

Sections 95, 95A-E

Resource Management Act 1991



Decision/Report

Report pursuant to section 42A of the Resource Management Act 1991 recommending whether or not an application for resource consent should be:

- Publicly notified, limited notified or non-notified

Decision pursuant to section 95A-E of the Resource Management Act 1991 (*amended decision issued pursuant to s 133A on 2 May 2024*)

APPLICATION NUMBER:	RC235522
APPLICANT:	Burnham 2020 Limited
BRIEF DESCRIPTION OF APPLICATION:	Land use consent RC235522 is sought to develop an aggregate quarry, which requires quarrying, earthworks, shelterbelts and amenity planting, legal access, vehicle access, hazardous substances, noise, and vehicle movements.
SITE DESCRIPTION:	Address: Aylesbury Road and Grange Road Junction, Burnham Legal Description: Rural Section 19387, Rural Section 25412, Rural Section 27724, Rural Section 27776 and Rural Section 27777 Title Reference: CB31/285, CB137/244 and CB82/294 Area: 21.0437 ha, 81.4986 ha and 259.0899 ha
ZONING / OVERLAYS	Operative Selwyn District Plan (2016), Rural Volume Outer Plains Zone Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023) General Rural Zone Plains Flood Management Overlay, Greendale Fault Overlay, Liquefaction Damage Unlikely Overlay, Rural Density SCA-RD2 East Plains/ Te Waihora ki Waimakariri
OVERALL ACTIVITY STATUS:	Discretionary

The Application

- The application proposes to establish and operate an aggregate quarry within a site located at the junction of Aylesbury Road and Grange Road in Burnham, which will extract aggregate alongside undertaking primary production on the land prior to quarrying and post rehabilitation.
- As identified in the application, the main aspects of the activity are as follows:
 - Fixed processing plant, other processing, stockpiling and unsealed customer loadout which will occur on 18 ha of the site.
 - Excavation and active rehabilitation (excluding rehabilitation areas), including conveyance and unsealed accessways which will occur on 15 ha of the site.

- Silt processing and storage which will occur on 7 ha of the site.

3. The following description of the proposal is replicated from the AEE:

- *The majority of quarrying activities will be undertaken during the hours of 7am to 8pm (Monday to Saturday excluding public holidays) with rehabilitation and site pre-startup including operational warmup of on-site plant occurring from 6am to 7pm on the same days. On up to 30 days (Monday to Saturday) per annum and 15 Sundays (excluding public holidays) between 5am and 7am, it is proposed to load trucks with aggregate in the stockyard and to despatch that material to concrete batching facilities.*
- *The Site will be accessed from Aylesbury Road via a vehicle crossing that will enable trucks to enter and leave the Site without cutting up the edge of the carriageway. Aylesbury Road between the site access and Two Chain Road will be widened to 8 metres. The boundary with Aylesbury Road (from the site site) will be bunded to 3 metres in height, except in proximity to the properties along Two Chain Road where quarrying activities will be setback 100 metres into the Site. Likewise in proximity to residential properties on Grange Road, quarrying activities will be setback 100 metres into the Site. These setbacks will be planted with indigenous vegetation as will the permanent bund along Aylesbury Road.*
- *A mobile crushing plant will be installed in the initial stockpile/extraction area near the site entrance during the first part of the Construction Phase (when the stockyard, plant processing areas and the site administration facility are established) and will then be moved to the stockyard. However, most of the aggregate processing will be undertaken towards the centre of the Site, at least 500 metres from any site boundary.*
- *Quarrying will be undertaken in phases circulating around the Site ...The removal of overburden will generally only occur during the earthwork season (typically October to April) and will be stored in temporary stockpiles along site boundaries ... These temporary stockpiles will be located within the 17.5 metre setback from site boundaries, will be 3 metres in height with a 1:1 batter slope that will be grassed. They will be constructed prior to extraction occurring within 250 metres of the site boundary and extend along the length of the area to be extracted and will remain in place until the area within 250 metres of the boundary has been rehabilitated (except for the final batter). The final act of rehabilitation will be to regrade the batter slope and use the overburden within the stockpile to cover the final batter with a minimum of 200 millimetres of subsoil and 200 millimetres of topsoil ready for planting.*
- *Any excess overburden will be stockpiled in windrows along the western boundary of the first extraction area. The internal stockpiles will be used for rehabilitation as extraction moves from the long-term processing and stockpile areas into the general extraction.*
- *Dust will be managed by monitoring weather forecasts and weather conditions, and mitigation measures such as watering surfaces, processing aggregate when wet, minimising the amount of vegetation, overburden and soil removed, controlling vehicle speeds to 30 km/h on unconsolidated surfaces, and mulching, grassing and / or planting bare areas and bunds.*
- *Most of the water used at the quarry will be for processing aggregate, which will either fall on the ground, or drain to silt settlement ponds, before discharging back to the aquifer. The silts within the ponds may need to be cleaned out on occasion, and this will be spread out within the Site. Stormwater from the roofs of buildings will discharge directly to ground as it will essentially be clean.*
- *The quarry will not generate more than 250 heavy vehicle movements per day (on any one day) until the intersection of Aylesbury Road and State Highway 1 has been upgraded to a roundabout or equivalent. After that has occurred, the quarry may generate a maximum of 750 truck movements per day. Early morning truck movements between 5am and 7am will be limited to 10 truck movements per hour on up to 30 days (Monday to Saturday) and 15 Sundays per annum (excluding public holidays). It is unlikely that any trucks will return to the Site during these hours given the distance to markets.*

The Existing Environment

4. The application site is a triangular section of land which adjoins Grange Road and Aylesbury Road. It is located on the Canterbury Plains and lies approximately 8.5km from Rolleston. The site is currently operating in a rural and rural lifestyle character, which comprises of activities such as grazing, dairy farming and cropping with an established framework of shelter belts along part of the sites boundary. The site is also irrigated via three large centre pivot irrigators. A farm base is located in the centre of the site, which consists of a portacom office, large storage shed, shipping containers, and silos. The site is approximately 362ha in area, and is a triangular site and has a generally flat topography, with the exception of gentle slopes at the south-east of the site.

5. The surrounding sites are typically used for primary production activities, such as cropping and grazing, but also include equestrian facilities and scattered residential dwellings particularly at the junction of Aylesbury and Two Chain Roads to the southeast of the site. The Burnham Military Camp is located to the south of the site, and a small forestry block is located across the road from the south-eastern corner of the site. These surrounding land uses can be seen in **Figure 1** below. Prior to being established as a dairy farm, the site was established in plantation pine.

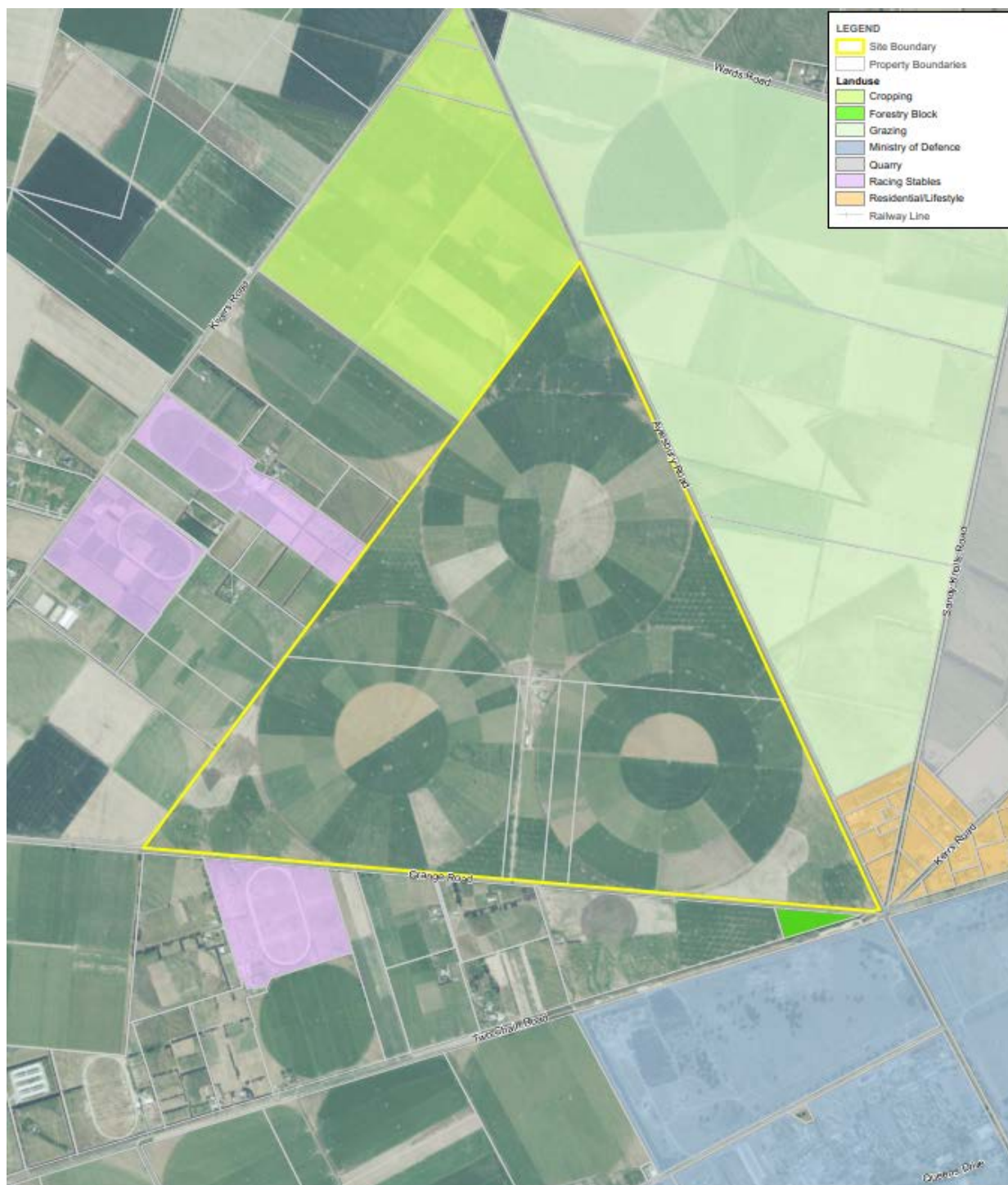


Figure 1: Site Location and Surrounding Land Use (Source: Applicant)

Activity Status

Operative Selwyn District Plan (2016), Rural Volume ("the Operative Plan")

6. The application site is zoned Outer Plains.

7. The Council released the Appeals Version of the Partially Operative Selwyn District Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act), and the corresponding provisions in the Operative Plan are treated as inoperative.
8. The rules that still apply following appeals and that this proposal does not meet are as follows.

Land Use

9. The proposed land use activity does not meet the following rules:

RULE	TOPIC	COMPLIANCE	STATUS
1.7.1.2	Earthworks	The maximum volume of earthworks per project is 5000m ³ and a vertical cut face of no more than 5% of the total vertical cut is over 2m is permitted. The earthworks for the project will exceed a vertical cut face where more than 5% of the total vertical cut is over 2m, and a maximum volume of 5000m ³ .	Discretionary (Rule 1.7.6)
2.1.1.5	Shelterbelts and Amenity Planting	No trees may shade any part of the carriageway of any road between 1000 and 1400 hours (inclusive) on the shortest day of any calendar year. The trees adjacent to Aylesbury Road and Grange Road may shade the road carriageway during this time.	Restricted Discretionary (Rule 2.1.6)
3.9.1.1	Buildings and Access and Parking	A principal building must not be erected on a site which has access from a Strategic Road. The site office will be accessed by Aylesbury Road, which is a Strategic Road.	Restricted Discretionary (Rule 3.9.2)
4.5.1.6	Vehicle Accessways and Vehicle Crossing	Access to an Arterial Road is permitted if the vehicle accessway complies with the performance criteria in Appendix E10.2.2. The vehicle accessway will be formed to a standard that is consistent with that of a commercial access onto/from a State Highway, which exceeds the relevant design and formation standards.	Restricted Discretionary (Rule 4.5.2)
4.5.1.8	Vehicle Accessways and Vehicle Crossing	Any site with more than one road frontage shall have access to the road with the lowest classification. Access to the site will be from Aylesbury Road (Arterial) rather than Grange Road (Local Road).	Discretionary (Rule 4.5.4)
7.1.1.1	Storage of Hazardous Substances	The storage of any hazardous substances is permitted if maximum storage quantities set out in Appendix 15 Table E15.2 are followed (5000L of diesel and 10kg of oils). The storage of hazardous substances will exceed the as 30,000 litres of diesel and up to 1,000kg of oils and greases are proposed to be stored.	Discretionary (Rule 7.1.2)
9.4.1	Scale of Non-Residential and Non-Rural Activities	Any activity which is not a rural activity or residential activity is permitted if the maximum area covered by buildings, loading, storage and waste areas does not exceed 100m ² and no more than two full time equivalents persons may be employed on the site. The quarry's site office, lab and workshops will cover an area of more than 100m ² and more than 2 full time equivalent staff will be employed on the quarry site.	Discretionary (Rule 9.4.2)
9.5.1	Rural Based Industrial Activities	Any rural based industrial activity shall be a permitted activity if the maximum area of any site covered by any buildings, loading, storage and waste areas on site is 100m ² , and that no more than two full time equivalent persons are employed. The quarry's site office, lab and workshops will cover an	Discretionary (Rule 9.5.3)

		area of more than 100m ² and more than 2 full time equivalent staff will be employed on the quarry site.	
9.13.1	Vehicle Movements	Any activity on an arterial road formed, sealed and maintained by SDC should not exceed 30 equivalent car movements per day (averaged over any one week period). The quarry will generate more than 30 equivalent vehicles per day.	Discretionary (Rule 9.13.2)
9.16.1	Activities and Noise	Any activity on the notional boundary of any dwelling must comply to the noise limits of 60 dBA L ₁₀ /85 dBA L _{max} between 7.30am and 8pm and 45 dBA L ₁₀ /70 dBA L _{max} between 8.01pm and 7.29am. Quarry activities will begin at 7am, so will not comply with the night time standards for a 30 minute period until 7.30am.	Discretionary (Rule 9.16.2)

10. Therefore, the land use proposal is a Discretionary activity under the Operative Plan.

Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023) (“the Partially Operative Plan”)

11. The application site is zoned General Rural Zone. The site is also subject to the Plains Flood Management Overlay, Greendale Fault Overlay, Liquefaction Damage Unlikely Overlay and Rural Density SCA-RD2 East Plains/ Te Waihora ki Waimakariri.
12. The Council released the Appeals Version of the Partially Operative Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act). Those subject to appeal continue to have legal effect pursuant to s 86B.
13. The rules of the Partially Operative Plan that this proposal does not meet are as follows.

Land Use

14. The proposed land use activity does not meet the following rules:

Operative/treated as operative:

RULE	TOPIC	COMPLIANCE	STATUS
GRUZ-R21.1.a	Mineral Extraction	An activity must be set back 200m from the notional boundary of lawfully established residential activities. The excavation of aggregate will not be setback 200m from the notional boundaries of lawfully established residential activities.	Discretionary (Rule GRUZ-R21.3)
TRAN-R4.1.b.iii	Vehicle Crossings	The establishment of a vehicle crossing is permitted if the crossing does not service an activity that generates more than 40vm/day. The crossing would serve a quarrying activity that will generate more than 40vm/day.	Restricted Discretionary (TRAN-R4.2)
TRAN-R7.1	Rural Vehicle Movements and Associated Parking	Vehicle movements associated the quarry must not exceed 60 equivalent car movements per day on a local or collector road that is formed, sealed and maintained by SDC. The number of vehicle movements generated by the proposal will exceed 60 ecm/day.	Restricted Discretionary (TRAN-R7.2).
TRAN-R8.1	High Trip Generating Activities	The establishment of the quarry is permitted if it generates less than 50 vehicles per peak hour. It is anticipated that in 2035, the quarry will generate 112 vehicles per peak hour.	Restricted Discretionary (TRAN-R8.2)
SIGN-R4.1.a	Signs Adjacent to State	Any sign located on a side adjacent to an Arterial Road which has a speed limit more than 60kmph must be setback in compliance with the road	Restricted Discretionary (SIGN-R4.2)

15. Therefore, the land use proposal is a Discretionary activity under the Partially Operative Plan.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS)

16. The NES-CS manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities listed in the Hazardous Activities and Industries List (HAIL) have or are likely to have occurred on the site.
17. As the site has been used as a forestry plantation from the 1940's until 2005, and then a cropping and cattle fattening farm since 2010, the NES-CS applies to activities on the site.
18. A Preliminary Site Investigation, carried out by Pattle Delamore Partners Limited, found a number of land use activities that may have resulted in the contamination of soils and/or groundwater. These include an above ground diesel tank associated with the forestry plantation, and two above ground fuel storage tanks, storage of bulk fertilisers and used tires, and waste pits associated with the farming practises. Based on this, the HAIL activities Landfill Sites (HAIL Reference G3), Waste Disposal to Land (HAIL Category G5), Bulk Storage of Fertiliser (HAIL Category A6) and Storage Tanks or Drums of Fuel (HAIL Category A17) have been identified for the site.
19. The proposed change in land use, from "production land" to a quarry development triggers the need for consideration of NES-CS regulations and as the HAIL areas will continue to be used for the short to medium term, a detailed site investigation was not undertaken. Therefore, this resource consent application must proceed as a discretionary activity.
20. The proposal is therefore a **Discretionary** activity in terms of the NES-CS.

Overall Activity Status

21. At the time of lodgement, the application was assessed/treated as being for a **Discretionary** activity.
22. As per the Activity Status section above, at the time of writing this report the proposal is still for a **Discretionary** activity (i.e. the most restrictive status applicable).
23. Therefore, the proposal is being considered as a **Discretionary** activity overall.

Public Notification (Section 95A)

24. Section 95A states that a consent authority must follow the steps in the order given to determine whether to publicly notify an application for resource consent.

Step 1: mandatory public notification in certain circumstances (sections 95A(2) and 95A(3))

	Y	N
Has the applicant requested that the application be publicly notified?	✓	<input type="checkbox"/>
Is public notification required under section 95C (no response or refusal to provide information or agree to the commissioning of a report under section 92)?	<input type="checkbox"/>	<input type="checkbox"/>
Has the application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	<input type="checkbox"/>	<input type="checkbox"/>

25. As the Applicant has requested public notification, in accordance with the provisions of section 95A, public notification is mandatory.
26. In addition to the public notification, it is recommended that the following parties be provided with notice of the proposal:
- The owners and occupiers of the adjacent and surrounding properties identified in Appendix 1 attached to this report;
 - NZTA Waka Kotahi;
 - KiwiRail;
 - Ministry of Education (Burnham Primary School)

- NZ Defence Force (Burnham Military Camp)
- Mahaanui Kurataiao Ltd
- Department of Correction (Rolleston Prison)


Notification Recommendation

27. I recommend that the application RC235522 is processed on a **publicly notified** basis in accordance with sections 95A-E of the Resource Management Act 1991.



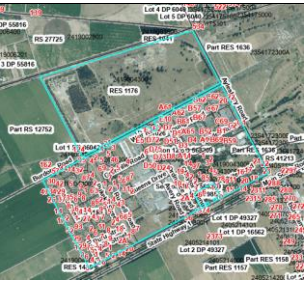


Report by: Andrew Henderson, Consultant Planner	Date: 12 April 2024
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Notification Decision







28. For the reasons set out in the report above, the Notification Recommendation is adopted under delegated authority and as amended pursuant to section 133A of the Resource Management Act 1991 (revisions shown in **bold** and underline (i.e., Appendix 1 below) and ~~strike through~~)

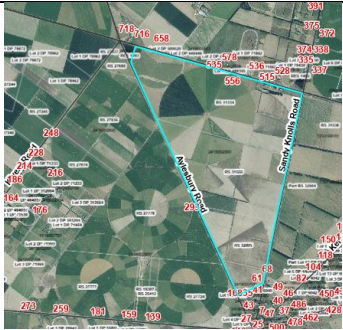
 Commissioner O'Connell	Date: 19 April 2024
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APPENDIX 1 – Properties to directly notify:

	2419006400 - LOT 4 DP 55816 - 159 Grange Road	Horck David Franciscous & Roxburgh Caitlin Rose
	2419003800 - RES 1041 BLK II LEESTON SD – Grange Road	Selwyn District Council
	2419004300 - RES 1159 1176 SECS 3 8 10-11 12 15-16 SO 568209 -BURNHAM MILITARY CAMP -	Various
	2354172300A - PT RES 1636 BLK II LEESTON SD- Burnham Road	Defence Force New Zealand
	2354175002 - LOT 2 DP 440398 - 46 Kerrs Road	Armitage David Andrew John & Tanya Rae

	2354175001 - LOT 1 DP 440398 - 500 Two Chain Road	Sandford John William
	2354175004 - LOT 1 DP 438559 - 40 Kerrs Road	McNeill Gerard David & Hunter Amy K R & Parkes John Roger
	2354175000 - LOT 2 DP 438559 - 514 Two Chain Road	Hooper Margaret Mary & Julia Kate
	2354175100 - LOT 2 DP 71705 BLK II LEESTON SD- 522 Two Chain Road	Tuatini Nicola Ann & Timmi Teone
	2354175101 - LOT 1 DP 71705 BLK II LEESTON SD - 534 Two Chain Road	Douglas John & McMillan Jeanene Valerie

	2419003600 - LOT 2 D P 20437 BLK II LEESTON SD - 27 Sandy Knolls Road	Gyllenlid Zoltan Tibor & Xandra Tunde Caterina
	2419003500 - LOT 1 DP 20437 BLK II LEESTON SD - 35 Sandy Knolls Road	Blake Rana Elizabeth
	2419003400 - LOT 3 D P 21748 BLK II LEESTON SD - 168 Aylesbury Road	Salkeld Michael David & Carmel Mary
	2419003300 - LOT 2 D P 21748 PT R S 31876 BLK II LEES TON SD - 41 Sandy Knolls Road	Marsden Halie Anne & Tyler Jordan
	2419003200 - LOT 1 DP 21748 - 43 Sandy Knolls Road	Meijer Haaye
	2419003100 - LOT 1 DP 6040 BLK II LEESTON SD - 61 Sandy Knolls Road	Griffiths Margaret & Allan Gerald

	<p>2419002900 - RS 31334 31555 32005 BLK II LEESTON SD B LKS XIII XIV ROLLESTON SD - 515 Wards Road</p>	<p>Lill Stuart Gordon & Deborah Jane</p>
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