
PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

DATE: 26 April 2018

TOPIC NAME: Rural

SCOPE DESCRIPTION: Character and Amenity – Rural Density

TOPIC LEAD: Robert Love

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EXECUTIVE SUMMARY

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|-------------------------|--|
| <i>Issue(s)</i> | <p>The key issues for this topic are:</p> <ul style="list-style-type: none">• Does the District Plan give effect to the expectations of the RPS in terms of managing minimum densities for subdivision and development in the rural areas?• What is the character of the rural area that is to be maintained?• What density is appropriate in each rural area to provide for primary production and manage potential reverse sensitivity?• What is the effect of changing the density standards?• Will retaining the grandfather clause and the open space/balance lot approach undermine the intent of the density standards? |
| <i>Preferred Option</i> | <p><i>A combination approach with a mix of the options to be explored with the wider community as set out in section 7.0.</i></p> |
| <i>DPC Decision</i> | <p>“That the Committee notes the report.”</p> <p>“That the Committee endorses the Preferred Option for Rural Character and Amenity – ‘Rural Density’ for further development and engagement.”</p> |



1.0 Introduction

This report is a summary of the Baseline Report “*Rural Topic: Rural Character, Density and Business Activities*”, in relation to the options for dealing with density and lot sizes in Rural Zones¹. This summary should be read in conjunction with the full Baseline Report, which is attached as **Appendix 1**.

The initial work underpinning the Baseline Report is a technical report in relation to the character of all of the rural areas; “*Rural Character Assessment*”. That assessment describes the character of the various parts of the rural environment of Selwyn District, based around the rural areas as defined in the operative District Plan (Port Hills, Inner Plains, Outer Plains, Malvern Hills, and High Country areas), and includes the identification and analysis of the landform, vegetation cover, spatial land use patterns and built form characteristics of each one of these areas. The report also identifies and describes areas where the ‘rural character’ has been significantly eroded through existing development. The report also includes general recommendations, from a specialist landscape planning perspective, on what constraints should be placed on land use if the present rural character is to be retained and these recommendations have been used to inform the development of options for managing density and lot sizes in rural zones. The Baseline Report and this summary should also be read in conjunction with that technical assessment, see **Appendix 1**.

The Baseline report was also informed by an economic assessment prepared by Market Economics and a Farm Advisory Review of the options prepared by Macfarlane Rural Business.

It is noted that decisions to be made around what subdivision, land use and development is appropriate in the rural areas need to be based on a wide range of matters covered by various work streams. This workstream focused on the impact of density and lot sizes in relation to rural character². The Council will need to consider rural character issues together with other issues (e.g. private landowner development expectations) and also with community expectations and desires for the various rural areas.

2.0 Summary of Issues

The Operative District Plan provides for development and subdivision in the Rural Zone, with minimum density standards applied to different areas/zones. These standards reflect the existing and intended character of the zones, and the need to provide for primary production activities, and manage potential reverse sensitivity effects.

The policy direction specifically recognises the other demands on the Inner Plains zone, including the way the area is already highly modified, has a higher level of demand for development and if

¹ A separate Preferred Option report has been prepared in relation to the issue of Business Activities in Rural Zones.

² For example the Scope of Work sought that the “report should identify if there is a need to move the boundaries between any of the Operative Rural Zones in order to better reflect or achieve rural character, economic efficiency or rural productive outcomes”.

subject to a lower minimum would enable significant change to that zone. It notes the need to ensure opportunities in rural-residential zoned areas are not compromised.

It is noted that the subdivision rules do not fully align with the zone based rules (e.g. the grandfather clause and clustering provisions are held in the zone rules and not in the subdivision rules) and this leads to further interpretation issues. Further the boundary adjustment rules enable other development that is also not fully aligned with the concepts for minimum standards of density.

The key issues for this topic are:

- Does the District Plan give effect to the expectations of the RPS in terms of managing minimum densities for subdivision and development in the rural areas?
- What is the character of the rural area that is to be maintained?
- What density is appropriate in each rural area to maintain the existing rural character, provide for primary production and manage potential reverse sensitivity?
- What is the effect of changing the density standards?
- Will retaining the grandfather clause and the open space/balance lot approach undermine the intent of the density standards?

3.0 Statement of Operative District Plan approach

The relevant Operative District Plan provisions are set out in **Appendix 1** of the Baseline Report.

The objectives seek to provide for residential development, at a low overall density in order to maintain the character of the rural area, and in a manner that avoids adverse effects or reverse sensitivity effects. The objectives and their associated explanation are relatively general and do not provide a strong sense of direction towards limiting residential development and subdivision in rural areas. Indeed, the objectives could be interpreted to be very open towards residential development at a general level.

More direction is provided at a policy level with Policy B4.1.1 specifying the density of residential development anticipated in the rural zones. The use of the term “avoid” within the policy (*“Avoid residential density greater than those shown below...”*) provides clear direction that the densities are to be strongly sought and maintained. This strength of direction is however diluted to some extent in subsequent policies that enable higher densities in some areas. In particular policy B4.1.2 allows that the density provisions be flexible in all zones, other than the Inner Plains area, where a house may be built on any sized allotment provided:

- The balance of land area needed to comply with the specified density standard is kept free of dwellings by covenant or some other method; and
- The house allotment is of an appropriate size and shape to avoid adverse effects on adjoining properties, the road network or potential reverse-sensitivity effects; and
- The number of houses clustered together on small allotments is kept small, to avoid creating new villages or settlements; and

- The balance of land area adjoins the house allotment and is of a shape that maintains the sense of “open space”.

Whilst these provisos ensure an overall density that maintains the density anticipated for the rural zone, it is clear that they anticipate development being clustered. Use of terminology such as “*the number of houses clustered together on small allotments is kept small...*” is difficult as it is subjective and open to interpretation. Also there is the ability to undermine the intent of this approach in situations where a landowner has a large landholding and it is possible for the clusters to adjoin each other (but providing a small separation to still meet the maximum of 3 in the Outer Plains and 5 in the High Country) while still complying with the overall density requirements and creating an outcome that is not anticipated.

Policy B4.1.4(b) anticipates higher densities within the Greater Christchurch area but these higher densities are directed to occur within the Living 3 zone rather than within the rural zones.

Policy B4.1.5(c) appears to provide a transitional period to allow for expectations of development opportunities between the previous planning regime and the operative District Plan.

Policy B4.1.6 provides for subdivision and boundary adjustments that create undersized allotments but do not lead to additional residential density. This policy only relates to existing houses and not situations where there is vacant land.

Collectively these provisions seek to maintain an appropriate degree of density for the different rural areas of the district. There are some issues with internal conflict between the policies³ but the overall direction is clear.

The rules to implement these objectives and policies are relatively complex. Due to the structure of the plan, the same rule concepts are repeated in both the building rules (C3 Buildings) and the subdivision rules (C10 Subdivision) which adds to the perception of complexity. There are also numerous notes, cross references and defined terms (e.g. building node) that add to the detail of the rules.

The Operative District Plan provides for a range of densities in the rural zone, from one dwelling per 4ha in the Inner Plains, through moderate densities in the Outer Plains and Malvern Hills (20ha) and lower slopes of the Port Hills (40ha), through to low densities for the upper slopes of the Port Hills (100ha) and High Country (120ha) and specified minimums for specific areas e.g. Bealey Spur, Edendale, Railway corner. This staggered approach recognises the different rural character of the various zones and areas. Subdivision of land that meets the above minimum site areas is a **controlled activity**.

The rules also provide for some flexibility in the way that subdivision and development is undertaken – through the grandfather clause and the open space / balance lot approach – whilst generally controlling this flexibility through a consent process.

³ As identified in the Planz Consultants Ltd report on The use of Open Space Mechanisms within the Rural Inner Plains Zone, May 2015.

- A “grandfather clause”⁴ gives **permitted activity** status to build a dwelling on a rural site that does not meet the above minimum area, where the site is at least 4ha and existed between 12 September 1991 and 12 September 2001. However, this is a **controlled activity** under the subdivision provisions.
- A “balance area”⁵ and “clustering” approach that provides for building a dwelling on a site that does not meet the above minimum area (except in the Inner Plains) is a **restricted discretionary activity**, if a balance area is provided to meet the above minimum area and which is protected from further development (and subject to other conditions⁶). This is also a **restricted discretionary activity** under the subdivision standards.

In general, development and subdivision that does not provide specified balance areas, proposals in the Outer Plains that exceed 3 dwellings or High Country that exceed 5 dwellings, or do not meet the provisions under the “grandfather clause” and proposals that do not meet the minimum of 1 dwelling per 4ha in the Inner Plains Zone are **Non-Complying activities**.

4.0 Summary of relevant statutory and/or policy context and other background information

4.1 Resource Management Act (RMA)

Management of minimum density in the rural areas falls under section 5 of the RMA in relation to providing for the needs of people and communities whilst managing adverse effects of activities. Also of relevance are parts of section 7 relating to efficient use and development of natural and physical resources and the maintenance and enhancement of amenity values and the quality of the environment. Section 31 requires the Council to manage the effects of the use and development of land. Under section 75 of the Act, a district plan must give effect to a regional policy statement.

4.2 Canterbury Regional Policy Statement (RPS)

The Canterbury Regional Policy Statement 2013 (RPS) includes a range of provisions that are relevant to this topic.

The RPS contains general definitions for the whole region, and definitions that relate only to the Greater Christchurch area⁷. The Selwyn District is split with a small portion of land being within the Greater Christchurch area and most of the district outside this area. The general definitions section applying to the region as a whole do not include definitions of rural activities. They do however include a definition for urban which means “A concentration of residential, commercial

⁴ A “grandfather clause” is a term given to a rule in a plan that allows recognition of historical expectations for development after a transition to a more restrictive planning regime.

⁵ Also known as an “open space covenant” approach.

⁶ The balance area must be kept free of buildings and adjoin the allotment that is to be building on. The balance area may not include the bed of a lake or river, a legal road, vested reserve or other land that due to legal tender cannot be built on.

The total number of dwellings under this rule is limited to 3 or 5 in the High Country, and in the High Country a dwelling must be within an existing building node.

⁷ The “Greater Christchurch” area is defined by RPS to include all of Christchurch City, part of Waimakariri District and part of Selwyn District.

and/or industrial activities, having the nature of town or village which is predominantly non-agricultural or non-rural in nature". However, this definition only applies to the area outside the Greater Christchurch boundary.

Within the Greater Christchurch area (chapter 6 of the RPS), rural activities are defined as 'activities of a size, function, intensity or character typical of those in rural areas' and includes a list of 'rural activities', although these are not purely rural in character. Urban activities is also subject to a similar definition. The definitions do clearly specify that residential activity on sites of 4ha or greater are considered to be a rural activity, and residential units on sites at a density of more than one household unit per 4ha are urban activities.

Due to the delineation of part of the district being within Greater Christchurch and part outside, the objective and policy approach is also split. For the area within Greater Christchurch, the focus is on recovery and rebuilding under **chapter 6** of the RPS. This chapter places an emphasis on the ability to ensure adequate land for residential and business redevelopment following the earthquakes and particularly focusses in the scale of recovery necessary. There is a requirement for land to be rezoned for residential and business development to enable growth to occur in identified places, through the use of greenfield priority areas. Within the rural parts of this area, there is recognition that rural residential development can impact on rural character and reverse sensitivity issues can arise.

Chapter 6 is focussed on urban activity and delineation of urban activities within urban areas. There is no specific guidance for density of residential development (other than for rural residential development) within the rural area of the Greater Christchurch area, except by application of the definition of urban activity. That definition includes residential units at a density of more than one household unit per 4 ha of site area, and thus policy 6.3.1 is directive that development at a higher density should not generally occur within the rural zones. There is however no guidance on what scale of residential density is appropriate in the wider rural areas.

Chapter 5 deals with land use and infrastructure across the region generally. Within this chapter there is acknowledgement that the rural areas are intended mainly for primary production activities. It is understood that:

- The primary focus for rural areas is rural activities and particularly rural primary production.
- The majority of growth of urban activities (including any residential activity on lots less than 4ha) is to be located in urban areas, including sufficient housing choice to meet the region's housing needs, and there is a focus on urban consolidation.
- There is a need to ensure that adequate land is zoned and available for urban activities (residential and business development) generally within the district and specifically within the Greater Christchurch area to ensure recovery and growth.
- Activities in rural areas must avoid development, fragmentation or intensification that:
 - forecloses the ability to make appropriate use of that land for primary production;
 - results in reverse sensitivity effects that limit or preclude primary production; and

- contributes to significant cumulative adverse effects on water quality and quantity.
- There is a need to preclude incompatible activities within rural areas to avoid conflict between activities and reverse sensitivity effects.
- Urban activities include residential units at a density of more than one household unit per 4 ha of site area and thus lot sizes less than 4ha are avoided in the rural zones.
- District plans must identify areas to be used for primary production, and control the adverse effects of subdivision and land-use in rural areas, including by:
 - ensuring subdivision and development does not foreclose the ability to utilise natural resources for rural productive purposes.
 - ensuring appropriate separation between activities to avoid reverse sensitivity effects on rural productive activities.
 - managing the interface between environments sensitive to the effects of rural production activities and areas in productive use to reduce conflict.

4.3 Mahaanui Iwi Management Plan

In relation to the rural environment there are a range of sections of the IMP that have general relevance. Sections of the IMP relating to Ranginui, Wai Māori, Tāne Mahuta and Tāwhirimātea have relevance to the use and amenity of the wider rural environment.

Section 5.4 Papatūānuku has particular relevance as the main section dealing with land use and development of the land. This section contains many objectives and policies dealing with aspects of rural land use but there are no specific provisions within the IMP that relate to the density of residential development within the rural environment.

4.4 The National Policy Statement on Urban Development Capacity (NPS-UDC)

The NPS-UDC has some relevance to this issue as it seeks to recognise the national significance of urban environments and the need to enable such environments to develop and change and provide sufficient development capacity. Where sufficient capacity is not provided within urban areas, pressure will come to bear on surrounding rural areas to meet the demand. In this respect, it is relevant that the Selwyn District Council ensure that they are able to meet the requirements of the NPS-UDC for growth in urban areas.

5.0 Summary of alternative management responses – Other Districts

The approach to this issue within the Ashburton, Waimakariri and Christchurch District Plans was considered⁸, and all of these plans include policies that express the intent of protecting rural character and amenity values, and prioritise land for primary production through managing

⁸ The Scope of Works required consideration of these specific plans.

residential density in the rural areas. The actual approach to wording at both a policy and rule level differs considerably between the plans with Christchurch District Plan having the most recent and most directive policy approach.

Within the rules however there is some similarity but not strong consistency. **Appendix 10** of the Baseline Report provides a summary table of the density provisions in the reviewed plans against the operative Selwyn District Provisions⁹. The Waimakariri and Christchurch Plans both use 4ha as the lower limit for residential density in rural areas and this aligns with the expectations of the RPS and the Selwyn District Plan. Ashburton has chosen to have a lower minimum of 8ha in the highest density rural zones to place an even greater emphasis on rural production.

Within other zones, the minimum allotment areas range from 20ha to 120ha. Generally, a trend can be seen that the 'moderate' zones where rural production is likely to dominate have minimum site area expectations in the order of 20-50ha. In zones where residential density is expected to be very low, and special values (landscape, ecology) are likely to dominate, the minimum site area expectations are in the order of 100-120ha. These three bands clearly show the staggered density approach.

A particular alignment is the application of 100ha minimum site area to the Port Hills zone in both the Selwyn (upper slopes) and Christchurch districts.

6.0 Summary of Options to address Issues

A range of options from the status quo to a lower density of residential development have been developed to address the issues raised in the Baseline Report. These also seek to explore 'add on' options (referred to as exceptions) to provide flexibility of development choices – grandfather clauses, open space covenants or balance lots, and clustering.

The table below provides a comparative summary of the seven options developed for testing as part of the Baseline Report:

| | Option 1: Status Quo (with exceptions) | Option 2: Status Quo (no exceptions) | Option 3: Reduced Density (existing zone boundaries) | Option 4: Reduced Density (amended zone boundaries) | Option 5: Grandfather Clause | Option 6: Open Space Covenants or Balance Lots | Option 7: Clustering |
|--|---|---|--|---|---------------------------------|--|----------------------|
| Port Hills Upper Slopes | 100ha min | 100ha min | 100ha min | 100ha min (ONL area and any VAL above 160m) | 100ha min | 100ha min | 100ha min |

⁹ The table also includes a range of other provisions from a variety of similar districts around the country (summarised).

| | Option 1: Status Quo (with exceptions) | Option 2: Status Quo (no exceptions) | Option 3: Reduced Density (existing zone boundaries) | Option 4: Reduced Density (amended zone boundaries) | Option 5: Grandfather Clause | Option 6: Open Space Covenants or Balance Lots | Option 7: Clustering |
|--|---|---|--|---|---------------------------------|--|----------------------|
| Port Hills Lower Slopes | 40ha min | 40ha min | 40ha min | 40ha min (VAL area below 160m) | 40ha min | 40ha min | 40ha min |
| Inner Plains | 4ha min | 4ha min | 4ha min | 4ha min | 4ha min | 4ha min | 4ha min |
| Outer Plains | 20ha mini | 20ha min | 40ha minimum | 20ha min (lower) | 40ha min | 40ha min | 40ha min |
| | - | - | - | 40ha min (upper) | - | - | - |
| Malvern Hills | 20ha min | 20ha min | 40ha min | 40ha min | 40ha min | 40ha min | 40ha min |
| High Country | 120ha min | 120ha min | 120ha min | 120ha min | 120ha min | 120ha mini | 120ha min |
| Grandfather clause | ✓ | ✗ | ✗ | ✗ | ✓ | ✗ | ✗ |
| Open space covenant / balance lot | ✓ | ✗ | ✗ | ✗ | ✗ | ✓ | ✗ |
| Clustering | ✓ | ✗ | ✗ | ✗ | ✗ | ✗ | ✓ |

These options have been reviewed by experts in landscape planning, economics and farm advisory services to provide feedback on the implications on the rural area. The testing of the options was largely qualitative rather than quantitative. The feedback from these expert assessments has been feed into recommended option/s for rural density. Refer to the Baseline Report for the full analysis.

6.1 OPTION 1: Status Quo

The option of retaining the status quo approach would mean retaining the current general objectives and policies and current density provisions. It would also retain the following approaches: the use of the grandfather clause, open space covenants and a limit on clustering of dwellings in the high country (5) and elsewhere (3).

In this regard it is also important to note that the status quo includes a portion of the Outer Plains zone that is within the area of 'Greater Christchurch' identified within the RPS (as shown above). The operative provisions, which provide for clusters of up to 3 dwellings on allotments

less than 4ha in that zone, contradict Policy 6.3.1 by allowing lot sizes to be less than the RPS expressly provides for.

Effectiveness in Addressing Issues:

This option would partly address the issues. Minimum density in the Inner Plains is 4ha, which meets the requirements of the RPS and retaining this would maintain the existing rural character of this area and align with people's expectations of the nature of development and subdivision that can be undertaken. Likewise in the High Country, the operative minimum density standard is considered to be appropriate as it reflects the existing rural landscape character and density and will maintain the openness of the upper slopes and lower ONL slopes / spurs. It also aligns with the protection of special values represented by the Outstanding Natural Landscape identification (see separate workstream).

However, there has been some concern expressed from the landscape review that the minimum density in the Outer Plains and Malvern Hills may not be appropriate in terms of maintaining the existing rural character. Furthermore as this option would retain existing development areas that have lot sizes of less than 4ha (through the clustering exception), the Plan would not give effect to the RPS.

The status quo would retain the use of exceptions such as the grandfather clause, the use of balance lot/open space covenants and clustering. The grandfather clause could undermine the existing character of the rural areas by potentially enabling a proliferation of 4ha lots, which would have a significant impact on the rural character of the Outer Plains, Malvern Hills, Port Hills and High Country areas. However, clustering may be appropriate in managing effects on rural character, if located in parts of the landscape that can absorb change.

In addition, retaining the status quo would not enable any recognition of changes in rural character and density that have occurred since the Plan became operative.

Risks:

Development would be enabled, that through the clustering provisions, would not meet the minimum 4ha lot size required under the RPS, and this would mean that the Plan would not give full effect to that document.

There is also the risk of the proliferation of development on 4ha sites, although it is noted that these are often sites are often farmed as part of larger sites thus reducing this potential.

Budget or Time Implications:

None as no change would be required to the Plan.

Stakeholder and Community Interests:

Landowners in rural areas and potentially the Regional Council in terms of giving full effect to the RPS given that this was directed by higher order documents i.e. the Land Use Recovery Plan for Christchurch 2013. Also Federated Farmers and the wider community.

Recommendation:

This option is not recommended as it does not give full effect to the RPS and may potentially undermine the character of the rural area, except that the existing minimum density standard that applies in the High Country and Inner Plains is considered to be appropriate.

6.2 OPTION 2: Status Quo without exceptions

This option would apply the provisions of the operative Plan but not apply any exceptions i.e. grandfather clause, open space or clustering provisions. This option would provide a base zone density minimum to be applied to all residential allotments (new or existing), without any flexibility.

Effectiveness in Addressing Issues:

The removal of the grandfather clause and the ability to create 4ha lots may result in a better landscape outcome by limiting the potential for a proliferation of smaller sites that could undermine the rural character of the District. However, it also removes the opportunity for people to undertake development where there has been a change in density and this could have an adverse effect on the value of land.

The removal of the open space covenant and clustering provisions would remove an effective means of managing development while retaining an sense of openness and enabling the use of land for primary production (but would better give effect to the RPS).

Risks:

There is the potential to reduce the ability to undertake some subdivision that may be considered to be suitable with consequential economic effects. It also removes the opportunity to cluster development and potentially minimise effects on rural character.

Budget or Time Implications:

The removal of the exceptions i.e. grandfather clause, open space or clustering provisions may result in submissions, and potential appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is not generally recommended as clustering and the use of an average density, if applied suitably, can maintain rural character and a sense of openness in some areas of the District. Furthermore, the grandfather clause may be appropriate if there is a change in density.

6.3 OPTION 3: Status Quo without exceptions, but with a change in density in the Malvern Hills and Outer Plains

This option applies the status quo without any exceptions but would increase density in the Malvern Hills and Outer Plains to a minimum of 40ha (from a minimum of 20ha). The Outer Plains and Malvern Hills are large areas having a high degree of rural productive activity with limited “special/environmental” areas (outstanding natural landscapes, significant natural areas, etc).

Effectiveness in Addressing Issues:

The increase in the minimum lot size in the Outer Plains and Malvern Hills would retain the existing rural character in the upper part of the Outer Plains but would not necessarily reflect the existing landscape character or density of the lower Outer Plains. The proposed change to the Outer Plains may assist in ensuring that the primary use of the land is for primary production as increased availability of irrigation may increase the productive capability of land in this area and make smaller land holdings more viable.

A change to 40 hectares in the Malvern Hills would assist in providing for primary production because of the reduced intensity of this area compared to the Outer Plains and the limited irrigation opportunity, thus larger sites are required.

This increase in minimum density would reduce subdivision potential. However, whether such subdivision potential would ever have been realised is uncertain and not likely to be of such scale as the numbers in the M.E report indicate. Reduced subdivision potential has some economic consequences for landowners in the Malvern Hills area in relation to reduced land values, but would retain the existing character of lower development intensity.

Risks:

The proposed decrease in density in the Outer Plains and Malvern Hills will result in reduced subdivision opportunity. This has the potential to impact on the financial viability of properties (although any such impact is not able to be quantified at this time and valuation advice is being sought by Council).

Budget or Time Implications:

Lowering the density standard may result in an increased number of submissions and potentially appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is recommended to be applied in the Malvern Hills and potentially over part of the Outer Plains but consideration should be given to potential effects on rural character and future subdivision opportunities.

6.4 OPTION 4: Status Quo without exceptions, but with a change in density in the Malvern Hills and Outer Plains and some zone boundary realignment

Option 4 is a variation on option 3 above and again focusses on reduced minimum densities in the Outer Plains and Malvern Hills zones. In addition, this option considers changes to zone boundaries as set out in the Rural Character Assessment, these are summarized below:

- Change the boundary between the Port Hills zone and the Inner Plains zone, to follow the ONL / VAL boundary (from its current alignment that follows the 60m contour line)¹⁰.
- Change the references for the Port Hills zone upper and lower slopes to align with the ONL / VAL identification as well as the contour differentiation¹⁰.
- Change the boundary between the Inner Plains and Outer Plains zones to incorporate the more developed land where rural character has been compromised by recent development.
- Split the Outer Plains zone in two into an upper (western) and lower (eastern) part to identify the spatial extent of the Outer Plains Rural Zone that continues to provide the character of a rural working landscape.

Effectiveness in Addressing Issues:

The proposed change to the Port Hills zone and the Inner Plains zone would assist in maintaining the landscape values of ONL / VAL on the Port Hills, and the openness on the upper slopes and lower ONL slopes / spurs. It would also remove the potential for confusion in what areas have landscape values and whether that is related to height (contour).

Some initial investigation into the potential impact of the changes to the Port Hills area has been undertaken and the outcomes of this are set out in the table overleaf¹¹. This indicates that based on the current location of the draft ONL/VAL boundaries, there would be very few properties where the subdivision regime would change significantly in a way that cannot be addressed through the application of the grandfather clause. It also indicates that if the grandfather clause is applied it would not result in significant levels of development.

¹⁰ With the ONL/VAL boundary being proposed as part of a separate workstream.

¹¹ The data in this table has been provided by SDC and it should be noted that has not been ground truthed; the numbers are close approximates; the numbers don't take into account consented but unbuilt development; a lot of the parcels go across the zones, with many being majority IP with a portion of the parcel in the new VAL area, and the numbers not mutually exclusive i.e. property may have a mix of relevant zones.

| Current zoning | Current minimum subdivision | Proposed identification | Proposed minimum subdivision | Implication | Number of properties affected | Number of properties developed | Number of applicable land-use grandfather clause properties | Residual effect |
|----------------|-----------------------------|-------------------------------|------------------------------|---|-------------------------------|--------------------------------|---|--|
| Upper Slopes | 100ha | Visual Amenity Landscape | 40ha | Decreased area required for subdivision - increased subdivision potential | 11 | 7 | N/A | 4 properties are greater than 40 ha. and undeveloped, so more permissive regime |
| Lower Slopes | 40ha | Outstanding Natural Landscape | 100ha | Increased area required for subdivision - decreased subdivision potential | 16 | 8 | 4 (40-100 ha.) | 1 property is greater than 100 ha. and undeveloped, so development potential has been restricted |
| Inner Plains | 4ha | Outstanding Natural Landscape | 100ha | Increased area required for subdivision - decreased subdivision potential | 15 | 10 | 5 (4-100 ha.) | N/A |
| Inner Plains | 4ha | Visual Amenity Landscape | 40ha | Increased area required for subdivision - decreased subdivision potential | 104 | 69 | 31 (4-40 ha.) | 4 properties are greater than 40 ha. and undeveloped, so development potential has been restricted |

The extension of the Inner Plains zone would enable some properties that are currently outside of the Inner Plains zone to be subdivided into 4 hectare lots which would potentially reduce the productive potential of the land but would better recognise the actual use of the land. The reduced size of the Outer Plains zone combined with the lower density for the 'upper' outer plains area would enable a timely recognition of the change that has occurred since the current Plan was made operative and allow a line to be drawn strongly around maintaining the rural character that is present at this time. However, it is noted that this change in boundary alignment would provide for some additional subdivision that could increase residential density in these locations but whether this opportunity is taken up would depend on the market demand for such lots.

The division of the Outer Plains Zone into two parts would recognise the differing character of the 'upper' and 'lower' areas, and would partly address concerns regarding the increase in the minimum density standard. It would also reduce subdivision potential in the upper area, with benefits in terms of maintaining rural character but also a 40ha minimum lot size may become increasingly viable with access to irrigation, and more so if there is a change to intensive types of farming such as market gardening. This promotes the use of land for primary production activities.

Risks:

Any reduced opportunity for subdivision has the potential to impact on the financial viability of properties (although any such impact is not able to be quantified at this time).

Budget or Time Implications:

Reducing development potential may result in an increased number of submissions and potentially appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is recommended as appropriate to address rural character issues, maintain the current rural character, provide for rural productive use and give effect to the RPS.

6.5 OPTION 5: Grandfather clause

The application of a grandfather clause (updated from the existing timeframes) would enable a dwelling to be built on any rural site that does not meet the minimum area requirement, where the site is at least 4ha and existed prior to or between defined dates. It is understood that, to date, the grandfather clause in the operative district plan has not been widely used but

continuing the approach could be appropriate in areas where a change in the minimum density is proposed.

Effectiveness in Addressing Issues:

This Option has the potential to enable further intensification of development across all the rural character areas with the ability to undermine rural character and landscape values. Its use in landscapes with high landscape value (e.g. Port Hills and High Country ONLs) may compromise rural character by enabling built development at a high density. It is also noted that significant use of the grandfather clause in landscapes with high productive values (Outer Plains) would erode their rural characteristics.

Such a clause could also potentially undermine the productive potential of the rural zones by removing land from production or increasing the possibility of reverse sensitivity effects. If productive capacity and rural character are the primary considerations, this would indicate that the grandfather clause should no longer be applied. However, the grandfather clause approach is an appropriate method in recognising situations where an existing development right is essentially removed by a change in the planning provisions and enables a level of development to occur.

Risks:

A proliferation of development to a higher density by applying the grandfather clause across the rural areas could compromise rural character and use of land for primary production. However, it is considered that this is a low risk given the limited use of the grandfather clause in the operative Plan, to date.

Budget or Time Implications:

Reducing development potential in some areas may result in an increased number of submissions and potentially appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is only recommended to be applied in the lower, non-sensitive areas such as the Outer Plains and Malvern Hills to recognise the change in density. It can be considered for the Port Hills area also given the small number of properties to which it would apply.

6.6 OPTION 6: Open Space Covenants

This option would enable a flexible subdivision layout where a 4ha minimum allotment average is maintained across linked properties. The 4ha minimum for created allotments is necessary as this aligns with the RPS definition of rural activity and this would mean that the open space covenant approach could not apply to the Inner Plains zone (as is currently the case).

Effectiveness in Addressing Issues:

Overall building density would be maintained to the level proposed under Options 3 and 4, leading to appropriate landscape outcomes. Larger productive lots would also be maintained allowing rural character and productive uses to remain dominant. This addresses the issue of retaining the productive use of land while providing opportunities for other rural living options and flexibility of development approaches. However, the scale of such developments would need to be controlled through a consenting process.

The use of the open space covenant results in the ability for more lots (of all sizes) to be created due to the splitting-off of the 4ha allotment and balance lot within each minimum sized parcel. However, this will not result in additional development as future development would not be enabled on the balance lots.

Risks:

There is the potential for the use of open space covenants to result in significant effects on landscape values, where there is little ability to absorb change, if not sufficiently managed through a consenting process.

Budget or Time Implications:

Limiting the use of open space covenants to certain areas of the District may result in an increased number of submissions and potentially appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is only recommended to be applied in the lower, non-sensitive areas such as the Outer Plains and Malvern Hills.

6.7 OPTION 7: Balance Lots and Clustering

This option would apply a balance lot and clustering approach to the minimum densities proposed, enabling flexibility of subdivision layout options. It would benefit from refinement of the existing clause to avoid unanticipated outcomes.

Effectiveness in Addressing Issues:

This option has similar benefits to Option 6 above. However, clusters would need to be located in parts of the landscape that can absorb change and do not undermine the rural character. This should be managed through a consenting process, noting that clusters at the scale applied in the operative Plan would not have a significant impact on rural character values.

The clustering clause results in the ability for a high number of lots (of all sizes) to be created due to the splitting-off of the 4ha allotments with one balance lot for each cluster. However, this will

not result in additional development as the balance lot would need to be retained as an undeveloped lot to continue to meet the intent of the rule. Again, this will assist in retaining the overall rural character and enable land to be used for productive purposes.

Risks:

There is the potential for the use of clustering/balance lots to result in significant effects on landscape values, where there is little ability to absorb change, if not sufficiently managed through a consenting process.

Budget or Time Implications:

Reducing development potential may result in an increased number of submissions and potentially appeals to the Environment Court with subsequent costs.

Stakeholder and Community Interests:

Landowners, Federated Farmers and the rural community.

Recommendation:

This option is only recommended to be applied in the lower, non-sensitive areas such as the Outer Plains and Malvern Hills.

7.0 Preferred Options for further engagement

The Project Team recommends that a combination approach be taken with a mix of the options to be explored with the wider community as set out below:

| Area/Approach | Recommendation |
|---------------|--|
| Port Hills | <p>Realign the boundary between the Port Hills and the Inner Plains to follow the lowest landscape line reflecting the ONL / VAL boundary (Option 4).</p> <p>Remove reference to the upper and lower slopes and retain the base minimum allotment areas in the operative Plan in relation to the VAL/ONL areas. This would mean that the VAL area would have a density of 1 dwelling per 40ha, and the ONL area would have a density of 1 dwelling per 100ha (Option 1).</p> <p>Apply the grandfather clause (Option 5).</p> <p>It is recommended that additional work be undertaken during the public consultation period to determine the extent of change to specific properties.</p> |
| Inner Plains | <p>Retain a minimum 4ha density (Option 1).</p> <p>Change the boundary between the Inner Plains and Outer Plains zones to incorporate the more developed land where rural character has been compromised in the Outer Plains as a result of recent developments (Option 4).</p> |

| | |
|---------------|--|
| Outer Plains | <p>Split the Outer Plains zone into two parts: an upper (western) part and lower (eastern) part. The lower area would retain the current density of 20ha and the upper area would have a density of 40ha to reflect the more open rural character (highly productive landscape) of the upper area (Option 4).</p> <p>Apply the grandfather clause in the Upper Outer Plains (Option 5).</p> <p>Apply the Open Space Covenants / Balance Lots and Clustering in the Upper Outer Plains (Options 6 and 7).</p> |
| Malvern Hills | <p>Increase the minimum density from 20 to 40ha (Option 3).</p> <p>Apply the grandfather clause (Option 5).</p> <p>Apply the Open Space Covenants / Balance Lots and Clustering in the Malvern Hills areas (Options 6 and 7).</p> |
| High Country | Retain operative provisions (Option 1). |

It is also recommended that further work is undertaken by the landscape planners to ground-truth and refine the boundary locations for the Port Hills, Inner Plains and Outer Plains areas to best reflect the areas that have changed significantly during the time of the operative District Plan.

It is recommended that decisions on boundary changes also be aligned with work being undertaken to determine appropriate Rural Residential zoned areas (separate workstream).

Appendix 1:

**Baseline Report “Rural Topic: Rural Character, Density and Business Activities” and
Technical report “Rural Character Assessment”**