

**Sections 95, 95A-E, 104, 104A, 104C, 106, 108, 108AA, 220**



## **Resource Management Act 1991**

### **Decision and Planning Report**

**Planning 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
- Granted or declined, and, if granted, the conditions of consent

**Decision** pursuant to section 113 of the Resource Management Act 1991

<b>APPLICATION NUMBER(S)</b>	RC245955 & RC246066
<b>APPLICANT</b>	Natalie & Richard Clift
<b>BRIEF DESCRIPTION OF THE APPLICATION</b>	<p>This is a joint application for subdivision and land use consent. The following consents are sought:</p> <ul style="list-style-type: none"><li>• Subdivision consent RC245955 is sought to undertake a subdivision to create two residential lots and a vehicle accessway (access leg).</li><li>• Land use consent RC246066 is sought to establish an accessway (access leg) with a non-compliant clearance height, legal width and formed width, and to retain an existing vehicle crossing for Lot 1 of subdivision consent RC245955 with a non-compliant width.</li></ul>
<b>ADDRESS</b>	4 Elizabeth Street, Rolleston
<b>LEGAL DESCRIPTION</b>	Lot 45 DP 239
<b>TITLE REFERENCE</b>	CB8K/463
<b>AREA</b>	1,012m <sup>2</sup>
<b>ZONING / OVERLAYS</b>	<p><b>Operative Selwyn District Plan (2016), Township Volume</b> Living 1 Zone</p> <p><b>Partially Operative Selwyn District Plan (Appeals Version)</b> Medium Density Residential Zone Liquefaction Damage Unlikely Overlay</p>
<b>OVERALL ACTIVITY STATUS</b>	<b>Controlled and Restricted Discretionary</b>

### **The Application**

1. This application was formally received by the Selwyn District Council on 8 November 2024. Further information was received on 9, 10 and 13 December 2024 and 4, 5 and 11 February 2025, and this information now forms part of the application.

- The application proposes to undertake a subdivision of the application site to create two fee simple residential lots and one new vehicle accessway (access leg). Proposed Lot 1 will wholly contain the existing residential unit on the site and Proposed Lot 2 will be created vacant. The proposed vehicle accessway will utilise the existing driveway that provides access to the rear of the site off Elizabeth Street.
- Figure 1** below is an excerpt of the Subdivision Plan that was submitted with the application showing the layout of the proposed subdivision.

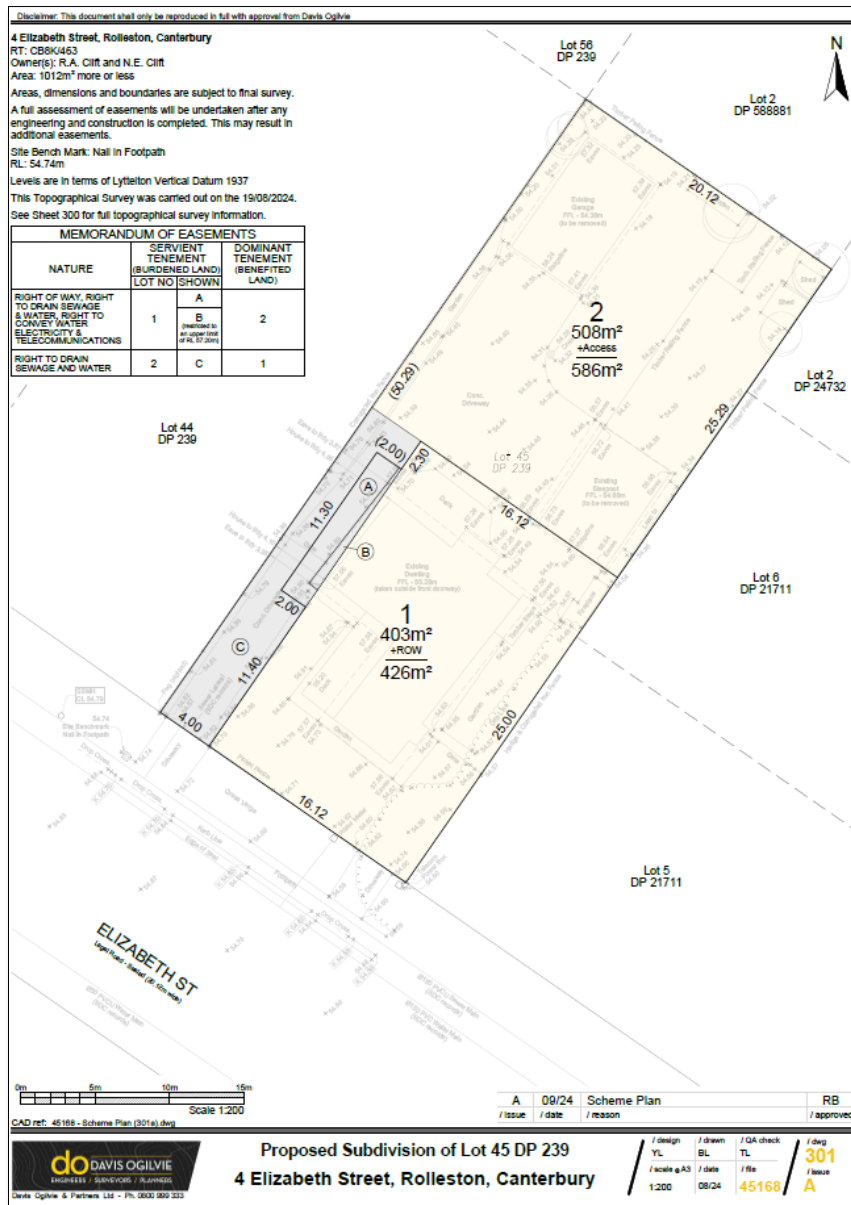


Figure 1. An excerpt of the Subdivision Plan submitted with the application.

- For reasons that are discussed further below in the “Overall Activity Status” section of this report, the activities/non-compliances associated with this proposal will not be bundled, but rather, separate assessments will be undertaken, with the relevant limitations that apply to each activity status being confined to the relevant activity/non-compliance.

## The Existing Environment

5. The application site contains an existing residential unit, an existing detached garage and an existing sleepout. The existing detached garage and detached sleepout will be removed from the site as part of this application.
6. The application site has direct access to Elizabeth Street via an existing vehicle crossing. Elizabeth Street is a sealed Local Road with a posted speed limit of 50km/hour.
7. The adjoining north-western, north-eastern, south-western and south-eastern neighbouring properties are zoned residential and contain existing residential units.
8. The topography of the application site is flat.
9. I visited the application site on Wednesday, 20 November 2025.
10. **Figure 2** below is an aerial photograph of the application site and the surrounding area.



*Figure 2. An aerial photograph of the application site (outlined in blue) and the surrounding area.*

## Activity Status

### Partially Operative Selwyn District Plan (Appeals Version) ("the Partially Operative Plan")

11. The application site is zoned Medium Density Residential. The site is also subject to the Plains Flood Management Overlay and the Liquefaction Damage Unlikely Overlay.
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.

## Subdivision

13. The proposed type of subdivision does not meet the following rules:

**Operative/treated as operative:**

<b>RULE</b>	<b>TOPIC</b>	<b>NON-COMPLIANCE</b>	<b>STATUS</b>
SUB-R1.5	Subdivision in Residential Zones	A dimension not less than 16m by 23m and a building square of not less than 8m by 15m clear of any required building setbacks is required for vacant lots. Proposed Lot 2 that will be created vacant will have a dimension of 25.29m and 20.12m and will be able to contain building square of at least 8m by 15m.	Controlled (SUB-R1.5)
SUB-R17.4	Subdivision and Natural Hazards	Subdivision is proposed within the Plains Flood Management Overlay, outside a high hazard area.	Restricted Discretionary (SUB-R17.4)

14. Therefore, the subdivision proposal is a Controlled and Restricted Discretionary activity under the Partially Operative Plan.

**Land use**

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

**Operative/treated as operative:**

<b>RULE</b>	<b>TOPIC</b>	<b>NON-COMPLIANCE</b>	<b>STATUS</b>
TRAN-R4.5/REQ5.1	Vehicle Crossings	Residential vehicle crossings must have a minimum width of 3m and a maximum width of 6m. The existing vehicle crossing that will be retained to serve Proposed Lot 1 is approximately 2.8m in width.	Restricted Discretionary (Rule TRAN-REQ5.2)
TRAN-R5.1/REQ7.1(a) and (b)	Vehicle Accessways	Vehicle accessways serving 1 site and less than 90m in length must have a legal width of at least 4.5m, a formed carriageway width of at least 3m, and a clearance height of at least 4.5m above ground level. The proposed vehicle accessway that will serve Proposed Lot 2 will have a legal width of 4m, will not have a formed carriageway width of 3m for its entire length (approximately 2.9m at its narrowest), and will not have a clearance height of 4.5m for its entire length. The eaves of the existing residential unit will overhang the proposed vehicle accessway resulting in a clearance height between 2.55m and 2.8m above ground level.	Restricted Discretionary (Rule TRAN-REQ7.2)

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

**Status – Partially Operative Plan Only**

17. Overall, the proposal is a Controlled and Restricted Discretionary activity under the Partially Operative Plan.

**Operative Selwyn District Plan (2016), Township Volume (“the Operative Plan”)**

18. The application site is zoned Living 1. The site is not subject to any overlays.
19. 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.

20. All rules that would apply to this proposal are now treated as inoperative and the proposal is a permitted activity under the Operative Plan.

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

21. Although the proposal is a subdivision, the Preliminary Site Investigation Report (prepared by Davis Ogilvie and Partners Limited, dated 4 February 2024) that was submitted with the application states that the site is not considered to be “piece of land” under Regulation 5(7) of the NES-CS, as it is not currently being used, has not been used in the past or is unlikely to have been used for an activity listed in the Hazardous Activities and Industries List (HAIL).
22. The PSI also states that the two soil stockpiles identified on the site (that contains some concrete and brick) appear visibly suitable for clean fill disposal, but disposal facilities may require them to be sampled and analysed to confirm acceptance. In response to this statement, following her review of the PSI Report, Ms Alice Butler, a Contaminated Sites Specialist from Environment Canterbury’s (ECan’s) Contaminated Sites Team, queried the source of the soil within the stockpiles. In response to this, the applicant confirmed that the soil within the stockpiles came from within the application site (from a raised garden bed and some topsoil from the front of the site) and that no soil was brought onto the site. Given this, Ms Butler confirmed she has no concerns with the stockpiles and the conclusion of the PSI Report.
23. Therefore, the NES-CS does not apply to the proposal.

## **Overall Activity Status**

24. Bundling of Controlled Activities with a higher activity status is considered inconsistent with the statutory regime. Given this, the activities/non-compliances associated with this proposal will not be bundled, but rather, separate assessments will be undertaken, with the relevant limitations that apply to each activity status being confined to the relevant activity/non-compliance.
25. Therefore, the proposal is being considered in respect of both the Controlled and Restricted Discretionary Activities.

## **Notification Assessment**

### **Assessment of Adverse Environmental Effects (Sections 95A, 95B, 95D and 95E)**

#### **Receiving Environment**

26. The receiving environment for this proposal includes the existing environment and the future environment as it could be, i.e. as modified by non-fanciful permitted activities and unimplemented resource consents. In this case, the receiving environment comprises residential properties which contain existing residential units to the north-west, north-east, south-west and south-east of the application site.

#### **Restrictions on Matters Considered**

27. The status of the activity is **Controlled** and **Restricted Discretionary**.
28. In respect of Rule SUB-R1.5 (Subdivision in the Residential Zones) in the Partially Operative Plan, the activity status is Controlled and therefore the Council’s assessment against this rule is limited to the relevant matters of control set out in SUB – Matters for Control or Discretion and NH-MAT3 Geotechnical Considerations.
29. The status of the remaining activities/non-compliances associated with the proposal is Restricted Discretionary. Therefore, the Council’s assessment of these is restricted to the relevant matters of discretion set out in Rules SUB-R17.5 (in relation to the Plains Flood Management Overlay), TRAN-REQ5.3 (in relation to the vehicle crossing width non-compliance), and TRAN-REQ7.4 (in relation to the vehicle accessway non-compliances).

30. The appropriate matters of control are addressed first below under the appropriate headings, then followed by the matters of discretion.

## **Effects**

### **Controlled Activity Assessment:**

#### ***SUB-MAT1 – Size and Shape***

31. In relation to Proposed Lot 1, there is no minimum lot dimension/size requirement, as it will wholly contain the existing residential unit. Proposed Lot 2 that will be created vacant will comply with the Partially Operative Plan's minimum lot dimension/size requirements for the MRZ.
32. The proposed lot boundaries reflect the existing physical boundaries of the application site, as the proposed vehicle accessway for Proposed Lot 2 will be created over the site's existing formed driveway off Elizabeth Street that provides access to the rear of the site. Although the eaves of the existing residential unit will overhang the proposed vehicle accessway as shown in **Figure 1** above, appropriate right of way easements will be created that will allow Proposed Lot 2 legal access to the section of the vehicle accessway located under the eaves.
33. It is considered that the size and shape of each proposed lot will be consistent with the character and amenity sought for the MRZ, as the proposal will result in a variety of site sizes and housing types being provided within the MRZ.

#### ***SUB-MAT2 – Context***

34. Given the residential zoning and nature of the surrounding land, no reverse sensitivity effects are anticipated as a result of the proposed subdivision. As the adjoining land is also zoned MRZ, it is considered that the proposed subdivision of the application site will fit in with the surrounding environment.

#### ***SUB-MAT3 – Infrastructure***

35. Each lot will be provided with services (power, telecommunications, water, sewer and stormwater).
36. No staging of this subdivision is proposed.

#### ***SUB-MAT4 – Telecommunications and Electricity***

37. Electricity and telecommunications reticulation and connections are already supplied to the existing residential unit to be retained on Proposed Lot 1.
38. New electricity and telecommunications reticulation and connections will be provided to Proposed Lot 2 in accordance with the standards of the relevant network utility operator. This requirement will be included as a condition on subdivision consent RC245955 (if granted).

#### ***SUB-MAT5 – Water***

39. Proposed Lot 1 of the subdivision will retain the existing water connection to the Council's reticulated drinking water supply. A new water connection to the Council's reticulated drinking water supply will be provided to Proposed Lot 2. The appropriate easements will be put in place.

#### ***SUB-MAT6 – Stormwater Disposal***

40. Stormwater will be discharged to ground to soakpits within each lot. Stormwater disposal will also be dealt with as part of any building consent.

### ***SUB-MAT7 – Wastewater Disposal***

41. All lots will be connected to a reticulated wastewater network. Proposed Lot 1 of the subdivision will retain the existing sewer connection to the Council's reticulated sewer network. A new sewer connection to the Council's reticulated wastewater supply will be provided to Proposed Lot 2. The appropriate easements will be put in place.

### ***SUB-MAT8 – Solid Waste Disposal***

42. Solid waste collection services are provided by the Council in Rolleston and the roads are adequately designed to enable collection from trucks.

### ***SUB-MAT9 – Movement Networks***

43. No new roading is proposed or required as part of the proposed subdivision. Each of the lots will have access to a legal road (Elizabeth Street) that is maintained by Council via two existing vehicle crossings.
44. Proposed Lot 2 will have access via the proposed vehicle accessway that will be created over the existing formed driveway and vehicle crossing that provide access to the rear the site. This existing driveway and vehicle crossing is currently being used as the main vehicle access to the site and the existing residential unit. However, as a result of this proposal, Proposed Lot 1 and the existing residential unit on site will have direct access to Elizabeth Street via the second existing vehicle crossing that is not currently being used.

### ***SUB-MAT10 – Reserves***

45. No reserves are proposed or required.

### ***SUB-MAT11 – Easements***

46. The necessary easements will be created and granted or reserved.

### ***SUB-MAT12 – Development Constraints***

47. The applicants have agreed to a condition being included on subdivision consent RC245955 (if granted) that requires a Consent Notice to be registered on the Record of Title to issue for Proposed Lot 2 restricting the maximum number of residential units that can be erected on this lot to one.

### ***NH-MAT3 – Geotechnical Considerations***

48. Although the application site is subject to the Liquefaction Damage Unlikely Overlay and less than 15 lots will be created via the proposed subdivision, the applicants submitted a Geotechnical Investigation Report that was prepared by Davis Ogilvie & Partners Limited, dated 4 November 2025, was provided with this application. The Geotechnical Report was circulated to Mr Ian McCahon (from Geotech Consulting Limited) for review and comment. Following his review, Mr McCahon confirmed that he agrees with the findings of the Report that there is minimal to no liquefaction potential at the application site, that the application site is equivalent Foundation Technical Category TC1, and that the site is suitable for residential subdivision.

### **Restricted Discretionary Activity Assessment:**

#### ***SUB-R17.5 – Subdivision and Natural Hazards***

49. In relation to Rule 17.4 (Subdivision within the Plains Flood Management Overlay), the matters of discretion are those listed under SUB-R17.5a and 5b, being NH-MAT1 (Natural Hazards Generally) and the consideration of any other additional information required to enable a Flood Assessment Certificate (FAC) to be issued for every site created in accordance with NH-SCHED1 Flood Assessment.
50. The application site is not located within a high hazard area of the Plains Flood Management Overlay, but is subject to an area that could be flooded to a depth of 0.10m during a 200-year flood event according to the Council's flood modelling data. This area subject to flooding is located entirely within the boundaries of

Proposed Lot 2. Given this, it is considered necessary to include the following flood hazard conditions on subdivision consent RC245955 (if granted) to ensure that any potential adverse effects of flooding within the application site/proposed lots is adequately mitigated:

- *A report and certificate from a Suitably Qualified Expert must be included in the Engineering Acceptance application that demonstrates the finished ground level for each residential site created will achieve a finished floor level that has a minimum of 300mm freeboard above the 200 year Average Recurrence Interval (ARI) level for a foundation that is constructed in accordance with the Building Act Acceptable Solutions guidelines.*
- *Prior to the issue of a certificate pursuant to section 224(c) of the Resource Management Act 1991, the consent holder must apply for and be issued with a Global Flood Assessment Certificate from Selwyn District Council for the subdivision or subdivision stage, except where a Flood Assessment Certificate has already been obtained for any allotments that are subject to an approved building consent or land use consent.*

51. Subject to compliance with the flood hazard conditions listed above, it is considered that any potential adverse flood hazard effects will be adequately mitigated.

#### **TRAN-R4.5/REQ5.3 – Vehicle Crossings**

52. The Council's assessment of the potential adverse effects associated with the vehicle crossing width non-compliance is restricted to the following assessment matters listed under TRAN-MAT1.1, TRAN-MAT1.7 and TRAN-MAT2:

- *Any effects on the visibility and safety of pedestrians, cyclists or motorists.*
- *Any characteristics of a proposed activity or site that make compliance unnecessary, including expected traffic generation volumes and the types of vehicles.*
- *Any effects on the ease and safety of vehicle manoeuvring.*
- *Whether the boundaries of a site support the formation of the vehicle crossing or accessway.*
- *Whether the site can gain access from another road that is not a State Highway or Arterial Road listed in APP2 – State Highway, Arterial and Collector Road Classifications List.*
- *The design and location of the vehicle crossing or accessway.*
- *The anticipated number and type of vehicles, cycles, pedestrians or stock movements.*
- *Any visual effects on road design and amenity values from not forming the vehicle crossing or accessway to the specified standards.*
- *Any encumbrance on residential sites limiting the potential for development to a standard greater than one residential unit per site.*
- *Any other characteristic of the residential site or unit that makes compliance unnecessary.*

53. Taking the above assessment matters into consideration, it is considered that any adverse effects associated with the vehicle crossing width non-compliance on the efficiency of the roading network and the safety of pedestrians, cyclists, or motorists will be less than minor. The width of the existing vehicle crossing to be retained for Proposed Lot 1 is only 0.2m less than what the Partially Operative Plan requires. As such, it is considered there will be no adverse effects on vehicle manoeuvres for those using the existing vehicle crossing to enter or exit Proposed Lot 1.

54. The existing vehicle crossing is sufficiently set back from the Elizabeth Street and Brookside Road intersection (more than 20m), and a sight line distance of more than 45m is provided on either side of the

crossing. The siting of the existing vehicle crossing allows for sufficient visibility for vehicles that will enter and exit Proposed Lot 1.

55. The existing vehicle crossing is accessed off Elizabeth Street that is classed as a Local Road that anticipates a low volume of traffic movements. As such, there is unlikely to be traffic conflict resulting from the use of the existing crossing. The existing vehicle crossing is also sealed and looks similar to other vehicle crossings in the vicinity of the application site.
56. This application was circulated to Mr Victor Mthamo, Consultant Development Engineer, and Ms Chrissie Reid, Development Engineering Manager, for review and comment. Following their review, they confirmed they have no concerns with the vehicle crossing width non-compliance and that the existing vehicle crossing can be retained as is without being upgraded to service the existing residential unit to be retained on Proposed Lot 1.

#### **TRAN-R5.1/REQ7.4 – Vehicle Accessways**

57. The Council's assessment of the potential adverse effects associated with the vehicle accessway non-compliances is restricted to the assessment matters listed under TRAN-MAT1.7 and TRAN-MAT2 (listed above).
58. It is considered that any adverse effects associated with the vehicle accessway non-compliances on the efficiency of the roading network and the safety of pedestrians, cyclists, or motorists will be less than minor, as the proposed vehicle accessway for Proposed Lot 2 will be created over the existing formed driveway that currently provides access to the rear of the site.
59. As Proposed Lot 2 will be restricted to one residential unit via a Consent Notice that will be registered on its Record of Title to issue, following the completion of the proposed subdivision, the proposed vehicle accessway will serve only one future residential unit off Elizabeth Street, which is the same as the existing situation for the site. Given this, Mr Mthamo and Ms Reid did not raise any concerns with the vehicle accessway non-compliances following their review.

#### **Positive Effects**

60. Positive effects are not relevant to the consideration of notification and will be considered as part of the s 104 assessment later in this report.

#### **Conclusion**

61. Any adverse effects from the proposal on the wider environment and on adjacent persons are considered to be less than minor, subject to compliance with the recommended conditions.

#### **Public Notification (Section 95A)**

62. 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.

<b>STEP 1: MANDATORY PUBLIC NOTIFICATION IN CERTAIN CIRCUMSTANCES (SECTIONS 95A(2) AND 95A(3))</b>	
Has the applicant requested the application is publicly notified?	No
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)?	No
Has the application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	No

<b>STEP 2: PUBLIC NOTIFICATION PRECLUDED IN CERTAIN CIRCUMSTANCES (SECTIONS 95A(4) AND 95A(5))</b>	
Are all activities in the application subject to one or more rules or national environmental standards that preclude public notification?	No

Is the application for one or more of the following, but no other types of activities: A controlled activity? A boundary activity only (as per the definition of "boundary activity" in s 87AAB of the Act)?	No
--	----

<b>STEP 3: PUBLIC NOTIFICATION REQUIRED IN CERTAIN CIRCUMSTANCES (SECTIONS 95A(7) AND 95A(8))</b>	
Is the activity subject to a rule or national environmental standard that requires public notification?	No
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor?	No

<b>STEP 4: PUBLIC NOTIFICATION IN SPECIAL CIRCUMSTANCES (SECTION 95A(9))</b>	
Do special circumstances exist in relation to the application that warrant public notification?	No

## Conclusion

63. In conclusion, in accordance with the provisions of section 95A, the application must not be publicly notified and a determination on limited notification must be made, as follows.

## Limited Notification (Section 95B)

64. Section 95B states that a consent authority must follow the steps in the order given to determine whether to give limited notification of an application for resource consent, if it is not publicly notified under section 95A.

<b>STEP 1: CERTAIN AFFECTED GROUPS AND AFFECTED PERSONS MUST BE NOTIFIED (SECTIONS 95B(1)-(4))</b>	
Are there any affected protected customary rights groups, as defined in s 95F?	No
Are there any affected customary marine title groups, as defined in s 95G (in the case of an application for a resource consent for an accommodated activity (as defined in the Act))?	No
Is the proposed activity on or adjacent to, or may it affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and is the person to whom that statutory acknowledgement is made an affected person under s 95E?	No

<b>STEP 2: LIMITED NOTIFICATION PRECLUDED IN CERTAIN CIRCUMSTANCES (SECTIONS 95B(5) AND 95B(6))</b>	
Are all activities in the application subject to one or more rules or national environmental standards that preclude limited notification?	No
Is the application for a controlled activity under the district plan only and not a subdivision of land?	No

<b>STEP 3: CERTAIN OTHER AFFECTED PERSONS MUST BE NOTIFIED (SECTIONS 95B(7)-(9))</b>	
In the case of a "boundary activity", is an owner of an allotment with an infringed boundary an affected person?	No
For any other activity, are there any affected persons in accordance with section 95E of the Act (as assessed in the Assessment of Adverse Environmental Effects above)?	No

<b>STEP 4: LIMITED NOTIFICATION IN SPECIAL CIRCUMSTANCES</b>	
Do any special circumstances exist in relation to the application that warrant notification to any other persons not already determined to be eligible for limited notification (excludes persons assessed under section 95E as not being affected)?	No

## Conclusion

65. In conclusion, in accordance with the provisions of section 95B, the application must not be limited notified.


## Notification Recommendation

66. I recommend that the applications RC245955 and RC246066 be processed on a **Non-Notified** basis in accordance with sections 95A-E of the Resource Management Act 1991.

<b>Report by:</b> Carlo Botha Resource Management Planner	Date: 13 February 2025
---	------------------------

## Notification Decision

67. For the reasons set out in the report above, the Notification Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 14 February 2025
---	------------------------

## Section 104 Assessment

68. Section 104 of the Act sets out the matters the Council must have regard to when considering an application for resource consent.

69. Section 104(1), in particular, states as follows:

### **104 Consideration of applications**

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M [Effect of incorporation of MDRS in district plan], have regard to—*
- (a) *any actual and potential effects on the environment of allowing the activity; and*
  - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
  - (b) *any relevant provisions of—*
    - (i) *a national environmental standard;*
    - (ii) *other regulations;*
    - (iii) *a national policy statement;*
    - (iv) *a New Zealand coastal policy statement;*
    - (v) *a regional policy statement or proposed regional policy statement;*
    - (vi) *a plan or proposed plan; and*
  - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

...

70. Section 104(2) states that a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan, i.e. the operative plan, permits an activity with that effect.

71. Section 104A applies to controlled activities. It requires that the consent authority must grant the consent unless it has insufficient information to determine the status of the application. Conditions may be imposed under s 108, but only for those matters over which control is reserved in a plan, national environmental standard or other relevant regulations.

72. Section 104C applies to restricted discretionary activities. It requires that the consent authority must only consider those matters over which its discretion is restricted in a plan, national environmental standard or other relevant regulations. It allows that the consent authority may grant or refuse the application, and, if granted, it may impose conditions under s 108, but only for those matters over which discretion has been restricted.

## Section 104(1)(a) - Effects on the Environment

73. An assessment of the adverse environmental effects of the proposal was completed above as part of the notification section of this report. That assessment is equally applicable to section 104 and is applied as such. Again, it is noted that the permitted baseline is relevant (section 104(2)), and regard must not be had to any person who has given written approval (section 104(3)(ii)).

74. It is also appropriate to consider the positive effects of the proposal at this section 104 stage. In relation to positive effects, the proposed subdivision will contribute towards the housing stock and providing a greater range of property sizes within Rolleston.

75. As concluded in my notification assessment, I consider that the adverse effects on the environment resulting from the proposal will be less than minor. Taking the positive effects into account, on balance and overall, I conclude that the adverse effects of the proposal will be less than minor.

## Section 106 - Natural Hazards and Access

76. Section 106 of the Act states as follows:

### **106 Consent authority may refuse subdivision consent in certain circumstances**

- (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
- (a) there is a significant risk from natural hazards; or
  - (b) [Repealed]
  - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
- (1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—
- (a) the likelihood of natural hazards occurring (whether individually or in combination); and
  - (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
  - (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).
- (2) Conditions under subsection (1) must be—
- (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
  - (b) of a type that could be imposed under section 108.

77. In this case, appropriate legal and physical access can be provided to all lots,

78. As discussed above, the application site is located within the Flood Plains Management Overlay but outside a high hazard area. Subject to compliance with the flood hazard conditions that will be included on the subdivision consent RC245955 (if granted), any flood hazard effects will be adequately mitigated.

79. As also discussed above, Mr McCahon reviewed the Geotechnical Investigation Report provided with the application and confirmed that he agrees with the findings of the Geotechnical Investigation Report that there is minimal to no liquefaction potential at the application site, that application site is equivalent Foundation Technical Category TC1, and that the site is suitable for subdivision.

80. There are no known constraints associated with the proposal that could prevent the granting of this consent under Section 106 of the RMA.

## Section 104(1)(b) – Relevant Provisions of Statutory Documents

### **District Plans (section 104(1)(b)(vi))**

#### **Operative Plan – Objectives and Policies**

81. As the proposal is permitted under the Operative Plan as there are no Operative Plan rules applicable to the proposal, I consider the proposal to be consistent with the Operative Plan.

#### **Partially Operative Plan – Objectives and Policies**

82. The Partially Operative Plan objectives and policies that I consider relevant relate to subdivision design and layout, servicing, site sizes, traffic safety and natural hazards which are discussed below.

83. The objectives and policies which relate to subdivision design and layout, servicing and site sizes are Objective SUB-O1, Objective SUB-O2, Policy SUB-P2, and Policy SUB-P3, which seek to ensure the efficient use of land and compatibility with planned urban form, that sites have the services and characteristics for their intended use, and that site areas align with the development outcomes of the relevant zone. Each of the proposed lots will be adequately serviced. Proposed Lot 2 will achieve the required minimum lot dimension for the MRZ. Given the above, I consider the proposal to be consistent with the objectives and policies relating to subdivision design and layout, servicing and site sizes.

84. The objective and policies which relate to traffic safety are Objective TRAN-O1, Policy TRAN-P1, and Policy TRAN-P11 which seek to ensure that safe and efficient land transport corridors and land transport infrastructure for all transport modes are well integrated with land use activities and subdivision developments. As discussed above, any adverse traffic related effects associated with the proposal will be less than minor. Given this, I consider the proposal to be consistent with the objective and policies relating to traffic safety.
85. The objective and policies which relate to natural hazards are Objective NH-O1, Policy NH-P10, and Policy NH-P12 which seek to ensure that the risks of natural hazards to people, property and infrastructure are appropriately mitigated as a result of any new subdivision or development. In terms of the risks associated with natural hazards, subject to compliance with the recommended flood hazard conditions to be included on subdivision consent RC245955 (if granted), it is considered that any adverse flood hazard effects can be adequately mitigated. Given this, I consider the proposal to be consistent with the objective and policies relating to natural hazards.
86. Overall, I consider the proposal to be consistent with the Partially Operative Plan.

### **Other Relevant Documents (section 104(1)(b)(i)-(v))**

#### ***Canterbury Regional Policy Statement (CRPS)***

87. The District Plans give effect to the relevant higher order documents, including the CRPS. Therefore, I consider there is no need to assess these provisions.

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

88. The NES-CS was discussed earlier in this report, with my conclusion being that it does not apply to the proposal.

### **Section 104(3)(d) – Notification consideration**

89. Section 104(3)(d) states that a consent authority must not grant a resource consent if the application should have been notified and was not. This consideration under s 104 does not raise any issues that would lead me to the conclusion that the application should have been notified. Therefore, it is my view that section 104(3)(d) does not preclude the granting of consent in this case.

## **Part 2 – Purpose and principles**

90. The consideration under section 104 is subject to Part 2 of the Act – Purpose and principles.
91. The purpose of the Act is contained within section 5 and it is to promote the sustainable management of natural and physical resources. *Sustainable management* means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while: sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and avoiding, remedying, or mitigating any adverse effects of activities on the environment.
92. The other sections of Part 2, sections 6, 7 and 8, address matters of national importance, other matters and Te Tiriti o Waitangi (the Treaty of Waitangi) respectively.
93. The relevant District Plans have been prepared having regard to Part 2, with a coherent set of policies designed to achieve clear environmental outcomes; therefore, taking into account relevant case law, I consider that assessment under Part 2 is unlikely to be necessary. For the sake of completeness, however, Part 2 is briefly assessed below.
94. In addition to section 5, I note that the following clauses of Part 2 would be particularly relevant:

## 6 Matters of national importance

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

*(h) the management of significant risks from natural hazards.*

## 7 Other matters

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

*(b) the efficient use and development of natural and physical resources:*

*(c) the maintenance and enhancement of amenity values:*

*(f) maintenance and enhancement of the quality of the environment:*

95. Based on my assessment of the proposal in this report, I conclude that the proposal will be consistent with Part 2 of the Act, as the proposal will manage the use of the application site in a way that enables people to provide for their well-being and any adverse effects associated with the proposal will be less than minor and/or adequately mitigated.

## Conclusions

96. The application is for the following consents:
- RC245955 - Subdivision (s11) - To undertake a subdivision to create two residential lots and a vehicle accessway (access leg).
  - RC246066 - Land Use (s9) - To establish an accessway (access leg) with a non-compliant clearance height, legal width and formed width, and to retain an existing vehicle crossing for Lot 1 of subdivision consent RC245955 with a non-compliant width.
97. Resource consent is required for both Controlled and Restricted Discretionary Activities.
98. Any adverse effects from the proposal on the wider environment and on adjacent persons are considered to be less than minor, subject to compliance with the recommended conditions.
99. There are no known constraints associated with the proposal that could prevent the granting of subdivision consent RC245955 under Section 106 of the RMA.
100. The proposal is considered to be entirely consistent with the relevant objectives and policies of the Operative and Partially Operative Plans.
101. This proposal is not contrary to the relevant CRPS provisions, and the NES-CS does not apply to the proposal.
102. Having considered all relevant matters, on balance and overall, I conclude that the application may be granted, subject to conditions of consent.


## Recommendation

103. I recommend that subdivision consent RC245955 and land use consent RC246066 are **granted**, pursuant to sections 104, 104A, 104C and 106 of the Resource Management Act 1991, subject to the conditions of consent below pursuant to sections 108, 108AA and 220 of the Act.

<b>Report by:</b> Carlo Botha Resource Management Planner	Date: 13 February 2025
---	------------------------

## Decision

104. For the reasons set out in the report above, the Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 14 February 2025
---	------------------------

## Condition(s) of Consent

### RC245955 Subdivision Consent Conditions

1. The subdivision shall proceed in general accordance with the information formally received with the application on 8 November 2024, the further information provided on 9, 10 and 13 December 2024 and 4, 5 and 11 February 2025, and the attached stamped Approved Plan entitled *Proposed Subdivision of Lot 45 DP 239* and dated September 2024, except where another condition of this consent must be complied with.
2. The following conditions of consent shall be met prior to the issue of a section 224(c) Completion Certificate at the expense of the consent holder.

### Engineering Acceptance

3. Copies of any consents required and granted in respect of this subdivision (ECan Consents and Waka Kotahi approval) must be supplied to the Development Engineer via [development.engineer@selwyn.govt.nz](mailto:development.engineer@selwyn.govt.nz)
4. An Engineer's Design Certificate for all civil designs from the principal civil designer who is a chartered engineering professional with suitable experience must be submitted to Council ([development.engineer@selwyn.govt.nz](mailto:development.engineer@selwyn.govt.nz)) as part of Engineering acceptance.

### Water Supply

5. The net area of each lot must be provided with an individual potable connection to the Council's water reticulation network in accordance with Engineering Code of Practice and the Engineering Acceptance letter.
6. All Water connections must be metered. Meters must be installed in the road reserve in accordance with Engineering Code of Practice and the accepted engineering plans. (Note that multi meter boxes may be utilised).
7. Connection into Council's reticulated water supply must either be carried out by Council's Five Waters maintenance contractor, or a suitably qualified water installer under the supervision of Council's five waters contractor. Costs incurred through supervision by CORDE must be met directly by the consent holder.

#### **Advice Notes**

For supervision purposes a minimum of 5 working days' notice is required. Please note a connection fee being the actual cost quoted by Council's Five Waters maintenance contractor will apply.

Applications for new water connections can be made online via SDC's website (Selwyn District Council - New Water Connection approval form). Applications should be made at least 8 working days prior to commencement of work (allow a minimum of 10 working days for watermain shutdowns).

8. Prior to the issuing of s224(c) certificate the consent holder must provide accurate 'as built' plans of the water reticulation installed as part of this consent that meet the requirements set out in the Engineering Code of Practice and Engineering Acceptance letter. Any costs involved in provision and transfer of this data to Council's systems must be borne by the consent holder.
9. Prior to the issuing of s224(c) certificate the consent holder must provide accurate AMIS schedules of the water reticulation installed as part of this consent that meet the requirements set out in the Engineering Code of Practice and Engineering Acceptance letter. Any costs involved in provision and transfer of this data to Council's systems must be borne by the consent holder.

### Wastewater Supply

10. Each lot must be provided with an individual wastewater connection to Council's wastewater reticulation infrastructure that is laid to the boundary and can service the net area of that lot in accordance with the Engineering Code of Practice and the accepted engineering plans.

11. All gravity wastewater laterals must be installed ensuring grade and capacity are provided for and in accordance with Council's Engineering Code of Practice, giving regard to maximum upstream development density.
12. Connection to the Council sewer must be arranged by the consent holder at the consent holder's expense. The work must be done by a registered drainlayer.
13. Prior to the issuing of s224(c) certificate the consent holder must provide accurate 'as built' plans of the wastewater reticulation installed as part of this consent that meet the requirements set out in the Engineering Code of Practice and Engineering Acceptance letter. Any costs involved in provision and transfer of this data to Council's systems must be borne by the consent holder.
14. Prior to the issuing of s224(c) certificate the consent holder must provide accurate AMIS schedule of the wastewater reticulation installed as part of this consent that meet the requirements set out in the Engineering Code of Practice and Engineering Acceptance letter. Any costs involved in provision and transfer of this data to Council's systems must be borne by the consent holder.
15. Prior to the issuing of s224(c) certificate the consent holder must provide a comprehensive electronic schedule of all wastewater reticulation assets to be vested in the Council that meets the requirements set out in the Engineering Code of Practice and Engineering Acceptance letter.

**Advice Note**

The vested assets schedule must cover all vested asset types and include but not be limited to installed material unit costs, type, diameter, class, quantity and include summary details.

**Stormwater**

16. Where stormwater discharges are to be undertaken as a permitted activity, a certificate produced by a chartered engineering professional that certifies compliance with the Land Water Regional Plan must be submitted to Council via [development.engineer@selwyn.govt.nz](mailto:development.engineer@selwyn.govt.nz) prior to the granting of section 224(c).

**Power and Telecommunications Services**

17. The consent holder must provide electricity and telecommunications to the net area of each lot of the subdivision with direct frontage to a road by way of underground reticulation in accordance with the standards of the relevant network utility operator.
18. The consent holder must provide infrastructure to the net area of each rear lot of the subdivision to enable electricity and telecommunications connections by way of underground reticulation in accordance with the standards of the relevant network utility operator.

**Advice Note:**

In the case of rear allotments accessed and serviced via private accessways, the condition requires that the infrastructure is in place to make a connection to services ie that a conduit is in place to enable cables to be installed in the accessway without disturbing it. The cables themselves are not required to be installed.

19. The consent holder must provide evidence in writing from the relevant authorities that electrical and telecommunications service connections have been installed to each lot.

**Flooding Assessment**

20. A report and certificate from a Suitably Qualified Expert must be included in the Engineering Acceptance application that demonstrates the finished ground level for each residential site created will achieve a finished floor level that has a minimum of 300mm freeboard above the 200 year Average Recurrence Interval (ARI) level for a foundation that is constructed in accordance with the Building Act Acceptable Solutions guidelines.
21. Prior to the issue of a certificate pursuant to section 224(c) of the Resource Management Act 1991, the consent holder must apply for and be issued with a Global Flood Assessment Certificate from Selwyn District

Council for the subdivision or subdivision stage, except where a Flood Assessment Certificate has already been obtained for any allotments that are subject to an approved building consent or land use consent.

## **Consent Notice – Restriction on Number of Residential Units/Principal Buildings on Lot 2**

22. Lots 2 must be restricted to the establishment of not more than one residential unit or principal building. Ongoing compliance with this condition must be ensured by way of a consent notice registered against the Record of Title to issue for Lot 2 hereon. The consent notice must be prepared and registered by Council's solicitor at the request and expense of the consent holder.

## **RC246066 Land Use Consent Condition**

1. The proposal shall proceed in general accordance with the information submitted with the application on 8 November 2024, the further information provided on 9, 10 and 13 December 2024 and 4, 5 and 11 February 2025, and the attached stamped Approved Plan entitled *Proposed Subdivision of Lot 45 DP 239* and dated September 2024.

## **Attachments**

1. RC245955 Subdivision Approved Plan - *Proposed Subdivision of Lot 45 DP 239*
2. RC246066 Land Use Approved Plan - *Proposed Subdivision of Lot 45 DP 239*

## **Development Contributions**

### **Subdivision Consent**

Development contributions are not conditions of this resource consent and there is no right of objection or appeal under the Resource Management Act 1991. Objections and applications for reconsideration can be made under the Local Government Act 2002. Any objection or request for reconsideration must be made in writing in accordance with the Development Contribution Policy in place at the time of application.

The consent holder is advised that, pursuant to the Local Government Act 2002 and the Council's Development Contribution Policy, the following contributions are to be paid in respect of this subdivision before the Council will issue its certificate pursuant to section 224(c) of the Resource Management Act 1991.

Note: The amounts set out in the attached table are applicable at the time the application for resource consent is formally received. If the time between the date the resource consent is formally received and the time which the Council would normally invoice for the development contributions (usually the time an application is made for the issue of Council's section 224(c) certificate for the subdivision) is more than 24 months, the development contributions will be reassessed in accordance with the development contributions policy in force at the time the consent was formally received. To avoid delays, the consent holder should seek the reassessed amounts prior to the application for the section 224(c) Resource Management Act 1991 certificate.

Please contact our Development Contributions Assessor on 03 347 2800 or at:  
[development.contributions@selwyn.govt.nz](mailto:development.contributions@selwyn.govt.nz)

Activity	Demand Post Development (HUE)	Credits for Existing Demand (HUE)	Additional Demand (HUE)	Development Contribution per HUE (\$)	Development Contribution (\$ Excl. GST)	GST (\$)	Development Contribution (\$ Incl. GST)
Water Supply	2.00	1.00	1.00	5,398.00	5,398.00	809.70	6,207.70
Wastewater	2.00	1.00	1.00	12,917.00	12,917.00	1,937.55	14,854.55
Stormwater	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Reserves	2.00	1.00	1.00	11,342.00	11,342.00	1,701.30	13,043.30
Community Infrastructure	2.00	1.00	1.00	1,440.00	1,440.00	216.00	1,656.00
Roading	2.00	1.00	1.00	1,228.00	1,228.00	184.20	1,412.20
Lowes Road ODP	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Contribution</b>					<b>32,325.00</b>	<b>4,848.75</b>	<b>37,173.75</b>

## Selwyn District Council Advice Notes for the Consent Holder

### Lapse Period (Subdivision Consent)

- (a) Pursuant to section 125 of the Resource Management Act 1991, this subdivision consent lapses five years after the date of issue of the decision, i.e. the date of receipt of the Notice of Decision email, unless:
- (i) A survey plan is submitted to Council for approval under section 223 of the Act before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the Act; or
  - (ii) Before the consent lapses an application is made to the Council to extend the period after which the consent lapses and the Council decides to grant an extension.

### Lapse Period (Land Use Consent)

- (b) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this land use consent shall lapse five years after the date of issue of the decision, i.e. the date of receipt of the Notice of Decision email, unless before the consent lapses an application is made to the Council to extend the period after which the consent lapses and the Council decides to grant an extension.

### Section 224 Certificate Issuing Requirements (Subdivision)

- (c) A Section 224 Certificate will not be issued until all Council invoices, including engineering fees and any other related costs associated with the Resource Consent have been paid in full.

### Resource Consent Only

- (d) This consent is a Selwyn District Council resource consent under the Resource Management Act. It is not an approval under any other Act, Regulation or Bylaw. Separate applications will need to be made for any other approval, such as a water race bylaw approval or vehicle crossing approval.

### Building Act

- (e) This consent is not an authority to build or to change the use of a building under the Building Act. Building consent will be required before construction begins or the use of the building changes.

### Regional Consents

- (f) This activity may require resource consent(s) from Environment Canterbury (ECan). It is the consent holder's responsibility to ensure that all necessary resource consents are obtained prior to the commencement of the activity.

## Monitoring

- (g) In accordance with section 36 of the Resource Management Act 1991, a basic monitoring fee has been charged. This covers setting up a monitoring programme and one site visit.
- (h) If the conditions of this consent require any reports or information to be submitted to the Council, additional monitoring fees for the review and certification of reports or information will be charged on a time and cost basis. This may include consultant fees if the Council does not employ staff with the expertise to review the reports or information.
- (i) Where the conditions of this consent require any reports or information to be submitted to the Council, please forward to the Council's Compliance Team, [compliance@selwyn.govt.nz](mailto:compliance@selwyn.govt.nz).
- (j) Any resource consent that requires additional monitoring due to non-compliance with the conditions of the resource consent will be charged additional monitoring fees at a time and cost basis.

## Vehicle Crossings

- (k) Any new or upgraded vehicle crossing requires approval from Council's Infrastructure and Property Department prior to installation. Applications to install a new vehicle crossing or upgrade an existing one can be made online via the SDC website (Selwyn District Council - Application to Form a Vehicle Crossing (Entranceway)). For any questions regarding the process please contact the Roding Team via email at [transportation@selwyn.govt.nz](mailto:transportation@selwyn.govt.nz)

## Impact on Council Assets

- (l) Any damage to fixtures or features within the Council road reserve that results from construction or demolition on the site shall be repaired or reinstated at the expense of the consent holder.

## Vehicle Parking During the Construction Phase

- (m) Selwyn District Council is working to keep our footpaths safe and accessible for pedestrians, including school children. The Council also seeks to avoid damage to underground utility services under footpaths, e.g. fibre broadband. During the construction phase (and at all other times), please:
  - (i) park only on the road or fully within your property – it is illegal to obstruct or park on a footpath; and
  - (ii) arrange large deliveries outside of peak pedestrian hours, e.g. outside school start/finish times.

## Engineering Acceptance

- (n) Plans and supporting information accompanied in the design report required for Engineering Acceptance must include but not be limited to the following:
  - (1) Water Reticulation
  - (2) Wastewater Reticulation
  - (3) Roding Network – new and alterations to existing and streetlighting.
  - (4) Stormwater, water races, and land drainage
  - (5) Walking and cycling infrastructure provision and connection.
  - (6) Future Public Transport provision accessibility (in consultation with Environment Canterbury Regional Council)

Please note that pedestrian linkages through proposed reserves are considered to be part of the roading infrastructure and will require engineering acceptance prior to construction.

## Stormwater

- (o) The discharge of roof stormwater must not arise from unpainted galvanised sheet materials or copper building materials. The use of these materials is prohibited in accordance with the conditions of Selwyn District Council's global stormwater consent.