

## 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:** Richard Bigsby

**Position:** Resource Management Planner

**Resource Consent Number:** RC225715 & RC225716

<b>APPLICANT:</b>	Kevler Development Limited
<b>LOCATION:</b>	Springston Rolleston Road, Rolleston
<b>LEGAL DESCRIPTION:</b>	Lot 2 DP 61162 being 15.9235ha in area more or less, as contained in Record of Title CB38C/605.

## Description of the Proposal

1. The applicant proposes to undertake a staged subdivision (RC225715) creating 266 fee-simple allotments, roads and reserves in Rolleston, as set out in the revised application plans, and in **Figure 1** below. The subject site is currently zoned Rural Inner Plains under the Operative Selwyn District Plan ('Operative Plan'). The net area of the proposed allotments will range from 300m<sup>2</sup> to 556m<sup>2</sup> and the lots are intended to be used for the purpose of residential development. The resultant net average lot area will be 391.2m<sup>2</sup>, and approximately 138 lots (51.9%) will be less than 400m<sup>2</sup>.
2. The subdivision would be undertaken in 25 Stages, as detailed on the scheme plan. Stage 14 would contain a neighbourhood recreational reserve, whilst Stages 18 & 23 will contain local purpose access reserves, and Stage 20 will contain a local purpose utility reserve. The majority of stages (excluding 1 & 2) include road to vest that would provide access to the allotments. The applicant states that balance allotments at any stage are to be left un-serviced.
3. The applicant states that they intend to build on a large majority or all of the lots, and that this is the reason for the large number of stages proposed. Land use consent is specifically sought to enable more than one dwelling to be built on any balance allotment only, and prior to the completion of an individual stage, and in addition to the rural dwelling density non-compliance. The number of dwellings on any balance allotment may vary from 5 to 20.
4. Land use consent (RC225716) is also required to establish residential dwellings, new roading, vehicle access, and to undertake earthworks that will not comply with the relevant provisions of the Operative District Plan (Rural Volume). A consent condition volunteered by the applicant would require any future dwelling to be constructed in accordance with the Medium Density Residential zone (MRZ) rules, per the notified variation ('Variation 1') to the Proposed District Plan. Some exemplar dwelling designs have been provided by the applicant to demonstrate the potential built-form, although there is no building commitment to these plans.



Figure 1: Proposed Scheme Plan (Source: Applicant)

5. The following amalgamation conditions are proposed by the applicant:

- "That Lot 500 (legal access) hereon be held as to two undivided one-half shares by the owners of Lots 87 & 88 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 501 (legal access) hereon be held as to two undivided one-half shares by the owners of Lots 91 & 92 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 502 (legal access) hereon be held as to two undivided one-half shares by the owners of Lots 95 & 96 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 503 (legal access) hereon be held as to three undivided one-third shares by the owners of Lots 244-246 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 504 (legal access) hereon be held as to five undivided one-fifth shares by the owners of Lots 252-256 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 505 (legal access) hereon be held as to three undivided one-third shares by the owners of Lots 272-274 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."
- "That Lot 506 (legal access) hereon be held as to two undivided one-half shares by the owners of Lots 206 & 207 hereon as tenants in common in the said shares and that individual titles shall be issued in accordance therewith."

6. The transportation evidence and assessment provided by the applicant has assessed the proposal against the Township Volume provisions given the notified variation to the Proposed Plan and urban environment proposed. However, for the purposes of my assessment in this report, compliance with both the Rural and Township Volumes was considered.

7. A s.92 request was issued by the Council on the 2<sup>nd</sup> November 2022. The applicant's responses to this request included a number of notable changes or matters confirmed/clarified:
- The intersection with Springston Rolleston Road was amended to align with the requirements of the relevant ODP notified in Variation 1 of the Proposed Plan. Land is provided by the applicant to allow a future roundabout to be constructed by the Council when required.
  - A number of future vehicle crossings would be unable to comply with the separation distances from intersections specified in Appendix E13.2 of the Operative Plan (Township Volume).
  - Link/point strips have been removed from the proposal.
  - No attached or semi-detached dwelling typologies are proposed, all will be standalone dwelling typologies.
  - The maximum height of a dwelling within the development will be two-stories.
  - Each resultant lot (i.e. excluding balance lots) will contain a single residential dwelling.
  - The water race along the Springston Rolleston Road frontage will be filled in to accommodate future vehicle crossings and a shared pathway.
  - No stage will be completed until it is provided with servicing and legal access. A consent notice is volunteered for any balance allotment created to advise if it is not fully serviced.

## Background

8. There are no relevant prior consents relating to the application site.
9. The proposal has been reviewed and assessed by the following specialists:
- Gabi Wolfer – Council Senior Urban Designer
  - Andrew Mazey – Strategic Transport Lead
  - Mat Collins – Consulting Transportation Engineer
  - Ian McCahon - Geotech Consulting Ltd.
10. A pre-application meeting was initially held between the applicant and some Council staff on the 6<sup>th</sup> April 2022 to discuss the development concept. A meeting was held between Council and the applicant on the 7<sup>th</sup> March to discuss matters raised in a s.92 request, leading to the consequent changes detailed prior.

## Description of the Existing Environment

11. The application site is legally described as Lot 2 DP 61162 being 15.9235ha in area more or less, as contained in Record of Title CB38C/605. The site address is described as Springston Rolleston Road, although no street number has been allocated to the property.
12. Springston Rolleston Road is a formed and sealed arterial classification road with a posted speed limit of 60km/hr in the local vicinity of the site. The road has a rural formation on the western side of the road with no kerb and there is an open water race along the site boundary (refer **Figure 2** below). The opposite side of the road provide kerb and a shared pedestrian/cycle path on the opposite side of a water race. The site has existing farm gate access. There are some point strips separating the site from the roads constructed to the northern site boundary.



*Figure 2: View of site Springston Rolleston Road frontage facing north-west (Source: Site visit)*

13. Kate Sheppard Drive is a local road with a T-intersection on Springston Rolleston Road opposite the application site and provides access to the Acland Park residential subdivision. The intersection includes seal widening. Hungerford Drive (subject to point strip) links to the application site from Faringdon residential subdivision to the north and has a legal width of 22m, with a formed width of approximately 9.2m and a 2.5m wide path on the eastern side of the road. Shillingford Boulevard and Ed Hillary Drive are east-west collector roads located to the north of the site within the Faringdon and Acland Park subdivisions. There are other local roading connections that extend to the boundary of the property (435 Springston Rolleston Road) that adjoins the application site to the south and west.
14. The site contains some gorse and scrub hedging along the boundary of Springston Rolleston Road. Other internal boundaries are lined by some mature tree planting. The property internally is divided with post and wire fencing for pastoral/grazing use, whilst the boundaries shared with the residentially zoned land have 1.8m tall solid fencing. There are no notable natural features, and it is understood that there are no physical service connections established to the boundary of the site. The topography of the site gently slopes from north-west to south-east, with an elevation difference of approximately 2.2m.
15. The directly adjoining environment contains a combination of rural and residential uses (refer **Figure 3** below). The land to the north and east of the site is either zoned for residential use and is developed or is subject to resource consents with established residential development. The land adjoining to the south and west of the site is zoned for rural uses, containing an existing residential dwelling along with fenced pastoral land. The wider environment includes the Rolleston Town Centre to the north of the site and rural zoned land located on the southern side of Selwyn Road.
16. I visited the site on Monday, 17 October 2022.





Figure 3: Application site and immediate surrounds (Source: Canterbury Maps)

## Operative District Plan

17. The application site is zoned Inner plains within the Rural Volume of the Operative District Plan.

### Subdivision

RULE	TOPIC	COMPLIANCE
10.1.1.1	Natural Hazards	Complies
10.1.1.2	Outstanding Landscapes	Complies
10.1.1.3	Special Features	Complies
10.1.1.4	Intensive Farming	Complies
10.1.1.5	Legal Access	Complies
10.1.1.6	Access Standard	<b>Does not comply</b>
10.1.1.7	Corner Splays	<b>Does not comply</b>
10.1.1.8	Utilities	N/A
10.1.1.9	Transmission Lines	N/A
10.1.1.10	Esplanade Reserves	N/A
10.1.1.11	Lakes & Rivers	N/A
10.1.1.12	Allotment Size	<b>Does not comply</b>
10.1.1.13	Existing Mechanisms	N/A
10.1.1.14	Porters Ski Area	N/A

18. The subdivision proposal is therefore a **Non-Complying** activity under the Operative District Plan.

## Land use

RULE	TOPIC	COMPLIANCE
1.7	Earthworks and Setbacks, Volume and Site Rehabilitation	Does not comply
3.10	Buildings and Residential Density	Does not comply
3.11	Buildings and Site Coverage	Does not comply
3.12	Buildings and Building Height	Complies
3.13	Buildings and Building Position	Does not comply
4.4	Road and Engineering Standards	Does not comply
4.5	Vehicle Accessways and Vehicle Crossings	Does not comply

19. The land use proposal is therefore a **Non-Complying** activity under the Operative District Plan.

20. 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

21. The applicant has provided a Detailed Site Investigation (DSI) that was prepared by Wiley Geotechnical Ltd (WGL) in June of 2022, following the completion of a Preliminary Site Investigation (PSI) that was also prepared by WGL in August 2021. The PSI concluded that the DSI was necessary, as a HAIL activity was determined to have occurred on the site. The risk area was adjacent to the existing garage on the property where tires were stored. The investigation stated that this was a HAIL activity (G4 – Scrap yards, including automotive dismantling, wrecking or scrap metal yards) and determined that potential contaminants in the soil resulting from this activity may pose a risk to human health.
22. As part of the DSI, soil sampling was completed within the identified area in accordance with the relevant MFE guidelines and was sent to Hill laboratories for analysis. The results indicated that contaminants were not present at concentrations that could pose an unacceptable risk to human health, as a result of the development of the site for residential uses.
23. A SQEP from the Contaminated Land Team at Environment Canterbury Regional Council (ECan) reviewed the PSI (Wiley, 2021) and the DSI (Wiley, 2022) which noted that three HAIL activities were identified: one instance of fertiliser application, a tyre storage area, and a pile of green waste. The SQEP agreed that the tyre storage area was the only potential HAIL activity of concern. This area was investigated, and soil sampling confirmed that contaminant concentrations were below expected background values. The DSI concluded that this should be a controlled activity; however, this is not consistent with Regulation 5(9) of the NESCS.
24. A separate PSI was commissioned by the Council and undertaken by Pattle Delamare Partners Ltd (PDP) in July 2022 as part of the notified variation to the Proposed Plan considering a future residential use scenario. This PSI confirmed that no potential HAIL activities exist on the site and that the former tyre storage has not resulted in soil contamination which poses a risk to human health.
25. Therefore, the NES for Assessing and Managing Contaminants in Soil to Protect Human Health **does not apply**.

## Proposed Selwyn District Plan (Notified 05 October 2020)

26. Under the Proposed Selwyn District Plan ('the Proposed District Plan') the site is zoned General Rural.
27. The site is also subject to the Plains Flood Management Overlay, Liquefaction Damage Unlikely Overlay, EIB Management Overlay: EIB Canterbury Plains Area, Urban Growth Overlay and Inner Plains/ Te Urumanuka ki Ana-ri rural density overlay.
28. In addition, the site subject to the Rolleston 14 Development Area (DEV-RO14) outline development plan (ODP) and corresponding text in the notified variation to the proposed plan.
29. No decisions have yet been made on the Proposed Plan.
30. There are no rules with immediate legal effect or that are operative that apply to this proposal.

## Resource Management (Enabling House Supply and Other Matters) Amendment Act 2021

31. A variation (Variation 1) to the Proposed District Plan was notified on 20 August 2022 in response to the Resource Management (Enabling House Supply and Other Matters) Amendment Act 2021, which requires the Council to adopt Medium Density Residential Standards (MDRS) in Rolleston, Lincoln and Prebbleton.
32. This variation introduced the Medium Density Residential Zone in the Proposed District Plan which allows up to three residential units, each up to three storeys high (11 metres) to be built on a site within the Medium Density Residential Zone without a resource consent. The objective, policies and rules of the Medium Density Residential Zone have immediate legal effect from the date of notification (20 August 2022).
33. The application site is located within a Medium Density Residential Zone (MRZ) which does not have immediate legal effect (NILE)

## Status of the resource consents

34. Where a proposal:
  - consists of more than one activity specified in the plan(s); and
  - involves more than one type of resource consent or requires more than one resource consent; and
  - the effects of the activities overlap;
35. the activities may be considered together.
36. Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.
37. In the instance, the effects of the proposed resource consents will overlap and thus they are considered together as a non-complying activity overall.

## Public Notification

### Step 1 – Mandatory public notification

38. 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"/>	✓

39. Public notification is not mandatory under this section.

*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

40. 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, discretionary or non-complying activity that is a boundary activity	<input type="checkbox"/>	✓

41. Public notification is not precluded.

*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

42. 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"/>
------------	--	----------------------------

43. The application does not meet the above criteria.

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

**Conclusion on public notification**

44. Having evaluated the application against the provisions of section 95A, it is my conclusion that the application must be publicly notified, for the reasons discussed under “Section 95D Assessment – Environmental Effects” subheading.

## Section 95D Assessment – Environmental Effects

45. 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.*

## Discussion

46. In regard to the notification provisions, the Council is to disregard any effects on the persons who own or occupy the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land (s95D(a)). I consider that 'adjacent' in s95D(a) generally refers to properties that are close by or near to an activity, in addition to those that are directly adjoining.
47. In the context of this proposal, the land that I consider is adjacent to the site is listed in the table below:

*Table 1: Properties considered to be adjacent to the application site.*

ADDRESS/LEGAL DESCRIPTION
435 Springston Rolleston Road – Lot 1 & Lot 2 DP 82966
3-19 Ledbury Drive
69-81 & 86 Hungerford Drive
3-15 Gemstone Place
5 & 8 Adamite Drive
156-158 & 162-164 Shillingford Boulevard

489 Springston Rolleston Road

14-38 Billy T Lane

1 & 2 Kate Sheppard Drive

8-14 Wigmore Crescent



Figure 4: Adjoining property identified by shading (Source: Canterbury Maps)

48. However, I consider that the effects on the users of the adjacent roads/public realm, being the public, are not required to be disregarded, given that they are not “occupiers” under the Act. Therefore, adverse effects on the users of the road environment and public realm are considered in the following.



## Assessment

### *Permitted Baseline*

49. Section 104(2) of the RMA directs that the decision maker may disregard an adverse effect on the environment of an activity if a rule in the District Plan permits an activity with that effect, a concept known as the permitted baseline. The application of the permitted baseline is discretionary and case law has established that the permitted baseline test relates to the effects of non-fanciful hypothetical activities which could be carried out as of right under the District Plan, as well as any existing lawfully established activity on the site or any activity for which resource consent has been granted.

#### Permitted Baseline - Operative District Plan

50. The site is zoned Inner plains in the Operative District Plan (Rural Volume) and provides for the establishment of up to three residential dwellings as of right (one dwelling per 4 ha) on the underlying allotment. Notably, subdivision is not a permitted activity and consequently, there is no relevant permitted baseline to consider in that regard.

#### Permitted Baseline - Proposed District Plan

51. There have been no decisions made on the Proposed District Plan (relevant to the proposed activity) and there are no rules with immediate legal effect that apply to the proposed activity. As such, there are no provisions within the Proposed District Plan which can be taken into account at the s.95 stage.

## Assessment

52. The receiving environment beyond the application site includes permitted activities under the relevant plans (where provisions have immediate effect or are operative), lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed.
53. While the key considerations under section 95 relate to the adverse effects generated by a proposal, the High Court decision in *Tasti Products Ltd v Auckland Council* [2017] NZRMA 22 and subsequent case law, including *Ennor v Auckland Council* [2019] NZRMA 150 and *Kawau Island Action Incorporated Society v Auckland Council* [2018] NZHC 3306 has established that the objectives and policies of a plan, and a proposed plan, can share a part in informing the context for the assessment of effects.
54. The activity status of this proposal is non-complying and the Council's discretion is not limited, and therefore all adverse effects must be considered. I consider that within the wider environment that is 'non-adjacent', any adverse effects from this proposal will relate to:
- Character and amenity;
  - Transportation;
  - Servicing; and
  - Natural hazards.

### *Character and amenity*

55. Resource consent is sought to undertake large-scale residential development in partial accordance with the MRZ provisions within the Council's notified variation ('Variation 1') to the Proposed District Plan, in addition to subdivision to create undersized allotments. As discussed, the relevant MRZ rule framework as proposed will enable up to three dwellings, each up to three storeys high (11 metres) to be built on a single site. However, the applicant has volunteered additional controls that would limit the potential built-form and dwelling typologies that could establish. I understand from the applicant's description of their proposal and subsequent s.92 response that a resource consent is sought to establish no more than 266 dwellings within the application site and that each allotment once subdivided would contain no more than one dwelling.



56. However, I recognise that the proposal includes the ability to erect multiple dwellings on an underlying 'balance' lot prior to the issue of the section 224 (c) for the corresponding stage of the development. Additionally, the applicant has volunteered that no building would exceed two-stories. Therefore, the proposal would enable a single dwelling for each proposed lot in accordance with the balance of the notified MRZ requirements, providing for a single dwelling of up to two-storeys tall. All proposed allotments will be significantly undersized in respect of the Operative Plan 4ha minimum site area requirements, with a resultant net average lot area of 391.2m<sup>2</sup>, and approximately 138 lots (51.9%) of less than 400m<sup>2</sup>.
57. In regard to effects on character and amenity, amenity values are defined in the Act (section 2) as including: "Those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes". The Operative Plan (Rural Volume) identifies some of the perceptions that people share about the character of the rural area, which includes the predominance of vegetation cover, land uses primarily associated with primary production and views unmodified by structures. The District Plan highlights that rural character means different things to different people including a sense of open space, panoramic views, and a perception of rural outlook.
58. Given that the present zoning is Rural Inner Plains, it is the expectation of the Operative Plan to maintain a low overall residential density and to avoid adverse effects on natural and physical resources or reverse sensitivity effects (Objectives B4.1.1 and B4.1.2) and as stated above, these objectives and policies can share a part in informing the context for the assessment of effects. In my view, the proposal would be discordant with these Objectives and Policies. The Proposed Plan as notified had General Rural zoning for the subject site, which shares similar expected attributes and characteristics. It is recognised that following the notification of Variation 1 to the Proposed Plan in August 2022, the site and the immediate surrounding land are proposed to be rezoned MRZ, where medium density residential development could establish.
59. The site is located within a modified landscape, characterised by some adjacent existing large-scale residential development (authorised by resource consent), in addition to rural land with productive use and potential. In this case, I consider that the application site has intact rural physical qualities and attributes, including large open spaces, low building density, and the predominance of vegetation cover (including mature trees and planting). The proposal will result in a significant change to the use and appearance of the site, with the site transitioning from a partially intact rural landscape into that of an urban landscape, comprised of urban development and built-form.
60. In determining the significance of the change of use of the site, I note that some of the surrounding 'non-adjacent' rural environment includes resource consents that authorise residential development in accordance with the Living Z provisions contained in the Operative District Plan (Townships Volume), and that these developed rural areas directly adjoin other Living Z zoned areas within the Rolleston Township, forming a coherent extension of the urban environment. Notably, these consents were determined under different planning frameworks, being the Housing Accords and Special Housing Areas Act 2013 and the COVID-19 Recovery (Fast-track Consenting) Act 2020.
61. The application site is acknowledged to be different from the generality of rural settings, whereby those rural amenity values and outcomes described in the Operative Plan (Rural Volume) are not coherently reflected in the 'non-adjacent' landscape due to the environment established by those consents or the existing residential zonings. However, the site still maintains some rural characteristics that will be dismantled by the urban development proposed, at a residential density significantly exceeding that permitted by the operative zoning.
62. As well as the non-compliant residential density, future residential dwellings would have increased building coverage, reduced building setbacks, and more permissive recession plane standards that would not comply with the Rural Inner Plains Zone built-form standards. Additionally, the MRZ built-form standards proposed could establish buildings that would not be visually coherent with the urban development that has recently established in the wider receiving environment.
63. The application site shares direct boundaries on two sides with a larger rural land holding which exceeds 20ha and this scale and relationship supports the impression of the site being located within an environment that appears to be rural in character and that is not part of the township. The site has post and wire fencing and shelterbelt hedging, which I consider support rural characteristics. It would be

evident to the generality of people viewing the site that it could be used for rural activities, rather than for urban activities of the scale proposed.

64. The establishment of significantly smaller allotments in this location would have clearly discernible adverse effects on the character and amenity of the existing environment. This is by creating a more intensive residential density than that which is anticipated by the Operative District Plan and the Proposed District Plan, dismantling some of the remaining rural character of the locality. The effects would be on the adjacent roads and public realm, and would consequently affect occasional and transitory persons in this environment. The site would substantially change in character, although the directly adjacent residential development would ensure that future development appears as an extension of the existing Rolleston Township form. Given the nature of the amenity effects on occasional and transitory persons, I consider that the adverse character and amenity effects of the proposed subdivision would be at least minor.

### *Transportation*

65. Transportation evidence was submitted as part of the current resource consent application and was prepared by Stantec on the behalf of the applicant in relation to their submission on the Proposed District Plan to rezone the subject site for residential use (considering a density of approximately 260-280 households). Consequently, this evidence did not initially assess the specific transportation related non-compliances in the context of the relevant operative planning framework, although the evidence concluded the following:

- *that the site is appropriate for residential zoning given it is surrounding by residentially zoned and/or developed land to the east, north, west and south (with a small portion of unzoned land subject to another PDP submission immediately adjoining). This will allow it to be well connected to the surrounding neighbourhoods for walking and cycling, particularly to Acland Park and Faringdon where there are a range of attractors including neighbourhood shops, schools, parks and bus routes. It also facilitates connections between other developments.*
- *Detail of the internal roading layout will be able to be confirmed at the subdivision and detailed design stages and I consider that local road standards will be appropriate to be adopted through the site. I would encourage the detailed design to aim to achieve a slow speed environment for resident safety and amenity.*
- *Providing a new intersection on Springston Rolleston Road north of Kate Sheppard Drive is appropriate and this intersection will be able to be designed at a later stage to tie into the planned road environment. Based on traffic modelling carried out, I conclude that an appropriately designed intersection will operate safely and efficiently.*
- *Based on traffic modelling carried out, I conclude that the traffic that could be generated by the proposed development will be spread across the transport network and have a negligible effect on the operation of key intersections nearby.*
- *As described, I consider the proposed re-zoning to be consistent with the transport-related objectives of the District Plan.*
- *I conclude that from a transport perspective, the site is appropriate to be zoned for residential land use and the proposed ODP will ensure that good transport outcomes can be achieved at the subdivision design stage.*

66. The Stantec transportation evidence and the applicant's subsequent s.92 responses were peer reviewed in the context of the subdivision and land use proposal by Mat Collins and Vanessa Wong of Flow Transportation Specialists, and their review is included as **Attachment 1**. Supplementary review and assistance was provided by the Council's Strategic Transport Lead, Andrew Mazey. In summary, the review and subsequent material received identified and considered the following key matters:

- *We support the realignment of the Primary Road intersection with Kate Sheppard Drive. The splay shown to vest on EN-300 is not dimensioned, but it appears to be similarly dimensioned as the splays at the nearby Springston Rolleston Road/Shillingford Boulevard, which we understand has been future proofed for construction of a roundabout. We recommend that the applicant confirm that this is sufficient to allow Council to construct a roundabout in the future.*

- *Link Strips may negatively affect the future connectivity of the publicly accessible transport network. We recommend that Council consider whether Link Strips should be removed from the Proposal.*
- *In regard to the vehicle crossings onto Springston Rolleston Road, I consider that this will have a degree of effect on the efficient operation of the arterial, as vehicle crossings introduce additional conflict points and side friction. However, I appreciate that avoiding vehicle crossings onto Springston Rolleston Road could result in dwellings “turning their back on the street”. I recommend Council consider whether there are non-transport benefits to having vehicle crossings onto Springston Rolleston Road.*
- *The applicant opposes our recommendation that the following intersections are upgraded to roundabouts prior to development occurring.*
  - *Selwyn Road/Springston Rolleston Road*
  - *Selwyn Road/Lincoln Rolleston Road*
  - *Selwyn Road/Weedons Road*

*We recommend that Council consider whether the application should be declined as development proceeding ahead of supporting infrastructure can create cumulative safety and efficiency effects on the transport network.*

67. The applicant met with Council on the 7<sup>th</sup> of March 2023 to discuss the matters identified by the Council's transportation specialists. Following this meeting, the applicant removed point/link strips from their proposal and agreed that developer agreements could be implemented; the distribution of lots along Springston Rolleston Road was modified to reduce the conflict points and 'side friction'; and further material and assessment was provided in relation to both the Springston Rolleston Road intersection, and other intersections in the surrounding environment (identified above).
68. The further assessment provided from Stantec considers the Springston Rolleston Road intersection as a cross-road, accommodating approximately 271 residential lots. As a 'worst case' scenario they have assessed a single point of access to the subdivision, with a single lane on each approach. The assessment in SIDRA Intersection shows that the side road turn movements can operate efficiently with good levels of service, and minimal queuing with a cross-road intersection. The modelling assumes that Springston Rolleston Road operates with an urban 50km/h speed limit (noting the present speed limit is 60km/hr).
69. In regard to the other intersections, Stantec consider that the 'scale of development and contribution to traffic to intersections that Council plans to upgrade in the future is relatively small, with changes to turning movements small, as previously presented in the transport assessment evidence'. In their view, development of a subdivision of the scale proposed does not happen immediately, enabling the Council to further plan for any possible change in timing of infrastructure, which they consider would be insignificant compared with the wider range of growth development that has occurred or is occurring in the southern part of Rolleston.
70. Flow and Mr Mazey consider that Stantec have provided an inadequate response about wider intersection upgrades being the future responsibility of the Council, relating to wider cumulative network issues, with no technical analysis of the effects related to this proposal. In their view, a staging threshold may be appropriate in the absence of further analysis. However, I recognise that no staging condition is proposed or volunteered by the applicant, and that the complete development of the site prior to identified intersections being upgraded is a scenario that could occur.
71. In Flow and Mr Mazey's view, the effects of the proposed development occurring prior to the identified intersection upgrades being completed are likely to cause adverse safety effects at these intersections. Specifically, the Selwyn Road corridor is going to be under a lot of pressure until Council can upgrade the Springston Rolleston, Lincoln Rolleston and Weedons Road intersections. Flow have clarified that in their view, the full development of the site prior to those intersections being upgraded will potentially have a more than minor effect on the safety and efficiency of the road network. I accept and adopt their assessment.

## *Servicing*

72. A Servicing Report, prepared by Survus Consultants, was submitted with the application. The Council's Development Engineers have reviewed the proposal and considers that the proposed development could be adequately serviced with water; wastewater; stormwater; telecommunications and electricity.
73. I consider that the effects relating to servicing (exclusive of the preceding assessment of transport effects) on the environment are less than minor.

## *Natural hazards*

74. The applicant provided a geotechnical investigation report prepared by Wiley Geotechnical Limited. This was peer reviewed on behalf of Council by Ian McCahon of Geotech Consulting Ltd in October 2022. The review concluded that:
75. "The soil profile identified is consistent with that on other blocks of land adjacent to or close to this site. We agree that there is minimal to no liquefaction potential at the site. We agree with the conclusion that the site is equivalent TC1 Technical Land classification.
76. The extent of work reported complies with the intent of the MBIE Subdivision Guidance for a site subject to subdivision, in our opinion, given the consistency of the ground conditions identified. The report is sufficient for subdivision consent. Site specific shallow testing are recommended on each house site at building consent stage, once subdivision earthworks are complete.
77. On that basis, I consider that the land is suitable to subdivide as the identified hazards can be effectively managed. There are no other known constraints associated with the site that prevent the subdivision of land under Section 106 of the RMA.

## **Summary of effects**

78. In summary, the adverse character and amenity effects of the proposed subdivision and subsequent development are considered to be at least minor, and the full development of the site prior to those intersections being upgraded will potentially have a more than minor effect on the safety and efficiency of the road network.

## **Parties on whom notice is to be served**

79. Section 10 of the Resource Management (Forms Fees and Procedure) Regulations 2003 requires that consent authority to serve notice on every person the consent authority decides is an affected party under Section 95B. S95B requires the consent authority to consider if any person is affected in accordance with Section 95E.

### **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).*

## Discussion

### *Permitted Baseline*

80. Section 104(2) of the RMA directs that the decision maker may disregard an adverse effect on the environment of an activity if a rule in the District Plan permits an activity with that effect, a concept known as the permitted baseline. The application of the permitted baseline is discretionary and case law has established that the permitted baseline test relates to the effects of non-fanciful hypothetical activities which could be carried out as of right under the District Plan, as well as any existing lawfully established activity on the site or any activity for which resource consent has been granted.

#### Permitted Baseline - Operative District Plan

81. The site is zoned Inner plains in the Operative District Plan (Rural Volume) and enables the establishment of up to three residential dwellings as of right on the underlying title (one dwelling per 4 ha), provided they comply with the relevant built-form requirements. Notably, subdivision is not a permitted activity and consequently, there is no relevant permitted baseline to consider in that regard.

#### Permitted Baseline - Proposed District Plan

82. There have been no decisions made on the Proposed District Plan (relevant to the proposed activity) and there are no rules with immediate legal effect that apply to the proposed activity. As such, there are no provisions within the Proposed District Plan which can be taken into account at the s.95 stage.

### *Assessment*

83. The activity status of this proposal is non-complying and the Council's discretion is not limited, and therefore all adverse effects must be considered. I consider that within the 'adjacent' environment, any adverse effects from this proposal will relate to:
- Character and amenity; and
  - Reverse sensitivity.

### *Character and amenity*

84. As previously discussed, the resource consents are sought to undertake large-scale residential development in accordance with the MRZ provisions within the Council's notified variation ('Variation 1') to the Proposed District Plan, in addition to undertaking a subdivision to create undersized allotments. The applicant has volunteered that no more than one dwelling will be established per resultant lot (i.e. 266 dwellings total). Therefore, the proposal would enable a single dwelling of up to two-stories tall for each proposed lot in accordance with the remaining relevant notified MRZ provisions. Notably, while the

applicant has provided some illustrations showing that dwellings could be established in compliance with the proposed modified MRZ provisions, there is no 'building commitment' to specific plans or designs and there is no certainty of the eventual built-form that will be established.

85. It is reiterated that the Operative Plan zoning of the site is Rural Inner Plains, and that characteristics of the rural environment include the predominance of vegetation cover, land uses primarily associated with primary production, and views that are not typically dominated by structures. People may also value a sense of open space, panoramic views, and a perception of rural outlook. The adoption of the modified MRZ provisions would enable a dwelling to be constructed as close as 1m to the internal boundary of those properties located to the north, south and west of the application site, infringing the 5m internal setbacks permitted by the Operative Plan. It would also enable up to 50% site coverage on each proposed lot, and a 60 degree recession plane starting at a point 4m above existing ground level.
86. I consider that the establishment of future dwellings infringing the permitted setbacks, recession planes, and of the modified MRZ scale and bulk proposed, would have a significant impact on the sense of spaciousness, sunlight, privacy & outlook of the adjoining owners/occupiers, which in turn, would adversely affect their existing character and amenity. For those properties located on the eastern side of Springston Rolleston Road and opposite to the application site, a 20m dwelling setback is required by the Operative Plan and only up to 35% site coverage is permitted. Consequently, I consider that the outlook and amenity of these properties may also be adversely affected by proposed development of the site by at least a minor degree.
87. The subdivision proposal will result in the creation of undersized allotments at a density that is not contemplated by or is coherent with the Operative Plan, noting a minimum of 4ha is required for the Inner Plains zone. Undersized lots are likely to adversely affect the anticipated character and amenity of adjoining property and occupiers. For these properties, there is the potential for the development to adversely impact upon their outlook and the sense of spaciousness that may otherwise be achieved if the application site was subdivided in accordance with the requirements of the Operative Plan.

#### *Reverse sensitivity*


88. Reverse sensitivity effects can occur when a new activity establishes and complains about the effects of a lawfully established and existing activity in the surrounding environment. In this context and having regard to the minimum permitted allotment size, the creation of substantially undersized allotments may create the potential for reverse sensitivity effects, as the future owners/occupiers of the proposed lots would not have sufficient land area to undertake any rural activities of a comparable nature to the adjoining property. Therefore, the future owners/occupiers of these sites may be sensitive to those permitted or existing rural land uses in the adjacent environment.
89. The property directly adjoining the application site on the western and southern boundaries (435 Springston Rolleston Road) exceeds 20ha and is zoned Rural Inner Plains under the Operative Plan. I consider that this property has sufficient land area to undertake a broad variety of permitted rural land uses which may generate a range of potential effects that owners/occupiers of adjoining residential properties could consider to be a nuisance, including dust, odour and noise. Therefore, reverse sensitivity effects on this property may be at least minor.

## Summary of effects

90. In summary, the adverse character and amenity effects of the proposed subdivision and subsequent development are considered to be at least minor, and the potential reverse sensitivity effects are considered to be at least minor.
91. In my view, all of the immediately adjacent residents (as identified in **Table 1**) are affected parties and so should be served notice under Section 10 of the Resource Management (Forms Fees and Procedure) Regulations 2003


## Recommendation

92. It is recommended that the application be processed on a publicly notified basis.

<b>Reported and recommended by</b>  <b>Richard Bigsby, Resource Management Planner</b>	<b>Date: 13 April 2023</b>
---	----------------------------

## Decision

That the above recommendation be adopted under delegated authority.

 <b>Rosie Flynn, Team Leader Resource Consents</b>	<b>Date: 14 April 2023</b>
--	----------------------------