

## Section 95A-E Resource Management Act 1991



Report pursuant to section 42A of the Resource Management Act 1991 recommending whether an application for resource consent should be publicly notified, limited notified or non-notified

Decision pursuant to section 95A-E

**Author:** Jane Anderson

**Position:** Consultant Planner

**Resource Consent Number:** RC205094 and RC205244

<b>APPLICANT:</b>	Z Energy Limited
<b>LOCATION:</b>	2 - 10 Brookside Road, Rolleston
<b>LEGAL DESCRIPTION:</b>	Lot 1 DP 507204 being 5741m <sup>2</sup> in area more or less, as contained in Record of Title 769908

## Description of the Proposal

1. The proposal seeks construct and operate a new service station, including a car wash facility at 2 Brookside Road (RC205094). The proposal also seeks to operate the Rolleston Inn ("the Rolly Inn"), including existing tavern, bottle store, food and beverage outlet and new private function facility (RC205244).
2. The application was formally received on 24 February 2020 and a request for further information ("RFI") was made on 11 March 2020, with information being provided on 1 April 2020.
3. The application provides a detailed outline of the proposed Z service station. In brief, the application for the Z service station includes:
  - A retail store;
  - A car wash, with associated vacuum unit for personal car grooming, and an air facility for tyres;
  - The installation of underground petrol and diesel tanks; three tanks (1 x 50,000 litre grade 91 petroleum, 1 x 50,000 litre diesel and 1 x split tank comprising 20,000 litre grade 91 petroleum and 30,000 litre grade 95 petroleum)
  - 24 hours, 7 days a week operation (excluding the car wash / vacuum facility, which is limited to 7.30am to 8.00pm);
  - A maximum of nine staff will be employed on the site at any one time;
  - A forecourt and canopy with four pump islands (eight lanes);
  - An LPG Swap'N'Go; and
  - Signage.

4. Vehicle access to the service station site is provided via State Highway 1 and Brookside Road.
5. The application for the Rolly Inn includes:
  - A new private function facility for a maximum number of 60 patrons;
  - Operating hours of between 11am and 2am for “core hours” as well as providing for operating outside of these hours to enable the site to operate on a 24/7 basis;
  - Parking for an additional 8 vehicles is provided within the service station site;
  - An additional two staff will be employed on site when the function centre is operating;
  - Vehicular access is provided via two accessways from Brookside Road; and
  - Relocating the existing freestanding sign.

## Background

6. The applicant states that the site operates core hours of between 11am and 2am daily, but notes that the site operates outside of these hours to operate as a 24/7 business. The applicant has stated that these opening hours can be considered to form part of the existing environment. Further discussion on the operating hours of the Rolly Inn is provided below in paragraphs 28 to 38.
7. A resource consent (RC185441) for the construction and operation of a service station on the Rolleston Inn site was applied for in August 2018. The resource consent was placed on hold by the applicant in November 2018 prior to a decision being made on notification. This application has not been withdrawn, but given the extent of progress made on the application, it cannot be considered to form a part of the existing consented environment.

## Description of the Existing Environment

8. The application site is a corner site at the intersection of State Highway 1 and Brookside Road (a local road). The site is occupied by the Rolly Inn on the north-eastern corner of the site (2 Brookside Road), and by a vacant area (6 Brookside Road) and dwelling (10 Brookside Road) to the south-west. The following aerial photograph shows the application site in blue.

Figure 1: Location Plan

9. The proposal seeks to retain the Rolly Inn with formalised car parking. Approximately 3,630m<sup>2</sup> of the site is to be utilised by the proposed service station with approximately 1,807m<sup>2</sup> to be utilised for the Rolly Inn. The remaining 304m<sup>2</sup> of the site is to be retained by the owner and is not part of the application.

10. To the south-west of the dwelling at 10 Brookside Road is a fire station (at 4 Chaucer Street) and then commercial activities on the small cul-de-sac area of Chaucer Street that includes a fish and chip shop, real estate agent, dairy and motels.
11. Immediately opposite the Rolly Inn is a veterinary practice at 3-5 Brookside Road, vacant residential land at 7 Brookside Road and a residential dwelling at 9 Brookside Road. The other properties on the south-eastern side of Brookside Road, 11 and 15 Brookside Road and 20 Byron Street, contain residential dwellings.
12. The remainder of the surrounding area to the south and south-west is residential in nature.

## Operative District Plan

13. The application site is zoned Living 1 within the Townships volume of the Operative District Plan.

RULE	TOPIC	COMPLIANCE
<b>C1 Status of Activities</b>		
<b>Rule 1.1.12</b>		
The following activities shall be discretionary activities in Living Zones:	A service station is proposed.	<b>Discretionary</b>
1.1.2.2(e) service stations		
<b>C2 Earthworks</b>		
<b>Rule 2.1.1</b>		
Any earthworks shall be a permitted activity subject to meeting the relevant provisions		
<b>Rule 2.1.8.2</b>		
Any activity which does not comply with Rule 2.1.6 shall be a discretionary activity		
<b>Rule 2.1.1.6</b>		
Any earthworks have	The application advises that a maximum of 2,000m <sup>3</sup> of earthworks is proposed to install the three underground tanks, however the maximum depth of excavation will be 5m.	<b>Discretionary</b>
(a) A volume of not more than 2,000m <sup>3</sup> per project; and		
(b) A vertical cut face where no more than 5% of the total vertical cut is over 2 metres		
<b>C4 Buildings</b>		
<b>Rule 4.2.1</b>		
Any principal building shall be a permitted activity if the area between the road boundary and the principal building is landscaped		
<b>Rule 4.2.4</b>		
Any activity which does not comply with Rule 4.2.1 shall be a discretionary activity		
<b>Rule 4.2.1</b>		
The area between the road boundary and the principal	A portion of the boundary between the adjacent roads and the existing Rolly Inn building are proposed to be landscaped.	<b>Discretionary</b>

building shall be landscaped with shrubs and

- Planted in lawn and/or
- Paved and sealed and/or
- dressed with bark chips or similar material

#### **Rule 4.9.2**

Any building which complies with the setback distances from internal boundaries and road boundaries shall be a permitted activity.

#### **Rule 4.9.47**

Any activity which does not comply with Rule 4.9.2 shall be a restricted discretionary activity.

#### **Table C4.2**

Principal buildings and accessory buildings with wall length greater than 7m shall be setback 2m from internal boundaries and 4m from road boundaries.

The proposed car wash facility will be located 2m from the Brookside Road road boundary.

**Restricted Discretionary**

### **C5 Rooding**

#### **5.3 Vehicle Crossings**

The forming of any vehicle crossing shall be a permitted activity subject to meeting the relevant conditions

##### **5.3.2**

Any activity which does not comply with Rule 5.3.1.1 and Rule 5.3.1.2 shall be a restricted discretionary activity

#### **Rule 5.3.1.1**

The vehicle crossing is formed and sited to comply with the relevant requirements in Appendix E13.2.2, E13.2.4 and E13.2.5.

##### **E13.2.2**

Distance of vehicle crossing from intersection

Main South Road (80km/hr):  
100m to the intersection with Brookside Road

Brookside Road: 25m to the intersection with the State Highway

The service station Main South Road entry vehicle crossing is proposed to be 70m from Brookside Road.

Rolleston Inn Brookside Road vehicle crossing is proposed to be approximately 22m and 55m from Main South Road

**Restricted Discretionary**

##### **E13.2.4**

Vehicle Crossing Design

There shall be a maximum of one vehicle crossings per site. The

There are four vehicle crossings proposed for the service station across two frontages.

Two vehicle crossings are proposed for the Rolly Inn.

**Restricted Discretionary**

crossings and spacings shall comply with Table E13.7	More than 7m spacings between all vehicle crossings.  Tanker entry and exit vehicle crossing widths exceed 7m.	
<b>Rule 5.3.1.4</b>		
The site does not have access directly on to a State Highway or arterial road, unless:		
a) the speed limit on that part of the road to which access is gained is 70km/hr or less	The speed limit of State Highway 1 is 80km/hr, it is not a utility structure and is will generate more than 100 equivalent car movements per day.	<b>Restricted Discretionary</b>
b) the site is solely used to house a utility structure; and		
c) the site generates less than 100 equivalent car movements per day.		
<b>Rule 5.5 Vehicle and Cycle Parking</b>		
<b>5.5.1</b>		
Any activity which provides for car parking, vehicle parking, vehicle loading and parking access in accordance with the relevant provisions will be a permitted activity		
<b>Rule 5.5.1</b>		
Any activity which does not comply with Rule 5.5.1 shall be a discretionary activity		
<b>Rule 5.5.1.1</b>		
The number of car parks provided complies with the relevant requirements for the activity as listed in Appendix E13.1.1, E13.1.2, E13.1.3 and E13.1.12		
<b>E13.1.1.1</b>		
The minimum number of car parking spaces shall comply with Table E13.1:		
Service Station: 1 space beside each booth or facility, plus 5 stacked parking spaces per facility for car washing	The service station provides 12 car parking spaces, plus fuelling positions and space for stacked parking for car wash.	<b>Discretionary</b>
Retail activities: 4.5 spaces per 100m <sup>2</sup> GFA	Parking for Rolly Inn is 35 spaces	
Rolly Inn: 46 spaces		
<b>Rule 5.5.1.2</b>		
All car parking spaces and vehicle manoeuvring areas are designed to meet the criteria set out in Appendix E13.1.5.2, E13.1.6 – E13.1.11		
E13.5.2	Shop loading spaces will obstruct pedestrian footpath from Brookside	<b>Discretionary</b>

No loading zone shall obstruct any on-site car parking space or pedestrian access	Road to shop front. Tank filling could affect car wash queuing.	
<p><b>E13.1.9</b></p> <p>On site manoeuvring shall be provided to ensure that no vehicle is required to reverse onto or off a site that has access to a state highway. Parking spaces shall be located to ensure that no vehicle is required to carry out any reverse manoeuvre when entering any required space.</p> <p>Vehicles shall not be required to undertake more than one reverse manoeuvre when exiting a space</p>	Additional manoeuvring may be required for vehicle movements on the Rolly Inn site	<b>Discretionary</b>
<p><b>E13.1.10</b></p> <p>A queuing space shall be provided on-site for all vehicles entering or exiting a parking or loading area. The length shall be 10.5m where 21-50 spaces are provided on site</p>	No queuing space provided for the Rolly Inn car park	<b>Discretionary</b>
<p><b>Rule 5.5.1.5</b></p> <p>Each non-residential site shall provide one car parking space for mobility impaired persons for up to 10 car parking spaces provided, plus an additional car parking space for every 50 additional spaces.</p>	One mobility space is proposed for the service station. Two mobility spaces are proposed for the Rolly Inn site	<b>Discretionary</b>
<p><b>Rule 5.5.1.7</b></p> <p>Cycle parking spaces are to be provided in accordance with the standards in Appendix E13.1.4</p>		
<p><b>E13.1.4</b></p> <p>Any activity shall provide a minimum of two cycle parking spaces, and then at a rate of 1 cycle space for every 5 car parking spaces</p>	<p>Two cycle rails are proposed for the service station.</p> <p>No cycle rails are proposed for Rolly Inn.</p>	<b>Discretionary</b>
<p><b>C7 Signs and Noticeboards</b></p> <p><b>Rule 7.1</b></p> <p>Any activity shall be a permitted activity subject to meeting the relevant provisions</p> <p><b>Rule 7.1.2</b></p> <p>Any activity which does not comply with Rule 7.1.1 shall be a discretionary activity</p>		

<b>Rule 7.1.1.2</b> The total number of signs on any site does not exceed 2, inclusive of any freestanding signs	The proposed service station includes a number of signs, including but not limited to; freestanding signs, poster boards, directional signage, branding / pectin signs.  The Rolly Inn seeks to relocate an existing freestanding sign and the application identifies four freestanding sandwich boards	<b>Discretionary</b>
<b>Rule 7.1.1.5</b> The sign does not exceed the height of: a) the building to which it is attached; or b) 2 metres if the sign is not attached to a building	The proposed “prime sign” will have a height of 7.3m. A double sided free-standing poster board will have a height of 2.4m. The pectin/clip signs exceed the height of the principal and car wash buildings to which they are attached.	<b>Discretionary</b>
<b>Rule 7.1.1.6</b> The sign does not exceed 1m <sup>2</sup> in size	The majority of the signage exceeds 1m <sup>2</sup> in area	<b>Discretionary</b>
<b>Rule 7.2</b> Any sign to direct pedestrians, cyclists or motorists shall be a permitted activity subject to meeting the following provisions.  <b>Rule 7.2.2</b> Any activity which does not comply with Rule 7.2.1 shall be a discretionary activity		
<b>Rule 7.2.1.2</b> The display area does not exceed 0.6m <sup>2</sup>	The proposed directional signage will exceed 0.6m <sup>2</sup> in area	<b>Discretionary</b>
<b>Rule 7.2.1.3</b> The message on the sign is limited to arrows or the word “entry” or “exit”	The proposed signage includes the universal “no entry” symbol.	<b>Discretionary</b>
<b>Rule 7.5.1</b> Any sign on any land adjoining a strategic road where the speed limit is 70km/hr or greater shall be a permitted activity subject to meeting the relevant provisions.  <b>Rule 7.5.2</b> Any activity which does not comply with Rule 7.5.1 shall be a restricted discretionary activity		
<b>Rule 7.5.1.2</b> There shall be only one advertising sign directed at the Strategic Road.	There are two signs directed at State Highway 1 – the prime sign and the poster board	<b>Restricted Discretionary</b>

<b>Rule 7.5.1.3</b> Lettering shall have a minimum height of 160mm	The proposed signage for the Rolly Inn and the service station will have lettering that does not meet this minimum height	<b>Restricted Discretionary</b>
<b>Rule 7.5.1.4</b> The sign shall not have more than six words or symbols and no more than 40 characters	The proposed signage for the Rolly Inn and the service station will exceed this standard	<b>Restricted Discretionary</b>
<b>Rule 7.5.1.7</b> The sign is positioned at right angles to the frontage roadway but angled off the direction of traffic by 5 degrees	The proposed signage will not be angled off the direction of traffic	<b>Restricted Discretionary</b>
<b>C8 Hazardous Substances</b>		
<b>Rule 8.1.1</b> The storage of any hazardous substance will be a permitted activity if the relevant conditions are met		
<b>Rule 8.1.4</b> Any activity which does not comply with Rule 8.1.1.1 shall be a non-complying activity.		
<b>Rule 8.1.1.1</b> The quantity of each subclass of hazardous substances listed in Appendix 9 Table E9.2 complies with the storage quantities set out in Appendix 9 Table E9.2.  Diesel and petrol are both Class 9.1B, therefore a total of 250 litres is permitted.  A maximum of 300kg of LPG is permitted.	<p>The proposal seeks the flexibility to install three double skinned fibreglass underground tanks, consisting of either:</p> <p>Option 1:</p> <p>Three 50,000 litres double skinned fibreglass tanks to store:</p> <ul style="list-style-type: none"> <li>• 50,000 litres of grade 91 petroleum;</li> <li>• 50,000 litres of diesel;</li> <li>• 30,000 litres of grade 95 petroleum; and</li> <li>• 20,000 litres of grade 91 petroleum.</li> </ul> <p>Option 2:</p> <p>Three 60,000 litres double skinned fibreglass tanks to store:</p> <ul style="list-style-type: none"> <li>• 60,000 litres of grade 91 petroleum;</li> <li>• 60,000 litres of diesel;</li> <li>• 40,000 litres of grade 95 petroleum; and</li> <li>• 20,000 litres of grade 91 petroleum.</li> </ul>	<b>Non-complying</b>



The proposal also seeks to store 540 kg of LPG.

Given that there is not any quantity limit listed in Column B for Class 9.1B, the activity is a non-complying activity

## **C10 Living Zone**

### **Rule 10.6.1**

Any non-residential activity shall be a permitted activity subject to meeting the relevant noise provisions

### **Rule 10.6.2**

Any non-residential activity which does not comply with Rule 10.6.1 shall be a discretionary activity

### **Rule 10.6.1**

The following noise limits shall apply:

7.30am – 8.00pm 50dBA L<sub>10</sub>

8.00pm – 7.30am 35 dBA L<sub>10</sub>

7.30am – 8.00pm 85 dBA L<sub>max</sub>

8.00pm – 7.30am 70 dBA L<sub>max</sub>

Night-time limits will be exceeded for both the service station and Rolly Inn. The noise limits will be exceeded at the following properties, outside of the application site:

**Discretionary**

- 3, 5, 7, 9, 11 and 15 Brookside Road
- 10, 12, 14 and 20 Byron Street

### **Rule 10.8.1**

Any non-residential activity shall be a permitted activity subject to meeting the following standards

### **Rule 10.8.3**

Any activity which does not comply with Rule 10.8.1 shall be a discretionary activity

### **Rule 10.8.1.1**

No more than two full time equivalent staff shall be employed on the site live off site

The number of staff for the service station will exceed two full time equivalent staff, with a maximum of 4 on-site at any one time.

**Discretionary**

The number of staff on site for the Rolly Inn will be 9.

### **Rule 10.8.1.3**

Vehicle movements shall not exceed:

State Highways, arterial roads and collector roads: 40 per day plus 4 heavy vehicle movements per day

Local Road: 20 per day plus two heavy vehicle movements per day

Although not stated in the application, it is assumed that the daily traffic volumes using each access is as per the following. This is based on the assumption that the peak hour traffic volumes are typically 10% of the daily traffic volumes:

**Discretionary**

- i. Main South Road – 820 vehicles per day
- ii. Brookside Road south-west – 420 vehicles per day; and

- iii. Brookside Road north-east – 260 vehicles per day.
- The number of heavy vehicle movements per day are not known, although it is anticipated that this will exceed the thresholds of 4 heavy vehicle movements per day to the State Highway and 2 per day to Brookside Road

#### **Rule 10.9.1**

Any non-residential activity shall be a permitted activity subject to meeting the following conditions.

#### **Rule 10.9.2**

Any non-residential activity that does not comply with Rule 10.9.1 shall be a discretionary activity

#### **Rule 10.9.1.1**

The employment of staff who are not resident on the site; and

No staff will be resident on site

**Discretionary**

#### **Rule 10.9.1.2**

Visits by customers, patrons, clients or other people to the site, who are not resident on the site shall only occur between the hours of 7.00am and 10.00pm on any day.

Both the service station and Rolly Inn are proposed to be 24/7 activities, except for the car wash and vacuum facility (which will operate from 7.30am to 8.00pm)

**Discretionary**

14. Overall, the proposal is a Non-Complying activity under the Operative District Plan.

## **National Environmental Standards**

### **National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health**

15. The NES manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities have or are likely to have occurred on the site, which are listed in the Hazardous Activities and Industries List (HAIL).
16. NES investigation for this site were undertaken by AECOM. The site has an identified hot spot of lead that exceeded the commercial/industrial soil contaminants standards.
17. Expert comments were sought from Mr Stephen Gardner of Environment Canterbury (ECan) with respect to this application. Mr Gardner has concluded that the NES does apply and that the status of the application is restricted discretionary.
18. Taking in the detailed site investigation (DSI) results from EDC and the advice from ECan, I conclude that an NES consent will be required. The activity is a restricted discretionary activity in accordance with Regulation 10 of the NES, on the basis that the hotspot exceeds the applicable standard.
19. The matters over which discretion is restricted include the adequacy of the DSI, the suitability of the land for the proposed activity given the amount and kind of contamination, the approach to remediation or ongoing management, the adequacy of the site management plan, the transport and disposal of soil, the requirement for a financial bond, review conditions and duration of consent.

## Step 1 – Mandatory public notification

20. Does the application meet any of the following criteria?

		Y	N
1.1	The applicant has requested public notification	<input type="checkbox"/>	✓
1.2	Public notification is required under section 95C RMA (no response or refusal to provide information or agree to the commissioning of a report under section of the 92 RMA)	<input type="checkbox"/>	✓
1.3	The application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act	<input type="checkbox"/>	✓

If the answer is yes, **public notification is required**

If the answer is no, continue to **Step 2**.

## Step 2 – Public notification precluded in certain circumstances

21. Does the application meet either of the following criteria?

		Y	N
2.1	All activities in the application are subject to one or more rules or national environmental standards that preclude public notification	<input type="checkbox"/>	✓
2.2	The application is for one or more of the following, but no other types of activities		
	▪ A controlled activity	<input type="checkbox"/>	✓
	▪ A restricted discretionary or discretionary activity that is a “residential activity” (as defined in section of the 95A RMA) or a subdivision of land	<input type="checkbox"/>	✓
	▪ A restricted discretionary, discretionary or non-complying activity that is a boundary activity	<input type="checkbox"/>	✓
	▪ An activity prescribed by regulations made under section 360H(1)(a)(i) of the RMA (if any) precluding public notification	<input type="checkbox"/>	✓

If the answer is no, continue to **Step 3**

If the answer is yes, continue to **Step 4**

## Step 3 – Public notification required in certain circumstances

22. Does the application meet either of the following criteria?

		Y	N
3.1	Any activity in the application is subject to a rule or national environmental standard that requires public notification	<input type="checkbox"/>	✓

<b>3.2</b>	The activity has, or is likely to have, adverse effects on the environment that are more than minor in accordance with section 95D of the RMA ( <i>complete section 95D assessment, section 5 to this report</i> )	<input type="checkbox"/>	✓
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If the answer is yes, **public notification is required**

If the answer is no, continue to **Step 4**

## Step 4 – Public notification in special circumstances

		Y	N
<b>4.1</b>	Do special circumstances exist in relation to the application that warrant public notification?	<input type="checkbox"/>	✓

If the answer is yes, **public notification is required**

If the answer is no, continue to **Step 5**

## Step 5 – Certain affected groups and affected persons must be notified

23. Does the application meet any of the following criteria?

		Y	N
<b>5.1</b>	There are affected protected customary rights groups	<input type="checkbox"/>	✓
<b>5.2</b>	There are affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity)	<input type="checkbox"/>	✓
<b>5.3</b>	The proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with the Act specified in Schedule 11 of the RMA; and the person to whom that statutory acknowledgement is made in accordance with an Act specified in Schedule 11 of the RMA; and the person to whom the statutory acknowledgement is made is affected under s95E of the RMA	<input type="checkbox"/>	✓

If the answer is yes, **notify the application to each affected group/person and continue to Step 6**

If the answer is no, continue to **Step 6**

## Step 6 – Limited notification precluded in certain circumstances

24. Does the application meet either of the following criteria?

		Y	N
<b>6.1</b>	All activities in the application are subject to one or more rules or national environmental standards that preclude limited notification	<input type="checkbox"/>	✓
<b>6.2</b>	The application is for either or both of the following, but no other activities		

- |   |                          |   |
|---|--------------------------|---|
| <ul style="list-style-type: none"> <li>▪ A controlled activity, that requires consent under a district plan (other than a subdivision)</li> </ul>                               | <input type="checkbox"/> | ✓ |
| <ul style="list-style-type: none"> <li>▪ An activity prescribed by regulations made under section 360H(1)(a)(ii) of the RMA (if any) precluding limited notification</li> </ul> | <input type="checkbox"/> | ✓ |

If the answer is yes continue to **Step 8**

If the answer is no continue to **Step 7**

## Step 7 – Certain other affected persons must be notified

25. Are any of the following eligible persons affected under section 95E of the RMA?

		Y	N
7.1	In the case of a boundary activity, an owner of an allotment with an infringed boundary	<input type="checkbox"/>	✓
7.2	A person prescribed in regulations made under section 360H (1)(b) of the RMA (if any) in respect to the proposed activity	<input type="checkbox"/>	✓
7.3	For other activities, are there any affected persons in accordance with section 95E of the RMA ( <i>complete section 95E assessment, attachment 2 to this report</i> )	✓	<input type="checkbox"/>

If the answer is yes, **notify the application to each affected group/person and continue to Step 8**

26. If the answer is no, continue to **Step 8**

## Step 8 – Limited notification in special circumstances

		Y	N
4.1	Do special circumstances exist in relation to the application that warrant notification to any persons not already determined to be eligible for limited notification (excludes persons assessed under section 95E of the RMA as not being affected?)	<input type="checkbox"/>	✓

## Section 95D Assessment – Environmental Effects

27. Section 95D sets out the relevant considerations for determining whether adverse effects on the environment are likely to be more than minor for the purposes of making a decision on notification.

**95D Consent authority decides if adverse effects likely to be more than minor**

*A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—*

- (a) *must disregard any effects on persons who own or occupy—*
- (i) *the land in, on, or over which the activity will occur; or*
  - (ii) *any land adjacent to that land; and*

- (b) *may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*
- (c) *in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and*
- (d) *must disregard trade competition and the effects of trade competition; and*
- (e) *must disregard any effect on a person who has given written approval to the relevant application.*

## Existing environment and ‘permitted baseline’

### *Rolly Inn*

28. The application seeks to extend the existing activities on site to include a function facility. The application states that the hours of operation will be the same as the current hours of operation for the Rolly Inn. The application does not include an assessment of the effects of the hours of operation for the site, stating that the Rolly Inn has been “lawfully established” and that *“the effects that must be discounted include those associated with the Rolly Inn building, including hours of operation of the Rolly Inn, noise (...)”*<sup>1</sup>. The Request for Further Information sought further clarity regarding the hours of operation for the Rolly Inn, the applicant’s responses to these requests are provided in **Appendix 1** and **Appendix 2**.
29. Section 10 of the Resource Management Act provides for land to be used in a manner that contravenes a rule in the district plan if –
  - (a)
    - i. *the use was lawfully established before the rule became operative or the proposed plan was notified; and*
    - ii. *the effects of the use are the same or similar in character, intensity and scale to those which existed before the rule became operative or the proposed plan was notified.*
30. Further, Section 10(2) of the RMA notes that this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months after the rule in the plan became operative or the proposed plan was notified, unless an application has been made to the territorial authority seeking an extension.
31. It is noted that the Rolly Inn currently operates from the application site. It is understood that the building and associated structures do have an element of “existing use rights”, but the extent of this has not been fully confirmed. It is not known if all buildings, uses and the gravel car park were lawfully established. Significant work would be needed to establish the status of the Rolly Inn building with any certainty.
32. It is accepted that the Rolly Inn has a degree of “existing use rights” in so far as the building was legally established and it has operated as a non-residential activity on the site for a significant number of years. However, the scale of the activities occurring on site require further consideration, including hours of operation, noise and signage.
33. The application states that the Rolly Inn currently operates ‘core hours of operation’, between 11am and 2am, but notes that the “Rolly Inn also operates outside the core operating hours”. The applicant has stated that the current operating hours are legally established, as evidenced by the Rolly Inn’s liquor licence and previous building consents. Further, the applicant has provided additional forms of evidence as proof of the hours of operation for the site, including the existing liquor license, a letter from the Rolly Inn Manager, incident reports dating from 2006 and examples of timesheets.
34. A liquor licence provides a legal framework enabling the premises to sell alcohol, subject to conditions including hours of operation. The current liquor licence for the Rolly Inn provides for the site to sell liquor to the public between the hours of 7am and 2am. However, the RFI response notes, the hours of

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<sup>1</sup> 4Sight Consulting, Assessment of Effects, page 26.



operation identified in previous liquor licenses have varied historically<sup>2</sup>. It is considered that the liquor licence does not provide proof that the site has been operating “in a same or similar character, intensity and scale” to those which existed before there were rules in the plan relating to opening hours of non-residential activities operating in a residential zone. Further, the liquor licence does not support the applications assertion that the 24/7 operation of the site is lawfully established.

35. A building consent was granted in 2005 for an extension to the Rolly Inn for a smokers area. The building consent states that *“This building work involves replacing, altering or extending an existing building, but the proposed work does not comply with the provisions for Existing Uses in Section 10 of the Resource Management Act 1991 because it is an extension to an existing building.”* The applicant considers that in light of this statement, the Council accepted that the activity has existing use rights, stating *“if the Rolly Inn did not have existing use rights at this time, it is submitted that the nature and scope of the letter would have been quite different.”*
36. It is noted that the statement relating to existing use rights is a standard line that is included on all building consents for extensions to any building that has existing bulk and location non-compliances. There is no evidence that the Council Officer assessing the building consent considered whether the extent of the activities occurring on site, including hours of operation, were legally established or whether the site was operating under existing use rights.
37. As part of the response to the Request for Further Information, the applicant notes that it is not known if the tavern activity has been discontinued for a continuous period of more than 12 months<sup>3</sup>. As has been noted above, section 10(2) states that existing use rights do not apply when the use of land has been discontinued for a continuous period of more than 12 months. The burden of proof is on the applicant to prove that the tavern activity has not been discontinued in order to rely on existing use rights.
38. Based on the information provided, I do not consider that sufficient evidence has been provided to determine whether the activities occurring in the Rolly Inn were legally established and that the effects of the use are the same or similar in character, intensity and scale. Further, as has been stated, it is not clear if the activity has been discontinued for a period of more than 12 months. Without the benefit of additional evidence, I do not consider that the scale of the activity, including the hours of operation and noise environment can be considered to have existing use rights and therefore do not provide a permitted baseline for the level of activities currently occurring on the site.

#### *The Service Station*

39. In terms of a “permitted baseline” for the Living 1 zone, the rule requiring a 40m setback from the State Highway would mean that it would only be possible to erect a dwelling in the far south-west corner of the application site as of right, and, at that setback, compliance with the specific noise rule might also result in restrictions in terms of building construction.
40. A non-residential ‘permitted baseline’ would have the following general parameters:
- Road boundary building setback of 4m from both Main South Road and Brookside Road, with landscaping between the road and the building;
  - Internal boundary building setback of 2m;
  - Site coverage of 40%;
  - Maximum building height of 8m;
  - Maximum of two staff;
  - Building with a gross floor area of 300m<sup>2</sup>;
  - 20 vehicle movements per day, plus 2 heavy vehicle movements per day, onto Brookside Road;
  - Hours of operation limited to 7am to 10pm;
  - Compliance with the noise rules would be required; and
  - It is noted that there are some non-residential activities that are specifically listed as discretionary and not permitted activities (including service stations)

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<sup>2</sup> 4Sight Consulting, Response to Request for Further Information, Existing Use Rights, section 2.0.

<sup>3</sup> 4Sight Consulting, Response to Request for Further Information, Existing Use Rights, section 3.0.

## Assessment

41. It is noted that the activity is non-complying and the consent authority's discretion is not limited and therefore all adverse effects must be considered.
42. It is in my view that, in considering the wider environment, any adverse effects resulting from this proposal will relate to:
- Character and amenity;
  - Transport;
  - Soil contamination;
  - Hazardous substances; and
  - Retail distribution / economic effects.

### ***Character and Amenity***

43. The character and amenity of the area as a whole is influenced by various aspects, including street scene, visual amenity, interaction with the street, passive surveillance and perceptions of safety, noise and disturbance, scale of the activity, hours of operation and signage.

#### *Urban Design*

44. The proposal seeks to construct and operate a service station development on Brookside Road. The development includes a shop, large canopy with fuel pumps, a car wash building, and associated car grooming, LPG storage, extensive signage and hardstanding areas.
45. In considering the receiving environment, it is noted that the site is adjacent to State Highway 1, the presence of which is influential in defining the character of sites immediately adjacent to the road. The site also has frontage to Brookside Road, a local road that primarily services the adjacent residential area. The residential character of the zone is altered by the Rolly Inn and the businesses on Chaucer Street (noting that a fire station would be anticipated within a Living zone). I also note that the veterinary practice was established by resource consent. The vacant land next to the veterinary practice and the properties beyond on Brookside Road are residential land, therefore the south-eastern side of the road can be considered to be generally intact in a residential sense. Given the existing environment, I consider it appropriate to use the business zone rules as a guide for assessing the proposal, although I do note that, given the site is not zoned business and is located opposite predominantly residential sites on a small local road, an increased level of amenity can be expected for this site and its street scene over and above what would be acceptable in a Business zone. Further, any consideration of the business rules are to provide a guide as to the physical outcomes that might be considered appropriate for a new business development.
46. Ms Gabi Wolfer of Selwyn District Council has considered the character and amenity effects using the framework of the principles of urban design and of the commercial design guide. Her report is attached as **Appendix 3**.
47. The proposed service station building is considered to be of a modest scale. The bulk and height of the buildings are in keeping with the adjacent residential area. The design incorporates natural colours and the river rock wall along the southern elevations of the shop and carwash building. The proposal provides clear and coherent pedestrian access within the service station site. Ms Wolfer has provided a detailed peer review of the design of the buildings, site layout, pedestrian routes, proposed landscaping and proposed signage and considers that the proposed mitigation measures will assist in maintain the existing character and amenity values of the area.
48. I note Ms Wolfer's concerns in relation to the proposal not providing active frontage and not addressing the street. The applicant states that operational constraints and the internal layout of the shop limit the opportunities for providing active frontage, and notes that the 24/7 operation of site and provision of security cameras and lighting will address CPTED principles. Ms Wolfer considers that lights and cameras do not address the lack of active frontage and subsequent effects on perceived safety and amenity issues.



49. On balance, Ms Wolfer concludes that the visual, physical and perceived effects of the proposal on the wider environment will be no more than minor. I accept Ms Wolfer's assessment. Further, I consider any adverse amenity effects associated with the proposed service station to be limited to the immediately adjacent properties.

### *Signage*

50. The residential zoning of the site provides for signage, to a maximum of 1m<sup>2</sup>, with a maximum height of 2m. The rule seeks to restrict signage in the residential zone, in recognition that signage may conflict with the amenity values of residential areas.

51. The proposed service station seeks to provide a significant number of large scale signs, including but not limited to:

- Two large freestanding signs on the Main South Road frontage, the prime sign will be double sided with a maximum height of 7.3m and an area of approximately 14.6m<sup>2</sup>, and the free-standing poster board will be approximately 4.65m in height, with an area of 2.6m<sup>2</sup>;
- External signage on the shop;
- Safety signage and informational signage;
- Signage associated with the LPG storage area;
- Signage associated with the pumps, including column mount signage, leader boards and other safety signage;
- Signage around the top of the forecourt canopy;
- Signage associated with the car wash and grooming facilities; and
- A free-standing instruction sign associated with the car wash facility.

52. The proposal includes renders of the extent of the proposed signage for the site. A copy of these are provided in Appendix B of the application.

53. The majority of the signage for the proposal is located on the northern and eastern elevation, facing towards Main South Road. The signage is visually dominant along both of these elevations. Ms Wolfer has reviewed the signage and acknowledges that this level of signage is a necessary component for attracting customers off State Highway 1. Ms Wolfer notes that the large advertising is predominantly along the internal and State Highway 1 facing facades, reducing the potential effects on the adjacent residential environment.

54. The extent of signage along the residential boundary of the site is reduced by comparison. However, it is considered that residential neighbours across the road from the application site will have clear views of the proposed illuminated signage. It is considered that the scale and number of signs will be visually dominant when viewed from the properties located on the south-eastern side of Brookside Road, that is 3, 5, 7 and 9 Brookside Road, and that any adverse effects on these properties will be at least minor. Further, given that the proposed signage is visible from State Highway 1, it is noted that the signage is unlikely to meet the required letter sizing and safety requirements for signs on the State Highway. On this basis, it is considered that NZTA are also an affected party.

55. I consider the visual effects of the signage to be limited to adjacent properties.

56. With regard to the Rolly Inn, the application seeks to re-position the existing sign on Main South Road to a location closer to the Rolly Inn. The application also identifies a number of freestanding signs located across the site. It is considered that freestanding signs on road frontage has the potential to clutter the visual amenity of the frontage and create pedestrian barriers. Ms Wolfer has reviewed the proposed signage and considers that two sandwich boards, with 10m space between them along each road frontage is appropriate in this environment.

57. It is noted that these signs have not been consented and no evidence has been provided to determine whether they have existing use rights. The two signs on Main South Road frontage do not meet the required letter sizing and safety requirements for signs on the State Highway. Therefore, given that the proposed signage is visible from State Highway 1, and is unlikely to meet the required letter sizing and safety requirements for signs on the State Highway, it is considered that NZTA are an affected party.

## Noise and Disturbance

58. Marshall Day Acoustics has provided an acoustic assessment of the proposal on behalf of the applicant. The key sources of noise identified in the report include vehicle movements, the car wash and vacuum cleaning facility, the operation of the pumps, the outdoor mechanical plant and fuel deliveries.
59. The predicted noise levels in the MDA report rely on the following mitigation measures:
- A minimum 1.8m high solid timber fence along the western boundary of the site;
  - The car wash and vacuum facility operation limited to daytime hours of 0730 to 2000 hours only; and
  - The car wash is fitted with high sound insulation performance doors to ensure the facility does not exceed 84 dB  $L_{AE}$  at 10 metres from the entry/exit doors for one full cycle of the longest car wash option.
60. The MDA report predicts that the District Plan daytime noise limit of 85 dB  $L_{Amax}$  will be achieved at all surrounding properties. However, the night-time noise limit of 70 dB  $L_{Amax}$  could be exceeded at the following properties:
- 3, 4 (part of application site), 5, 6 (part of application site), 7, 9, 11 Brookside Road; and
  - 10, 12, 14 and 20 Byron Street.
61. The report concludes that heavy vehicles accessing the site during night-time hours will exceed the District Plan night-time hours. However, the MDA report considers that the relatively high levels of ambient noise in the area, primarily from State Highway 1, will ensure that any adverse noise effects are unlikely to arise as a result of these exceedances, subject to the identified mitigation measures.
62. Mr Mark Lewthwaite of Powell Fenwick has reviewed the noise assessment on behalf of the Council, his review is provided in **Appendix 4**. Mr Lewthwaite's accepts the MDA assertion that the existing elevated noise environment is a "relevant factor to acceptability of noise from the proposed activities and that the predicted levels are likely to be suitable in that context" subject to the identified mitigation measures for the proposed service station development.
63. Mr Lewthwaite considers that the proposed mitigation measures will reduce the potential adverse effects resulting from the operation of the service station, and recommends an additional condition relating to the design of the road crossings on Brookside Road to reduce entry and exit noise.
64. The focus of the MDA noise assessment is in providing an assessment of the service station noise. The report does not assess the Rolly Inn noise effects. The report does include some noise present from the Rolly Inn during the ambient noise measures taken for the purpose of assessing the service station noise levels. The information provided does not include an assessment of the current noise levels of the Rolly Inn or an assessment of the proposed function room operating on a 24/7 basis.
65. The applicant has stated that the Rolly Inn operates under existing use rights for hours of operation and noise. As discussed in paragraphs 28 - 38, the applicant has provided evidence of the hours of operation. However, whilst I accept that the site has been operating for a significant number of years, I consider that it is unlikely that the site has operated consistently for the "core hours" of 11am to 2am or for the full 24/7 operation proposed in the applicant. Without the benefit of additional evidence of the operating hours of the site, I do not consider that the scale of the activity, including the hours of operation and noise environment can be considered to have existing use rights and therefore do not provide a permitted baseline for the level of activities currently occurring on the site
66. Therefore, should the Council be of a mind to grant consent for the proposed activities, the current application will form the legal framework for the operating hours and noise environment for the future operations of the Rolly Inn, and remove any uncertainty around the scale of activities that may lawfully operate on site.
67. As Mr Lewthwaite notes, the broader activities related to the operation of the Rolly Inn have not been fully described or the noise effects assessed in the application or in the subsequent correspondence. To determine the likely worst-case noise levels from the Rolly Inn to identify affected parties, we are reliant on the noise conditions offered by the applicant. These conditions are as follows:
1. *No bands shall play outside of the Rolly Inn building;*

2. *Noise from any activity associated with the Rolly Inn shall not exceed the following noise limits at any point within 11 and 13 Brookside Road, Rolleston:*

*Daytime (0700 – 2200 hours)      55dB L<sub>Aeq</sub>*

*Night-time (2200 – 0700 hours)    45 dB L<sub>Aeq</sub> and 70 dB L<sub>AFmax</sub>*

3. *There shall be no voice or music amplification associated with the Private Function Area of the Rolly Inn.*

68. Mr Lewthwaite notes that the qualifier on the noise limits to 11 and 13 Brookside Road sets a distant position for assessment, and therefore the applicant seeks an acceptance of a greater level of noise exposure across a wider area, potentially exceeding District Plan noise limits in more locations, with little justification in the application.

69. Mr Lewthwaite concludes that there is insufficient information to identify properties that may be subjected to noise levels from the Rolly Inn that exceed those in the District Plan. However, he notes that the *“residential zoned properties on Brookside Road, and in the block between Brookside Road, Byron Street and Tennyson Street may be those more than minimally affected”*.

70. I accept Mr Lewthwaite’s assessment and consider the noise environment from the operation of the Rolly Inn will have at least minor effects at the following properties:

- 3, 5, 7, 9, 11 and 15 Brookside Road;
- 6, 6a, 8, 10, 12, 14, 16 and 20 Byron Street; and
- 6, 10 and 12 Tennyson Street.

71. These properties are the only adjacent properties considered affected by noise and it is considered that any adverse noise effects on the wider environment will be no more than minor.

#### *Traffic Amenity*

72. Stantec have been engaged by the applicant to provide an Integrated Transport Assessment (ITA). The Stantec ITA identifies that the site traffic generation from the service station will be 150 vehicle movements per hour for the peak hour, with an anticipated additional 30 vehicle movements per hour utilising Brookside Road.

73. The District Plan provides for non-residential activities in the Living zones, subject to the activity being of a scale that is consistent with the surrounding residential amenity. Rule 10.8 seeks to restrict the number of vehicle movements to 40 per day plus 4 heavy vehicle movements per day onto an Arterial Road (Main South Road) and 20 vehicle movements per day on local Roads (Brookside Road). The identified number of traffic movements seeks to reflect the anticipated residential amenity and are based on the scale and nature of effects normally associated with households and residential activities. These restrictions on traffic movements seeks to manage the traffic amenity effects from non-residential activities. It is considered that the traffic amenity resulting from the number, scale, type and location of vehicle movements may include noise, glare, vibration, reversing signals, safety and access issues, and visual intrusion of vehicles at various times of the night and day and during weekends.

74. Whilst it is acknowledged that the existing amenity of the application site and surrounding residential environment is influenced by its proximity to Main South Road, it is noted that the amenity for Brookside Road properties are more in keeping with the character and amenity anticipated in a residential area.

75. The proposed service station will result in a significant number of vehicles utilising Brookside Road, including tankers and other heavy vehicles. It is considered that the number, scale and type of vehicle movements, to, from and within the site is not in keeping with the existing residential character and amenity of the surrounding area, and will have at least a minor effect on the adjacent residential properties located at the following properties:

- 3, 5, 7, 9, 11 and 15 Brookside Road; and
- 20 Byron Street

76. Beyond the adjacent properties, it is considered that any adverse traffic amenity effects on the wider environment will be no more than minor.

77. With regard to the traffic amenity effects of the existing Rolly Inn, it is considered that the traffic movements associated with 24/7 operation of the bar will not be discernible against the existing traffic amenity. However, attendees of functions are more likely to arrive and leave at similar times, and therefore traffic movements are likely to be concentrated. The proposed function facility is proposed to be open for the same hours as the bar, and therefore a worst-case scenario may result in the 60 patrons of the function centre leaving the venue alongside patrons of the bar at 2am. The resulting traffic movements, and associated glare and noise issues are considered to have at least minor effects on the residential properties of 3, 5, 7, 9, 11 and 15 Brookside Road and 20 Byron Street.

#### *Conclusion on Character and Amenity Effects*

78. On balance, I consider that the potential adverse effects of the proposed service station and the proposed extension of activities at the Rolly Inn are at least minor with regard to the following adjacent properties:

- 3, 5, 7, 9, 11 and 15 Brookside Road;
- 6, 6a, 8, 10, 12, 14, 16 and 20 Byron Street; and
- 6, 10 and 12 Tennyson Street.

79. I consider that the effects on the wider environment are no more than minor.

#### **Transport**

80. The Stantec report identifies a number of non-compliances with the District Plan, but conclude that these are not expected to generate any adverse effects on the transport network, and that access arrangements are appropriate and can operate safely and efficiently. Further, the report states that both the service station and Rolly Inn will have sufficient on-site parking to meet the majority of parking demands.

81. Mr Nick Fuller of Novo Group Ltd has reviewed the ITA and his report is included as **Appendix 5**.

82. Mr Fuller notes that existing intersections and accesses typically provide left-turn slip lanes to better accommodate the slowing of traffic away from the through vehicles. The report identifies issues regarding safe ingress from the State Highway into the application site, citing a lack of left turn slip lane to provide time for decision making and slow vehicle speeds necessary for entering a service station forecourt.

83. Additionally the report notes that the works proposed are within the carriageway of the State Highway, which will require NZTA approval. It is acknowledged that written approval was provided for a previous consent application for service station in a different location, however that approval predates the NZTA's current reconsidering of SH1 upgrades and relates to an unconsented activity.

84. With regard to access to the State Highway and proposed works within the road corridor, Mr Fuller considers that there will be more than minor effects on the operation of the State Highway associated with the proposed activities, *"until such time as the NZTA provide formal written approval"*. Mr Fuller concludes that NZTA should be notified to confirm that they are satisfied with the potential effects of the proposal on the State Highway network and the need to construct a solid median and accessways to accommodate the proposed activities.

85. The proposal seeks to relocate the existing InterCity bus stop, currently located on Main South Road. No information has been provided regarding where this bus stop is to be relocated to. Liaison is required with the NZTA (as this is within the State Highway corridor) and Intercity (as user of the stop). Therefore, given the potential changes proposed to the InterCity bus stop, Mr Fuller considers InterCity to be an affected party.

86. The Stantec report identifies that fuel delivery vehicles are not able to satisfactorily turn left from Brookside Road into Byron Street and states that trucks would not undertake this manoeuvre, thereby avoiding the potential tracking issue. Mr Fuller accepts this approach, recommending the inclusion of a consent condition to restrict the routes of fuel delivery vehicles to ensure that any adverse effects associated with the truck routing will be less than minor.

87. In order to address the remaining potential adverse effects, associated with mobility and cycle parking, access, Mr Fuller recommends the following conditions:

- The provision of an additional mobility space at the service station;
- Provision of cycle parking at the Rolly Inn;

- Provision of a directional arrow at the SH1 ingress;
- Provision of a Journey Management Plan.

88. I accept Mr Fuller's assessment and recommendations. I consider that the potential adverse effects of the proposal on NZTA and Intercity will be at least minor, and consider these entities to be affected parties.

89. In considering the potential adverse effects of the proposal on the wider public, I note that NZTA are the government agency responsible for the safe and effective operation of the State Highway. NZTA are legislatively responsible and have the expertise to assess the potential safety effects of the proposed development, and how it will interrelate with the wider network. It is on the basis that NZTA, as the agency responsible for the safety and efficiency of the State Highway has been identified as an affected party, that I consider that notification of the wider public is not required.

#### *Upgrades to the Transport Network*

90. As has been noted in the Stantec report, New Zealand Transport Agency (NZTA) is currently in the design phase for undertaking an extensive upgrade to Main South Road. The Stantec Report provides an assessment of one design option being considered by NZTA for the upgrade of SH1.

91. Mr Fuller notes that the Asset Team of the Council is aware that NZTA are reconsidering the layout of this road improvement project and the proposal in the ITA may well not be the proposal that is progressed. A final proposed arrangement for SH1 is not currently available from NZTA and it is acknowledged that no weight can be given to any proposed SH1 arrangements.

92. The proposal is predicated on access to and from State Highway 1. As Mr Fuller notes, any proposal to restrict or alter access to SH1 to be different to that set out in this application (be it by the applicant or by NZTA through their proposed SH1 upgrade works) would not be within the scope of the current application. Given the uncertainty associated with these potential changes – and noting that the State Highway is administered by NZTA – this further highlights the need for NZTA to be considered as a potentially affected party.

#### *Conclusion on Transport Effects*

93. In conclusion, I consider that the potential adverse effects of the proposal on NZTA and InterCity will be at least minor, and consider these entities to be affected parties.

#### **Soil Contamination**

94. As has been noted, it is considered that the proposal is a restricted discretionary activity under the NESCS. Mr Gardner has identified the key contamination issues as the management of the lead hotspot and ensuring that soil is not disposed of at cleanfill. Mr Gardner considers that conditions of consent can be developed to address soil contamination and render any adverse effects less than minor. These conditions will need to be further developed in consultation with ECan and the applicant at the substantive stage.

95. At this state, I conclude that any adverse effects resulting from earthworks/soil contamination will not be more than minor.

#### **Hazardous Substances**

96. Mr Sebastian Kung of Pattle Delamore Partners has reviewed the proposal in light of the hazardous substances rules in the Plan. His memorandum is provided in **Appendix 6**. Mr Kung concludes that any adverse effects relevant to hazardous substances will be less than minor, subject to conditions that confirm the application parameters and can be refined further at the substantive stage in consultation with the applicant.

97. At this stage, I conclude that any adverse effects as a result of the volume of hazardous substances proposed on-site will be less than minor.

#### **Retail distribution / economic effects**

98. Mr Tim Heath of Property Economics has been engaged by the applicant to consider any potential adverse effects of the proposal on the Rolleston KAC. I accept that this proposal will not result in a retail distribution impact.



### Overall conclusion on adverse effects

99. I conclude that the adverse effects of the proposed service station and expansion of the activities of the Rolly Inn on the wider environment will be no more than minor.
100. I conclude that the adverse effects of the proposed service station and expansion of the activities of the Rolly Inn will be at least minor on the identified affected parties outlined in the table below

## Section 95E Assessment – Affected Person

101. Section 95E sets out the relevant considerations for determining whether a person is an affected person in relation to the application.

### 95E Consent authority decides if person is affected person


- (1) *For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).*
- (2) *The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—*
  - (a) *may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and*
  - (b) *must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and*
  - (c) *must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.*
- (3) *A person is not an affected person in relation to an application for a resource consent for an activity if—*
  - (a) *the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or*
  - (b) *the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.*
- (4) *Subsection (3) prevails over subsection (1).*

NAME	ADDRESS/LEGAL DESCRIPTION	REASON	AFFECTED PARTY APPROVAL PROVIDED?
		Transport	<input type="checkbox"/>

Intercity		Transport	<input type="checkbox"/>
[REDACTED]	3 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	5 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	7 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	9 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	11 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	15 Brookside Road	Character and amenity	<input type="checkbox"/>
[REDACTED]	6 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	6A Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	8 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	10 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	12 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	14 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	16 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	20 Byron Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	6 Tennyson Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	10 Tennyson Street	Character and amenity	<input type="checkbox"/>
[REDACTED]	12 Tennyson Street	Character and amenity	<input type="checkbox"/>

## Recommendation


102. It is recommended that the application be processed on a limited notified basis.

<b>Reported and recommended by</b>  <b>Jane Anderson</b>	<b>Date: 18 May 2020</b>
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Consultant Planner	
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## Decision

That the above recommendation be adopted under delegated authority.

 Rosie Flynn, Team Leader Resource Consents	Date: 20 May 2020
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