

## V1 PART A: REZONING REQUESTS – PREBBLETON

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## **1 Scope of Report**

- [1] This Recommendation Report prepared by the Independent Hearing Panel (IHP) relates to submissions and further submissions on the SDC's Intensification Planning Instrument (IPI) (which is otherwise known as Variation 1 to the PDP) seeking to rezone land in and around Prebbleton.
- [2] The IHP members were:
- Lindsay Daysh
  - Raewyn Solomon
  - Rob van Voorthuysen (Chair)
- [3] The Section 42A Reports<sup>1</sup> were:
- Section 42A Report, Part A of Intensification Planning Instrument – Variation 1 to the Proposed District Plan, Report on submissions and further submissions, Prebbleton Rezoning Requests, Rachael Carruthers, 10 May 2023
  - Section 42A Report, Addendum report on submissions and further submissions – missed and erroneously recorded submission points, Variation 1 – Prebbleton, Rachael Carruthers, 12 June 2023
- [4] Our recommended amendments to the IPI provisions are set out in Appendix 1.

## **2 Our Approach**

- [5] The Section 42A Reports helpfully outlined relevant background information on a number of matters:
- Resource Management Act 1991;
  - Resource Management Act (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS);
  - The Medium Density Residential Standards (MDRS) contained within in the PDP;
  - National Policy Statement on Urban Development (NPS-UD);
  - National Policy Statement on Highly Productive Land (NPS-HPL);
  - National Planning Standards;
  - Location of rezoning requests;
  - Areas zoned new Medium Density Residential Zone (MRZ) by Variation 1; and
  - Submissions wrongly assigned to this hearing stream.
- [6] We adopt that background information without generally repeating it.
- [7] We agree with Ms Carruthers that the intent of NPS-HPL clause 3.6(1)(a) is that the rezoning of HPL to an urban zone could be supported if needed to provide for short term (within next 3 years) and/or medium term (3–10 years) sufficient development capacity. Such rezoning would be required for that land to be considered 'Plan-enabled' (Clause 3.4 NPS-UD).

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<sup>1</sup> No Section 42A Reply Reports were provided for the Variation 1 hearings.

- [8] Ms Carruthers provided a description of each submitter’s request. We adopt those descriptions without repeating them here. It is therefore imperative that readers of this Recommendation Report also read Ms Carruthers’s May 2023 Section 42A Report.
- [9] Further submitters are not generally referred to in this Recommendation Report, because further submissions are either accepted or rejected in conformance with our recommendations on the primary submissions to which they relate.

### 3 Hearing and Parties Heard

- [10] The hearing was held on 13<sup>th</sup> and 14<sup>th</sup> June. The parties who wished to be heard and who appeared at the hearing were:

Sub #	Name
V1-0011	Helen and Tom Fraser
V1-0029	Gary and Lynda Burgess
V1-0066	Birchs Village Limited
V1-0070	Ballantrae Residents Group
V1-0087	Margaret Springer

- [11] The witnesses and counsel we heard from are listed in Appendix 2. Copies of their legal submissions and evidence are held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report. We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether or not they were represented by counsel or expert witnesses.
- [12] Cross examination is allowed through the intensification streamlined planning process (ISPP)<sup>2</sup>. Counsel for Birchs Village Limited cross-examined SDC experts Hugh Nicholson and Rodney Yeoman.<sup>3</sup>

### 4 Schedule 1, clause 99(2)(b) Amendments

- [13] Under clause 99(2)(b) of Schedule 1 of the RMA<sup>4</sup> the recommendations of the IHP must be related to a matter identified by the panel or any other person during the hearing, but are not limited to being within the scope of submissions. We make no such recommendations.

### 5 Schedule 1, clause 16(2) amendments

- [14] Ms Carruthers did not recommend any amendments under clause 16(2) of Schedule 1 to the RMA. Nor do we.

### 6 V1-0011 Helen and Tom Fraser

- [15] Helen and Tom Fraser were further submitters who opposed the Birchs Village (V1-0066) request to rezone land within the area of PC79 from GRUZ to MRZ. We discuss Mr Fraser’s

<sup>2</sup> RMA s98(4).

<sup>3</sup> Our IPI Minute 1 required notice of a wish to cross-examine to be lodged with the SDC Hearing Secretary 5 working days prior to the hearing. Counsel did not comply with that requirement, but we nevertheless agreed to the cross-examination.

<sup>4</sup> A new Part 6 was inserted into Schedule 1 of the RMA by Part 2 the RMA-EHS.

evidence to us in section 9 of this Report. As we have recommended rejecting V1-0066, the further submissions of Helen and Tom Fraser are recommended to be accepted.

## 7 V1-0028 A & S Pollard *et al*

[16] For the following submissions we adopt Ms Carruthers' recommendations and reasons.

Sub #	Submitter	Submission Points
V1-0026	A & S Pollard <i>et al</i>	001

[17] Variation 1 proposed MRZ over the majority of the V1-0028 submission area that was subject to PC68<sup>5</sup>. The MRZ zoned land was included in DEV-PR3. The submitters requested that, if the whole of the area is not able to be zoned MRZ, then the whole of the area (including the PC68 land) should remain GRUZ.

[18] Ms Carruthers advised that the land within DEV-PR3 had already been determined to be appropriate for urban zoning through a Schedule 1 process. Relying on SDC expert peer reviews on economics, transport, urban form and servicing, Ms Carruthers assessed the remainder of the submitters' area of land against the 'Greenfield Framework' as outlined in the SDC's Section 42A Re-zoning Framework Report.

[19] Importantly, the submission area contains LUC 2 and 3 soils and so is subject to NPS-HPL. We agree with Ms Carruthers that the Trents Road sites and the property at 743 Shands Road do not meet the criteria contained in Clause 3.6 of the NPS-HPL. However, we also agree that rezoning 184 Hamptons Road would 'fill in' a small area that could not realistically be used for land-based primary production activities, a situation that would be exacerbated by the land surrounding that property being zoned MRZ as proposed by Variation 1.

[20] We observe that the additional land bounded by Trents, Shands and Hamptons would appear to be a suitable candidate for consideration in SDC's future urban planning processes.

[21] Consequently, we recommend that the SDC:

- (a) amends the planning maps by rezoning 184 Hamptons from GRUZ to MRZ; and
- (b) makes consequential amendments to each of SCA-RD1 and DEV-PR3, to reflect that rezoning.

[22] We adopt the s32AA assessment set out in paragraphs 8.11 to 8.16 of the May 2023 Section 42A report.

## 8 V1-0029 G & L Burgess

[23] For the following submissions we adopt Ms Carruthers' recommendations and reasons.

Sub #	Submitter	Submission Points
V1-0029	G & L Burgess	001, 002

[24] The submitters sought to amend the zoning at 93 Tosswill Road (legally described as Lot 4 DP 538252) from GRUZ to MRZ. The land is within the UGO<sup>6</sup> and so is not subject to the NPS-HPL, but it retains a GRUZ zoning with a SCA-RD1 overlay. We observe that the Hearing Panel for

<sup>5</sup> As shown in Figure 3 of the Section 42A Report.

<sup>6</sup> Both within the PDP as originally notified and under Variation 1.

the PDP Prebbleton Rezoning requests recommended that the submission on the PDP requesting GRZ for the site be rejected.

- [25] By way of background, we note that in 2019 the submitters subdivided their land and released the residentially zoned portion to Suburban Estates Limited for the Prevelles residential development. Included in the sale and purchase agreement was a requirement that the Stormwater Management Area at the east side of the site be designed and constructed to accept stormwater runoff from rural-residential development of the balance of the submitters' land. The V1-0029 site is the balance land retained by the submitters<sup>7</sup>.
- [26] For this Hearing, relying on the submitters' evidence and SDC expert peer reviews on natural hazards, transport, urban form and servicing, Ms Carruthers assessed the submitters' request against the 'Greenfield Framework' as outlined in the SDC's Section 42A Re-zoning Framework Report. She concluded that rezoning of the site could be supported in terms of transport and urban form matters, but there was insufficient capacity in the infrastructure network to service the site, particularly in relation to the conveyance of wastewater from Prebbleton to Rolleston. On that basis Ms Carruthers considered that the site was not infrastructure-ready as defined by the NPS-UD and she recommended rejecting the submission.
- [27] For the submitters, planner Claire McKeever advised that with MRZ zoning the site would yield 220 houses at 15 hh/ha. Ms McKeever provided an updated ODP map and narrative. The ODP showed a 37m setback corridor from the National Grid Transmission lines that traverses the site. Ms McKeever advised that future housing within the site would be well setback and buffered from directly adjoining rural land to the east, and interface treatments were proposed on the short section of northern boundary that directly adjoined GRUZ.
- [28] We understand that the main points of contention between the submitter and the SDC peer reviewers relate to transport and wastewater and potable water servicing.
- [29] The SDC transport peer reviewer (Mat Collins) advised that vehicle access to the Burgess site would be from Tosswill Road and the collector road through the adjacent land (Stationmasters Way and Edward Law Boulevard).
- [30] Ms McKeever noted that Mr Collins considered that the site rezoning could be supported subject to a list of SDC planned roading upgrades<sup>8</sup> being completed before any site development occurred. In contrast, the submitter transport expert Andrew Leckie considered that it was unnecessary to require the list of roading upgrade projects put forward by Mr Collins to be carried out prior to development of the site. Mr Leckie was of the view that most of the projects identified by Mr Collins were based on his assessment of PC68<sup>9</sup> and were

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<sup>7</sup> EIC Mark Thomson, paragraph 12.

<sup>8</sup> Shands Road/Trents Road roundabout (scheduled for 2022/2023); Trents Road seal widening, between Springs Road and Shands Road (scheduled for 2022/2023); Hamptons Road seal widening, between Springs Road and Shands Road (scheduled for 2024/2025); Shands Road/Hamptons Road roundabout (scheduled for 2024/2025); Springs Road/Hamptons Road roundabout (scheduled for 2024/2025); Springs Road safety improvements to reduce vehicle speeds through Prebbleton (scheduled for 2024/2027); and Springs Road/Tosswill Road intersection upgrade to traffic signals (scheduled for 2026/2027).

<sup>9</sup> Mr Leckie said the PC68 sites was four times bigger than the Burgess site.

remote to the Burgess site, including arterial road intersection upgrades through which the development of the site would add very little additional traffic<sup>10</sup>.

- [31] Regarding the Springs Road/Tosswill Road intersection, which was more local to the Burgess site and an important connection to the arterial road network, Mr Leckie considered that Edward Law Boulevard and Stationmasters Way provided a safe and convenient alternative access to Springs Road which could be used until the Springs Road/Tosswill Road intersection was upgraded. Mr Leckie nevertheless supported Ms McKeever's suggested rule for the relevant PDP subdivision chapter that would require an assessment to be provided to the SDC as part of the consent process to assess the traffic effects of site development proposal, with particular regard to the Springs/Tosswill Road intersection.
- [32] Ms McKeever considered that a similar approach could be used in respect of wastewater capacity investigations that were specific to the site at the time of development.
- [33] On the evidence we find that roading improvements on the north-western side of Shands Road are remote from the Burgess site and the impacts of the Burgess rezoning on the Springs Road / Hamptons Road roundabout would be negligible. However, we agree with Mr Collins that the Springs Road/Tosswill Road intersection should be upgraded prior to development of the Burgess site occurring. Mr Leckie advised that traffic signals were planned for the Springs Road/Tosswill Road intersection in the 2026/27 financial year. It may be that date can be advanced as a result of discussions between the submitter and the SDC.
- [34] We find that the ODP should include a 'condition precedent' relating to the Springs Road/Tosswill Road intersection.
- [35] Turning to wastewater servicing, the submitters civil engineering expert Mark Thomson was critical of Ms Carruthers' conclusion that the site was not infrastructure ready. He advised that an extension of the existing wastewater network would be required to service the site and would connect to the existing reticulation in Tosswill Road. Gravity sewer mains could not be provided to all of the site without at least one pump station or lift station. Mr Thomson suggested a Local-pressure Pumped Sewer (LPS) with private pump stations on each lot discharging into a common rising main to be a more practical servicing solution and was proposed for the site. Regarding potable water, Mr Thomson advised that extension of the existing reticulated water network would be required and would connect to pipes in Tosswill Road and the Prevelles development to the north of the Site.
- [36] Mr Thomson concluded that the site was serviceable, but further discussions were required between SDC and the submitters regarding wastewater and water supply, taking into account the wider Prebbleton context. We find that the development of the site should not occur until these servicing matters are resolved and that the ODP should include a 'condition precedent' relating to these servicing matters. That would ensure that development would not proceed until the site was indeed 'infrastructure ready'. At the hearing Mr Blake-Manson (SDC infrastructure peer reviewer) advised he supported such an approach.
- [37] We recommend that submission V1-0029 is accepted in part.

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<sup>10</sup> He also thought it was not practicable to provide a local road connection to the north-east of the site as suggested by Mr Collins due to the constrained legal width available across the stream.

[38] We recommend that the SDC:

- (a) Amends the zoning of the site at 93 Tosswill Road (legally described as Lot 4 DP 538252) from GRUZ to MRZ;
- (b) Removes the SCA-RD1 and Urban Growth overlays from the site;
- (c) Includes within the PDP a new DEV-PR6 - Prebbleton 6 Development Area over the site;
- (d) Includes within DEV-PR6 - Prebbleton 6 Development Area the 'Option 1' ODP map that formed Appendix B to the Supplementary Evidence of Claire McKeever dated 16 June 2023; and
- (e) Includes within DEV-PR6 – Prebbleton 6 Development Area the ODP narrative that was agreed between Ms Carruthers and Ms McKeever and which formed Appendix A to the Supplementary Evidence of Claire McKeever dated 16 June 2023, subject to some minor amendments made by us as shown in Appendix 1 of this Recommendation Report.

[39] We adopt the section 32AA assessment attached as Appendix B to the 26 May 2023 evidence of Claire McKeever.

## 9 V1-0066 Birchs Village Limited

[40] For the following submissions we adopt Ms Carruthers' recommendations and reasons.

Sub #	Submitter	Submission Points
V1-0066	Birchs Village Limited	001, 002, 003.

[41] The Birchs Village Limited (BVL) site covers the same land as PC79. Independent Commissioner Paul Thomas recommended that PC79 be declined<sup>11</sup>.

[42] We observe the BVL site was also the subject of submission DPR-0432.001 on the PDP. BVL did not attend the PDP rezoning hearing, but the Prebbleton PDP Rezoning Hearing Panel recommended rejecting DPR-0432.001 because:

- the land is outside the UGO;
- the land comprises LUC 1 and 2 soils and under Policy 5 of the NPS-HPL the urban rezoning of that land must be avoided because none of the exemptions in NPS-HPL clause 3.6(1) were shown to apply; and
- Transpower<sup>12</sup> did not support a residential zoning over that part of the area containing the National Grid Yard.

[43] For this Hearing, relying on SDC expert peer reviews of the PC79 evidence and the evidence of experts appearing for SDC at the PC79 hearing<sup>13</sup>, along with the economic assessment undertaken by Rodney Yeoman and Michael Gordon of Formative Ltd, Ms Carruthers assessed the BVL request against the 'Greenfield Framework' as outlined in the SDC's Section 42A Re-zoning Framework Report.

<sup>11</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0012/1986492/Recommendation-Report-PC-79-Final-2-1.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0012/1986492/Recommendation-Report-PC-79-Final-2-1.pdf)

<sup>12</sup> EIC, Ainsley McLeod

<sup>13</sup> Covering transport, urban design and infrastructural serving matters.

- [44] Ms Carruthers concluded that the rezoning sought by BVL could not be supported in terms of urban form and infrastructure matters. Neither did the rezoning meet the requirements of clause 3.6 of the NPS-HPL. On that basis she recommended that the rezoning request be rejected. At the conclusion of the hearing, Ms Carruthers maintained that recommendation.
- [45] We consider that rezoning the land as sought would be clearly contrary to CRPS:
- Objective 6.2.1(3) which seeks to avoid urban development outside of existing urban areas or Greenfield Priority Areas (GPA) unless expressly provided for in the CRPS; and
  - Objective 6.2.2 which seeks an urban form that achieves consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas.
- [46] The BVL land falls outside the GPAs identified for Prebbleton. The BVL land is also outside SDC's Urban Growth Overlay (UGO)<sup>14</sup>. This would indicate that urban zoning of the land in question is inappropriate.
- [47] However, we must also consider the NPS-UD 2020. NPS-UD Policy 8 states:
- Policy 8. Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:
- (a) unanticipated by RMA planning documents; or
  - (b) out-of-sequence with planned land release.
- [48] Regarding NPS-UD Policy 8, we accept that the BVL would add significantly to development capacity. We also accept that the Outline Development Plan (ODP) for the BVL<sup>15</sup> land would initially appear to constitute a 'well-functioning urban environment' for the site itself, including as it does a neighbourhood centre, reserves and internal connectivity. However, that is tempered by the fact that two significant property owners do not wish to see their land developed. In particular the omission of the land owned by Helen and Tom Fraser would leave a large, undeveloped gap in the middle of the ODP adjacent to Birchs Road and Leadleys Road. That casts doubt on whether the site would itself constitute a well-functioning urban environment.
- [49] As the BVL land resides outside the SDC's UGO, we also need to consider whether or not it would contribute to a well-functioning urban environment for Prebbleton as a whole. On the evidence we find that the BVL proposal would not do so. In particular we were persuaded by the evidence of Hugh Nicholson (SDC urban design peer reviewer) that the location of the BVL land was separated from Prebbleton's existing urban area, it was not well-connected to that area and has low accessibility. We would add that the BVL area is in some regards akin to a land based 'peninsula' of residential development, surrounded on all sides by rurally zoned land<sup>16</sup>.

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<sup>14</sup> Both as it exists in the PDP and as it would be amended by Variation 1.

<sup>15</sup> As attached to the evidence of Nicole Lauenstein (urban design witness for BVL).

<sup>16</sup> In that regard we do not consider Kakaha Park with its open space nature to be an 'urban zone' or to be akin to an urban zone.



- [50] We next consider whether the rezoning is actually required to provide for sufficient development capacity<sup>17</sup> in Prebbleton. We received conflicting evidence on that matter from Derek Yeoman (for SDC) and Fraser Colegrave (for BVL). Mr Yeoman was cross-examined by counsel for BVL. We found Mr Yeoman to be a well-informed, credible and objective witness. His answers under cross-examination did nothing to dissuade us from finding that the modelling he had undertaken to assess housing development capacity and demand for Prebbleton was anything less than robust and fit for purpose. Mr Yeoman's conclusion, as set out in the 13 April 2023 'Formative Report'<sup>18</sup>, was that a comparison of demand and feasible development capacity showed that there was sufficient capacity of supply in Prebbleton in the short, medium and long-term.
- [51] In the alternative, Mr Colegrave considered<sup>19</sup> that *"the proposed [BVL] rezoning is required to provide short-medium term capacity for Prebbleton, with an estimated shortfall of 255 to 569 dwellings over that period"*. Relevantly, we have recommended accepting several Prebbleton rezoning requests that fall predominantly<sup>20</sup> within the UGO, including G and L Burgess (V1-0029) at 220 lots<sup>21</sup>, Margaret Springer (V1-0078) at up to 40 lots<sup>22</sup>, and Ballantrae Residents Group (V1-0070) at up to 47 additional lots. The total additional lots from those rezoning requests totals around 300 lots. On that basis those rezoning requests would arguably meet in large part the development capacity shortfall that Mr Colegrave believes to exist. Consequently, there would be no pressing need for BVL's additional 527 lots<sup>23</sup> in the short to medium term.
- [52] We now turn to consider the NPS-HPL.
- [53] For BVL, based on the evidence from Victor Mthamo, Mark Everest, Fraser Colegrave and Hilary Konigkramer, planner Sally Elford considered that the land contained within the site had limited actual productive value now due to its fragmented land ownership, and in the future due to its limitations around access to water and nutrient restrictions.
- [54] We are not persuaded by the evidence. We do not consider the 'fragmentation' of the land or access to water and nutrient restrictions to be an unduly burdensome constraint on the productive use of the land. We note that under rule 11.5.6 of the Canterbury Land and Water Plan, properties under 10ha in area can leach up to 15kgN/ha/year as a permitted activity, which we understand to be suitable for dry land beef and sheep farming. Mr Everest (BVL farm consultant witness) confirmed that was the case in answer to our questions.
- [55] Relevantly in that regard, we received evidence from Tom Fraser (V1-0011). Mr Fraser has a Diploma in Agriculture from Lincoln College and has spent 50 years working for the Grasslands

<sup>17</sup> NPS-UD Policy 2 is that "Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term."

<sup>18</sup> Selwyn Residential Capacity and Demand Model – IPI 2023, Economic Assessment, Selwyn District Council, 13 April 2023, forming Appendix 3 to the Section 42A report.

<sup>19</sup> EIC Colegrave, paragraph 13(a). We understand from Mr Colegrave's evidence (his Table 10 which appeared to be erroneously labelled 'Estimated Short-Medium Term Dwelling Supply in West Melton') that he has accounted for the supply provided by PC68 and PC72 in his calculations.

<sup>20</sup> Margaret Springer V1-0078 is outside the UGO but is a small 1.3ha site that is contiguous with land zoned MRZ by Variation 1.

<sup>21</sup> EIC Jade McFarlane, paragraph 19.

<sup>22</sup> EIC Ivan Thomson, paragraph

<sup>23</sup> EIC Sally Elford, paragraph 61.

Division Department of Scientific Research and AgResearch Crown Research Institute as a Research Scientist. He is a Past President and life member of the New Zealand Grassland Association. He has lived in the middle of the BVL land at 198 Birchs Road since 1970. We found him to be a knowledgeable and credible witness. Mr Fraser advised, with regard to the BVL 'PC79' land:

- The soils within the PC79 site are all classified as highly productive and are suitable to grow a wide range of high value horticulture and arable crops. The LUC 2 soils (Templeton silt loam) are classified as the best cropping or horticulture soils in Canterbury;
- The LUC 1 and 2 soils on the site have a deeper top soil profile than other classes of soils which means that the total moisture holding capacity of those soils is much greater than shallow LUC 3 and 4 soils. For farm management practice this is important as autumn and spring sown crops will require little or no top up from irrigation to reach maturity by early summer harvest;
- In order to maximise pasture production (say from dairy farms) then irrigation would be required throughout the growing season. However, for most arable crops and horticulture crops irrigation is only required for some periods of the year. For example, most arable crops do not require irrigation over the summer months as dry conditions are required during that time to harvest the crop; and
- Up until 10 years ago<sup>24</sup> (before it was sold) the PC79 land had successfully grown high yielding crops of broad beans, process peas, green beans, broccoli, potatoes, cauliflowers, wheat, barley, and herbage seed crops. In some years the broad beans and process peas had been followed by barley. In many cases the autumn and early spring sown crops were grown without any irrigation. Land adjacent to the site is still growing some of the above crops.

[56] In light of Mr Fraser's evidence, we find that the BVL land is not of limited value for primary production, as was asserted by certain witnesses for BVL.

[57] In saying that we disagree with Mr Everest that the relevant NPS-HPL test is that the land must be (our emphasis) "capable of highly productive land based primary production". Rather, the sole objective of the NPS-HPL is that "*Highly productive land is protected for use in land-based primary production*". The same language is used in NPS-HPL clause 3.6(1)(c). The land-based primary production does not need to be 'highly productive'.

[58] We find that under Policy 5 of the NPS-HPL the urban rezoning of the BVL land must be avoided because exemptions in NPS-HPL clause 3.6(1) do not apply. In that regard:

- In terms of clause 3.6(1)(a), the Formative Report<sup>25</sup> concludes that a comparison of demand and development capacity shows that there is sufficient feasible development capacity in Prebbleton in the short, medium and long-term. We note that the Formative Report assumes that the land within approved plan changes PC68 and PC72 in Prebbleton (that was zoned MRZ in Variation 1) is developable in the short and medium term;

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<sup>24</sup> We acknowledge the evidence of BVL witness Ryan Geddes that the current land use does not entail that type of cropping regime.

<sup>25</sup> Selwyn Residential Capacity and Demand Model – IPI 2023, Formative, 13 April 2023.

- In the alternative, using Mr Colegrave’s estimate of development capacity shortfall, that shortfall will be substantially met by other rezoning requests located predominantly within the UGO that we have recommended be accepted; and
- In terms of clause 3.6(1)(b), there are other reasonably practicable and feasible options for providing development capacity that are located within the UGO, including the intensification of land within the MRZ in Prebbleton and the rezoning of the land that is the subject of the G and L Burgess (V1-0029) and Ballantrae Residents Group (V1-0070) submissions.

[59] As the NPS-HPL clause 3.6(1) subclauses are conjunctive, they must all be met. Accordingly, we do not need to delve into clause 3.6(1)(c) matters as the BVL rezoning request fails to satisfy the previous two clauses.

[60] We find that the BVL rezoning request is:

- contrary to the NPS-UD in that it does not contribute to a well-functioning urban environment;
- not required to address a development capacity shortfall; and
- is contrary to the NPS-HPL.

[61] For these reasons we recommend that the Birchs Village Limited (V1-0066) submission is rejected.

## 10 V1-0070 Ballantrae Residents Group

[62] For the following submissions we generally adopt Ms Carruthers’ recommendations and reasons.

Sub #	Submitter	Submission Points
V1-0070	Ballantrae	001

[63] Ballantrae sought to rezone land on Trices Road from LLRZ to MRZ. We note that the NPS-HPL is not relevant.

[64] The submitter made a similar rezoning submission on the PDP, where they sought to rezone the 24 properties within the Ballantrae subdivision from LLRZ to a GRZ. That proposed rezoning would enable the creation of approximately 50 additional sections through infilling of the existing subdivision. The Prebbleton PDP Hearing Panel recommended rejecting the submission because they were not confident that the rezoning would achieve a well-functioning urban environment with appropriate amenity values.

[65] Relying on SDC expert peer reviews on economics, urban form and infrastructural servicing, for this Hearing, Ms Carruthers assessed the submitter’s request against the ‘Intensification Framework’ as outlined in the SDC’s Section 42A Re-zoning Framework Report. She considered that the intensification of the Ballantrae area would be an appropriate response to the intensification of surrounding areas, and that it could be adequately serviced, including for wastewater by the pipeline to The Pines WWTP. She recommended that the submission be accepted.

[66] Regarding the contrary recommendation of the Prebbleton PDP Hearing Panel, we note that for this Hearing, SDC peer reviewer Hugh Nicholson considered that the rezoning would

improve social interaction and diversity, and improve access to and availability of community services.

- [67] SDC transport peer reviewer Mat Collins considered that the submitter's request could be accepted from a transport perspective, provided that identified roading upgrades were undertaken before development occurred. Ms Carruthers did not adopt that caveat and it was also opposed by the submitter's planner Ivan Thomson. We find that the extensive roading improvements identified by Mr Collins<sup>26</sup> are not sufficiently related to the Ballantrae rezoning request.
- [68] Ms Carruthers considered that the submitter should provide an ODP for inclusion in the PDP as a new Prebbleton Development Area. In his planning evidence Ivan Thomson suggested that for this 'infill' area, an ODP was not necessary as the site was not a greenfield subdivision and nor did it trigger the CRPS criteria for an ODP. He noted that Variation 1 'upzoned' the adjoining Stonebridge Way to the east from Living 1A to MRZ with no requirement for an ODP.
- [69] Mr Thomson nevertheless provided both an ODP map and ODP narrative for our consideration on the basis that an ODP was needed to assist the SDC in carrying out its functions concerning integrated development with SDC's Long Term Plan. The ODP narrative referred to a density of 6hh/ha. Mr Thomson advised that with the existing subdivision and land use pattern, the realistically achievable and appropriate level of intensification would be far less than the maximum permitted, at least in the foreseeable future.
- [70] We find the ODP map and narrative provided by Mr Thomson to be generally appropriate. However, we do not consider it necessary to specify a minimum net density in terms of households per hectare. The fact that this will be infill development based around existing dwellings is a significant constraint.
- [71] We recommend that the submission be accepted and that the SDC:
- (a) amends zoning of the subject land from LLRZ to MRZ;
  - (b) inserts a new DEV-PR6 containing the ODP figure that was attached to the 26 May 2023 evidence of Ivan Thomson and his ODP narrative that was attached to that evidence, subject to some minor amendments made by us as shown in Appendix 1 of this Recommendation Report.
- [72] We adopt Ms Carruthers' s32AA assessment that was set out in paragraphs 11.10 to 11.14 of her Section 42A Report.

## 11 V1-0076 J Fisher

- [73] For the following submissions we adopt Ms Carruthers' recommendations and reasons.

Sub #	Submitter	Submission Points
V1-0076	J Fisher	001, 002

<sup>26</sup> Shands Road/Trents Road single lane roundabout; Trents Road seal widening, between Springs Road and Shands Road; Hamptons Road seal widening, between Springs Road and Shands Road; Shands Road/Hamptons Road dual lane roundabout; Springs Road/Hamptons Road single lane roundabout; Springs Road safety improvements to reduce vehicle speeds through Prebbleton; Springs Road/Tosswill Road intersection upgrade to traffic signals.

- [74] The submitter sought to rezone land on the southeastern corner of the intersection of Shands Road and Blakes Road from LLRZ to MRZ. The submitter stated that the land should not be zoned MRZ on its own, as that would create an island of intensive residential amongst an area of LLRZ. The submission requested that, if any of the surrounding LLRZ land was rezoned MRZ, then the submission area should also be rezoned MRZ.
- [75] The land in question was also subject to a rezoning submission on the PDP. In that PDP process counsel for Ms Fisher advised that the rezoning relief was abandoned, but it was requested to make the land subject to the UGO. The Prebbleton PDP Rezoning Hearing Panel recommended rejecting that request as it would be inconsistent with Policy 6.3.9 of the CRPS. In terms of the submitter's similar request here, we make the same finding.
- [76] We note no evidence was provided with either this submission on Variation 1 or the submission on the PDP. Ms Carruthers advised that there had been no submission to intensify the surrounding LLRZ land through either the PDP or Variation 1. She recommended that the submission be rejected. We agree that is appropriate to reject this submission. In saying that we note that the submitter did not request to be heard at the Hearing.

## 12 V1-0087 M Springer

- [77] For the following submissions we differ from Ms Carruthers' recommendation.

Sub #	Submitter	Submission Points
V1-0087	M Springer	001, 002

- [78] The submitter sought to rezone 1.28ha of land at 529 Springs Road from GRUZ to MRZ and that the SCA-RD1 overlay be removed. The land is currently used as a lifestyle block.
- [79] The land in question was also subject to a rezoning submission on the PDP where GRZ was sought. In that process the Prebbleton PDP Rezoning Hearing Panel recommended rejecting the submission because the land comprised LUC 1 soils.
- [80] Relying on SDC expert peer reviews on economics, urban form and infrastructural servicing, for this Hearing, Ms Carruthers assessed the submitter's request against the 'Greenfield Framework' as outlined in the SDC's Section 42A Re-zoning Framework Report. She recommended that the submission be rejected because although the site would be acceptable for rezoning from a transport, urban form and stormwater perspective, water and wastewater could not be adequately serviced and so the site was not infrastructure ready as defined by the NPS-UD. Ms Carruthers also considered that the site does not meet the criteria set out in clause 3.6 of the NPS-HPL.
- [81] For the submitter Stuart Ford considered that while the site comprised LUC 1 Kaiapoi soils<sup>27</sup>, for the land to be commercially viable it would have to be incorporated into a larger farming unit. Mr Ford suggested that rezoning the land met the criteria in clause 3.10 of the NPS-HPL.
- [82] We note that the PDP rezoning hearings panels have found that if it can be demonstrated that an area of land identified as Rural (Inner Plains) in the ODP, or GRUZ SCA-RD1 in the PDP (which the Springer land is), for which a rezoning submitter seeks an 'urban zoning' has been

<sup>27</sup> Which are deep, stoneless, silt soils with a relatively high profile available water which are suitable for a wide range of pastoral, arable and vegetable production land uses.

previously subdivided and developed to such an extent that the lot sizes effectively preclude the area of land being predominantly used for productive purposes, and instead the area of land is being predominantly used for residential purposes, then in that particular situation a Rural Lifestyle zoning would be the most appropriate National Planning Standard zone description for the area of land. In such situations the NPS-HPL would not apply because NPS-HPL clause 3.5(7) exempts Rural Lifestyle Zoned land from the coverage of the NPS-HPL. For this 'exemption' to apply it was considered that lot sizes would generally be less than 4ha, and the land not occupied by housing and housing curtilage would be used for non-productive activities, including but not limited to domestic orchards, gardens and mown lawns. In answer to our questions Mr Thomson advised that was the case for the Springer land.

- [83] We find that the 1.28ha Springer site falls within the 'exemption' outlined above and on that basis, we are satisfied that the NPS-HPL does not preclude the urban zoning of the site.
- [84] That left the matter of water and wastewater servicing. The evidence of Andrew Hall was that agreement had been reached with SDC Officers that the proposal was in fact 'infrastructure ready'. In particular Mr Hall advised that there was either existing or proposed capacity at the Pines Treatment plant in Rolleston for the development of the Springer site into 22-25 lots. There was limited capacity in the Prebbleton wastewater pump station, but that could be circumvented by only allowing wastewater off the site at times of low flow in the greater infrastructure of Prebbleton. That attenuated flow could be achieved with a Local Pressure Sewer Pump System which would be maintained by the landowners.
- [85] Mr Hall advised that SDC had confirmed that there was potable water capacity available for this proposal.
- [86] We find it appropriate that the land be rezoned MRZ.
- [87] For the submitter Ivan Thomson attached an ODP map and narrative to his planning evidence for our consideration. However, his evidence was that the site and the proposed development did not warrant an ODP due to its small size and lack of connectivity potential to other sites. We agree.
- [88] We recommend that submissions V1-0087.001 and 002 are accepted.
- [89] We recommend that the SDC:
- (a) amends the zoning of the 1.28ha parcel of land at 529 Springs Road from GRUZ to MRZ and that the SCA-RD1 overlay is removed from the land.

### **13 V1-0098 Urban Estates**

- [90] For the following submission we agree with Ms Carruthers' recommendation.

Sub #	Submitter	Submission Points
V1-0098	Urban Estates et al	001, 002

- [91] Urban Estates sought to rezone around 66ha of land between Trices Road and Leadleys Road from GRUZ to MRZ. The submission was supported by technical reports on geotechnical matters, transport, landscape and visual effects, servicing, economics, contaminated soils and ecology.

- [92] We observe that much of that same land was the subject of a rezoning request on the PDP where LLRZ was sought. The Prebbleton PDP Rezoning Hearing Panel recommended rejecting those submissions because the land was not within the UGO and it was not a 'rural residential location' in the Rural Residential Strategy 2014. The Panel found that rezoning the land from GRUZ to LLRZ would therefore be inconsistent with Policy 6.3.9 of CRPS. The rezoning request would contribute to the loss of LUC 1 and 2 highly productive land and under clause 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ was to be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL applied.
- [93] For this Hearing, relying on SDC expert peer reviews on geotechnical matters, transport, landscape and visual effects, infrastructure servicing, economics, contaminated soils and ecology, Ms Carruthers assessed the submitter's request against the 'Greenfield Framework' as outlined in the SDC's Section 42A Re-zoning Framework Report. She recommended that the submission be rejected because while it could be supported from an urban form perspective, there was insufficient information included with the submission on transport and ecological matters. Ms Carruthers advised the site was unable to be serviced from a wastewater perspective, and so the submission area was not 'infrastructure-ready' in terms of the NPS-UD.
- [94] Importantly in our view, the site contains LUC 1 and 2 soils and we conclude that it has not been demonstrated that the criteria in clause 3.6 of the NPS-HPL have been met. Consequently, the urban rezoning of the land must be avoided. We agree that is appropriate to reject this submission. In saying that, we note that the submitter did not attend the Hearing.

**14 V1-0128 GM & J Drinnan**

- [95] These further submitters supported the rezoning requested by Urban Estates. Evidence in support of the further submissions was tabled by planner Stewart Fletcher. As we have recommended rejecting the submission of Urban Estates the further submissions of V1-0128 are also recommended to be rejected.

**15 Other matters**

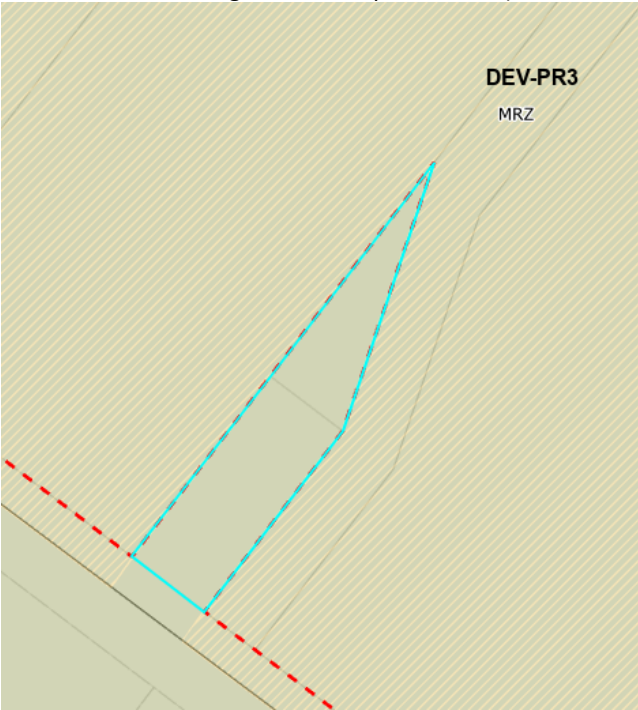
- [96] No other matters were brought to our attention.

## Appendix 1: Recommended Amendments

**Note to readers:** Only provisions that have recommended amendments are included below. All other provisions remain as notified. Text proposed in Variation 1 is in blue font. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.


### Amendments to the PDP Maps

The following spatial amendments are recommended to PDP Planning Maps:


Map Layer	Description of recommended amendment
<b>Zones</b>	<ul style="list-style-type: none"> <li>Amend the zoning of 184 Hamptons Road (Lot 2 DP 404189 and Lot 3 DP 24822 and outlined blue) from GRUZ to MRZ.<sup>28</sup></li> </ul> 

<sup>28</sup> V1-0028.001 A & S Pollard *et al*



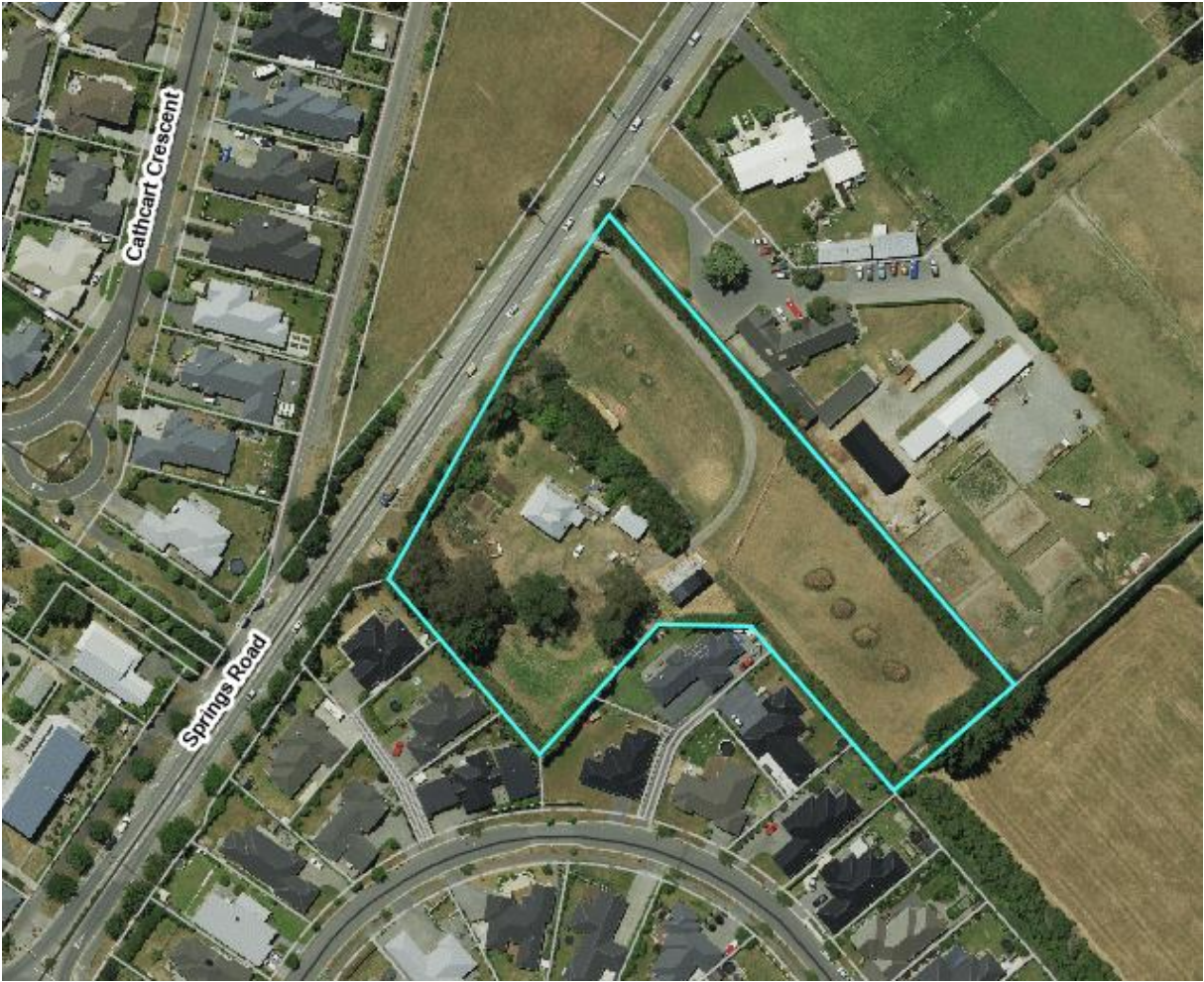
Map Layer	Description of recommended amendment
	<ul style="list-style-type: none"> <li data-bbox="421 233 1496 263">Amend the zoning of 93 Tosswill Road (Lot 4 DP 538252 and outlined blue) from GRUZ to MRZ:<sup>29</sup></li> </ul> 

<sup>29</sup> V1-0029.001 G & L Burgess

Map Layer	Description of recommended amendment
	<ul style="list-style-type: none"><li>• Amend the zoning of the following properties from LLRZ to MRZ<sup>30</sup>:<ul style="list-style-type: none"><li>- 1, 2, 3, 4, 5, 6, 7, 8 &amp; 9 Skara Brae</li><li>- 3, 4, 5, 6, 7, 8, 9 &amp; 10 Highland Brae</li><li>- 68, 360, 370, 372, 378, 386 and 394 Trices Road</li></ul></li></ul> 

<sup>30</sup> V1-0070.001 Ballantrae



Map Layer	Description of recommended amendment
	<ul style="list-style-type: none"> <li>Amend the zoning of 529 Springs Road (Lot 1 DP 60589 and outlined blue) from GRUZ to MRZ:<sup>31</sup></li> </ul> 

<sup>31</sup> V1-0087.001 M Springer

Map Layer	Description of recommended amendment
<b>Rural Density Overlay</b>	<ul style="list-style-type: none"> <li>Remove the Rural Density Overlay (SCA-RD1) from: <ul style="list-style-type: none"> <li>Lot 2 DP 404189 and Lot 3 DP 24822<sup>32</sup></li> <li>Lot 4 DP 538252<sup>33</sup></li> <li>Lot 1 DP 60589<sup>34</sup></li> </ul> </li> </ul>
<b>Urban Growth Overlay</b>	<ul style="list-style-type: none"> <li>Remove the Urban Growth Overlay from: <ul style="list-style-type: none"> <li>Lot 4 DP 538252<sup>35</sup></li> </ul> </li> </ul>
<b>Development Areas Overlay</b>	<ul style="list-style-type: none"> <li>Amend the boundary of DEV-PR3 to include 184 Hamptons Road (Lot 2 DP 404189 and Lot 3 DP 24822)<sup>36</sup></li> <li>Insert a new Development Area for <ul style="list-style-type: none"> <li>Lot 4 DP 538252<sup>37</sup>, being identified as <b>DEV-PR5</b></li> <li>1, 2, 3, 4, 5, 6, 7, 8 &amp; 9 Skara Brae; 3, 4, 5, 6, 7, 8, 9 &amp; 10 Highland Brae; and 68, 360, 370, 372, 378, 386 and 394 Trices Road<sup>38</sup>, being identified as <b>DEV-PR6</b></li> </ul> </li> </ul>

#### Amendments to the PDP Text

### Part 3 – Area Specific Matters

#### Development Areas

#### PR-Prebbleton

#### DEV-PR5 – Prebbleton 5 Development Area<sup>39</sup>

Description of Amendments
<ol style="list-style-type: none"> <li>1. Insert a new ODP as follows, with consequential amendments, as outlined below: <ol style="list-style-type: none"> <li>a. Redraw for consistency with PDP symbology and update legend accordingly.</li> </ol> </li> </ol>

<sup>32</sup> V1-0028.001 A & S Pollard *et al*

<sup>33</sup> V1-0029.001 G & L Burgess

<sup>34</sup> V1-0087.001 M Springer

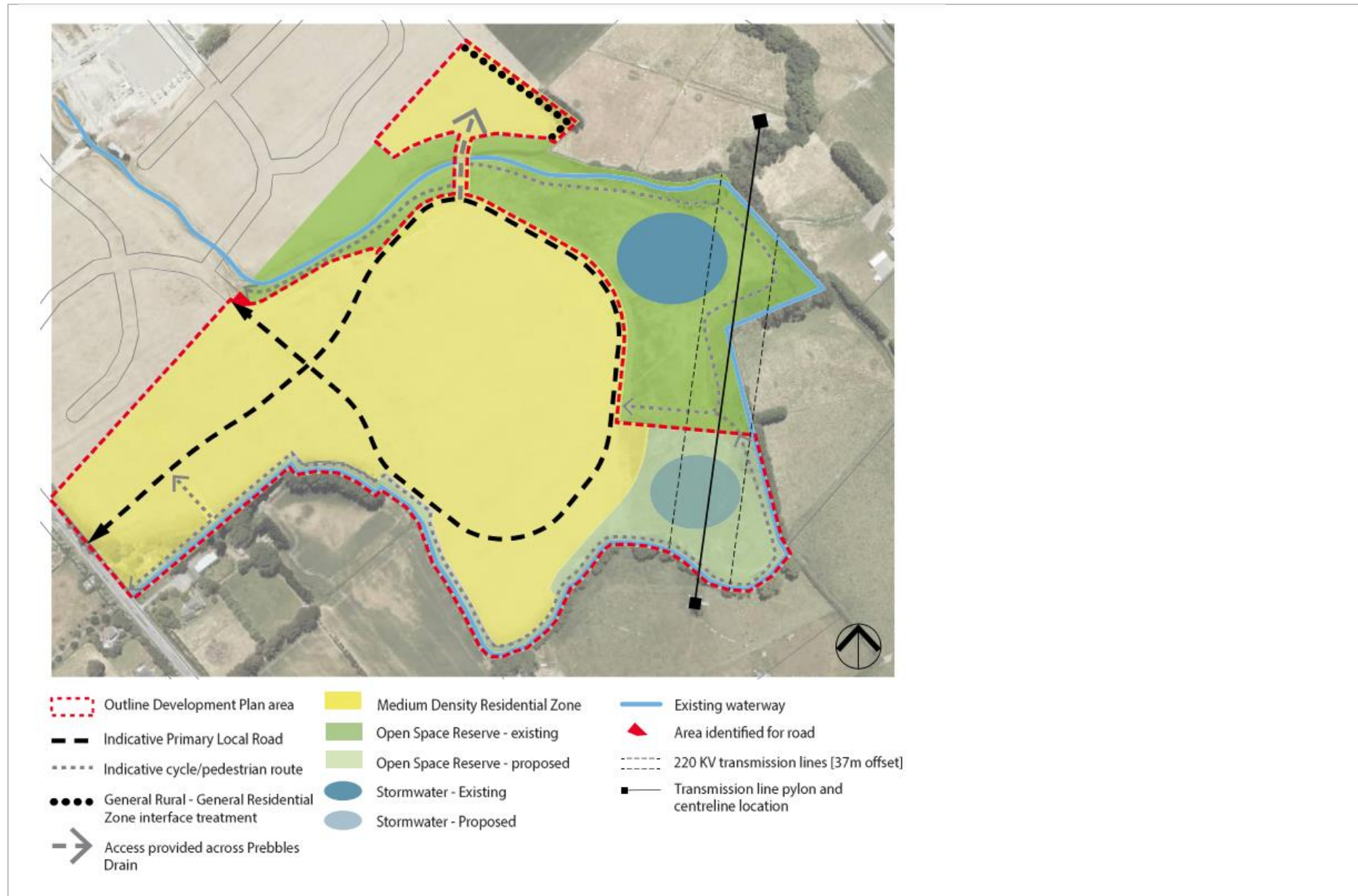
<sup>35</sup> V1-0029.001 G & L Burgess

<sup>36</sup> V1-0028.001 A & S Pollard *et al*

<sup>37</sup> V1-0029.001 G & L Burgess

<sup>38</sup> V1-0070.001 Ballantrae

<sup>39</sup> V1-0029.001 G & L Burgess



## Description of Amendments

2. Insert a new ODP narrative, as follows:

### **Context**

This development area covers 16.48 hectares of land that has legal access to Tosswill Road. The development area is bounded by residential development to the north-west and General Rural Zone to the north-east and south-east with Tosswill Road and Prebbleton Domain to the south-west.

### **Land Use**

The development area shall achieve a minimum net density of 15 households per hectare. Appropriate interface treatments at the boundary between the residential and rural activities, and methods to protect these treatments in the long term, shall be established, including appropriate fencing, landscaping or minimum building setbacks.

The underlying zone allows for a range of site sizes, which responds to the character of the surrounding area and supports variety in residential unit styles and diversity in housing typologies.

The area provides suitable locations for higher density housing. These will be located within the area and adjacent to:

- High amenity open green space that assists in providing for a sense of scale, connectivity, and accessibility.
- Low traffic, high amenity street environments.
- Primary road corridors with high amenity cycling, pedestrian, and / or public transport facilities.
- Stormwater management areas (SMAs) / utility reserve.

Higher density areas are not specifically shown on the ODP and are to be identified as part of the detailed design at subdivision stage. This is to allow for sufficient flexibility and the ability to respond to technical roading and services related matters.

The proposed SMA in the eastern part of the development area shall be vested in Council as reserve in conjunction with the existing adjoining SMA on the northern boundary of the area. These open space areas will preserve views towards the Port Hills and will increase the separation between future housing and Transpower's 220kV electricity pylons and lines.

Residential units must front Tosswill Road to enhance passive surveillance and safety, while creating a high amenity streetscape. Appropriate design layouts should take into consideration the shape, orientation and aspect of sections, with internal roads and access arrangements that support housing that fronts onto Tosswill Road.

### **Access and Transport**

The proposed roading network ensures access from Tosswill Road and a road connection to the adjoining residential development via Edward Law Boulevard.

A loop road is proposed to ensure access throughout the area with internal roading to be designed at subdivision stage. Where appropriate, roading should show good connections or alignment (whichever is more practicable) to the SMA and other reserve areas.



### Description of Amendments

Minor access to the north-western corner of the area over the Prebbles Drain will be required at the time of development. The legality of the access (whether it is privately owned by unit title, right of way or legal road) is dependent on the nature of the development proposed and construction feasibility.

Active modes of transport will be supported through the main road connection through the area, with pedestrian footpaths and on-road cycling. Off road pedestrian and cycle networks will be provided through the open space network with connections through to internal roading, and the adjoining residential subdivision.

At the time of development an assessment of the transportation network capacity to accommodate potential development traffic safely and efficiently needs to be carried out if planned intersection upgrade (signalisation) works at Tosswill Road/Springs Road intersection have not yet been completed. (As is currently budgeted in the Selwyn Long Term Plan for 2026/2027).

#### **Open Space, Recreation, and Community Facilities**

An open space corridor is shown on the Outline Development Plan providing a significant amount of open space and recreational amenity.

The Outline Development Plan requires a stormwater management area, which also has the function of a recreational open space.

Open space is also provided along the southern boundary of the development area creating a landscape buffer between the proposed residential zone and the adjoining rural land. A 10m wide green space reserve shall be provided around the existing McGills Drain and will follow the drain along the southern boundary of the area and connect with the stormwater management area.

Provision of open space will also be provided adjacent to the existing Prevelles stormwater management area to increase the buffer with adjoining rural land and provide a rural outlook and maintain views towards the Port Hills.

Further investigations shall be undertaken at subdivision to determine the retention of existing trees within any future layout.

#### **Servicing**

The Outline Development Plan shows an indicative stormwater management area, which has been sized accordingly for the anticipated density of development. The stormwater management area should be integrated with the wider transport and reserve network and would treat and dispose of stormwater from the areas within the residential development.

Detailed stormwater management design is to be determined at subdivision stage and in accordance with Environment Canterbury requirements.

Prior any application for residential development the developer shall arrange with Council for an assessment of the wastewater treatment and network systems. The assessment must be provided with the application. The purpose of this assessment is to identify treatment and network capacity and upgrade requirements including: timing; location; and funding arrangements; while ensuring that these are efficient and effective.

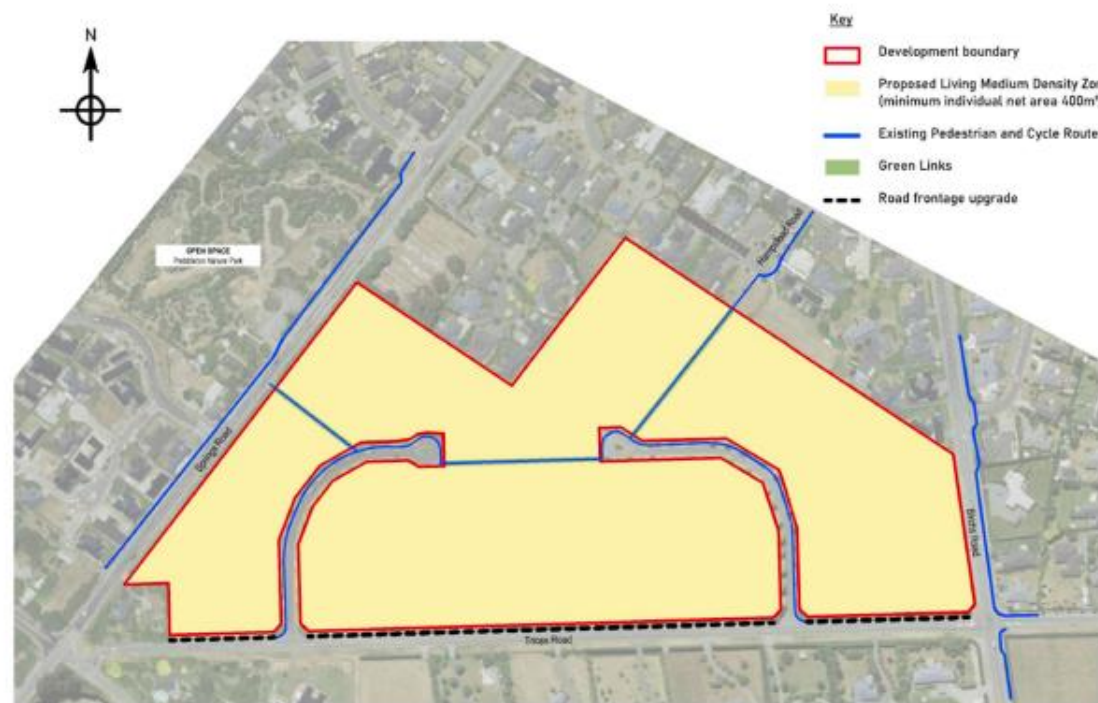
## Description of Amendments

Allocation of wastewater connections will also be considered against the Councils most recent Housing Development Capacity Assessment.

DEV-PR6 – Prebbleton 6 Development Area<sup>40</sup>

## Description of Amendments

1. Insert a new ODP as follows, with consequential amendments, as outlined below:
  - a. Redraw for consistency with PDP symbology and update legend accordingly.



<sup>40</sup> V1-0070.001 Ballantrae



**Description of Amendments**

2. Insert a new ODP narrative, as follows:

**Context**

The development area comprises around twenty four 5000m<sup>2</sup> sites , each with an existing residential unit, except for one vacant site .

**Land Use**

The density of development will vary across the development area depending on the landscaping and building layout of existing properties.

**Access and Transport**

The ODP recognises the two existing cul de sacs linked by a shared path. An existing shared path also links into the wider cycleway network.

A footpath is to be provided along Trices Road between Springs Road and Birchs Road to an urban standard in accordance with the Engineering Code of Practice. This will provide an additional link to the Rail Trail on Birchs Road and to the future Prebbleton Park. The timing and funding of that road frontage upgrade will be determined through the Council's Long Term Plan and Development Contribution Policy.

**Servicing**

Wastewater and water supply will connect into existing reticulated systems and stormwater will discharge into the ground in accordance with appropriate consents.

## Appendix 2: Evidence and Legal Submissions

### Appearances

Sub #	Submitter	Author	Role
V1-0011	Helen and Tom Fraser	Tom Fraser	Self
V1-0029	Gary and Lynda Burgess	Margo Perpick Nicholas Harwood Jade McFarlane Andrew Leckie Mark Thomson Claire McKeever	Counsel Geotechnical Urban design Transport Infrastructure servicing Planning
V1-0066	Birchs Village Limited <sup>41</sup>	Alex Booker Dave Compton-Moen Nicole Lauenstein Lisa Williams Paul Farrelly Simon Marshall Fraser Colegrave Victor Mthamo Mark Everest Hilary Konigkramer Dean Christie Ryan Geddes Sally Elford	Counsel Urban design Urban design Transport Greenhouse gasses Servicing Economics Soils Farming Social Ngai Tahu Property Company Planning
V1-0070	Ballantrae Residents Group	Ivan Thomson	Planning
V1-0087	Margaret Springer	Ivan Thomson Stuart Ford <sup>42</sup> Andrew Hall	Planning Soils Infrastructure

### Tabled Evidence

Sub #	Submitter	Author	Role
V1-0128	GM & J Drinnan	Stewart Fletcher	Planning

<sup>41</sup> Some of the Birchs Village Limited witnesses did not appear as we had no questions for them, including Paul Farrelly and Hilary Konigkramer.

<sup>42</sup> Mr Ford did not appear as we had no questions for him.