

**In the matter of**

**The Local Government Act  
2002**

**and**

**In the matter of**

**Submissions on the Draft  
Rural Residential Strategy**

## OFFICER CLOSING COMMENTS

### 1. INTRODUCTION

- 1.1 I would like to introduce Mr. Andrew Craig to the Commissioners. Mr. Craig is a Registered Landscape Architect who is available to provide clarification on the “*Landscape Values*” Locations Criteria. Mr. Craig has assisted SDC over several years to develop the RRBR, RRS13, PC’s 17 and 32 and has provided expert advice on private plan change requests seeking Living 3 zonings.
- 1.2 Mr. Craig has not reviewed any of the specific submissions or development proposals, and he was not directly engaged to assist in the preparation of the Officers report, due to the time constraints presented by Action 18 of the LURP. Although I note that Mr. Craig has provided preliminary advice to Ms. Aston and Ms. Lauenstein on the ‘future proofed’ concepts (**S36 Dryden Trust** and **S37 Trents Road Developments**).
- 1.3 I have asked him to attend should you seek further specialist advice in respect to the following “*Landscape Values*” Locations Criteria, that amongst other matters, I propose to touch on later:
- *Discernibly logical boundaries determined by strong natural and physical features*
  - *Exclude land required to maintain the open space landscape character either between or surrounding the areas of urban activity within Greater Christchurch*
  - *Protection of natural features, significant trees and vegetation*
  - *Manage the amount of households within single locations to avoid the collective visual effects of intensified land uses*
  - *Address the constraints of development identified in the Landscape Constraints Map prepare by Andrew Craig Landscape Architect (see Appendix 1 of the RRS13)*
  - *Locations to adjoin township boundaries but have the ability to achieve a degree of ‘ruralness’ as a consequence of adjoining land uses and natural attributes*
- 1.4 I propose to provide high level feedback on the matters that I believe to be of most relevance having been in attendance throughout the duration of the hearing, which include the following topics:
- Environmental and infrastructure servicing constraints
  - Site specific design proposals and ‘fast track’ options
  - ‘Future proofed’ development typologies
  - Locations assessment
  - Amendments to the RRS

## 2. ENVIRONMENTAL AND INFRASTRUCTURE SERVICING CONSTRAINTS

- 2.1 It is acknowledged that the generic Locations Criteria that relate to "Strategic Infrastructure", "Natural Hazards" and "Environmental, cultural and heritage values" may be able to be addressed through engineering solutions and/or mitigation measures. You have been provided extensive information in the submissions, and through evidence presented at the hearing, to consider the extent to which these Locations Criteria apply to each site to inform your deliberations.

- 2.2 I do not propose to add any further evidence in regard to these more site specific matters. However, there remains the opportunity for clarification to be sought, and provided by Council's Assets Department should you require this. This includes evidence in respect to some of the identified constraints such as stormwater and flood hazards, and also quantifying the extent to which the various sites can be economically and cost effectively serviced with reticulated water and wastewater infrastructure servicing. Although I note that much of this appears to rely upon aligning the servicing of rural residential nodes with wider infrastructure service upgrades to ensure the efficient delivery of network utilities.

- 2.3 One matter that has been raised on several occasions is the extent to which the following sub-section of Policy 6.8.9 (4) should be applied to sites that only front Arterial Roads.

*"Policy 6.3.9 (4): Legal and physical access is provided to a sealed road, but not directly to a road defined in the relevant district plan as a Strategic or Arterial Road, or as a State Highway under the Government Roading Powers Act 1989;"*

- 2.4 I agree with the responses provided by several of the submitters, which is that the policy is aimed at managing immediate individual access arrangements to arterial, strategic roads or State Highways, rather than restricting any additional new road connections. I do not believe that this policy should be applied in a rigid way because it would have the practical effect of excluding some sites (such as **S41 Pinedale Holdings & Kintyre** and **S54 M Stratford & Ors**) purely on the basis that they cannot obtain access from a road, other than an Arterial Road. I believe that the context of each site, and the associated transport network, needs to be considered when applying this policy.

## 3. SITE SPECIFIC DESIGN PROPOSALS AND 'FAST TRACK' OPTIONS

### Site specific design proposals

- 3.1 Many of the submissions and expert evidence has included information on site specific layouts, densities and mitigation measures. I am conscious that the focus of this process is on developing a high level strategy for managing rural residential development and identifying appropriate locations. Whilst detailed subdivision layouts and concept designs are helpful insofar as they present a possible future development scenario, their usefulness is limited in that there is no mechanism in the RRS to require the delivery of such outcomes. The various detailed designs show one possibility of how a block could be developed were it to be included within the RRS, but they do not guarantee the delivery of the outcomes.
- 3.2 I have not reached a position in respect to the appropriateness of any of the specific layouts or densities. Given that such designs are indicative only, I do not believe that any of the nominated sites, including the "future proofed" concepts, should be excluded purely on the basis of the adequacy or not of the site specific concepts, layouts or densities. This includes more specifically the **S54 Stratford & Ors** block where the preliminary scheme plan lodged with the submission fails to accord with the minimum average density of 1-2hh/ha prescribed in Chapter 6 of the CRPS. Such an inconsistency could be easily addressed at the more detailed design stage.
- 3.3 Where these specific subdivision designs, layouts, densities and mitigation measures do become important is at the rezoning stage, where SDC would want to ensure the outcomes anticipated in the RRS are achieved, and the purpose and principles of the RMA met, through s32 assessments, SDP provisions and ODP's.



### Urban design evidence

- 5.1 On a similar issue, I acknowledge the assistance that the urban design evidence of Ms. Lauenstein has provided this process. Although I understand that much of this design analysis is of a preliminary nature, it has assisted to clarify the application of the Locations Criteria for not only specific sites, but also the wider peri-urban environments that surround some of the townships and local contextual issues.
- 5.2 As an observation and further to my previous discussion, I have a degree of reservation that some of the methods presented in Ms. Lauenstein's evidence (such as interface treatments with adjoining rural land to contain rural residential sprawl, retaining hedgerows, open space areas, building curtilages or establishing gateway treatments) would be realised moving forward. The economic realities of developing land and the need for more detailed site investigations to be carried out may mean that the methods for addressing the Locations Criteria do not make a final ODP, scheme plan or site-specific rule package should the land to which they relate be included in the RRS.

### 'Fast-track' options

- 3.4 One mechanism that has been requested by submitters is the ability to 'fast track' rural residential zonings through LURP Action 18. In my Introductory Statement I identified some limitations in respect to realising the 'fast track' option. Despite these comments, I accept that 'fast-tracking' amendments to the SDP through Action 18 does remain a possible option. The timeframes for undertaking the amount of detailed investigation that would typically accompany a plan change are extremely tight however, given that SDC is required to respond to the Minister within 6 months (June 2014). This is especially the case where detailed designs and specialist reports such as transport, geotechnical conditions and ground contamination would need to accompany such a request.
- 3.5 I am mindful of Mr Schulte's comments in respect to SDC having to keep an 'open mind' to the 'fast track' mechanism, and that any concerns in respect to reducing interested parties from participating in such a process is one that sits with the Minister, rather than necessarily with SDC<sup>1</sup>. Whilst the Minister is able to determine the degree of opportunity for input by interested parties, the amendments presented to the Minister will need to be grounded in a robust analysis to enable rezoning through a 'fast-track' process. I have reservations that the necessary assessments can be undertaken in the time available, especially where applied to blocks that have not had detailed investigations undertaken.
- 3.6 'Fast-tracking' the zoning of the three locations that are currently subject to private plan changes has more merit should these areas be retained in the RRS. However, as identified in the Officers report, it may be quicker to advance these under the 1<sup>st</sup> schedule process than the CERA10 given that only the hearings, decisions and appeals processes remain to be completed.

## 4. FUTURE PROOFED DEVELOPMENT TYPOLOGIES

- 4.1 There has been a significant amount of evidence and legal submissions on the concept of 'future proofed' development to assist the Commissioners. A further letter of clarification outlining SDC's legal position is included as Attachment 1 for your information.
- 4.2 Having heard this evidence, I now have less concern with the Trents Road Development block in respect to the likelihood of it precluding future residential growth patterns. This is on the basis that the "*Preferred urban form*" reference in Map 24 of Appendix 2 of the RRS is very general in nature, and because the actual position of the Township boundary to the west between Trices and Hamptons Roads has not yet been established. I note further that the submitter appears comfortable with having a one-off rural residential development. Ms. Laurenstein's evidence also demonstrates that rural residential densities in this location are consistent with the land uses directly to the north (Aberdeen subdivision and the Kingcraft

That was confirmed by Mr. Schulte this morning

<sup>1</sup> Action 18 sets out that the Minister must determine any public process to give effect to any suggested amendments to implement an adopted RRS



Drive Existing Development Area) and would assist in achieving a long term compact concentric urban form for Prebbleton.

- 4.3 However, I continue to oppose the inclusion of this location in the RRS due to it being unable to consolidate with Prebbleton given that the land between the current township boundary and the nominated land remains zoned Rural (Inner Plains). I acknowledge that this constraint is likely to be resolved in the medium to long term given that the Prebbleton Structure Plan and the SDP ODP both require through connections to be established to facilitate residential growth further to the west between Hamptons and Trices Roads (refer to Attachments 2 and 3 respectively).
- 4.4 I do not share the same confidence that the Dryden Trust block will be a one-off rural residential node given that it is identified within the long term township boundary of the Rolleston Structure Plan. I continue to oppose the inclusion of this land, and others nominated for inclusion that are within the Structure Plan boundary (**S24 N Sole**), on the basis that 'future proofed' development proposals may give rise to a number of potentially significant land development issues, acknowledging that there is a large body of evidence before you to consider.

## **5. LOCATIONS ASSESSMENT**

- 5.3 There has been an emphasis placed on applying the Locations Criteria to maintain logical and strong limits to growth, whilst selecting sites that are likely to deliver the outcomes identified in the *"Rural Residential Form, Function and Character"* and *"Landscape Values"* Locations Criteria. As identified earlier, many of the other Locations Criteria may be able to be addressed through engineering solutions or on-site mitigation measures.
- 5.4 As a consequence, I would now like to spend some time explaining the basis for the Locations Criteria referenced above, and how they have influenced the conclusions reached in the Officers report. This is then followed by a review of each of the townships, and the associated nominated sites, and how they sit with what I see as being the more critical of the various Locations Criteria.

### **The principles of the *"Rural Residential Form, Function and Character"* and *"Landscape Values"* Locations Criteria**

- 5.5 Section 5 of the RRS sets out the guiding principles and outcomes that informed the preparation of the *"Rural Residential Form, Function and Character"* and *"Landscape Values"* Locations Criteria. Figure 13 (Page 30 of the RRS13) is particularly important in respect to understanding the principles that have been applied to select the various sites. These very general principles, and the more specific Growth of Township Policies that also reference the preferred form and growth directions of settlements, are illustrated in Maps 22 to 28 of the RRS13. As you will note, there is an emphasis placed on roads, natural features and strategic infrastructure (Transpower electricity pylons and lines) as definitive boundaries to protect the rural environment, and to deliver consolidated concentric urban settlement patterns by containing rural residential sprawl.
- 5.6 The *"Landscape Values"* Location Criteria evolved from a study undertaken by Mr. Craig, the principles of which have been included in the RRS13 to ensure locations can readily achieve the visual and amenity outcomes.
- 5.7 Three important outcomes that have become apparent throughout the hearing when applying the above criteria are to: (a) ensure rural residential nodes are distinct in respect to their form, function and character from low-density residential environments; (b) to avoid locations that may preclude future residential growth patterns; and (c) to utilise strong logical boundaries to contain rural residential sprawl. As a consequence, there have been relatively few sites that qualify for inclusion, with those that have been supported being what I believe to be well contained pockets that achieve the above outcomes.
- 5.8 In contrast, many of the submitters rely more heavily on ensuring development controls and retaining existing natural features at the boundary of site interfaces to contain rural residential living environments. This approach provides wider scope to select sites, but I believe presents a greater risk of 'ring-fencing' townships, reducing the visual distinction between



residential and rural environments, precluding future residential growth paths and for rural residential environments to be 'leap-frogged' when townships near capacity (as has been evidenced in Rolleston).

- 5.9 It is within this context that I would like to review each of the townships to provide what is a brief and high level response, noting that there is a substantial body of submissions and evidence for you to consider.

#### West Melton

- 5.10 I continue to recommend that the nominated locations (**S25 K Dunn**, **S23 M & H Ringland & S13 M & J Austin**) to the east and west of the township are excluded from the RRS on the basis of the points identified in the Officers report, and that the rural/urban boundaries of both the Gainsborough and Preston Downs subdivisions signify the extent of the township between SH75 and Halkett Road.
- 5.11 The land that I continue to support for inclusion in the RRS in West Melton is an example of rectifying a zoning anomaly, whereby two rural land holdings have been excluded from a wider zoning and are bordered on three boundaries with Living zones. The nodes are also located in very close proximity to the town centre and are well contained by the existing Living 2 and 2A zones.

#### Tai Tapu

- 5.12 I concede following the evidence of Ms. Lauenstein that the inclusion of the Crofts block (**S46 S & Z Crofts & J Williams**) on the western edge of Tai Tapu would achieve a consolidated urban form for the township, and that the site has strong connections to the town centre. I also believe that appropriate interface treatments and design controls could be formalised to contain further rural residential development from continuing to the west and south.

A potential solution to this constraint has been provided by Mr. Berge, although there remains a degree of doubt as to whether this would be accepted by SDC's Assets Department.

- 5.13 The major constraint to any development in Tai Tapu is the ability to connect to a community owned reticulated wastewater supply. I continue to oppose the inclusion of the two nominated locations based on this constraint, in addition to the others identified in the Officers report, noting that evidence has been provided for you to consider in respect to these constraints.

#### Rolleston

A conclusion on the appropriateness of the low pressure system may be better established at the zoning stage, with the only question mark being around whether Ecan policies define "significant natural hazards" in respect to Policy 6.3.9 (5)(h).

- 5.14 I continue to oppose the inclusion of the **S41 Pinedale Holdings & Kintrye Pacific Holdings**, **S55 J Paton & S31 R Paton** properties. This is primarily on the basis of Policy B4.3.71 of the SDP that seeks to avoid any living environments from extending north-west of SH1 and the South Island Main Trunk Line (refer to Appendix 2 – Map 28 of the RRS). I also believe that the proximity of the land may give rise to adverse reverse sensitivity effects with the I-Zone business park, which has only been partially developed and is likely to expand in the future. The primary connections to the town centre also involves passing through Jones Road, which services a significant industrial area and may not be the safest or most pleasant experience for pedestrians and/or cyclists, even if the proposed overbridge across SH1 is established sometime in the future.

- 5.15 In my opinion the land nominated to the south-west of Rolleston along Dunns Crossing Road (**S22 D & D Tyson & A Smith**) is an example of where the absence of a strong logical boundary to the south-east of the Living 3 zone, such as a road or physical feature, can give rise to potential rural residential creep. There is a risk that if this nominated land, coupled with the potential for the land between the existing Living 2 and Living 3 Zones further to the north-west along Dunns Crossing Road were intensified, then the entire length of Rolleston's south-western boundary would be 'ring-fenced' by rural residential development (refer to Appendix 2 – Map 28 of the RRS). In my view, Dunn's Crossing Road represents a strong demarcation between Rolleston and the distinctly rural environment comprising large land holdings to the south-west, recognising the presence of the two undeveloped Living 3 zone blocks.

- 5.16 In contrast, the Coles block (**S12 Coles Family Trust**), which I continue to support for inclusion in the RRS, forms the balance of a larger land holding held in the same ownership that has been zoned residential (Living Z), with the SH1 to the west, airport noise contour to



the east and future southern motorway exchange to the north presenting a well contained development node. The block is also considered to be an appropriate size and shape to achieve the wider rural residential form, function and character elements and landscape values identified in the RRS.

## Lincoln

- 5.17 My recommendation to include Allendale Lane (**S16** Apton Developments Ltd, **S32** R Paton & **S48** A Cartridge) in the RRS is similar to the Rhodes (not a submitter) and Marshall (**S47** R & J Marshall) blocks in West Melton, whereby a zoning anomaly limits the viability of the two 4ha land holdings from being used for farming activities. Policy B4.3.3 of the SDP also gives further support to intensifying rural land that shares more than three boundaries with the township, which is the case in this instance. SDC's Strategic Asset Manager Utilities has requested that I reiterate the importance of the 150m reverse sensitivity buffer with the Lincoln wastewater plant in protecting this strategic asset.

- 5.18 I continue to support Ellesmere Road as a strong discernible boundary to contain the urban form of Lincoln, and avoid living environments from sprawling any further to the east. The retention of this strong discernible boundary should in my opinion preclude the inclusion of the Maginness (**S53** G Maginness) and R Barker & Ors block (**S33** R Barker & Ors)(refer to RRS Appendix 2 – Map 26). Stormwater and drainage remain an important constraint for you to consider in this area.

Important to apply the amended wording of the "Natural hazard" Location Criteria for the Moir block(S15), which is a well contained node that in the future could be well connected to Lincoln township. A question mark remains around the timing of when development may align with the progressive development of the Living 2 Zone to the north.

- 5.19 The Denwoods Trustee block (**S10** Denwoods Trustee) is an example of a property in single ownership that has partially been zoned Living and Business, with the balance being supported for inclusion within the RRS. There are strong connections as the site adjoins Lincoln University to the north and Te Whariki subdivision and the Living/Business zones to the west that form strong limits to growth on these two boundaries. The stream to the west forms another less discernible boundary to contain rural residential sprawl. The Denwoods Trustee block is an example of a larger node where comprehensive design work has had to be undertaken as part of the plan change process to address concerns relating the 'Rural Residential Form, Function and Character' and 'Landscape Values' Locations Criteria.

## Prebbleton

- 5.20 I agree with Ms. Lauenstein that Prebbleton is under the most demand and pressure for rural residential development, which is evidenced in the number of submissions and nominated sites that have been received.

- 5.21 The Burgess block (**S07** G & L Burgess), which I continue to support for inclusion in the RRS, is similar to others I have supported for inclusion in that it represents the balance of a larger land holding that has been zoned for residential development. The block provides very strong connections to the town centre to the west and presents an opportunity to realise the objectives of the Prebbleton Structure Plan by facilitating an integrated stormwater management scheme and domain extension (refer to Attachment 2 – Prebbleton Structure Plan). I continue to support the transmission pylons and power lines as an appropriate limit to growth, which is one of the reasons why I continue to oppose the inclusion of the nominated land further to the east (**S45** A Joyce, **S35** Prebbleton Community Association & **S28** Pandora Trust).

- 5.22 The Crabbe Partnership (**S18** M, G & R Crabbe Partnership) and George & Jeffs (**S51** A & B George & E & B Jeffs) blocks along Trents Road have been supported for inclusion by extensive evidence. I concede having heard this evidence that these land holdings have a semi-rural 'domesticated' appearance, where the land uses are well screened by hedgerows. This differs from the open rural outlook that is inferred in the Officers report. I also agree that the land holdings are an appropriate distance from the town centre and domain, and that the properties have visual elements, such as the hedgerows, that assist to define the character of Prebbleton.

- 5.23 I believe that much turns on you determine Trices Road as the limit to growth of Prebbleton south of this portion of Trices Road or are satisfied that southern interface treatments and Hamptons Road to the rear of the block are sufficient in respect to avoiding further rural residential sprawl to the south. I continue to support Trices Road as the strongest



containment measure, but acknowledge that there is evidence that supports the latter (see RRS Appendix 2 – Map 24). I note that if the land is included, then significant site specific design work would be required to ensure that the block achieves the anticipated rural residential form, function and character, and does not have the appearance of the low-density residential subdivision of Stonebridge Way (Living 2A zone) directly to the north. I also note that the land to the east along Trices Road is made up of long narrow sections, where there could be future pressure to intensify these land holdings for rural residential development in the absence of a strong discernible boundary along this interface.

- 5.24 I believe the Conifer Grove (**S20 Conifer Grove Trustees**) land holdings differ from the Crabbe Partnership and George blocks as they form the balance of a relatively small block that is well contained by roads and where the southern boundary along Trices Road with the township is already subject to a residential zoning. I continue to support the inclusion of this land in the RRS, acknowledging that any adverse reverse sensitivity effects associated with the existing Orion substation would need to be addressed at the plan change stage if the site is retained. It is noted that there is already pressure to extend rural residential development further to the south through the E & K Dixon submission (**S05**), which emphasises the need to utilise Hamptons Road to the south as a definitive boundary to contain rural residential sprawl.
- 5.25 I agree with Ms. Lauenstein that the land holdings to the south of Hamptons Road have a distinct rural outlook that would be undermined by including any rural residential locations in this area (**S52 E & G Smith & Ors**).
- 5.26 I continue to support the Anderson block (**S06 D & S Anderson**) for inclusion in the RRS on the grounds that it is a well contained land holding that is bordered by two roads and the Kingcraft Drive Existing Development Area. The land holding is well screened and is of a size and shape that should enable appropriate outcomes to be achieved in respect to rural residential form, function and character and visual outcomes. An issue with this block is that its inclusion opens up the potential for further development to the north due to the absence of a strong discernible boundary at this interface. This is one of the reasons why the land nominated to the north of the Anderson block should be excluded from the RRS (**S54 M Stratford & Ors**). Inclusion of the M Stratford & Ors land, although reduced in size, will signal that further rural residential development should extend to Blakes Road. This would give rise to a large rural residential development node that may be difficult to distinguish from a low-density residential area without significant design controls and mitigation measures.
- 5.27 The Survus (**S38 Survus Consultants**) land to the south is a far larger area of land than the Anderson block, which when combined with the Trents Road Developments block (**S37 Trents Road Developments**) presents a very large rural residential node where I believe it would be difficult to deliver the anticipated form, function and character and visual outcomes anticipated for rural residential environments. The Locations Criteria, which aim to manage the collective number of rural residential households within any single location, are therefore applicable to the Survus Developments block, even more so if it were to be included in addition with the Trents Road Development block.

## 6. AMENDMENTS TO THE RRS

- 5.28 Although the submissions and this hearing has for the most part been dealing with the appropriateness of including or excluding locations, I believe that the Commissioner's have a wide scope in respect to amending the contents of the RRS as a whole.
- 5.29 As presented in Ms. Aston's evidence, I agree that a greater degree of flexibility should be provided in respect to the range of lot sizes that may occur within any given development node. A reduced minimum lot size may be appropriate in certain circumstances, and the average requirement of 1 to 2hh/ha manages the overall yield that can be realised. I therefore support the following amended wording recommended by Ms. Aston:

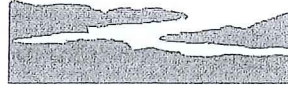
*"Support locations that can sustain a mixture of housing densities generally ranging from 0.3ha to 2ha in size whilst achieving an overall density of 1 to 2hh/ha, but where the overall area supports sustainable enclaves in respect to the overall number of households to enable the anticipated rural residential form, function and character to be achieved. In some circumstances small numbers of lots in the 0.2-0.3ha range may be appropriate having regard to the particular characteristics of the site and immediate environs, for example where the clustering is appropriate or as a 'transition' at the boundary with urban residential development"*

*Acknowledge acceptance in principle to the amendments tabled by Ms. Aston, pending the Commissioner's conclusions on "future proofing"*

## **ATTACHMENT 1 – ADDERLEY HEAD LETTER**



## ADDERLEY HEAD



14 April 2014

Attention: Craig Friedel  
Selwyn District Council  
PO Box 90  
Rolleston 7643

Email: [craig.friedel@selwyn.govt.nz](mailto:craig.friedel@selwyn.govt.nz)

Dear Craig

### LURP ISSUES RURAL RESIDENTIAL - REPLY

#### Introduction

- 1 You have provided us with the legal submissions presented at the rural residential strategy hearing on behalf of Trents Road Development (Trents) and the Dryden Trust (Dryden). You have asked us to consider these submissions and provide a response, which is to be included as part of your reply to the hearing commissioners.

#### The issues

- 2 All accept that the key issue here is an interpretative issue focusing on Policy 6.3.9(6) and (7) of the Canterbury Regional Policy Statement (CRPS). All legal advisors also accept the principles of interpretation that should be applied in seeking a meaning to Policy 6.3.9(6) and (7) CRPS.
- 3 The differences relate to both the way in which those principles of interpretation are applied and also the outcome of that interpretation exercise.
- 4 The other issue that emerges relates to relevant provisions of the Local Government Act 2002 (the LGA) and the impact of the Canterbury Earthquake Recovery Act 2011 (the CER Act) in the circumstance.

#### Interpretative approach

- 5 Legal counsel for Trents, like us, focuses on Policy 6.3.9 CRPS as the key policy. They do mention a holistic approach<sup>1</sup> to interpretation, but also acknowledge through the balance of their submission the importance of Policy 6.3.9(6) and (7). Indeed, they bring forward no other policies relevant to this interpretative exercise.
- 6 Legal counsel for Dryden is critical of our opinion<sup>2</sup> and suggests that by concentrating on Policy 6.3.9 we are ignoring or failing to place appropriate weight on other parts of the CRPS. However, similarly to Trents they do not present other more relevant policies that fall for consideration.
- 7 Thus, in terms of an approach, the first consideration is the words used in their immediate context, and that immediate context is, in our view, Policy 6.3.9 CRPS.

<sup>1</sup> Page 6, paragraph 25 of the Trents Road Development legal submissions.

<sup>2</sup> Page 3, paragraph 2.8 of the Dryden Trust legal submissions.

- 8 In our view, we have given the words as they appear within Policy 6.3.9 their plain ordinary meaning. In contrast, Trents suggest that Policy 6.3.9(7) must speak to existing developments not proposed developments. On the plain ordinary meaning of the words, it is our view there is no basis for this contention.
- 9 Turning to the Dryden submissions, after traversing an interpretative approach that seeks to give the words, notably the word "transition" as it appears within Policy 6.3.9 its plain ordinary meaning, legal counsel, particularly at paragraph 5.1.5, then submits that:
- "planning sensibly for future urban development by ensuring that such opportunities are not precluded through poor design or failure to identify suitable areas for rural residential development does not equate to an area being regarded as 'in transition to full urban development'."
- 10 In her view then, a transition from rural residential to urban development should be provided for because this outcome is a sensible one. That may or may not be so. However, the actual wording in the policy provides for, in my view, a different outcome, particularly at paragraph 7 where the policy specifically records that rural residential development shall not be regarded as in transition to full urban development.
- 11 So, in my respectful opinion, notwithstanding the identification of the correct principle of interpretation, the above paragraph demonstrates it has not been correctly applied.
- 12 Staying with giving the words their plain ordinary meaning, neither legal counsel for either submitter provides a reasoned answer for how subparagraph (6), which provides for the long-term maintenance of rural residential character, could be satisfied if at some time in the future the developments here proposed by the submitters transition into full urban development via mechanisms they contain.
- 13 In our view, we have in terms of another key principle of interpretation set out a reasoned view supporting the purpose of the relevant policy. Legal counsel for the two submitters, in my opinion, do not adequately or persuasively explain the purpose behind the policy 6.3.9 particularly paragraphs (6) and (7).
- 14 Calling into aid the context of the CRPS we have sought to provide views as to the purpose of that relevant policy. Succinctly in our view, policy 6.3.9 is all about differentiating rural residential development from full urban development and ensuring that rural residential development occurs within appropriate locations within the district. In our view, the purpose of the policy is to keep the distinction between rural residential development and urban development very clear. One of the ways we think it achieves this is to ensure that rural residential is not seen as a precursor or forerunner to full urban development. Because there are more fundamental questions that need to be answered to determine where and how full urban development should occur rather than simply approving rural residential development as a precursor to it.
- 15 We remain of the view that as long as the submitters contend that a future proofing element of their proposals remain, then approving their proposals would not be consistent with Policy 6.3.9, particularly subparagraphs (6) and (7).
- 16 We hasten to add that you have identified other reasons why particularly having regard to the purpose of the relevant policy that approval of the form of development advanced would also be inconsistent with Policy 6.3.9. We have not repeated those points. We do agree with them.



- 17 For the reasons given above and in our primary opinion, we remain of the view that if the submitters' proposals continue to include future-proofing elements then approving their form of rural residential development would be clearly inconsistent with Policy 6.3.9, particularly subparagraphs (6) and (7).

#### Local government issues

- 18 We raised our points about section 77 and section 80 of the Local Government Act to ensure the commissioners were aware of those sections and took them into account when reaching their decision.
- 19 In addition, we raised those matters because we are of the view that section 23 of the CER Act does not apply. Counsel for Dryden appears to be confused about our submissions on this point.
- 20 The key point is that if the commissioners were to make a decision that was inconsistent with Policy 6.3.9 then they need to be aware and provide for the matters that sections 77 and 80 require that they address.
- 21 In the context of the local government issues we also raised the simple point that following on from the current local government process considering the rural residential strategy will be a RMA process. That process inclusive of the extent or degree of public involvement will be determined by the Minister for Earthquake Recovery. Since the Minister has been instrumental in bringing into play the LURP and the amended CRPS, we express the view that a council making a decision that is inconsistent with the CRPS could expect at least some level of enquiry from those advising the Minister to explain its decision.
- 22 Again, our purpose was to draw this possible outcome to the attention of the commissioners so as to reinforce the need to make a decision consistent with Policy 6.3.9.

#### Overall conclusion

- 23 Having carefully considered the legal submissions on behalf of Trents and Dryden, we do not see any reasons to amend our original opinion or to draw any other matters to the attention of the commissioners.

Yours faithfully  
ADDERLEY HEAD



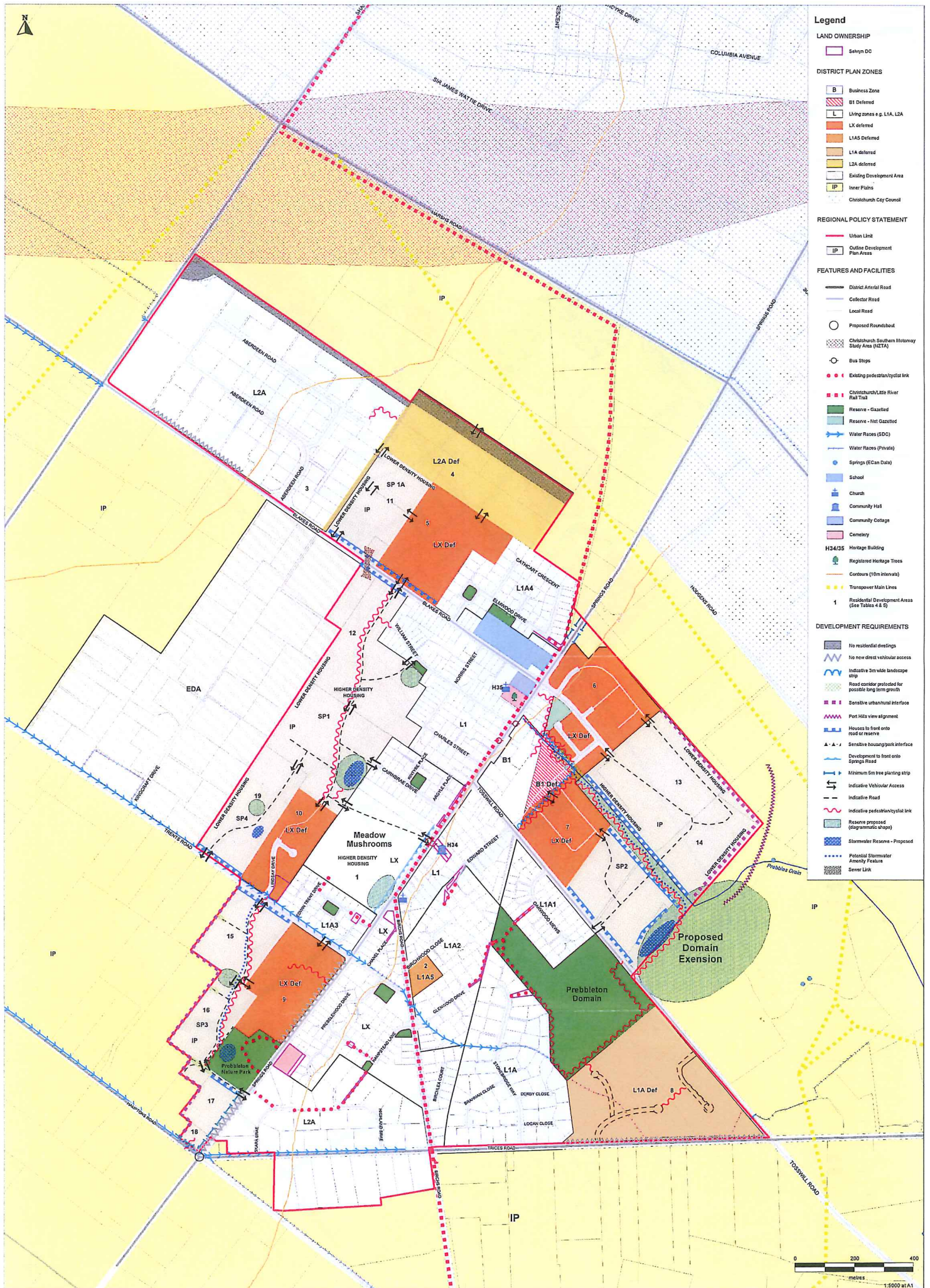
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**ATTACHMENT 2 – PREBBLETON  
STRUCTURE PLAN MAP**





## **ATTACHMENT 3 – SDP ODP AREA 3**



