time. When townships expand, whether it be for residential or business purposes, there can often be a number of constraints that impede development as well as implications for rural land uses and productivity. The Operative District Plan has a number of objectives and policies that seek to provide direction on the most efficient and effective township growth paths and where and how new residential and business growth should occur. There are also numerous policies for each town that seek to provide for growth in a way that achieves an integrated land use approach. This policy framework is reflective of the previous ‘market-led’ approach to development at the time the Operative District Plan was notified.

The issue is whether the current objectives and policies respond to, and align with, present national and regional policies or with the strategic direction of the Council. There is also significant duplication in the current specific policies for townships and could possibly be distilled down to recognise the general intent of these in relation to the direction of new residential or business development.

### 2.2 Versatile Soils

The productive capacity of any area of land depends largely on the physical qualities of that land, the soil and the environment. The Land Use Capability (LUC) system is used to rate the capacity of land to sustain long term production. This is based on an assessment of the physical factors of land and climate, the effects of past land use, and the potential for erosion. It is used in the sense of suitability of land for productive use or uses after taking into account the physical limitations of the land.<sup>1</sup> Land deemed Class 1 or 2 are considered the most versatile soils.

<sup>1</sup> Land Use Capability Survey Handbook 3<sup>rd</sup> Edition 2009, Landcare Research New Zealand Ltd.

When land is used to develop houses and associated infrastructure the land, and the soil it comprises, is no longer available for other uses. This is a potential issue as the amount of versatile soils in the district is finite. However, whether this is a resource management issue requires further evaluation. The issue is the extent to which matters relating to the management of versatile soils may need to be reflected within the Proposed District Plan.

At present, there is not one clear, national definition of versatile soils. There was a request to include a definition in the proposed National Planning Standards, but a policy decision was taken by the Ministry for the Environment not to include one at this time as it was considered that there was significant local variation that was important to take into account when defining versatile soils and it could not be based solely on the LUC system. However, currently, the LUC system provides a consistent and objective evaluation of the country's land resources and allows for decisions to be based on good science and a transparent and robust method of assessment.<sup>2</sup>

It is noted that the Minister for the Environment has instructed officials to develop a National Policy Statement for Versatile Land and High-Class Soils (NPS for Highly Productive Soils). While work has commenced on the problem statement and potential options for the NPS, as yet there is no indication as to when the NPS will be gazetted or directions the Council will have to give effect to.

### 2.3 Deferred Zones

There are 12 remaining areas with a deferred zoning across four townships within the District, being Darfield (7), Leeston (2), Dunsandel (2) and Rolleston (1). How they came to be deferred, the reasons for their deferral, their current status and the options going forward differ in respect of each town.

The issue is how these deferred areas should be addressed within the Proposed District Plan.

## 3.0 Statement of Operative District Plan approach

Provisions that address urban growth, versatile soils and deferred zones are intertwined within the Operative District Plan. Relevant provisions are largely contained within the Township Volume, with the complementary provisions being contained within the Rural Volume.

Objectives and policies under the broad headings of natural resources, physical resources and health, safety and values, encourage the promotion of efficient and consolidated land use around existing townships, which shall be pleasant places to live in and provide a variety of living environments and housing choices for residents.

Versatile soils are not defined in the District Plan, and the intent of objectives and policies in both volumes is to encourage residential development in and around existing townships, rather than to provide explicit protection to soil.

In the Township Volume, objectives and policies seek to ensure that new residential or business activities do not create shortages of land or soil resources for other activities in the future. The Rural Volume objectives in Chapter B1.1: *Land and Soil* do not address versatile soils specifically. Rather they seek to ensure that adverse effects on the District's land and soil resources be avoided and the sustainable management of soil resources is promoted. Rural density is used to manage the ratio of land to buildings

<sup>2</sup> Ministry for the Environment 2018 *Proposed National Planning Standards Evaluation Report 2018: Part 2C – Definitions*. p.145

and other infrastructure necessary to support residential uses in the Rural Zone such that these activities allow for the retention of soils for productive purposes.

Objectives and policies related to urban growth are contained in Chapter B4 *Growth of Townships*. Objectives seek to recognise that a range of living environments are to be provided for within the townships and that new residential areas should add to the character and amenity values of the townships.

Section B4.3: *Residential and Business Development* sets out specific objectives and policies to guide residential and business growth within townships, both at a town form level and then for specific townships. Objectives seek to encourage the expansion of townships in a manner that is consistent with the preferred growth direction, as set out in both statutory and non-statutory documents. The objectives also seek to ensure that land is provided to accommodate projected growth, while still achieving both a compact urban form and a diversity of living environments. Objectives also recognise the need to ensure that growth is supported by the timely, efficient and integrated provision of infrastructure, including transport networks.

General town form policies are set out in Policies B4.3.1 to B4.3.11. The general intent of the policies is to encourage consolidated growth and integration between the zoning of land and the provision of infrastructure and community facilities.

Specific policies in respect of each of the 22 townships within the District are expressed in Policies B4.3.12 – B4.3.104. There are over 90 policies that apply to the growth of the various townships, with their primary purpose to inform the assessment of private plan change applications for proposed urban development under the previous ‘market-led’ approach and in the absence of strategic growth planning by Council. There is significant duplication in these policies.

Within this section of the Township Volume, Policies B4.3.28, B4.36 and B4.3.54 specifically address the reason for deferred zoning in Darfield, Dunsandel and Leeston respectively. Rule 1.2.1 states that until such time as the deferred status is uplifted, the rules of the Rural zone shall apply within any deferred Living zone.

## 4.0 Summary of relevant statutory and/or policy context

### 4.1 Resource Management Act 1991

In terms of the District Plan, the primary legislative direction is provided by the Resource Management Act 1991 (RMA).

The purpose of the RMA, as expressed in Section 5, is to promote the sustainable management of natural and physical resources through managing the use, development and protection of these resources in a way, or at a rate, which enables people to provide for their social, economic and cultural needs, both for the present generation as well as for future generations.

To achieve the purpose of the RMA, s.7 requires that those exercising functions and powers under the Act, have particular regard to the matters listed in the section, including s.7(b) *the efficient use and development of natural and physical resources* and s.7(g) *any finite characteristics of natural and physical resources*.

Natural and physical resources are defined as including *land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.*

Section 5 of the Act does not place the focus of primary resources on 'soil' or 'land'. Nor, does it direct where urban growth occurs. Rather it is concerned with 'natural and physical resources' generally. It does not elevate one resource over another. This is left to 'people and communities' to determine through such processes as regional and district plans, taking in account the needs of both present and future generations.

It is relevant to note that a number of Court decisions have considered the weight that should be given to the protection of versatile soils, having regard to s.5 of the RMA. The Court has concluded that, in considering whether the land is of high versatility, it needs to be assessed in terms of its setting, and soil quality is but one factor in a list of factors that require consideration in determining if land is productive and these factors are much broader than Land Use Capability.

## 4.2 Canterbury Regional Policy Statement (RPS)

The Canterbury Regional Policy Statement (CRPS) became operative in January 2013. It gives an overview of the significant resource management issues facing the region, including issues of resource management significance to Ngāi Tahu.

Versatile soils are defined in the CRPS as "*land classified as Land Use Capability 1 or 2 in the New Zealand Land Resource Inventory*". Chapter 15 acknowledges that soils have both extrinsic and intrinsic values and ensuring the good management of soils is of regional significance. The CRPS recognises that the protection of soil quality is not absolute and needs to be balanced with other uses of land, such as urban development.

The CRPS provides a very clear framework regarding urban development.

Chapter 5 acknowledges that development, and the associated provision of infrastructure, results in changes to environments and that this needs to be managed to promote the sustainable management of natural and physical resources in a manner which does not impact on the community's wellbeing or health and safety, or compromise or foreclose the ability to appropriately use land for primary production. Objectives seek to encourage a consolidated pattern of urban development that will maintain the quality of the natural environment, provide for the efficient use of infrastructure and resources and avoid conflicts between incompatible activities. Doing so will enable people and communities to provide for their wellbeing, health and safety.

Chapter 6 seeks to provide certainty to the community around how recovery and growth will be enabled within the Greater Christchurch area, to enable and support earthquake recovery and rebuilding through to 2028. Objectives seek to establish and manage a framework for recovery that identifies both the priority areas for urban development as well as the constraints to this in terms of natural and physical resources.

## 4.3 Canterbury Land and Water Regional Plan (CLWRP)

The CLWRP aims to provide clear direction on how land and water are to be managed in the region as the issues associated with this are many, varied and interrelated. Competing demands for water, issues arising from interconnected land and water resources, effects of land use, and hazards arising from natural and human-induced processes all point to the need for integrated and consistent management.

The primary purpose of the CLWRP is on the integrated management of land and water. Objectives 3.1 and 3.2 relate to the need to manage land and water in relation to urban growth, while Objectives 3.5 and 3.23 the use of land and soil.

The key policies that relate to urban growth have regard to stormwater and community wastewater systems, protection of sources of drinking-water and the efficient use of water. Soil specific policies address activities that may affect the stability of soil and sedimentation of water bodies.

#### 4.4 Mahaanui Iwi Management Plan

The Mahaanui Iwi Management Plan provides a policy framework for the “protection and enhancement of Ngāi Tahu values, and for achieving outcomes that provide for the relationship of Ngāi Tahu with natural resources across Ngā Pākihi Whakatekateka o Waitaha and Te Pātaka o Rākaihautū<sup>3</sup>”.

The Plan seeks to ensure that the mauri of land and soil resources is protected, and that rural and urban land uses occur in a manner that is consistent with land capability as well as the capacity of catchments and the availability of water. Policies aim to address the maintenance or improvement of soil organic matter and soil nutrient balance, and the prevention of soil erosion and soil contamination, and not the protection or otherwise of versatile soils.

Policy in relation to urban and township planning recognises that it is critical that Ngāi Tahu are involved in the preparation and implementation of broader development plans and strategies as this will result in urban development that is better able to recognise and provide for tāngata whenua values. The plan also acknowledges that subdivision and development can have significant effects on tāngata whenua values but can also present opportunities to enhance those values. Policies encourage engagement with Papatipu Rūnanga by local authorities and developers and refer to subdivision and development guidelines which state (in part) that new developments should incorporate design guidelines to reduce the development footprint on existing infrastructure and the environment.

#### 4.5 Selwyn 2031: District Development Strategy (2014)

Selwyn 2031 provides an overarching strategic framework for achieving sustainable growth across the district to 2031. The strategy identifies solutions to the key underlying issues of planning for population growth; spatial planning, and earthquake recovery. It is intended to be used to guide the future development of the district and inform Council’s investment decisions.

Strategic Direction 1: *A more sustainable urban growth pattern* seeks to provide sufficient zoned land to accommodate projected household and business growth, and to promote consolidation and intensification within the existing townships to maintain a clear urban/rural interface and minimise the loss of productive farmland. To achieve the intent of this strategic direction, four key objectives were identified that seek to reinforce taking a strategic approach to managing urban growth, concentrated within the metropolitan Greater Christchurch Area, integrating land use with the provision of infrastructure to ensure a compact urban form.

Strategic Direction 5: *Sustainably managing our rural and natural resources* seeks to explore opportunities for enhancing natural resources while managing the effects of urban growth. This strategy identifies the avoidance of urban development on high quality soils as an issue, to address which the Council will take

<sup>3</sup> Mahaanui Iwi Management Plan p.17

into account the presence of high-quality soils, together with other development constraints, when considering the future growth of townships.

## 4.6 Ellesmere Area Plan Mahere-ā-Rohe o Waihora 2031 and Malvern Area Plan Mahere-ā-Rohe 2031 (2016)

The Area Plans were adopted in September 2016. Their primary purpose is to serve as a high-level planning direction to guide growth and sustainable management of the townships in the Malvern and Ellesmere wards through to 2031. The Area Plans canvassed a range of issues and opportunities to inform the ongoing strategic planning and management of township growth. Although non-statutory they are intended to help inform:

- The District Plan Review and other statutory planning processes;
- Long Term Plan and Activity Management Plans;
- Other Council, community and privately initiated projects and capital investment decisions.

Both Area Plans reached the conclusion that there is sufficient available land to accommodate projected population growth within each township through to 2031 without the need to rezone any additional land for residential or business needs. The Area Plans did identify potential areas for further intensification beyond 2031 and, in regard to some townships, the direction of growth may encroach on land that it identified as comprising Class 1 or 2 soils.

## 4.7 Structure Planning

The Council has prepared structure plans for the larger townships located within the Greater Christchurch area being Lincoln, Rolleston and Prebbleton. The purpose of each structure plan is to provide a strategic framework to guide development, including the setting of urban limits, the intensification of existing zoned areas, the provision and timing of infrastructure, and the general location of key community facility and open spaces, roading and servicing networks, which will then be used as the basis for future changes to the District Plan.

While all three structure plans generally encourage the development of a compact and consolidated urban form, consideration within each plan of the impact that the direction that urban growth may have on versatile soils is varied and is generally expressed as a desire to prevent continuous residential encroachment onto rural land.

## 5.0 Summary of Options to address Issues

The following options are put forward in relation to addressing the issues identified in relation to the management of urban growth, versatile soils and deferred zones in the Proposed District Plan.

### 5.1 Urban Growth

#### 5.1.1 Context

Urban growth, being the development or redevelopment of land, and the subsequent construction of buildings and associated infrastructure, to accommodation residential or business activities, can have adverse effects on the environment, hence the District Plan seeks to provide for this growth by way of an integrated land use planning approach.

Section **B4.3 Residential and Business Development** sets out specific objectives and policies to guide residential and business growth within townships, both at a town form level and then for specific townships. Overarching objectives and policies seek to encourage the expansion of townships in a manner that is consistent with either the preferred growth direction, as set out in both statutory and non-statutory documents, such as the CRPS, ODP in the District Plan, or growth management plans such as Area Plans. The objectives also seek to ensure that land is provided to accommodate projected growth, while still achieving both a compact urban form and a diversity of living environments.

General town form policies are set out in Policies B4.3.1 to B4.3.11. These apply to all townships within the district, both within the Greater Christchurch Area and outside of it. Many of these policies were introduced into the District Plan through Plan Change 7 (PC7), which was developed in accordance with then CRPS (including Proposed Change 1 to the CRPS), the UDS and also the structure planning that the Council had undertaken. PC7 amended the way that the District Plan dealt with urban growth, by implementing a more strategic, Plan led approach to growth across the District to achieve a more efficient and integrated form of development.

Policies B4.3.12 – B4.3.104 set out additional, specific, policies for each of the 22 township within the District. Some of these policies have remained unchanged since the District Plan was originally notified, while others, such as for those townships located within the Greater Christchurch area, have been amended by plan changes over time. There is significant duplication in the over 90 specific town form policies.

### 5.1.2 Preferred Option UG1: Status quo with rationalisation of the Specific Policies for Townships

It is considered that the Operative Urban Growth Objectives and Policies generally align with the higher order documents. As such, the current objectives set out in B4.3 *Residential and Business Development* can be carried forward into the Proposed District Plan, as can the 11 general town form policies<sup>4</sup>. However consolidation of the 90+ town form policies would remove areas of overlap and duplication and ensure that policies more specifically relate to existing objectives.

The 90+ town form policies can be distilled down to the following:

1. Encouraging the use of sites in the existing Living or Business zones (e.g. infill and intensification), if such sites are available and appropriate for the proposed activity.
2. Ensuring that new development promotes consolidated and compact development of the township.
3. Ensuring that any development is located and designed to minimise adverse impacts and conflicts between land uses, including ensuring that any land rezoned for new development does not cause or exacerbate reverse sensitivity issues for existing activities.
4. Ensuring that any land rezoned for new development does not create or exacerbate natural hazards, such as flooding, landslips or erosion.
5. Ensuring that new development does not affect the safe and efficient operation of the transport network.
6. Ensuring that new development is provided with reticulated infrastructure services.
7. Ensuring that new development does not have an adverse effect on areas of significance, such as areas of cultural significance or of natural landscape value.

<sup>4</sup> It is noted that these may be subject to change depending on the outcomes of the NPS-UDC workstream.

8. Ensuring that development within each of the Outline Development Plan areas identified addresses the specific matters relevant to each ODP Area.
9. Ensuring that new residential development achieves integration between the rezoning of land and the provision of utilities, community facilities and areas for business development.

**Effectiveness in Addressing Issue:** The recommended updates to the specific town form policies is the only appropriate response to addressing the issue of the significant duplication of the current policies, and reflects the more strategic, Plan led approach to growth across the District, in order to achieve a more efficient and integrated form of development.

There are not considered to be any other relevant or practical alternative options to consider.

**Risks:** Not addressing the identified issues with the current provisions would be a lost opportunity to improve the efficiency and effectiveness of managing the direction of new residential and business development within the district.

**Budget or Time Implications:** This option will be the most cost effective and require the least amount of time. Undertaking this work has been factored into the District Plan Review budget and timeframe.

**Recommendation:** This option is recommended as it will remove the duplication within the Operative District Plan.

## 5.2 Versatile Soils

### 5.2.1 Context

The Resource Management Act is concerned with ‘natural and physical resources’ generally and does not place a primary focus on ‘soil’ or ‘land’. As such, the versatility of soil is not a reason for protection in its own right, but must be balanced, taking into account the needs of people and communities to provide for their ‘social, economic, and cultural well-being, and for their health and safety’. This approach has been confirmed by decisions of the Courts.

The CRPS defines versatile soils but it also recognises that the protection of these soil is not absolute. The approach of the CRPS is not to protect soils that may be considered versatile specifically, but to identify important areas of soil, and manage their development through land use changes, including urbanisation, to preserve or enhance their primary production capacity.

The provisions of the Operative District Plan echo the direction of both the RMA and the CRPS.

The future growth direction of the various townships within the district are indicated by the strategic framework established by Council through Selwyn 2031 and the Area Plans for the Malvern and Ellesmere wards, alongside the structure plans for Lincoln, Rolleston and Prebbleton. These documents largely conclude that there is sufficient existing undeveloped residential land within the existing township boundaries to provide for the estimated future population growth. While there is some existing undeveloped residential land within the district’s townships that located on Class 1 or 2 soils, which means that when this land is developed for urban purposes the soil will be removed from productive land uses, the current provisions within the District Plan have allowed for this, through zoning this land Living and incorporating it within the boundary of a township.

The loss of versatile soils is not currently an issue within the district, nor is it likely to be an issue within the next 10 years, given the results of the Selwyn Capacity for Growth Model (SCGM). Further, the protection

of versatile soils is only one part of the mix when considering potential urban growth paths and there are some equally or more important factors which the Council must consider under the statutory frame work of the RMA.

### 5.2.2 Preferred Option VS1: Status quo

This option would see the existing policies in the District Plan that have regard to versatile soils being carried through into the Proposed Plan.

It is considered that the Selwyn district is not currently facing an issue with the loss of versatile soils or the loss of productive capacity of rural soils in relation to urban development. However, there may come a time where, should there be a need to rezone land, the loss of versatile soils may occur on the fringes of a number of townships in order to provide for urban growth. As established through case law, the protection of versatile soils is not absolute and must be balanced against a wide range of factors. It is considered that the current policies recognise the need to balance the continued viability and versatility of land for productive use and the sustainable management of resources when providing for urban expansion.

**Effectiveness in Addressing Issue:** The current provisions within the Operative District Plan in relation to versatile soils recognise the need to balance the protection of versatile soils against other activities, such as urban development.

There are not considered to be any other relevant or practical alternative options to consider, as the development of specific objectives and policies that elevate the protection of versatile soils over other natural and physical resources would be inconsistent with higher order documents.

**Risks:** There are few risks associated with this option, as this approach is consistent with the CRPS and the plans of adjoining councils and recognises that the RMA does not place any primacy of soils or land over other natural and physical resources which allow people and their communities to provide for the needs of current and future generations.

**Budget or Time Implications:** This option will be the most cost effective and require the least amount of time. Some refinement of the wording may be required in accordance with the DPR drafting protocol. Undertaking this work has been factored into the District Plan Review budget and timeframe.

**Recommendation:** This option is recommended to be carried forward into the Proposed District Plan.

## 5.3 Deferred Zones

### 5.3.1 Context

There are seven remaining areas in Darfield that still have a deferred zoning. While these areas are dispersed about the township, they are either currently zoned Living X (Deferred), which provides for a range of allotment sizes, but not less than 650m<sup>2</sup> or Living 2 (Deferred) or Living 2A (Deferred), with allotment sizes of 5,000m<sup>2</sup> or 1ha respectively. The deferral of land suitable for urban development in Darfield was considered necessary to ensure the security of a future water supply and that Outline Development Plans (ODP) could be incorporated into the Plan to coordinate development in relation to roading, reserve, pedestrian/cycle linkages, and to address any reverse sensitivity issues.

Land in Leeston was also considered to be suitable for urban development but deferred as it had a propensity to flood in times of heavy rain and, while an engineering solution could ameliorate this problem,

the ways in which this could be done were many and varied. Therefore, a deferred zoning was considered appropriate until a preferred option was identified.

The reasons for the deferred land in Dunsandel are more significant and require that, prior to the urban development of these areas, matters regarding the disposal of sewage, the provision of a potable water supply and adequate consideration of reverse sensitivity issues, as well the impact of traffic on the intersection of Browns Road with State Highway 1, be addressed. Unlike other deferred zones within the district, an appropriate density has not been identified for these areas as this is considered to be a function of how the land could be serviced for effluent disposal. If onsite sewage retention was required, then a larger lot size may be required than if the areas were to be provided with a reticulated sewerage system. It is assumed that this is the reasoning for these areas having a **Deferred Living** zoning as opposed to a **Living (Deferred)** zoning like the other areas considered in this report.

There is an area of land in Rolleston that has a Living Z Deferred zoning. This land is owned by Selwyn District Council and is designated (D417) as part of the Foster Recreation Park.

### 5.3.2 Option DZ1: Status quo

This option would entail the current plan provisions being carried forward into the Proposed District Plan for all deferred living zoned sites, without change. As such, the land would continue with a deferred living zoning, allowing for the possibility of residential development once the matters identified in the District Plan have been addressed, by way of private plan changes.

While the use of deferred zoning is a legitimate planning technique, the validity of deferred zoning provisions is dependent on the clarity and precision of provisions in a district plan. Important elements of deferred zonings that need to be clear and precise include:

- the identification of the zone, and those activities which are appropriate for the present circumstances;
- the particular changed circumstances that would make the original zone no longer the most appropriate;
- the viability of those changed circumstances occurring (so as to avoid raising unrealistic expectations); and
- the most appropriate zone should the changed circumstances eventuate.

Where deferred zonings have been used in other district plan, a procedure of the removal or uplifting of the deferral is clearly set out. Often these procedures indicate that a deferral can be removed by a formal resolution of Council, once it is satisfied that the circumstances that led to the deferral in the first instance have been resolved. However, where this is the case, the district plan includes clear and precise reasons for the deferral, the preconditions that need to be satisfied and any infrastructure works necessary, as well as the effective zone after the removal of the deferral. In order to determine if deferred zonings the most appropriate mechanism to use, the level of information required to determine this should be to the same level as that anticipated by s.32 in relation to a plan change. This provides certainty for landholders and the community.

A deferral could be considered void where an additional plan change is required to justify its appropriateness, includes uncertainty around permitted land uses, or where no direction has been provided in respect of the provision of infrastructure (such as through the inclusion of such in a LTP). That work must have already been completed and tested.

It is considered that the Operative District Plan does not provide sufficient clarity around how the existing deferred status are to be lifted and the future use of some deferred areas, particularly in Dunsandel, and rolling over the current provisions could be considered ultra vires.

**Effectiveness in Addressing Issue:** Continuation of the current provisions is unable to be justified as they do not provide sufficient clarity and would necessitate an additional plan change. As such, this option is not considered to be effective in addressing the issue.

**Risks:** As the provisions of the Operative District Plan are not clear and precise around how or when the deferred status may be lifted, or, in the case of Dunsandel, about the most appropriate zone once the changed circumstances eventuates, maintaining the status quo is likely to be ultra vires and subject to legal challenge.

**Budget or Time Implications:** This option would be the most cost and time effective option in the short term. Costs would be incurred by Council in considering private plan changes at the time that these are promoted by landowners. Consistent with our current approach, these costs are able to be recovered from the plan change applicant.

**Recommendation:** This option not be carried through into the Proposed District Plan.

### 5.3.3 Option DZ2: Uplift the deferred status for Darfield and Leeston only

This option would involve Council removing the deferred status over the remaining areas in Darfield and Leeston through the DPR process.

Land in these two townships is deferred for infrastructure reasons – the provision of a reticulated, potable water supply in Darfield, and the resolution of flood issues in Leeston. The necessary infrastructure to resolve these issues is either already in place or will be by the time that the Proposed Plan is notified and is supported by the Long Term Plan 201-2028.

**Effectiveness in Addressing Issue:** These areas are identified as being suitable for urban development and with the planned removal of infrastructure constraints, the removal of the deferred status from these areas through the DPR process will alleviate the need for future private plan changes.

**Risks:** It is considered that there are few risks associated with this option, as the reasons why these areas were deferred have been satisfactorily addressed.

**Budget or Time Implications:** This option would incur some time and cost to Council in terms of updating and incorporating ODP into the Proposed District Plan for both the Leeston and Darfield deferred areas to ensure development occurs in an integrated manner. In developing ODP there will also be a need for some supporting technical reports to identify and mitigate any site specific development constraints that may not have been considered previously (e.g. any reverse sensitivity issues, geotech, site specific servicing issues). This work will have additional time and resource implications, but this should be able to occur within the existing DPR budget and timeframes.

**Recommendation:** This option is recommended in respect of the deferred land in Darfield and Leeston as, in the absence of uncertain infrastructure constraints, it is an effective solution that would provide for the coherent and strategic development of the remaining deferred areas around the townships. However, as discussed above, this option will have budget implications.

#### 5.3.4 Option DZ3 –Remove the deferred zoning in Dunsandel and rezone to Living

This option would involve the Council undertaking the work to remove the deferral and rezone the land to Living and notify these areas as such through the DPR process.

While provisions in the Operative District Plan are clear on the issues that need to be addressed in order to the land to be rezoned, these matters arose through the hearing process on the district plan and no substantive technical assessments or robust s.32 analysis was undertaken to assess and quantify the costs and benefits of doing so. Further, in the absence of direction about how these issues may be resolved, the Operative District Plan does not establish a desired density for the deferred land in this township.

In order to determine a suitable density, it is considered that appropriate investigations need to be undertaken to satisfy s.32 of the RMA. However, even investigating and preparing appropriate levels of information to determine a suitable density for these areas would result in significant costs to Council. It could also be construed that Council is proactively rezoning this land ahead of any substantial land capacity requirement, as evidenced by the conclusions of the Area Plan and the SCGM.

As well as taking on the evaluation costs and the costs of progressing the lifting of the deferral through the DPR process, this option would also impose on Council the costs associated with the development/upgrade of servicing infrastructure. Although infrastructure provision is one of Council's core roles it is often provided in response to demand or a private plan change, where costs can be recouped with some confidence or met by a developer. If Council is to lift the deferral in Dunsandel, then it will need to be prudent in its assessment of the demand for development to ensure that the cost of improving or developing new infrastructure can be recouped. Currently, there is no indication in the LTP that Council is considering any significant upgrades to infrastructure in Dunsandel that would support the rezoning of this land.

The costs of providing the necessary infrastructure to support future growth in this town are unable to accurately quantified as the needs of a system to support greater densities (e.g. Living 1) is vastly different from that of lower densities (e.g. Living 2). However, advice from Council's Asset Manager has indicated that costs to provide sufficient, reticulated water could be in excess of \$1.5 million, with the cost of a reticulated sewerage system being upwards of \$2 million.

**Effectiveness in Addressing Issue:** The removal of the deferred status from these areas through the DPR process would alleviate the need for future private plan changes to do the same.

**Risks:** It is considered that there are significant risks in pursuing this option, particularly as the Area Plan and the SCGM indicate that there is sufficient land to meet growth projections.

Given the evaluative nature of the s.32 process that is required to determine the costs and benefits (and overall merit) of a rezoning proposal there is a risk that even after completing the site specific investigations, the s.32 evaluations may not support the rezoning of the land to Living (which would be the effect of removing the deferral) as the costs may outweigh the benefits. There could also be significant costs in defending the rezoning of this area through the submission, hearing and appeal stages of the DPR.

Further, going beyond what is needed, or feasible in terms of infrastructure capacity, puts Council at risk of not being able to fund the necessary infrastructure or of imposing significant costs on the wider community.

**Budget or Time Implications:** This option would incur significant costs to Council in terms of undertaking the preparing the necessary technical reports and s.32 evaluation to justify the removal of the deferred status in Dunsandel and would also impose infrastructure costs on Council that have not been accounted for within the LTP.

**Recommendation:** Given that this option is inconsistent with the Ellesmere Area Plan and the SCGM, which both indicate that there is sufficient capacity to accommodate the projected residential growth without the need to remove the deferral over this land, it is considered that this option should not be progressed further through the DPR process.

#### 5.3.5 Option DZ4: Remove the deferred zoning in Dunsandel and revert to a rural zone

This option would see the deferred zonings in Dunsandel removed and the land reverting to the Rural (Outer Plains) Zone with all associated provisions applying.

**Effectiveness in Addressing Issue:** This option would have little effect on the underlying use of the land, given that existing rules in the Operative District Plan provide that the rules of the Rural Zone apply within any deferred zone until such time as the deferred status is lifted. Given the uncertainty that exists with the deferred status, allowing this land to revert to a rural zoning is not removing any benefit that the present land owners may presume that they enjoy.

**Risks:** This option would mean that an incongruous area of Rural (Outer Plains) zoned land would remain within the township boundary, particularly in respect that the Deferred Living (A) zone. While this does not give rise to good urban form, this is no different from how the land is currently utilised and what is experienced on the ground now.

**Budget or Time Implications:** This option would not incur any additional costs.

**Recommendation:** It is considered that this option, in respect of the deferred land in Dunsandel, is the option most consistent with the capacity analysis and provisions of the Ellesmere Area Plan, the outcomes of the SCGM and the direction of the CRPS and should be progressed through the DPR process.

#### 5.3.6 Option DZ5: Uplift the deferred status for Rolleston

This option would involve Council removing the deferred status over the remaining area in Rolleston through the DPR process. This land is owned by Selwyn District Council and is designated (D417) as part of the Foster Recreation Park.

**Effectiveness in Addressing Issue:** Given that this land is subject to a designation which overrides any underlying zoning, there is no need to uplift the deferral. However, not doing so would leave an anomalous zone within the Proposed District Plan, hence the DPR process is an appropriate time to lift the deferred zoning on this land.

**Risks:** There are no risks in lifting the deferred status over this land as there is a designation covering the land which has the effect of overriding any underlying zoning.

**Budget or Time Implications:** This option would incur an insignificant amount of time and cost to Council when drafting the proposed district plan.

**Recommendation:** That the deferred status over the land in Rolleston be removed.

## 6.0 Preferred Options for further engagement

The Project Team recommends that the following options be adopted for targeted landowner and stakeholder engagement, s32 analysis and drafting:

1. In relation to urban growth, Option UG1, being minor amendments to existing provisions to rationalise the Specific Town Form Policies.
2. In relation to versatile soils, Option VS1, being a continuation of the status quo.
3. In relation to deferred zones -
  - Option DZ2: Uplift the deferred status for Darfield and Leeston only;
  - Option DZ4: Remove the deferred zoning in Dunsandel and revert to a rural zone; **and**
  - Option DZ5: Uplift the deferred status for Rolleston.

## Appendix 1:

### District Wide Urban Growth Baseline Assessment (RE019)

[Urban Growth \[PDF, 777 KB\]](#) 12 December 2018

## Appendix 2:

### Versatile Soils Baseline Assessment (DW015)

[Versatile Soils \[PDF, 1115 KB\]](#) 12 December 2018

## Appendix 3:

### Deferred Zones Baseline Assessment (RE015)

[Deferred Zones \[PDF, 2405 KB\]](#) 12 December 2018