



To the Ministry for the Environment

Submission by Trices Road Rezoning Group, Four Star Developments Ltd and Gould Developments Ltd, Birchs Village Ltd.

In the matter of the

Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill

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Submitter Details

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Overall Position

1. The Parties making this submission strongly oppose Schedule 3, Part 4 Clause 31(b)2(a)iii and 3 of the Bill:

Subclause (3) applies if the instrument containing the private plan change referred to in subclause (1)—

(a) does, in whole or in part, 1 or more of the following things:

(i)...

(ii)...

(iii) **creates a new residential zone that does not incorporate the MDRS; and**

(b) has been notified on or before the commencement of this clause but a hearing under clause 8B of Schedule 1 is not completed on or before 20 February 2022.

(3) If this subclause applies,—

(a)

or

(b) **in a case where a private plan change has been accepted, the applicant must withdraw the request under clause 28 of Schedule 1.**

2. The Parties request that the clauses highlighted above be withdrawn from the Bill as it relates to private plan change requests. A consequential amendment will need to be made to Section 31(1) to delete (b).
3. It is submitted that these Clauses will lead to unintended consequences by significantly delaying the delivery of much needed housing in Selwyn District, one of the fastest growing areas in New Zealand. The supply of at least 5300 proposed sections will be affected. This delay will aggravate the current housing shortage in Selwyn and further inflate housing prices in the District which is counter-productive to the purpose which is sought to be achieved by the Bill.
4. The Submission also questions the process, rationale and assumptions underpinning the Bill, whether its impact on the implementation of the National Policy Statement on Urban Development has been carefully considered, and why this Bill applies to Christchurch and Greater Christchurch where there is an intensification strategy available that will meet the objectives of the Bill. While not perfect, parties have invested heavily in the processes that have been available to them.

Submission

The Submitters

5. This submission has been lodged on behalf of Trices Road Residents Group, Four Star Developments Ltd and Gould Developments Ltd and Birchs Village Ltd. These parties ('the Parties') all have private plan changes in various stages of the Schedule 1¹ process (Plan Changes 72, 71 and 79 respectively to the Selwyn District Plan). PC79 has been lodged and has responded to a request for further information (RFI) issued by the District Council, but has not yet been publicly notified for submissions. PCs 71 and 72 have been notified for submissions and further submissions, but are awaiting confirmation of a hearing date. There is uncertainty as to whether PC71 and PC72 will have reached the hearing stage by 20 February 2022, and for PC 79 this will not be possible.
6. All of the Plan Changes were commissioned prior to the release of the Amendment Bill and have incurred significant cost in order to progress them to their current state. As detailed further in this submission a private plan change request relies on carrying out consultation, seeking written approvals, preparing numerous technical expert assessments (that often take months to complete), expert planning and legal input. These significant costs and resource commitments cannot be recovered. Often a developer has also entered into time sensitive sale and purchase agreements with landowners and other commercial contracts. The location of these changes are shown in Figure 1.
7. PCs 72 and 79 will cumulatively deliver an additional 695 residential sections at Prebbleton, a highly sought after township on the edge of Christchurch City, with excellent accessibility to the City by the recently completed southern motorway; and by public transport and a cycleway network linking to the Central City, south west Christchurch employment areas and Lincoln township. There is **no remaining supply** of residential sections at Prebbleton and a high demonstrated demand for housing.
8. PC71 will deliver 660 residential sections at Rolleston, the very fast growing Selwyn District urban area.

¹ Resource Management Act 1991

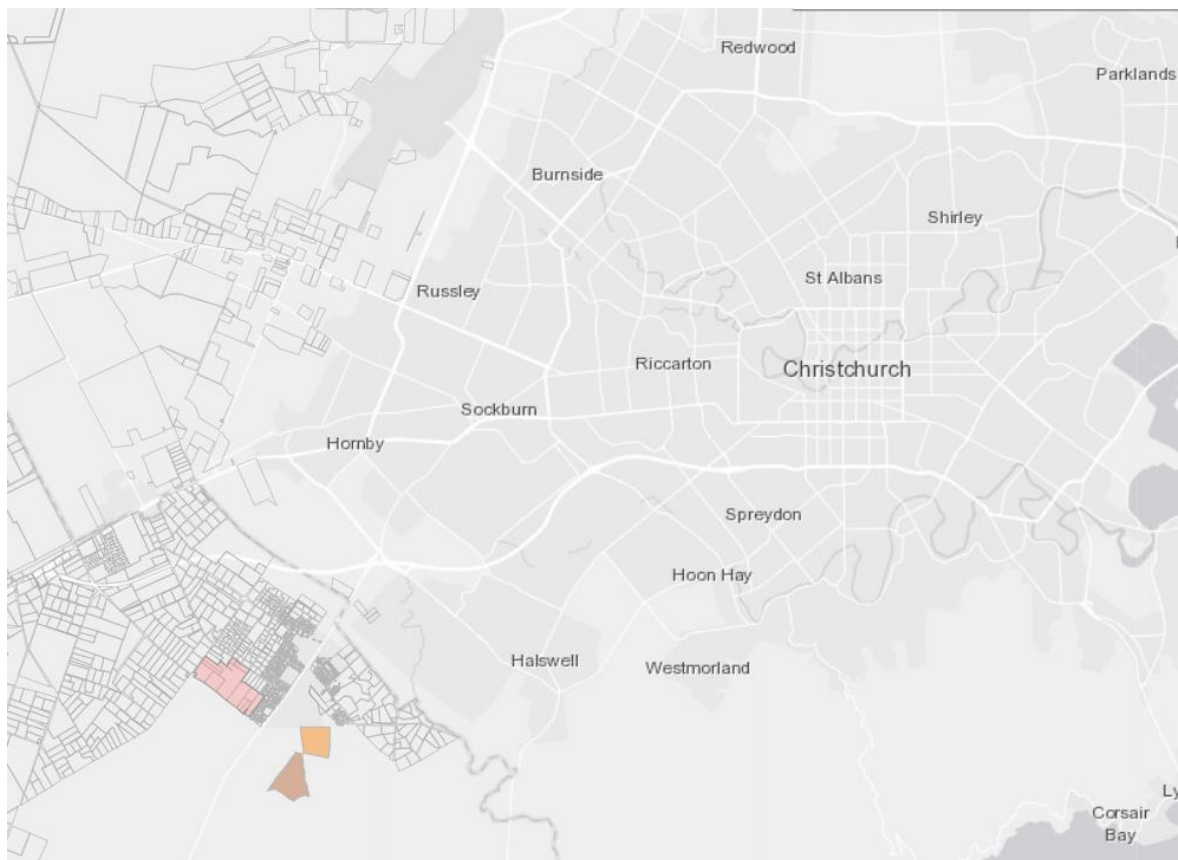


Figure 1: Location of Prebbleton plan changes – PC72 – orange; PC77 - brown

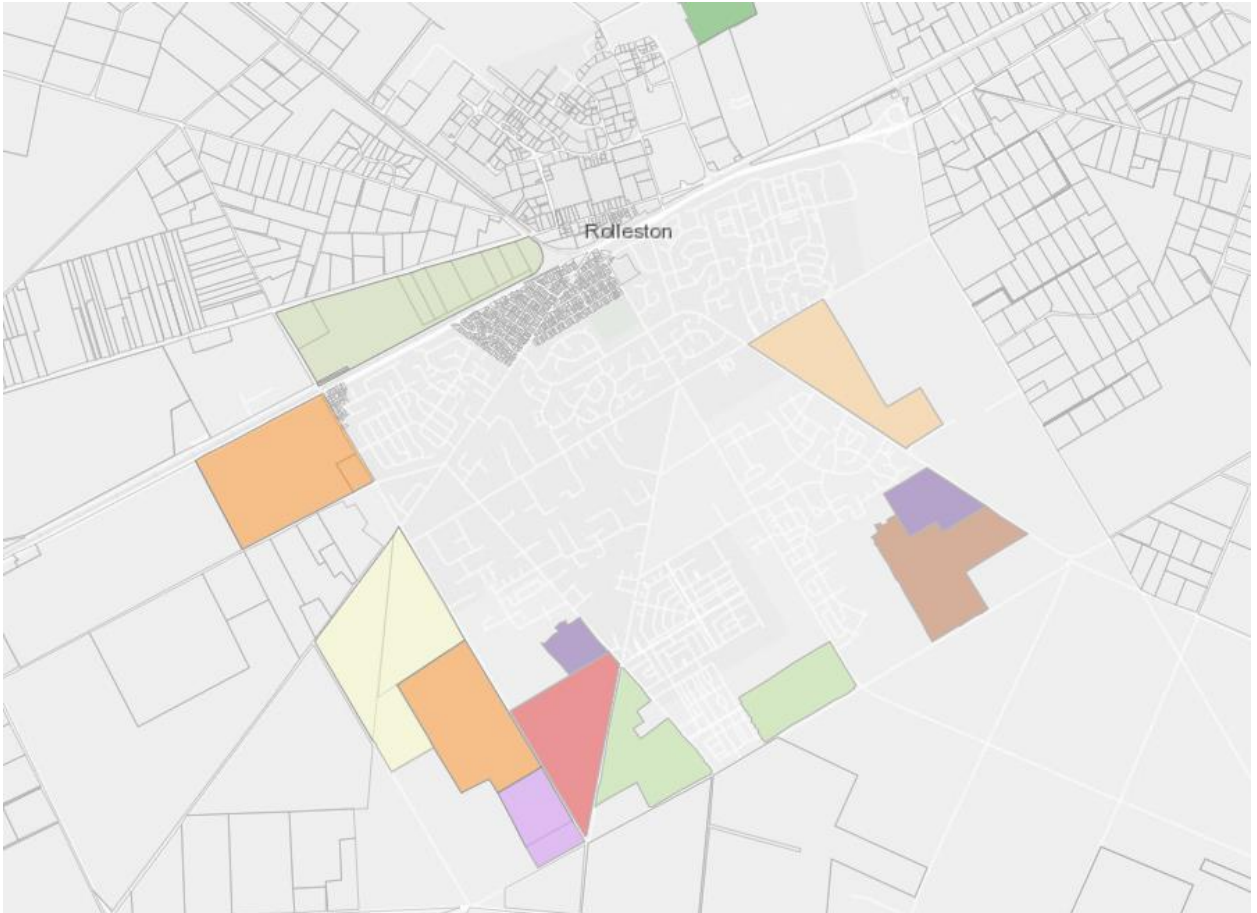


Figure 2: Location of Rolleston plan changes. PC71 – East Rolleston – light orange

Withdrawal of Private Plan Changes.

9. The current Bill requires that a private plan change that creates a new 'relevant residential zone' that does not incorporate the MDRS, that has been notified on or before the enactment of the Bill, but a hearing is not completed on or before 20 February 2022, must be withdrawn. We understand that this requirement is to ensure that the MDRS is implemented in a consistent way throughout Tier 1 residential areas, and that these plan changes go through the Intensification Streamline Planning Process (ISPP). The ISPP is seen by the Ministry as faster than a regular plan change process and has no appeal rights.
10. This clause will have a major impact on future housing supply in Greater Christchurch generally, and Selwyn District in particular. There is a total of fifteen proposed privately requested plan changes to the Selwyn District Plan that seek to amend the zoning from rural to residential. These are currently in various stages of the Schedule 1 process. Three are publicly notified but are unlikely to be heard before the 20 February 2022 close off date (PCs 68, 71 and 72). A further six are lodged but not yet notified. If approved these

proposals will yield 5300+ sections and help meet a chronic shortage of subdivided residential land in Selwyn and Greater Christchurch, a Tier 1 urban environment in terms of the National Policy Statement on Urban Development NPS-UD. Details of these changes are appended to this submission as Attachment 1.

11. It is also significant to note that the majority of Plan Change requests contained within Attachment 1 were filed as a response to the introduction of the NPS-UD's 'responsive planning' provisions (in particular, policy 8). Private Plan Changes were necessary due to a shared understanding among consultants that Policy 8 only benefits a plan change process (and not the district plan review process). The parties have now committed significant resource in reliance of the guidance contained within the NPS-UD.
12. These Plan Changes, utilising the responsive planning provisions in the NPS-UD, will expedite the rezoning of land ahead of the Selwyn District Plan Review (which will now be further delayed because of Schedule 3). It is unclear whether rezoning proposals which do not provide for lower density housing can be considered by the Selwyn District Council through its review process due to Schedule 3. Even if they can, decisions on rezoning proposals lodged as submissions on the Review will not be released until late 2022 by which time the shortage of housing land will be even more precarious, thereby fuelling land prices even further. It is critical that the Plan Changes listed in Attachment 1 be permitted to complete the Schedule 1 process.
13. This is still a faster process and more efficient than the proposed ISPP. These Plan Changes will be determined before the August 2022 notification of the ISPPs, and even if some are appealed, the overall timeframes are likely to be little different from those following the Ministerial approval process. Greenfield development will not have immediate legal effect from the notification of the ISPP and will still be required to go through a planning process (similar to what the applicants are currently going through). It also seems unlikely in most areas in Selwyn that infill MDRS will occur in the short-medium term due to restrictive covenants on greenfield sites and the housing being relatively new (or recently repaired because of the Christchurch Earthquakes). In reality, the extent of uptake for MDRS within the existing operative zones in Selwyn is a complete unknown and may therefore not provide a significant contribution towards housing shortage in the District.
14. In the Greater Christchurch context appeal rights are critical for applicants because Christchurch City Council and Environment Canterbury's approach to date has been to object to plan changes which are outside the Projected Infrastructure Boundary (PIB) on

Map A in the Canterbury Regional Policy Statement (CRPS). The Christchurch City Council and the Canterbury Regional Council appear to be still defending a hard rural/urban boundary line in the CRPS and regard housing targets as maximums not minimums, despite the clear NPS-UD direction to do otherwise (Policy 8)². In addition, the Canterbury Regional Council has yet to comply with the requirement in Policy 8 (3) of the NPS UD to: *"... include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity"*, instead seeking to submit on this issue on individual plan change applications. This creates further barriers to enabling housing supply, and proponents of privately requested plan changes should be entitled to argue their case to the Environment Court on these matters.

15. Expert evidence presented at recent hearings on private plan change requests has highlighted the desperate urgency to provide housing land in Selwyn's townships due to unprecedented demand, particularly Rolleston, Lincoln, Prebbleton, and West Melton³. While the Plan Changes of concern here are not located within the PIB (except for a part of PC71 at Rolleston) they form an integral part of Greater Christchurch's response to the housing market shortage. These are all in settlements identified in the Canterbury Regional Policy Statement and are an integral part of Greater Christchurch's housing market. Whilst decisions need to confirm whether these plan changes meet the statutory tests under the NPS-UD and CRPS, preventing them from being heard at all removes the opportunity for these proposals to be considered on their merits. Presently, there is no certainty that the ISPP process will provide a more efficient timeline for these Plan Changes to be assessed. Indeed, should the plan change requests need to be withdrawn and resubmitted after incorporation of the MDRS into the Council's Operative and Proposed District Plans, there is no certainty if or when they will be accepted for processing by the Selwyn District Council. The Amendment Bill should contain flexibility to ensure that plan changes that are well advanced in the Schedule 1 process are given the option of progressing to a hearing.
16. All the plan changes have already incurred significant cost. Their progress to date along the Schedule 1 process is set out in Attachment 1. Putting them on hold until the final form of the Bill is known creates significant unjustifiable uncertainty and will incur further costs and further delay their progress.

² See for example planning evidence for PC73, which proposes an additional 2200 residential sections at West Rolleston – https://www.selwyn.govt.nz/__data/assets/pdf_file/0014/512402/Evidence-Canterbury-Regional-Council-and-Christchurch-City-Council-Keith-Tallentire.pdf

³ See for example evidence presented on Plan Change 73 to the Selwyn District Plan by economist Fraser Colegrave at https://www.selwyn.govt.nz/__data/assets/pdf_file/0011/519356/Summary-of-Evidence-Mr-Colegrave-Economics.pdf.

17. By the time a plan change gets in front of a hearings commissioner, the following steps will have been undertaken:
- 1) consultation with affected stakeholders;
 - 2) engagement with Rūnanga;
 - 3) commissioning and preparation of specialist reports and assessments including but not limited to, integrated transport assessments, cultural impact assessments, geotechnical investigations, economic impact studies, and ecological impact assessments. These are in addition to a cost/benefit and efficiency analysis under Section 32 of the RMA and an in-depth planning assessment against relevant statutory documents.
 - 4) legal and planning advice and input;
 - 5) Lodgement with the territorial authority;
 - 6) Response to requests for further information.
 - 7) Public notification;
 - 8) Analysis and summary of submissions and further submissions;
 - 9) Public notification of submissions and further submissions;
 - 10) Preparation and submission of evidence by all parties involved; Preparation of a Section 42A Report by the territorial authority.
18. This is only part of the process and constitutes a large commitment of time and money, not just by the applicant, but by all those directly affected including unpaid members of the public who lodge submissions on plan change applications. None of the Plan Changes in Attachment 1 have reached Step 9 but all have progressed to at least Step 5 which is still a significant resource and financial commitment.
19. Those Plan Changes not yet notified, may be amended to incorporate the final Enabling Housing Supply provisions. However, the timeline for them to be accepted and heard for a first instance hearing prior to the ISPP provisions will be tight, but possible.
20. However, these Plan Changes must be able to be heard under the current resource management framework. The Bill creates a significant theoretical receiving environment which includes supply of housing across Greater Christchurch of up to three residential units per section. It will be difficult, if not impossible, to assess the impact of the plan changes in terms of providing 'significant development capacity and assessing effects on the existing infrastructure if an applicant also needs to account for a level of feasible permitted development from 20 August 2021 (i.e. the date that these rules will take legal effect).

21. All the private Plan Changes in Attachment 1 adopt existing Selwyn District Plan zones, which will be changed in any case to incorporate the MDRS provisions as part of the ISPP provisions. There is no conflict between these Plan Changes and the ISPP provisions; to require them to be withdrawn will have significant adverse effects in terms of slowing down the supply of land for housing in the context of an acute need for increased supply.
22. It is the Parties submission that requiring withdrawal of the Plan Changes (if they have not achieved a completed hearing before 20 February 2020) is inconsistent with Bill's purpose – to release land for development.⁴

*“This Bill, which amends the Resource Management Act 1991 (the **RMA**), seeks to rapidly accelerate the supply of housing where the demand for housing is high. This will help to address some of the issues with housing choice and affordability that Aotearoa New Zealand currently faces in its largest cities...*

*This Bill brings forward the implementation of the NPS-UD intensification policies by using the existing streamlined planning process (the **SPP**) with appropriate modifications. The SPP is an alternative to the process under Schedule 1 of the RMA that territorial authorities use when making or changing their plans. Its purpose is to provide an expeditious planning process, with opportunities for submissions and a hearing. The modified process introduced in this Bill is the intensification streamlined planning process (the **ISPP**).”*

[emphasis added]

23. However, if this is not the view of the Minister, a more cost-effective approach would be to empower the Council to amend a private plan change request any time up to the Council decision to incorporate the MDRS⁵. Alternatively, the Planning Instrument could be deemed to not apply to any plan change lodged at a certain date, for example at the enactment of the Bill.

⁴ Bill, Explanatory Note, General Policy Statement

⁵ For example by using Section 55 of the Resource Management Act

Other matters

24. It is submitted that the MRDS is unnecessary and poor planning practice for the reasons briefly outlined in the following sections. Moreover, the intent of the Bill can be circumvented by developer covenants, a point that is acknowledged in the Regulatory Impact Statement⁶ (RIS).

Process

25. It is submitted that the haste by which this Bill has been prepared and released has led to a fait accompli and Councils have had no time to consult with their communities. Its effects have not been thought through, in particular cumulative effects on neighbourhood character, infrastructure, and local traffic and parking conditions. We cannot find any discussion within the Regulatory Impact Statement that assesses the potential costs on existing plan change applications, or whether alternative transitional options have been considered.

Relationship to National Policy Statement on Urban Development 2020 (NPS-UD)

26. The NPS-UD provides a relatively rational basis for intensification through promoting 'well functioning urban environments'. Apart from increasing housing supply and housing choice, it encourages intensification to occur in locations that offer greater accessibility to certain destinations, while at the same time creating the agglomeration of scale to support public transport. This Bill does precisely the opposite: it disperses intensification in a haphazard, unplanned manner that potentially undermines the NPS-UD.

Urban Design

27. The Parties submit that the Bill provides little if any confidence that the MRDS will deliver positive design outcomes in our communities. For example they will reduce the space around dwellings and not be subject to adequate site specific assessments.

Conclusion

28. It is submitted that Part 4 Section 31, needs to be amended for two reasons. Firstly it has the unintended consequence of delaying or preventing proposals to increase land supply,

⁶ RIS para 122

which is the antithesis of what the Bill is seeking to achieve. It is further submitted that, if a greenfield development (for example) did not provide for the MDRS, the lost opportunity for additional housing, and the marginal benefit is likely to be minimal. That is because most new greenfields proposals (at least in Greater Christchurch), already incorporate medium density housing either around a local or neighbourhood centre, or a reserve.

29. Secondly, the proposed Clause is unreasonable in the circumstances and will cause those developers and landowners which have relied on the national direction in the NPS-UD undue prejudice. The cost to the applicant of progressing a private plan change to the hearing stage is in the hundreds of thousands of dollars, including the costs charged by the territorial authority on a 100 per cent cost recovery basis. Those costs that have already been incurred and cannot be recovered.
30. If the Minister considers they need specific provisions, a better approach is to empower the Council to amend a private plan change request any time up to the Council decision to incorporate the MDRS. Alternatively, the Planning Instrument could be deemed to not apply to any plan change notified at the certain date, for example at the enactment of the Bill.
31. Any one or more of these amendments would deliver more effective approach in terms of achieving the Bill's outcomes than what the Bill currently proposes.

ATTACHMENT 1: PRIVATE PLAN CHANGES IN SELWYN DISTRICT CURRENTLY BEING PROGRESSED AND UNLIKELY TO BE HEARD BEFORE 20 FEBRUARY 2022.

Plan Change	Location	No of Sections	Progress
68	Prebbleton	820	Public submissions closed 12 October 2021. Council to summarise submissions.
70	Rolleston	800	Awaiting response to Council's request for further information.
71	Rolleston	660	Public further submissions closed 1 September 2021. Awaiting hearing date.
72	Prebbleton	295	Public consultation - further submissions on original submission close 13 October 2021. Awaiting hearing date.
74	West Melton	130	Awaiting response to Council's request for further information
77	West Melton	525	Request for further information response lodged with Council – waiting Council response
79	Prebbleton	400	Awaiting response to Council's request for further information.
81	Rolleston	350	Private plan change application received.
82	Rolleston	1320	Private plan change application received.
		5300	

Note: Notified Plan Changes highlighted in yellow