

Before the Independent Hearing Panel  
Appointed by the Christchurch City  
Council

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Under the Resource Management Act 1991  
In the matter of a hearing of submissions on Plan Change 14 (Housing  
and Business Choice) to the Christchurch District Plan  
Topic: Residential Zones

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**Supplementary legal submissions on behalf of Cashmere Park Limited,  
Hartward Investment Trust and Robert Brown  
Submission number: 593**

30 April 2024

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## May it please the Commissioners

- 1 These supplementary legal submissions are provided on behalf of Cashmere Park Limited, Hartward Investment Trust and Robert Brown (the **Submitters**), responding to questions from the Panel at the Plan Change 14 (**PC14**): Residential Zones hearing on 14 November 2023.
- 2 The Submitters are seeking rezoning of land located in Henderson and Cashmere catchments<sup>1</sup> (**the Site**) from Residential New Neighbourhood (**RNN**) and Rural Urban Fringe (**RUUF**), to Medium Density Residential (**MRZ**).
- 3 These submissions address questions from the Panel in relation to the below matters:
  - (a) National Policy Statement for Highly Productive Land (**NPS-HPL**) – application of interim definition;
  - (b) Whether an Outline Development Plan can be applied in the MRZ;
  - (c) The revised Henderson East Outline Development Plan (**ODP**) and CDP provisions sought;
  - (d) A summary of the updated *Colonial Vineyards* assessment;
- 4 Supplementary planning evidence from Bryan McGillan is also filed, providing further planning assessment against the Canterbury Regional Policy Statement (**CRPS**).

## National Policy Statement for Highly Productive Land

- 5 The Panel has asked the Submitters to set out its application of the interim definition for highly productive land (**HPL**), being particularly interested in the nearest equivalent zoning for the RUUF land.
- 6 The NPS-HPL provides additional requirements for urban rezoning of HPL. An interim definition of HPL applies until HPL is mapped and included as part of an operative regional policy statement.

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<sup>1</sup> 126 Sparks Road (Lot 1 DP 412488); 17 Northaw Street (Lot 2 DP 412488); 36 Leistrella Road (Lot 3 DP 412488); 240 Cashmere Road (Lot 23 DP 3217); 236 Cashmere Road (RS 41613); 200 Cashmere Road (Lot 1 DP 547021).

7 The interim definition<sup>2</sup> provides that HPL at the commencement<sup>3</sup> of the NPS-HPL, is land that:

(a) *Is:*

(i) *zoned general rural or rural production;*  
*and*

(ii) *LUC 1, 2, or 3 land; but*

(b) *Is not:*

(i) *Identified for future urban development; or*

(ii) *Subject to a council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.*

8 In the NPS-HPL "zone" is defined to include "the nearest equivalent zone," in the Zone Framework Standard of the National Planning Standards, where this is yet to be implemented.

9 'Identified for future urban development' is defined in clause 1.3 of the NPS-HPL as:

(a) *identified in a published Future Development Strategy as land suitable for commencing urban development of the next 10 years;*  
*or*

(b) *identified:*

(i) *in a strategic planning document as an area suitable for commencing urban development over the next 10 years;*  
*and*

(ii) *at a level of detail that makes the boundaries of the area identifiable in practice*

### *Interpretation*

10 When interpreting the NPS-HPL and the CDP<sup>4</sup>, the general statutory principles apply, so that its meaning is to be ascertained from its text and in light of its purpose and context (s10(1), Legislation Act 2019).

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<sup>2</sup> Clause 3.5(7) of the NPS-HPL 2022.

<sup>3</sup> Commencement date of NPS-HPL is 17 October 2022.

<sup>4</sup> *Spackman v Queenstown Lakes District Council* [2007] NZRMA 327 (HC).

- 11 With regard to the NPS-HPL, the Environment Court in *Drinnan v Selwyn District Council*<sup>5</sup> set out the approach to interpretation of "nearest equivalent zone" at [82]:

Deciding which of the zones is the 'nearest equivalent zone' does not involve an evaluation of the extent of rural land use activities taking place within the relevant zone. This approach risks the court inadvertently making new policy rather than interpreting the same. We are reinforced in this view by the MfE guidance on interpreting cl 3.5(7) that notes the assessment is undertaken by referring to the zone description, objectives, policies, activity table and subdivision provisions (in the round).

- 12 While the Environment Court stated that it may be required to consider "other permissible guides to meaning" when taking a purposive approach, it did not consider reports prepared under ss 32 and 42A of the RMA or evidence given by council employees in unrelated hearings to be a permissible guide to interpretation.<sup>6</sup>

#### *Application to the Site*

- 13 The majority of the Site contains Land Use Class (**LUC**) 2 soil and the southern part of the Site contains LUC 3 soil. The north eastern and southern eastern parts of the Site do not contain LUC 1-3 soils.<sup>7</sup>
- 14 The RNN land does not meet the definition of highly productive land (**HPL**) in the NPS-HPL, being residentially zoned land which is located within a Greenfield Priority Area (**GPA**) under the Land Use Recovery Plan. For this Site, the key question is whether the RUUF zoned land is the equivalent of the General Rural or Rural Production zone.

#### *Nearest equivalent zone*

#### NZ Planning Standards

- 15 The below zones are most relevant for comparison with RUUF:
- (a) General Rural Zone - Areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

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<sup>5</sup> *Drinnan v Selwyn District Council*, [2023] NZEnvC 180.

<sup>6</sup> *Drinnan v Selwyn District Council*, [2023] NZEnvC 180 at [86].

<sup>7</sup> Evidence of Bryan McGillan, dated 20 September 2023, at [33].

- (b) Rural Production Zone - Areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.
  - (c) Rural Lifestyle Zone - Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural Production zones, while still enabling primary production to occur.
- 16 The description for each of the relevant zones in the NZPS uses the words: "Areas used predominantly for." In *Wakatipu Equities v Queenstown Lakes District Council* the Environment Court found the phrase to have its plain and ordinary meaning. It concluded that: "The phrase as a whole refers to what the main purpose of the zone in question is."<sup>8</sup>

### District Plan

- 17 The introduction to the Rural Zone chapter is brief and there are no descriptions provided for each of the six types of Rural Zone: Rural Banks Peninsula, Rural Urban Fringe, Rural Port Hills, Rural Waimakariri, Rural Quarry and Rural Templeton Zones.
- 18 The objectives and policies apply to the Rural Zones generally, with none specifically relating to the RUUF.
- 19 Objective 17.2.1 for the Rural Zones is set out below:

#### **17.2.1.1 Objective - The rural environment**

a. Subdivision, use and development of rural land that:

- i. supports, maintains and, where appropriate, enhances the function, character and amenity values of the rural environment and, in particular, the potential contribution of rural productive activities to the economy and wellbeing of the Christchurch District;
- ii. avoids significant, and remedies or mitigates other reverse sensitivity effects on rural productive activities and natural hazard mitigation works;
- iii. maintains a contrast to the urban environment; and
- iv. maintains and enhances the distinctive character and amenity values of Banks Peninsula and the Port Hills, including indigenous biodiversity, Ngāi Tahu cultural values, open space, natural features and landscapes, and coastal environment values.

- 20 Policies for the Rural Zones include:

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<sup>8</sup> *Wakatipu Equities Limited v Queenstown Lakes District Council* [2023] NZEnvC 188 at [18]

#### **17.2.2.1 Policy - Range of activities on rural land**

a. Provide for the economic development potential of rural land by enabling a range of activities that:

- i. have a direct relationship with, or are dependent on, the rural resource, rural productive activity or sea-based aquaculture;
- ii. have a functional, technical or operational necessity for a rural location; or
- iii. recognise the historic and contemporary relationship of Ngai Tahu with land and water resources;
- iv. provide for commercial film or video production activities and facilities on the rural flat land close to the main Christchurch urban area; and
- v. represent an efficient use of natural resources.

#### **17.2.2.4 Policy - Function of rural areas**

a. Ensure the nature, scale and intensity of subdivision, use and development recognise the different natural and physical resources, character and amenity values, conservation values and Ngāi Tahu values of rural land in the Christchurch District, including:

- i. the rural productive activities, recreation activities, rural tourism activities and conservation activities on Banks Peninsula and their integrated management with maintaining and enhancing landscape, coastal and indigenous biodiversity values;
- ii. the rural productive activities and recreation activities in the rural flat land area surrounding the main Christchurch urban area;
- iii. the flood management and groundwater recharge functions adjoining the Waimakariri River;
- iv. the open character and natural appearance of the rural Port Hills which maintain distinct urban/rural boundaries
- v. the re-use of the site of the former Templeton Hospital;
- vi. the historic and contemporary cultural landscapes, sites of Ngāi Tahu cultural significance and the use of land and water resources for mahinga kai; and
- vii. the conservation activities undertaken within the Peacock Springs Conservation Area.

#### **17.2.2.7 Policy - Density and distribution of residential units**

a. Ensure a density and distribution of residential units that:

- i. maintains and enhances the working function of the rural environment;
- ii. supports a consolidated urban form, including that of small settlements;
- iii. maintains the predominance of larger sites and abundant open space;
- iv. supports amalgamation of multiple small sites;
- v. avoids creating new sites less than 4ha;
- vi. avoids the expectation of land use change of rural land to urban activities or for rural residential development;
- vii. avoids reverse sensitivity effects on strategic infrastructure and rural productive activities; and

viii. retains a low density of built form with a high degree of openness appropriate to the surrounding environment.

- 21 Given their general application to the Rural Zones, the objectives and policies do not provide direction that would assist in differentiating the intended predominant use of the RUUF zone from that of other Rural zones. The provisions seek to enhance the function, character and amenity values of the rural environment, including in relation to ecological, cultural and landscape values; and provide for a range of activities including recreational activities and commercial film or video production activities. However, there is also an overall thrust in favour of supporting rural productive activities, including by managing reverse sensitivity effects, providing for the economic development potential of rural land, and maintaining the working function of the rural environment. It is anticipated that development form will maintain a predominance of larger sites (no smaller than 4ha) and open space with a low density of built form, in contrast to the urban environment. There is no specific direction in relation to the value of the rural environment for rural residential or rural lifestyle uses.
- 22 In the RUUF<sup>9</sup>, residential activity is permitted where it has a minimum net site area of 4ha, and is otherwise a non-complying activity. Permitted activities include farming, including horticulture, viticulture and agriculture (including the rearing of animals) but excluding intensive farming; poultry hatcheries; rural produce retail and manufacturing; home occupations; conservation activities; recreational activities; rural tourism activities; emergency service activities; veterinary care facilities; commercial film or video production; and a range of visitor accommodation activities (noting that most are subject to activity specific standards).
- 23 We have particularly considered whether a 4ha minimum lot size lends itself more closely to a Rural Lifestyle zoning, on our understanding that this is usually below the land area required for economic rural production. However, in *Drinnan*<sup>10</sup> the Court considered the provisions applying to the Rural – Inner Plains zone in the Selwyn District Plan, where a similar 4ha minimum lot size applied to subdivision and permitted residential activity. In that case the Environment Court referenced explanation in the Selwyn District Plan stating that the 4ha allotments would avoid adverse effects of on-site effluent treatment and disposal on groundwater, and potential ‘reverse sensitivity’ effects on rural activities; and maintain a rural character

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<sup>9</sup> CDP at 17.5.1.1

<sup>10</sup> *Drinnan v Selwyn District Council*, [2023] NZEnvC 180 at [103]

that is distinct from townships. The Court concluded that the Inner Plains zone was an area to be used predominantly for farming activities.<sup>11</sup>

24 In our view, as its name suggests, the Rural Urban Fringe zone applies to land that is impacted by its proximity to urban areas, is often held in small parcels, and has limited productive potential. In at least some areas, it is predominantly used for rural living. However, that is not reflected in the CDP provisions, which provide for a more general rural environment and use. In light of the Court's direction as to the assessment of the nearest equivalent zone, and on the information available to us, we conclude that the nearest equivalent zone is likely to be the General Rural Zone. That is consistent with the view of Mr Bayliss.<sup>12</sup>

25 In summary:

- (a) The land currently zoned RNN does not meet the interim definition of HPL, as while it contains LUC 2 and 3 soil it is residentially zoned land which is also within a GPA boundary.
- (b) The land currently zoned RUUF likely does meet the interim definition of HPL, because:
  - (i) It contains LUC 2 and 3 soil;
  - (ii) Its equivalent zoning under National Planning Standards is likely to be General Rural; and
  - (iii) It does not fall within the GPA boundary, so it is not excluded from the HPL interim definition under clause 3.5(7)(b), NPS-HPL.

26 Where the RUUF is found to be HPL, it is submitted that clauses 3.6(1)(a)-(c) of NPS-HPL 2022 are satisfied, as summarised below:<sup>13</sup>

- (a) there is an assessed shortfall of housing capacity (with PC14 applied) in the local catchment in the medium-term.<sup>14</sup>
- (b) the rezoning of the Site to MRZ will enable residential urban growth in southern Christchurch by unlocking one of the optimal feasible areas of greenfield land,<sup>15</sup> increase the supply of affordable houses

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<sup>11</sup> *Drinnan v Selwyn District Council*, [2023] NZEnvC 180 at [101]

<sup>12</sup> Rebuttal Evidence of Ian Bayliss, dated 9 October 2023, at [28].

<sup>13</sup> See Legal submissions, dated 7 November 2023, at [57]-[63].

<sup>14</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [24].

<sup>15</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [10].



(in the context of Christchurch), and ensure that the wider catchment remains a relatively affordable area by not constraining supply and driving up prices.<sup>16</sup>

- (c) economic benefits associated with providing feasible and relatively more affordable housing capacity in a location of proven demand and a shortfall of capacity in a way that supports the efficiency of existing urban infrastructure, and with only minor costs associated with the loss of marginal productive land.<sup>17</sup>

### **Application of an Outline Development Plan to the MRZ**

- 27 The Submitters propose that development within the MRZ at Hendersons Basin be subject to an ODP, and that activity standards be imposed to require that both land use and subdivision be in general accordance with the ODP.
- 28 This section of our submissions considers whether an ODP and corresponding subdivision and land use activity standards can be applied in the MRZ.
- 29 As an IPI, section 80E provides that PC14:
  - (a) Must incorporate the MDRS; and
  - (b) May include related provisions, including objectives, policies, rules standards and zones, that support or are consequential on the MDRS. Related provisions relevantly include (without limitation) provisions relating to district-wide matters, earthworks, fencing, infrastructure, stormwater management and subdivision of land.
- 30 The ODP and the standards that implement it are clearly related provisions. They support application of the MDRS to the Site, enabling residential development that is integrated with necessary transport and stormwater management infrastructure, and enhanced by provision of reserves and connectivity to surrounding urban areas. The ODP makes a significant contribution to achieving MDRS Objective 1 – *a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future*, and Policy 3 - *encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance*.

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<sup>16</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [33].

<sup>17</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [15].

- 31 In relation to whether ODP provisions limit application of the MDRS as contained in Schedule 3A, Schedule 3A is comprised of:
- (a) The density standards in clauses 10 – 18. These standards relate to subdivision of and development of residential units within lots and are not addressed or restricted by the ODP;
  - (b) The objectives and policies in clause 6. The ODP does not amend the objectives and policies, and will better achieve Objectives 1 and 2 in particular, as discussed above;
  - (c) Activity status, notification and subdivision requirements as contained in clauses 2 – 5 and 7 – 8. These matters are addressed further below, as relevant to land use and subdivision.

#### *Land use*

32 Clause 2 of Schedule 3A provides that:

- (1) *It is a permitted activity to construct or use a building if it complies with the density standards in the district plan (once incorporated as required by section 77G).*
- (2) *There must be no other density standards included in a district plan additional to those set out in Part 2 of this schedule relating to a permitted activity for a residential unit or building.*

33 Clause 4 further provides that "A relevant residential zone must provide for as a restricted discretionary activity the construction and use of 1 or more residential units on a site if they do not comply with the building density standards in the district plan (once incorporated as required by section 77G)."

34 "Density standards" are defined as "a standard setting out requirements relating to building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to streets, or landscaped area for the construction of a building".<sup>18</sup>

35 In our submission, neither clauses 2 or 4 prevent the application of additional standards that may alter the activity status for the construction or use of residential units, where those standards do not relate to density standards. Other standards may already exist within district wide sections

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<sup>18</sup> Schedule 3A, clause 1(1)

of the CDP (for example, in relation to noise, lighting or traffic generation), or may be introduced as a "related provision" under s80E.

- 36 It is proposed that development within the MRZ at Hendersons Basin be subject to an activity standard requiring that development be in accordance with the ODP. As set out above, the ODP does not contain density standards, and accordingly the proposed rule continues to implement the MDRS, including clauses 2 and 4 of Schedule 3A.

### *Subdivision*

- 37 Clause 3 of Schedule 3A provides that *“subdivision requirements must (subject to section 106) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of residential units in accordance with clauses 2 and 4”* (that is, construction and use of residential units that are permitted as they comply with the density standards, or are restricted discretionary as they do not comply with one or more of the density standards).
- 38 Clause 7 reinforces this by providing that *“any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule and provide for subdivision applications as a controlled activity”*.
- 39 Clause 8 prevents application of minimum lot size, shape size, or other size related subdivision requirements, and is not offended in this case as the ODP as it does not address these matters.
- 40 The interpretation of these clauses, and the ability to impose subdivision rule requirements that, if breached, would lead to subdivision activity status more onerous than a controlled activity, was considered by the Selwyn IHP.
- 41 The Selwyn IHP concluded that the clauses relate only to activity status in relation to density standards. For a number of greenfield MRZ areas, the Selwyn IHP has imposed an ODP and subdivision activity standards that require accordance with the ODP. Where accordance with the ODP is not achieved, consent is required as a restricted discretionary activity.
- 42 The Selwyn IHP recorded<sup>19</sup> (**emphasis** added):

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<sup>19</sup> Decision of the Selwyn IHP – V1 Part A: Subdivision

[https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0019/2060443/V1-IPI-Hearing-03-Subdivision.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0019/2060443/V1-IPI-Hearing-03-Subdivision.pdf)

[25] We sought a legal opinion on this matter from SDC's solicitor (Kate Rogers) which we received on 13 June 2023. The salient points from that opinion are:

- Under clause 3 of Schedule 3A of the RMA, subdivision must be a controlled activity where the subdivision is for the purpose of construction and use of a building which complies with the MDRS density standards or where the construction and use of a building does not comply with one of the MDRS density standards (and therefore, defaults to restricted discretionary under clause 4 of Schedule 3A of the RMA);
- Clause 7 of Schedule 3A of the RMA only limits subdivision activity status to controlled where it relates to a level of development permitted under Schedule 3A of the RMA. That is, where the MDRS density standards are met;
- Clause 8 of Schedule 3A of the RMA does not deal with activity status. It only prevents subdivision provisions setting minimum lot size, shape size, or other size-related subdivision requirements in the situations set out in that clause (namely, where the MDRS density standards either will be breached (or further breached) or where each allotment cannot contain a permitted residential unit or where a vacant allotment is created); and
- Subdivision can default to a 'harsher activity status' than controlled where a qualifying matter applies or the associated activity is governed by standards that are not 'density standards' in Schedule 3A of the RMA

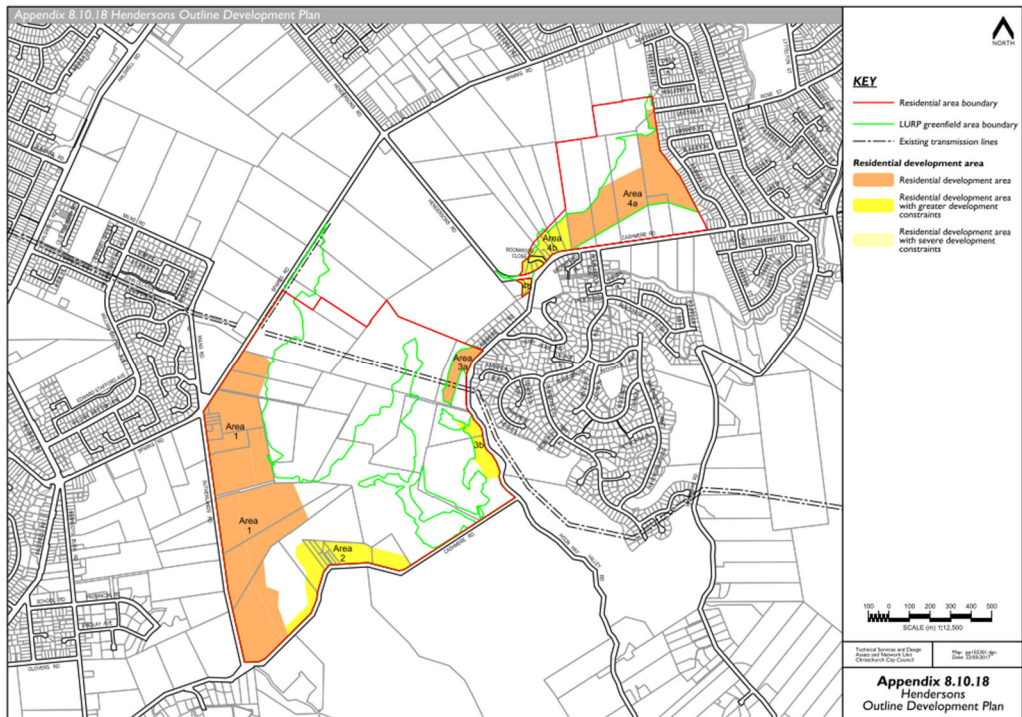
[26] Having considered the legal advice, we find in favour of an amended CON rule for subdivision in the MRZ. We find that **in order for subdivisions in the MRZ to always be CON there can be no reference in SUB-R1.5 to any SUB-REQs (rule requirements which are effectively standards) that limit the MDRS density standards.** The reason being that when those REQs are breached the activity must axiomatically default to a harsher rule category (RDIS, DIS or NC) which would be contrary to Schedule 3A of the RMA.

[27] However, having regard to Ms Rogers' legal opinion and Ms Caruthers' 16 May 2023 'Response', **we consider that SUB-R1.5 in the MRZ can, and should, refer to the rule requirements that address ODPs, access and development 'conditions precedent' (SUB-REQ3, SUB-REQ6 and SUB-REQ13).** In addition, we consider that SUB-R1.5 in the MRZ should also refer to rule requirements that address walkable blocks, corner splays, water and wastewater disposal (SUB-REQ7, SUB-REQ8, SUB-REQ9 and SUB-REQ10). **In our view none of those important matters limit the MDRS density standards.**

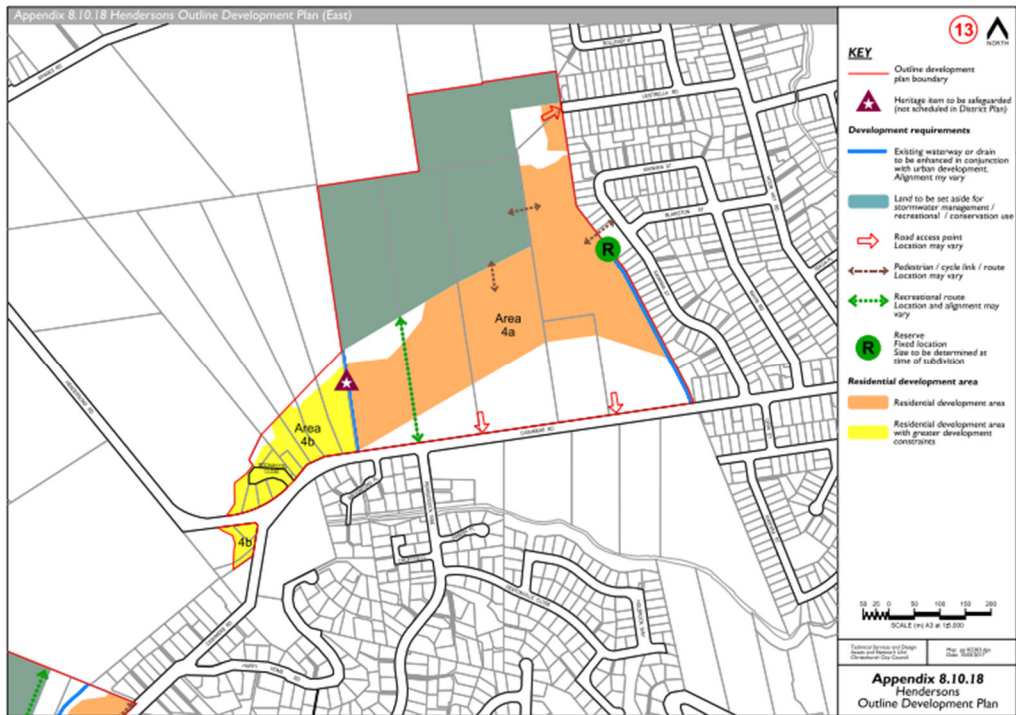
- 43 For completeness, copy of the legal advice provided to the Selwyn IHP is attached as **Appendix 1**.
- 44 It is proposed that subdivision within the MRZ at Hendersons Basin be subject to an activity standard that requires subdivision be in accordance with the ODP. As discussed above, the ODP does not include any density standards, and accordingly the proposed rule continues to implement the MDRS, including clauses 3 and 7 of Schedule 3A.

## Revised Hendersons Basin (East – Area 4c) ODP and CDP provisions

- 45 This section of our submissions provides an explanation of the revised ODP and CDP provisions.
- 46 The Site sits within the existing Hendersons Basin ODP area, as contained in Appendix 8.10.18 of the operative CDP, renumbered as Appendix 8.10.13 in PC14. The operative ODP identifies a number of discrete development areas within the Hendersons Basin, as shown below.



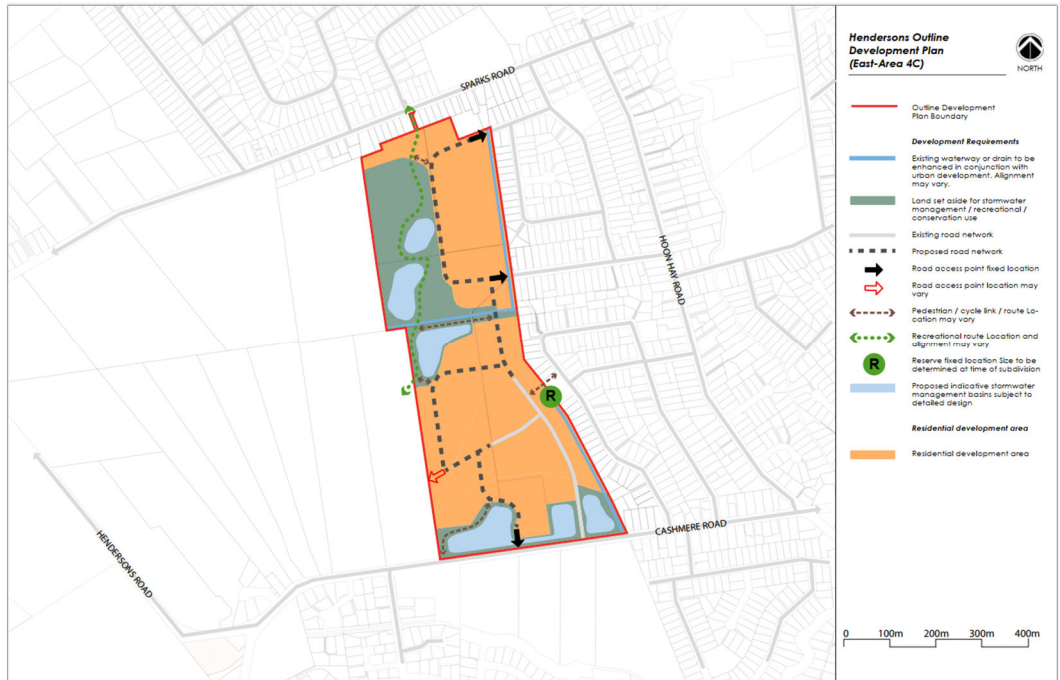
- 47 The development areas are currently zoned RNN, while the remainder of the ODP area retains RUUF zoning. Generally, residential development occurs within the RNN land, while areas identified as stormwater management areas / reserves are located within the RUUF land. That part of the Site currently zoned RNN is identified on the operative ODP as being within Area 4a, as shown below.



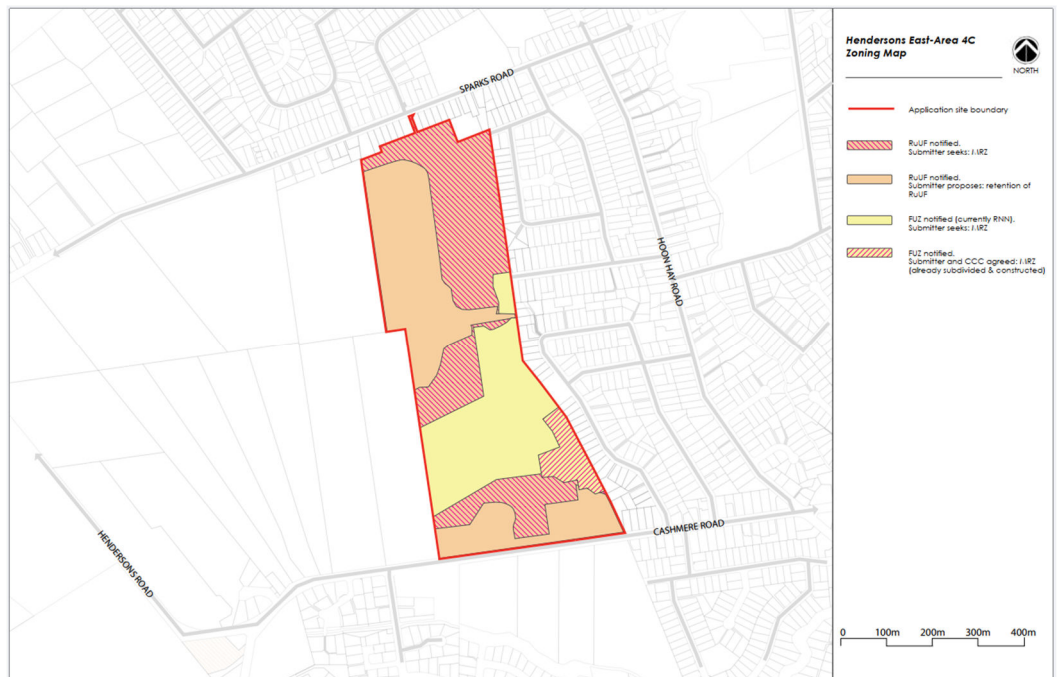
48 The Submitters propose to update the Hendersons Basin ODP by:

- (a) Identifying the Site as Area 4c on the plans above; and
- (b) Inserting an additional and more detailed ODP plan for Area 4c

49 The Area 4c ODP has been revised so that it only relates to the Site, described as Hendersons Basin (East - Area 4c). Consistent with the current approach to zoning in Hendersons Basin, it is proposed that land intended to be developed for residential use be zoned MRZ, while land to be set aside for stormwater management areas / reserves will retain RUUF zoning. A full size image of the Hendersons Basin (East – Area 4c) ODP is provided in **Appendix 2**.



50 Commissioner McMahon requested a simplified zoning plan for the Site, which is provided below and also attached as **Appendix 3**.



51 The ODP text has been revised to:

- (a) Reflect the re-labelling of Area 4c and the intended development in this area, with particular reference to the intended shared pedestrian path from Cashmere Road to Sparks Road;
- (b) Reflect development that has already been completed, particularly that the potential road connection to Blakiston Road was not advanced; and

- (c) Include references to new rules relating to development in accordance with the ODP, to be inserted in relation to subdivision and land use in MRZ.

52 The revised ODP including text (Appendix 8.10.13) is provided in **Appendix 4**.

53 Through the Urban Design Joint Witness conferencing, Jade McFarlane and David Hattam (CCC) agreed that clause 11 of the proposed ODP should be amended as follows:<sup>20</sup>

Medium density is anticipated in Area 4a, with any areas of higher intensification above 20hh's/ ha generally located adjacent stormwater management areas and reserves and, where possible, away from existing residential zone interfaces to the north and east.

54 While we recognise that such direction may have previously reflected best practice urban design, we do not consider it is appropriate to apply to the Hendersons Basin (East – Area 4c) requirements for the MRZ because:

- (a) It suggests that development density above 20hh/ha is not anticipated through some areas of the site. Application of this guidance could amount to a density standard that is more onerous than that MDRS;
- (b) The adjacent residential zones are also zoned MRZ, so enable an equivalent level of development as the MRZ land in the Hendersons Basin (East- Area 4c) ODP; and
- (c) Protection of existing amenity is not necessary in light of NPS-UD Policy 6, which provides that decision makers making decisions that affect urban environments, have particular regard to the fact *that the planned urban built form... may involve significant changes to an area, and those changes:*
  - (i) *may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
  - (ii) *are not, of themselves, an adverse effect.*

55 Accordingly, the ODP has not been amended to include this direction in relation to density of development. We note that the ODP text and relevant standards continue to require a density of 15hh/ha be achieved over the

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<sup>20</sup> JWS: Urban Design, dated 6 October 2023.



ODP area. Although this requirement relates to density, it is not a "density standard" as defined in Schedule 3A, and therefore in our submission does not conflict with application of the MDRS.

- 56 Revised CDP Chapter 8 (Subdivision) and Chapter 14 (Residential) provisions to require that subdivision and development within MRZ at Hendersons Basin occur in accordance with the Hendersons Basin ODP are contained in **Appendix 5**. We note that proposed new Rule 8.6.16, an activity standard relating to Hendersons Basin (East – 4c) contains requirements in relation development to the ODP, minimum residential density of 15hh/ha, maximum cul-de-sac length, road frontage to public reserves, reserve width and walkable block size. This activity standard is based on 8.6.11 for the RNN / now FUZ, and the appropriateness of these activity standards for the Hendersons Basin East MRZ is identified in the Urban Design JWS.

### **Updated *Colonial Vineyards* assessment**

- 57 By way of summary against the updated *Colonial Vineyards* statutory framework set out in the Legal Submissions for Christchurch City Council: Residential Zones (25 October 2023), Appendix 1, the assessment of the rezoning of the Site and proposed provisions is:

General requirements – the rezoning and CDP provisions sought:

- (a) Will accord with and assist Council to carry out its functions – by achieving the integrated management of effects of use and development of the land; contributing to provision of sufficient housing capacity; and appropriately controlling any actual and potential effects of the used and development of land including in relation to natural hazards and contaminated land<sup>21</sup>;
- (b) Will give effect to the NPS-UD and NPS-HPL – as addressed in the evidence of Natalie Hampson and Bryan McGillan;<sup>22</sup>
- (c) Will give effect to the CRPS – as most particularly addressed in the Supplementary evidence of Bryan McGillan. It is acknowledged that the rezoning does not give effect to Objective 6.2.1(3), however within this location, giving effect to that objective would not give effect to the NPS-UD;

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<sup>21</sup> Addressed in various briefs of evidence in support of the submission, summarised in the Evidence of Bryan McGillan at 39 - 68

<sup>22</sup> Evidence of Bryan McGillan, at 28 - 37

- (d) Are neutral, and not inconsistent with, any matter in the Canterbury Regional Land and Water Plan or Canterbury Air Plan, noting that any consents required under these plans will be obtained at the appropriate time;<sup>23</sup>
- (e) Have regard to (and are generally consistent with) the Greater Christchurch Spatial Plan,<sup>24</sup> Greater Christchurch Urban Development Strategy, and Our Space Strategy 2018 – 2048;<sup>25</sup>
- (f) Have taken into account, and are consistent with, the Mahaanui Iwi Management Plan 2013 – as addressed in the evidence of Bryan McGillan<sup>26</sup> at [63]

Section 32:

- (g) The objective, to enable medium density development within the Site, is the most appropriate to achieve the purpose of the Act – by providing for the social, economic and cultural wellbeing of people and communities, by providing a well-designed and sustainable residential development with transportation, infrastructure and servicing connections. The site is an appropriate location for medium density development. Any adverse effects can be appropriately avoided, remedied or mitigated.<sup>27</sup>
- (h) The proposed provisions (MRZ and ODP) are the most appropriate to achieve the objective – as addressed in the s32AA assessment<sup>28</sup> provided with the Submission.

Rules:

- (i) The rules address the actual and potential effects of the activity on the environment – by requiring development proceed in accordance with the MRZ provisions and in general accordance with the ODP.<sup>29</sup>

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<sup>23</sup> Submission 883, Section 32AA Planning Assessment, section 10.4

<sup>24</sup> Noting that a decision on the Greater Christchurch Spatial Plan has occurred subsequent to the submission and filing of evidence on PC14. In terms of consistency, see in particular Opportunity 4, and the direction in relation to Greenfield development at page 66.

<sup>25</sup> See Section 32AA assessment prepared by Elliot Sinclair, page 30, as appended to the Submission

<sup>26</sup> Evidence of Bryan McGillan at [63]

<sup>27</sup> See Submission, Section 32AA assessment, page 31

<sup>28</sup> Section 32AA assessment prepared by Elliot Sinclair – see section 8

<sup>29</sup> Effects assessments are addressed in various briefs of evidence in support of the submission, with reference to the outcomes directed by the MRZ and ODP, and are summarised in the Evidence of Bryan McGillan at paragraphs 39 - 68

### Key features of an IPI

- (j) The provisions sought fall within the scope of an IPI as set out in s80E – see paragraph 30 above.
- (k) The provisions sought incorporate the MDRS into the residential zoned areas sought through MRZ zoning. Additional provisions are not more onerous than the MDRS.
- (l) No additional qualifying matters are sought, and accordingly no further assessment is required under sections 77I (and others).

### Conclusion

58 The relief sought by the Submitters, including rezoning of land within the Site to MRZ and application of a revised ODP, accords with the requirements of the RMA, and in particular as introduced through the Amendment Act. The relief sought is the most appropriate outcome for the Site.

Dated 30 April 2024



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Sarah Eveleigh / Sarah Schulte  
Counsel for Cashmere Park Limited, Hartward Investment Trust and Robert Brown

**Appendix 1 – Legal advice to Selwyn IHP regarding Schedule 3A activity status**

Justine Ashley  
Selwyn District Council  
2 Norman Kirk Drive  
Rolleston 7643

**Our reference**  
1035366

**By email**

12 June 2023

Dear Justine

## Response to Minute 11

- 1 On 24 May 2023, the Independent Hearings Panel (**IHP**) hearing submissions on the Intensification Planning Instrument (**IPI**) variation to the Proposed District Plan (**PDP**) issued Minute 11. It requested a legal opinion from Selwyn District Council (**SDC**) on the following questions:

Does subdivision within the MRZ have to have a consent status that is never any more onerous than a 'controlled activity', or can it default to a 'harsher' activity status such as restricted discretionary, discretionary or non-complying.

If subdivision within the MRZ can have a 'harsher' activity status:

- Under what provisions of Schedule 3A or other sections of the RMS-EHS is that enabled; and
- Under what circumstances might that 'harsher' activity status legitimately be triggered.

- 2 We have also reviewed legal submissions filed on this issue, from the Trices Road Rezoning Group (dated 2 June 2023), and Yoursection Limited (dated 2 June 2023).

## Summary

- 3 In summary, our views are that:

- 3.1 Under clause 3 of Schedule 3A of the Resource Management Act 1991 (**RMA**) subdivision must be a controlled activity where the subdivision is for the purpose of construction and use of a building which complies with the MDRS density standards or where it does not comply with one of the MDRS density standards (and therefore, defaults to restricted discretionary under clause 4 of Schedule 3A of the RMA).
- 3.2 Clause 7 of Schedule 3A of the RMA only limits subdivision activity status to controlled where it relates to a level of development permitted under Schedule 3A of the RMA. That is, where the MDRS density standards are met.
- 3.3 Clause 8 of Schedule 3A of the RMA does not deal with activity status. It only prevents subdivision provisions setting minimum lot size, shape size, or other size-related subdivision requirements in the situations set out in that clause (ie, where the MDRS density standards either will be breached (or further breached), or where each allotment cannot contain a permitted residential unit or where a vacant allotment is created).

- 4 Accordingly, subdivision in the MRZ can default to a 'harsher' activity status than controlled. For example, where:
- 4.1 The activity associated with the subdivision is outside the scope of clauses 3 and 7 of Schedule 3A of the RMA. That is, the subdivision is not for the purpose of the construction and use of residential units in accordance with clauses 2 and 4 of Schedule 3A of RMA, and the associated activity is not consistent with the level of development permitted under Schedule 3A, or
  - 4.2 A qualifying matter applies, or
  - 4.3 The associated activity is governed by standards that are not 'density standards' in Schedule 3A of the RMA. For example, where the construction and use of residential units triggers a restricted discretionary activity status because of a non-compliance with a non-density standard, the constraint on associated subdivision being a controlled activity in Schedule 3A of the RMA does not apply.
- 5 The reasons for these views are set out below. We acknowledge that this is a complex issue and can provide further comment if that would assist.

### General context

- 6 The IPI provides for a new MRZ - Medium Density Residential Zone (**MRZ**).<sup>1</sup> In the notified version of the IPI, the MRZ includes objectives, policies and rules. It provides for residential activity and a residential unit as a permitted activity, subject to standards, which include the Schedule 3A density standards (**MDRS**). Qualifying matter types are set out in chapter 'HPW30 – Qualifying matters' (for example, heritage, notable trees, Ngā Wai areas and waterbody setbacks).
- 7 Subdivision is managed in a separate chapter, as a district wide matter, with some zone-specific rules, and some rules which apply to all zones. Under the notified version of the IPI, subdivision in the MRZ is a controlled activity under SUB-R1.5, subject to a range of requirements (for example, building square, road frontage width and wastewater disposal).

### Requirements of the RMA in relation to subdivision

- 8 Under section 77G(1) of the RMA:
- Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone.
- 9 Schedule 3A of the RMA is then titled: 'MDRS to be incorporated by specified territorial authorities'.
- 10 Part 1 of Schedule 3A of the RMA sets out general requirements, including clauses 2, 3 and 4. Clause 3 provides for subdivision:

### 3 Subdivision as controlled activity

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<sup>1</sup> The PDP also includes a chapter on Residential Zones (RESZ) generally, which includes the MDRZ. The RESZ includes objectives and policies, and matters of control or discretion (to avoid repetition in the various residential zones). The RESZ does not include any rules.

Subdivision requirements must (subject to section 106) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of residential units in accordance with clauses 2 and 4.

- 11 Clauses 2 and 4 state that:
- 11.1 constructing or using a building is a permitted activity, if it complies with the MDRS in the District Plan (once incorporated, as required by section 77G of the RMA).
  - 11.2 constructing or using residential units is a restricted discretionary activity if they do not comply with the MDRS (once incorporated, as required by section 77G of the RMA).
- 12 In other words, under clause 3 of Schedule 3A of the RMA, subdivision is required to be a controlled activity where it is associated with the construction and use of the building which is permitted under clause 2 or requires a restricted discretionary activity consent under clause 4 of Schedule 3A to the RMA (ie, subdivision must be a controlled activity where the land use meets the MDRS requirements or where it does not comply with one of the MDRS requirements and defaults to a restricted discretionary activity).
- 13 In our view, clause 3 of Schedule 3A of the RMA is not a requirement that all subdivision associated with residential activity in the MRZ is a controlled activity. It has limitations. There is the specific limitation in the clause itself of when section 106 of the RMA applies (addressed further below) but also, our view is that this clause does not require a controlled activity status where a non MDRS is not complied with (ie, a standard that is not a Schedule 3A density standard).
- 14 Put another way, subdivision is only required to be a controlled activity for the purpose of the construction and use of residential units in accordance with clauses 2 and 4 of Schedule 3A of the RMA. That is, where the purpose of the subdivision is to allow for an activity which is either permitted medium density development, or restricted discretionary medium density development due to a breach of an MDRS. If the subdivision is not for that purpose, our view is that it is not caught by clause 3.
- 15 Clause 3 of Schedule 3A to the RMA is followed by clause 7, which also limits activity status for subdivision. It states:
- 7 General subdivision requirements**
- Any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule and provide for subdivision applications as a controlled activity.
- 16 Like clause 3 of Schedule 3A of the RMA, clause 7 is also narrow in application. It only limits subdivision activity status where it relates to a level of development **permitted** under Schedule 3A of the RMA. That is, where the MDRS are met.
- 17 The controls on subdivision activity status through Schedule 3A of the RMA are clearly focussed on supporting and enabling implementation of medium density residential development that complies with the MDRS. The intention appears to be avoiding subdivision becoming a 'de facto' limitation on the medium density residential development provided for in Schedule 3A. However, the controls on subdivision under clause 7 are confined to enabling that level of development. Outside of that, there is no restriction under Schedule 3A to the RMA. The focus on subdivision associated with buildings that comply with the MDRS seems to also be what was anticipated by the Select Committee Final Report (p11):

Subdivision would be a controlled activity for: existing dwellings that meet the MDRS, new dwellings that are permitted under the MDRS, or dwellings that have been approved through a resource consent. We note that the bill does not change any of the existing plan provisions regarding subdivision, except to enable application of the MDRS.

- 18 Clause 8 of Schedule 3A of the RMA then provides additional restrictions on the aspects of subdivision that can be controlled, such as there can be no minimum lot size, shape size, or other size-related subdivision requirements where either:
- 18.1 there is an allotment with an existing residential unit, and the non-compliances with the MDRS are not increased (or land use consent has been granted), and no vacant allotments are created, or
  - 18.2 there is an allotment with no existing residential unit, but there is an accompanying land use consent application that will be determined concurrently, and it is practicable to construct a residential unit on each allotment that is a permitted activity and complies with the MDRS and no vacant allotments are created.
- 19 We consider that this is consistent the intention referred to above, to avoid a de facto limitation on medium density development through subdivision controls, by controlling the types of rules which can be put in place where there is a subdivision which supports a residential activity which is consistent with the MDRS (or at least does not increase the non-compliance with any of them). However, there is no restriction under clause 8 of Schedule 3A of the RMA on subdivision rules containing minimum lot sizes, etc, where the MDRS either will be breached (or further breached), or where each allotment cannot contain a permitted residential unit, or where a vacant allotment is created.
- 20 There is then a question of whether this sort of subdivision (where the MDRS either will be breached (or further breached), or where each allotment cannot contain a permitted residential unit or where a vacant allotment is created) can have a more onerous activity status than controlled activity status.
- 21 Clause 8 of Schedule 3A of the RMA does not deal with activity status. It only prevents subdivision provisions setting minimum lot size, shape size, or other size-related subdivision requirements in the situations set out (where the MDRS either will be breached (or further breached), or where each allotment cannot contain a permitted residential unit or where a vacant allotment is created). Given this, clause 8 does not in our view direct activity status. Activity status for subdivision is directed by clauses 3 and 7 of Schedule 3A of the RMA, but only in the specific circumstances set out in those clauses (where the construction and use of residential units complies with the MDRS or breaches the MDRS or where the level of development proposed is permitted under the Schedule 3A provisions).
- 22 As we have concluded that not all subdivision in the MRZ is required to have a controlled activity status, we now address the question of when can subdivision have a 'harsher' activity status legitimately applied.

### **Qualifying matters**

- 23 There is a clear exception to the restriction on the activity status in Schedule 3A of the RMA for subdivision (which would normally be required to be controlled) where there is an applicable qualifying matter.
- 24 Section 77G(6) of the RMA states:



A specified territorial authority may make the requirements set out in Schedule 3A or policy 3 **less enabling of development** than provided for in that schedule or by policy 3, if authorised to do so under section 77I.

- 25 Section 77I of the RMA deals with qualifying matters and allows the MDRS to be made less enabling of development, to the extent necessary to accommodate the qualifying matter. Given this, under section 77G(6), if a qualifying matter applies, the Schedule 3A requirements can be made 'less enabling'.
- 26 Our view is that 'less enabling of development' must include the ability to impose a higher activity status than set out in MDRS in Schedule 3A of the RMA, both in relation to the construction and use of residential units and subdivision. The definition of 'MDRS' includes all requirements in Schedule 3A of the RMA.
- 27 Accordingly, if a qualifying matter applies (and the various tests for a qualifying matter are met), we consider that an activity status other than controlled could be applied to subdivision.

#### Other standards

- 28 It may be that there are other standards in the PDP or IPI which apply to a residential activity, which are not 'density standards' as defined in clause 1 of Schedule 3A of the RMA (such as noise, traffic, or earthworks), and which may be relevant to an activity associated with subdivision. It is clear that these other rules cannot directly relate to a MDRS (as set out in Schedule 3A), as under section 77I, these can only be altered where a qualifying matter applies. However, depending on the scope of the activity as a whole, there may be other non-density standards triggered.
- 29 If the construction and use of residential units triggers, say, a restricted discretionary activity status because of a non-compliance with one of those non-medium density standards, we consider that the constraint on associated subdivision being a controlled activity in Schedule 3A of the RMA does not apply. This is because of the narrow restrictions in clause 3 and clause 7 of Schedule 3A of the RMA. In our view, these restrictions only apply where the activity is either permitted because of compliance with the MDRS or it only doesn't comply with a MDRS. Outside these specific activities, subdivision activity status is not restricted by Schedule 3A of the RMA.
- 30 These other (non MDRS) may or may not be in the IPI, given the IPI is a focussed variation. If these provisions form part of the IPI, then section 80E applies. Section 80E states that an IPI must 'incorporate' MDRS but can also include 'related provisions' which 'support or are consequential on' the MDRS.
- 31 It is clear that the MDRS must be included in the PDP via the IPI. However, section 80E then provides for other provisions, which either 'support' or are 'consequential on' the MDRS. We consider that to be 'consequential on' means that there may be some degree of restriction on the MDRS, provided those provisions are clearly consequential on the MDRS. In *Wilson v Christchurch City Council*<sup>2</sup>, the Environment Court considered what was meant by consequential alterations under section 290, and clause 10(2). The Court stated that:<sup>3</sup>

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<sup>2</sup> ENC Christchurch C165/03, 16 December 2003  
Environment Court, Christchurch

<sup>3</sup> At [7]

The Concise Oxford Dictionary (9th edition) tells us that “consequential” means:

“1 following as a result or consequence. 2 resulting indirectly. 3 important; significant.”

**Accordingly, what is required is that the provisions are in place as a consequence of incorporating MDRS in the PDP, and do not directly duplicate any MDRS, or deal with the same matter as a MDRS. Application to some specific examples**

32 We have considered the above advice in the context of some specific examples of subdivision controls from the notified version of the IPI, being:

32.1 SUB-REQ9 Water. This standard requires that in the RESZ (which includes the MRZ), every site shall be supplied with a separate connection to a Council reticulated water supply, and where compliance is not achieved, the activity status is non-complying. Rule SUB-R1 for MRZ requires compliance with Sub-REQ9 to be a permitted activity.

32.2 SUB-REQ10 Wastewater Disposal. This requires that every site in the RESZ shall either be connected to a wastewater network or treatment and disposal system. Rule SUB-R1 for MRZ requires compliance with SUB-REQ9 to be a permitted activity.

32.3 SUB-REQ13 Development Areas provides for specific controls on subdivision within development areas, with generally a non-complying activity status when compliance is not achieved. Rule SUB-R1 for MRZ requires compliance with SUB-REQ9 to be a permitted activity.

33 Applying the principles set out above, our view is that:

33.1 If the associated residential land use is permitted under the MDRS, or only breaches a MDRS, and no other aspect of the activity requires consent, and no qualifying matter applies, then under clause 3 of Schedule 3A of the RMA, the activity status for subdivision must be controlled. This includes where any of the above three requirements (SUB-REQ 9, 10 and 13) are not met.

33.2 If a qualifying matter applies and there is an associated residential land use, a harsher activity status than controlled can apply to the subdivision activity. We do not understand that there are any relevant qualifying matters for the examples above.

33.3 If the associated residential land use breaches another standard (which is not a density standard), then the activity status for subdivision can be whatever the Panel determines is appropriate. This is because clauses 3 and 7 of Schedule 3A of the RMA only restrict subdivision activity status where the activity is just associated with a permitted (or restricted discretionary) MDRS activity.

34 We also understand that issues have arisen in relation to the following recommendation:<sup>4</sup>

.. that “a new rule requirement [is added] to delay development of the area[s] until Council undertakes the following intersection improvements:

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<sup>4</sup> [Joint Witness Statement \(V1-0025, V1-0084, V1-0093 & V1-0116\) - Transport 19 May 2023.pdf \(selwyn.govt.nz\)](#) at [6], [20] and [21]

- i. Selwyn Road/Lincoln Rolleston Road intersection is upgraded to a roundabout, which is currently programmed in the LTP for 2028/2029;
- ii. ii. Selwyn Road/Weedons Road intersection is upgraded to a roundabout, which is currently programmed in the LTP for 2027/2028; and
- iii. iii. Lowes Road/Levi Drive/Masefield intersection is upgraded to traffic signals, which is currently programmed in the LTP for 2025/2026.”

MC confirmed that he would expect the same provisions to be applied to the Brendean Drive Rezoning Group (V1-0093) site.

...

... he considered that it would be appropriate to have a Rule that required an assessment of the three intersections to be carried out as part of any land use or subdivision application made at any of the four sites, to manage the uncertainty of the potential safety and efficiency effects at the three intersections. 21 As the relevant assessment matters were well-defined, MC considered that a Restricted Discretionary Activity status was appropriate for this

- 35 We understand from the above that the proposal is to include this as a control on subdivision (or possibly land use) associated with medium density residential development.
- 36 As with SUB-REQ 9, 10 and 13 above, if this is a subdivision standard and the residential activity associated with that subdivision is wholly permitted under MDRS, or only does not comply with a MDRS, we consider that the activity status for subdivision must be controlled.
- 37 If this is imposed as a land use standard, then the issue of the subdivision activity status falls away because clauses 3 and 7 of Schedule 3A of the RMA only restrict subdivision activity status where the activity is just associated with a permitted (or restricted discretionary) MDRS activity.
- 38 We consider that there can be provisions in the IPI which addresses the traffic generation activity, on the basis that such a rule is consequential on MDRS (if there is appropriate justification for that). In addition, Schedule 3A seeks a 'well-functioning urban environment' (Objective 1), achieving attractive and safe streets (Policy 3) and enable housing to be designed to meet the day-to-day needs of residents (Policy 4). Such a land use rule would presumably assist with achieving these outcomes (albeit this would require further assessment).

### Section 106 of the RMA

- 39 Clause 3 of Schedule 3A of the RMA is 'subject to section 106'. Section 106 of the RMA allows subdivision consents to be declined (or granted subject to conditions) if SDC considers there is a significant risk of natural hazards, or sufficient provision has not been made for legal and physical access to each allotment. This is not an activity status issue. Section 106 of the RMA is simply an ability to decline a subdivision where certain situations arise, regardless of its activity status (and including where it is a controlled activity subdivision). Section 87A(2) of the RMA states that:

If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—

- (a) the consent authority must grant a resource consent except if—
  - (i) section 106 applies; or...

### **Conclusion**

40 Our conclusions are set out in our summary above.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'KRgs'.

**Kate Rogers**  
Senior Associate

T: +64 4 918 3050  
kate.rogers@dlapiper.com

**DLA Piper New Zealand**

**Kerry Anderson**  
Partner











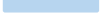

T: +64 4 474 3255  
kerry.anderson@dlapiper.com

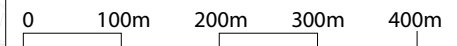
**DLA Piper New Zealand**

## Appendix 2 – Hendersons Basin (East – Area 4c) ODP

**Hendersons Outline  
Development Plan  
(East-Area 4C)**








-  Outline Development Plan Boundary
  
- Development Requirements**
-  Existing waterway or drain to be enhanced in conjunction with urban development. Alignment may vary.
-  Land set aside for stormwater management / recreational / conservation use
-  Existing road network
-  Proposed road network
-  Road access point fixed location
-  Road access point location may vary
-  Pedestrian / cycle link / route Location may vary
-  Recreational route Location and alignment may vary
-  Reserve fixed location Size to be determined at time of subdivision
-  Proposed indicative stormwater management basins subject to detailed design
  
- Residential development area**
-  Residential development area

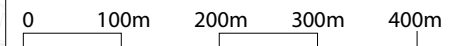
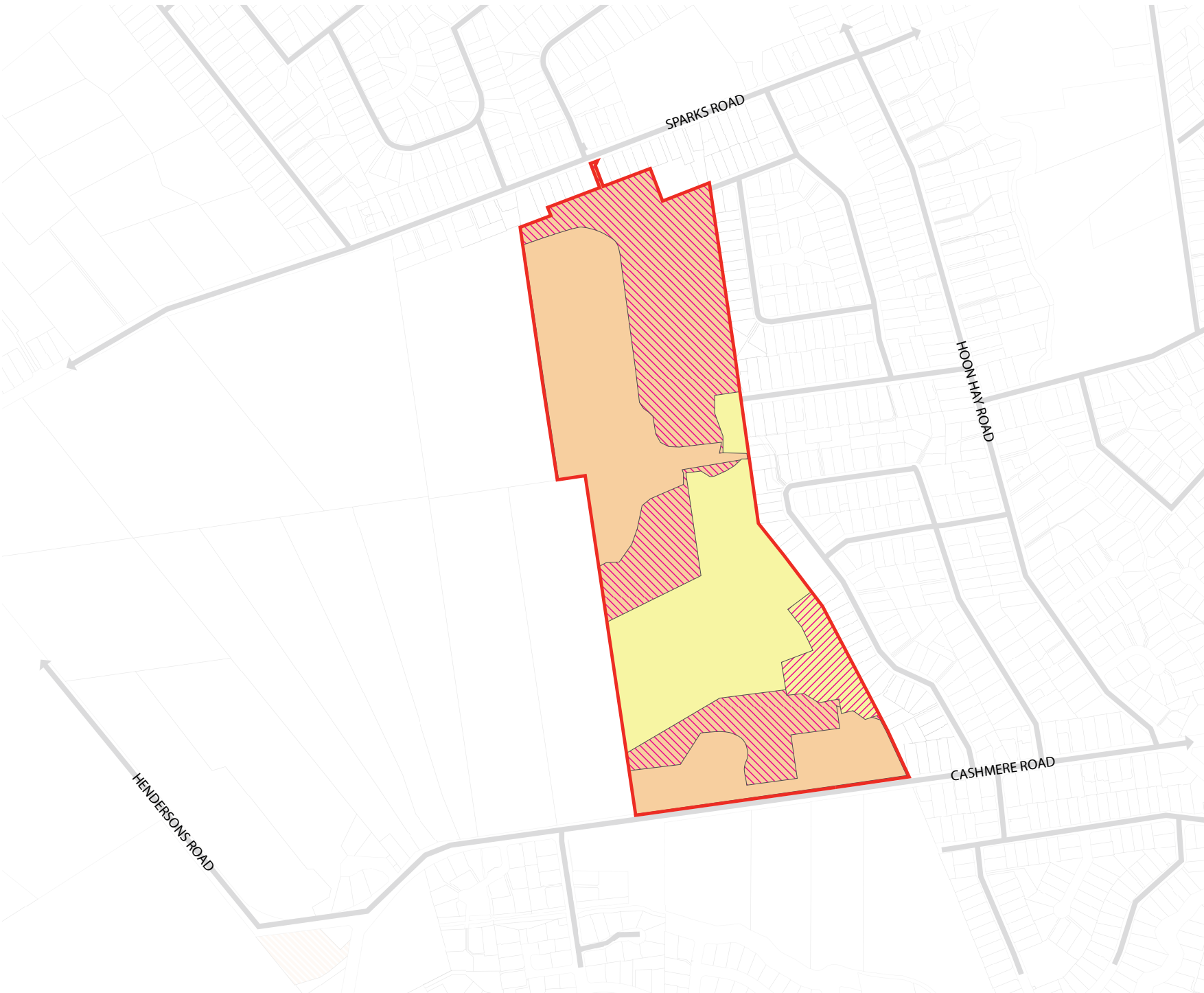


## Appendix 3 – Zoning plan for the Site

# Hendersons East-Area 4C Zoning Map



-  Application site boundary
-  RuUF notified.  
Submitter seeks: MRZ
-  RuUF notified.  
Submitter proposes: retention of  
RuUF
-  FUZ notified (currently RNN).  
Submitter seeks: MRZ
-  FUZ notified.  
Submitter and CCC agreed: MRZ  
(already subdivided & constructed)





**Appendix 4 – revised CDP Appendix 8.10.13 – Hendersons Basin ODP and text**

Black **green** and **blue** text is as contained in the Operative Plan

Black ~~**bold**~~ and **bold** shows notified PC14 amendments

~~Red~~ Red ~~strikethrough~~ and underline shows the submitter's amendments

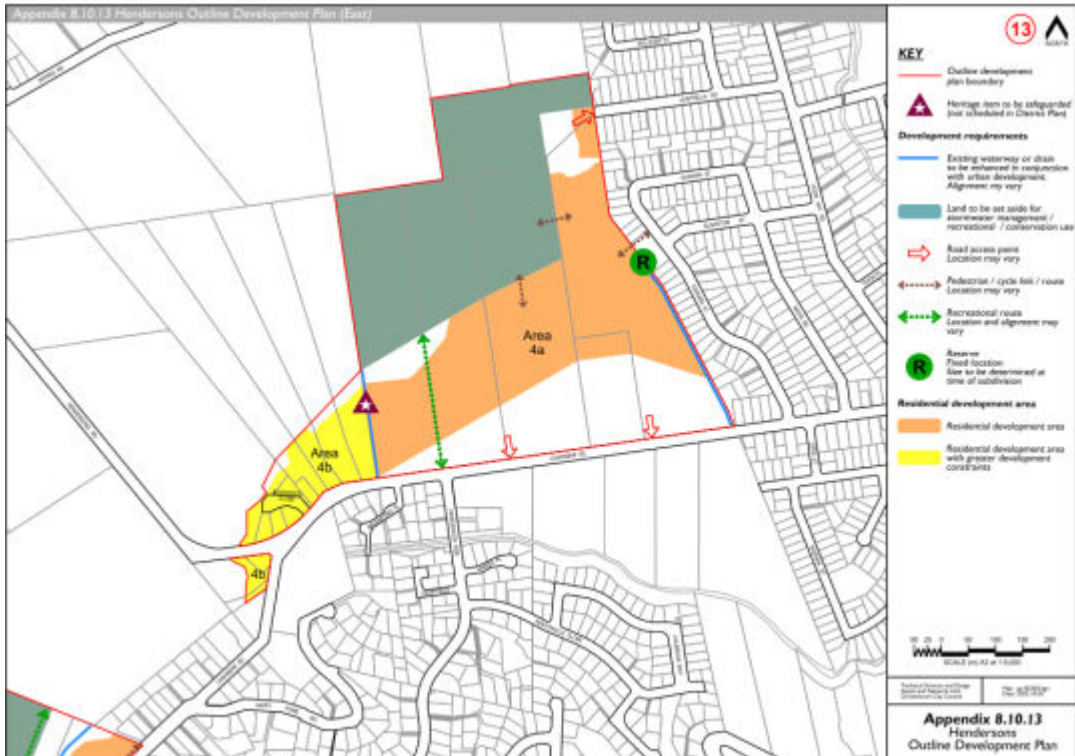
Text in purple indicates text recommended in the s42A report to be added and text in

~~purple~~ text recommended in the s42A report to be deleted

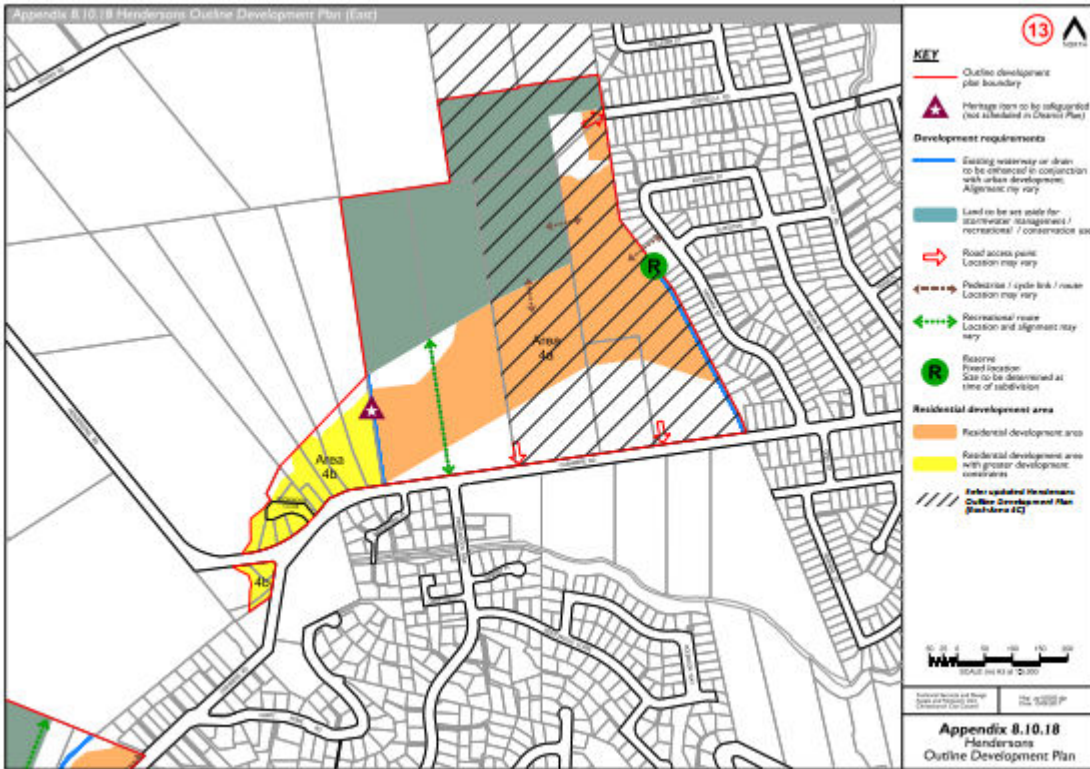
## Appendix 8.10.138. Hendersons Outline Development Plan

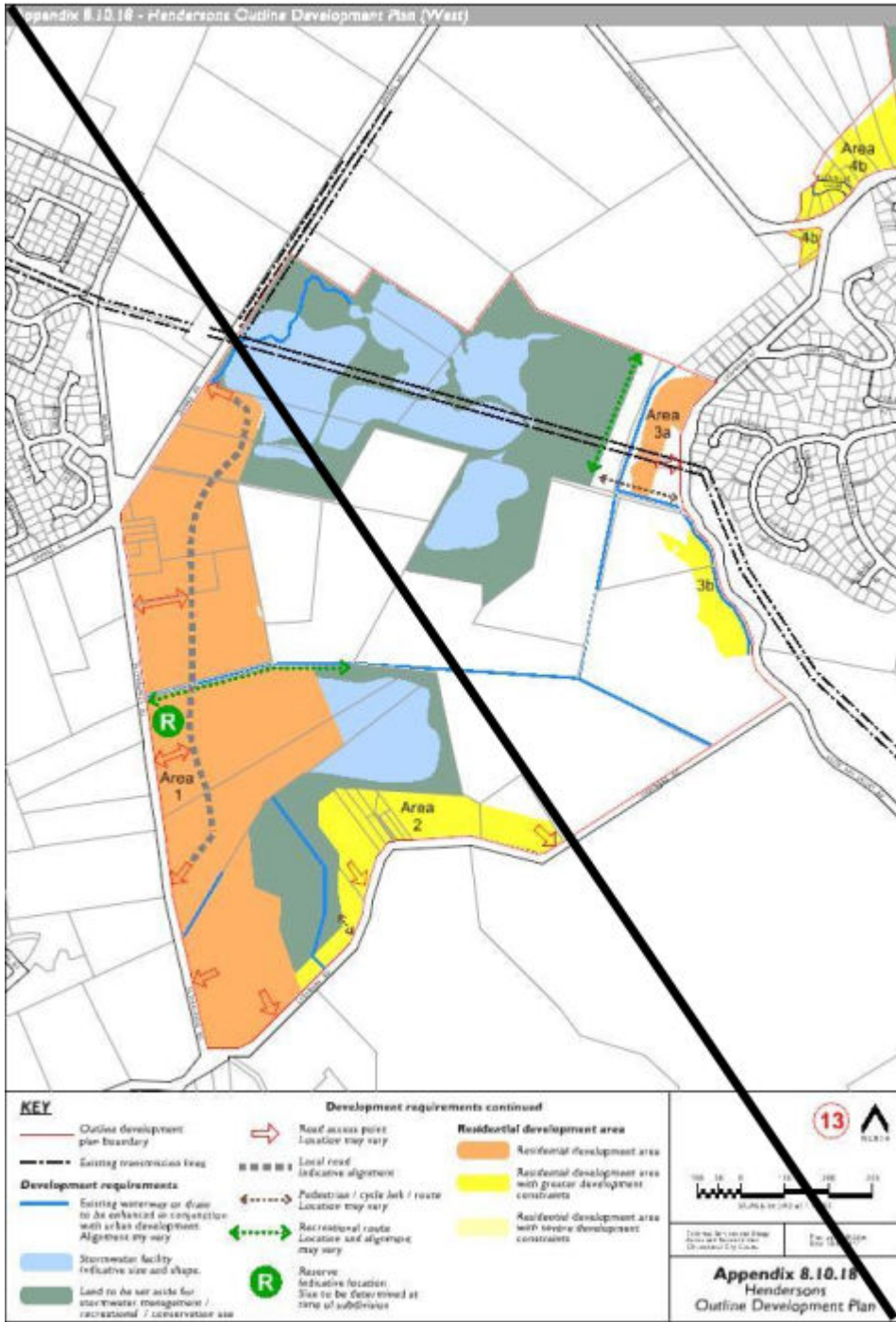


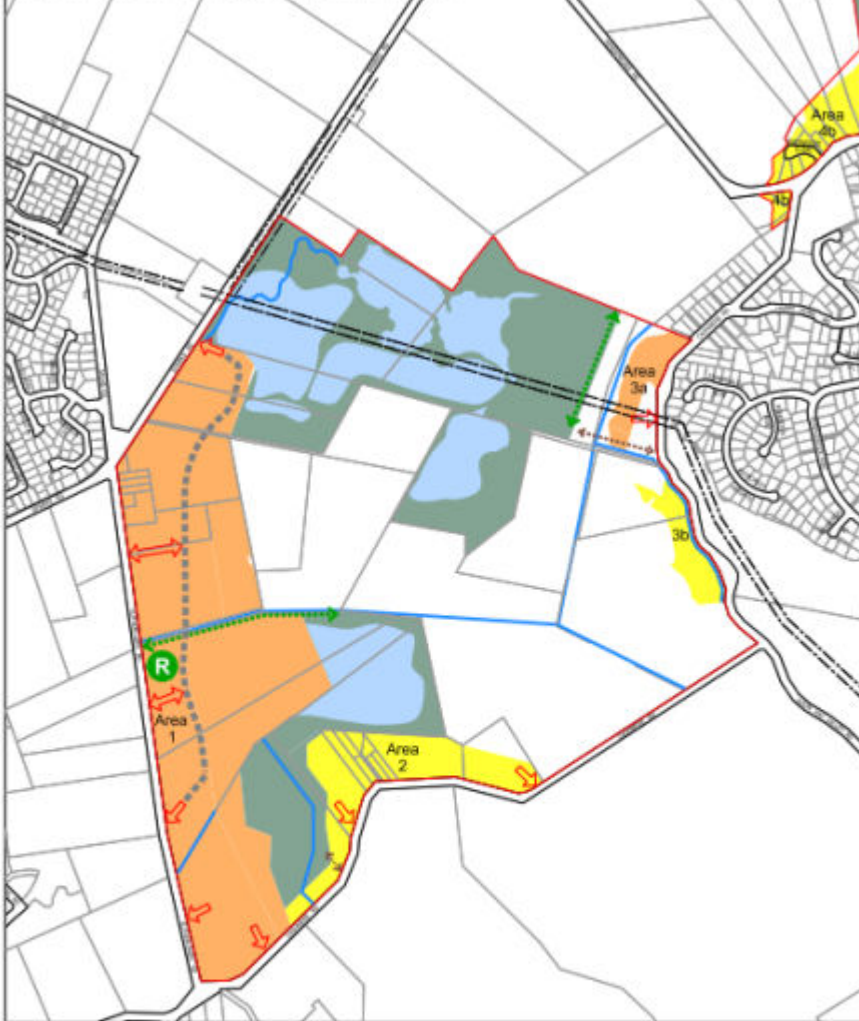
Appendix 8.10.13 Hendersons Outline Development Plan (East)



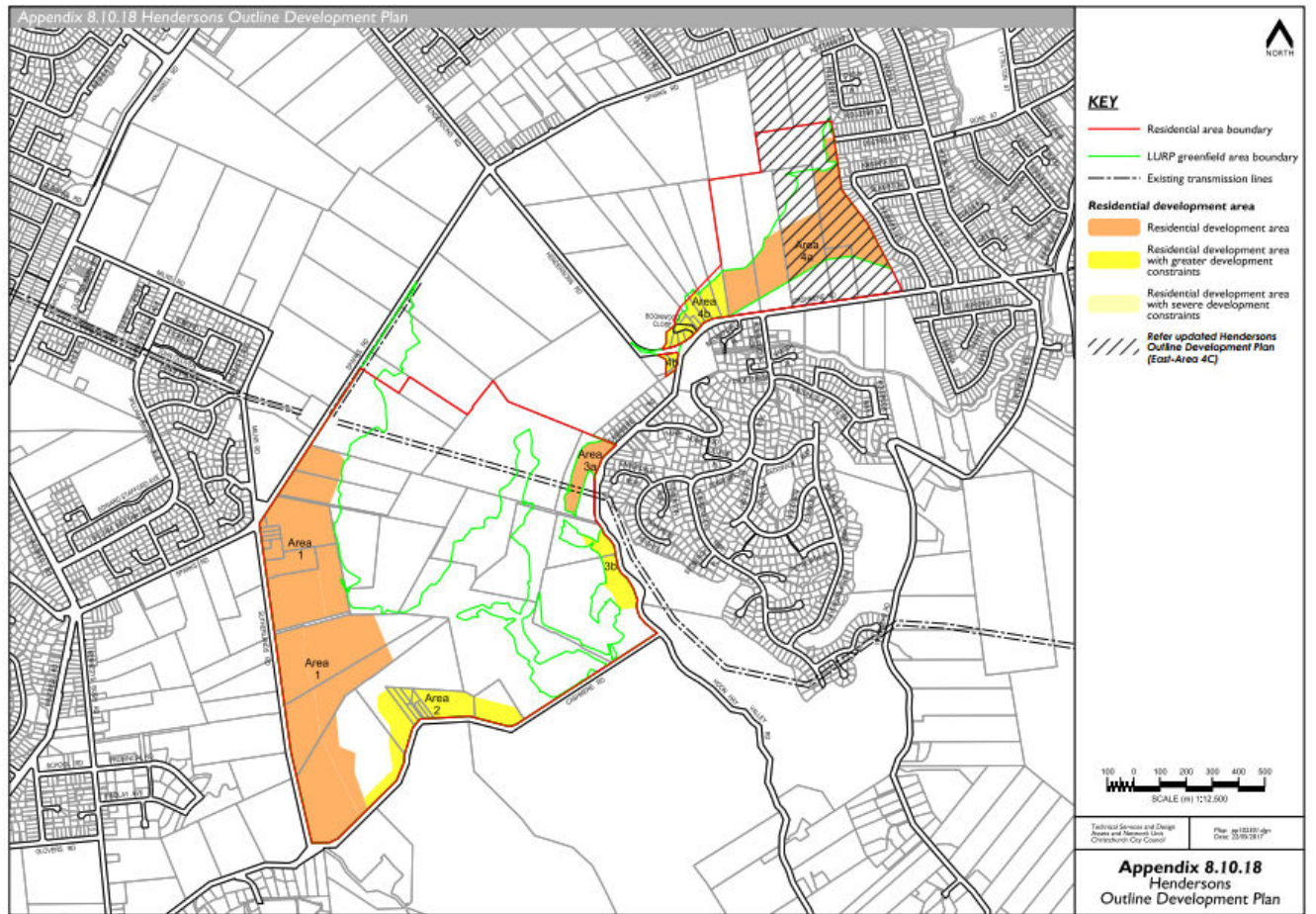
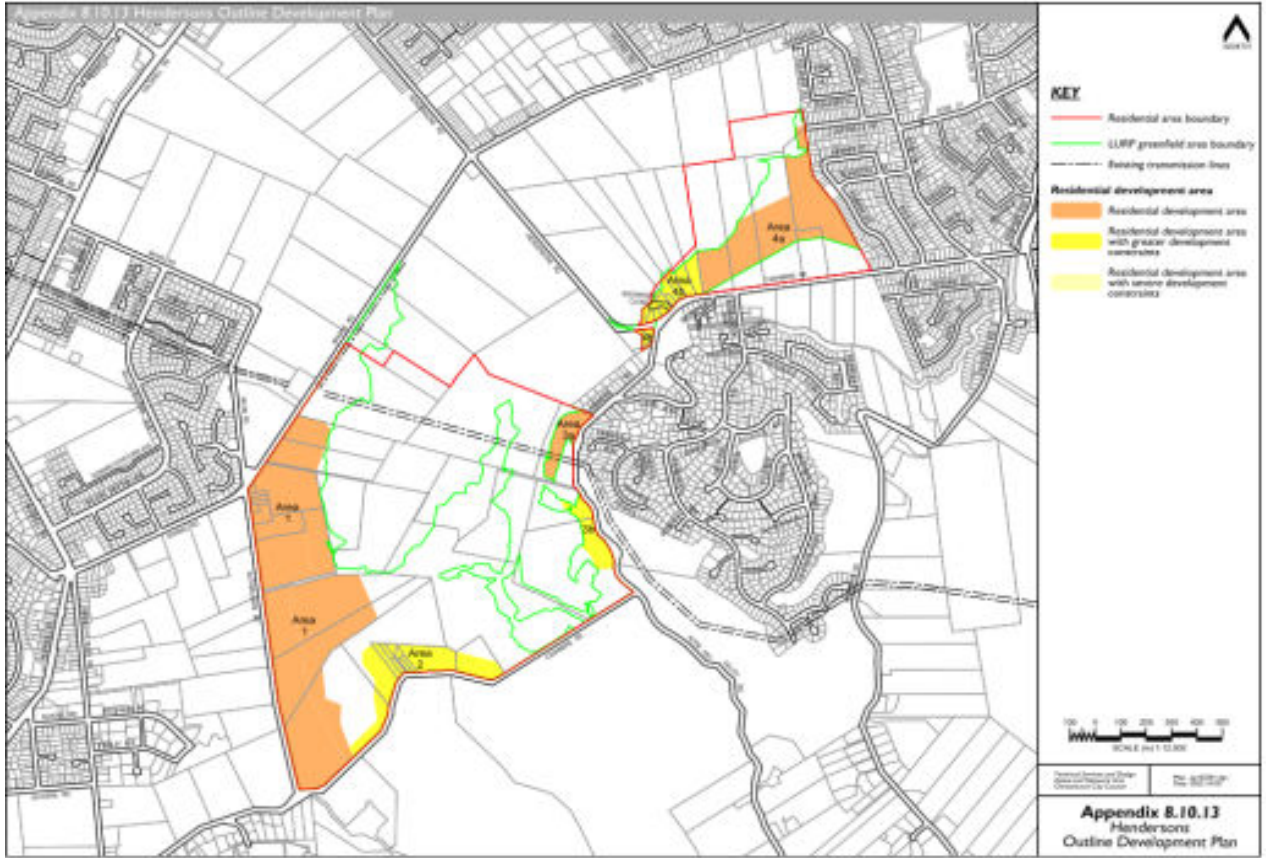
Appendix 8.10.18 Hendersons Outline Development Plan (East)

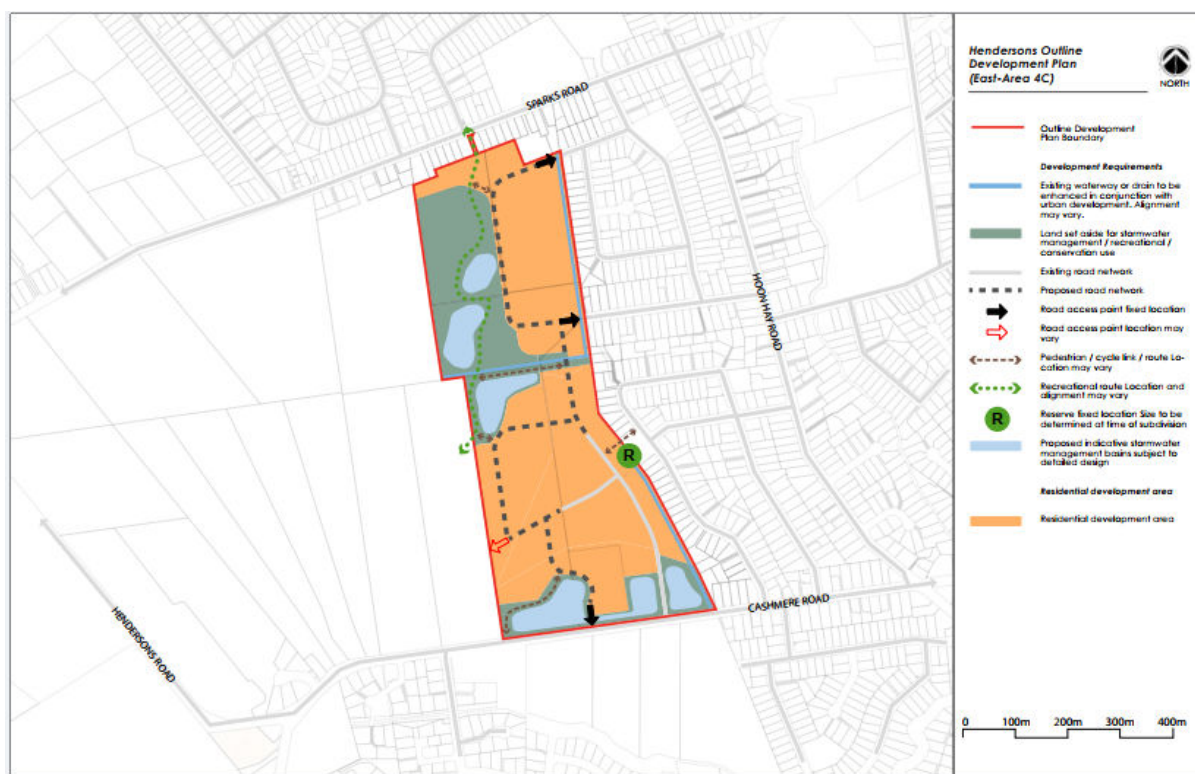






<b>KEY</b>		<b>Development requirements continued</b>		  SCALE: 1:17,500
— Outline development plan boundary - - - Existing transmission line <b>Development requirements</b> — Balancing waterway or drain to be enhanced in conjunction with urban development. Alignment may vary — Stormwater facility. Indicate size and shape. — Land to be set aside for stormwater management / recreational / conservation use	→ Road access point. Location may vary — Local road. Indicate alignment — Pedestrian / cycle link / route. Location may vary — Recreational route. Location and alignment may vary — Reserve. Indicate location. Size to be determined at time of subdivision	<b>Residential development area</b> — Residential development area — Residential development area with greater development constraints — Residential development area with severe development constraints		
				13
<b>Appendix 8.10.13</b> Hendersons Outline Development Plan				





### 8.10.138.A CONTEXT

- a. The Hendersons Basin area was historically a major wetland/raupo swamp. Whilst it has been developed for farming over the last 150 years, it is still significant in terms of its ecological value and function as a natural ponding area. Cashmere Stream, which has historic, ecological and amenity values, traverses the area. The Council owns land within the basin area and intends increasing the opportunities for wetlands, planting of native species and recreational use. Existing and future stormwater facilities will be a major feature of this neighbourhood. As development will not occur in one contiguous area, establishing connections with adjoining residential areas and integrating development with adjoining open spaces is vital to achieving walkable communities.

### 8.10.138.B GUIDANCE

- a. Guidance on the means to achieve the development requirements and form and design elements is provided within the Christchurch City Council's New Neighbourhood Design Guide. Further background and guidance is provided in the [South West Area Plan, Christchurch City Council, April 2009](#).

### 8.10.138.C DEVELOPMENT FORM AND DESIGN

- a. The following design elements and features are relevant considerations in exercising control over the matters in 8.7.1 - 8.7.4 or the matters for discretion in 8.8. They are not requirements for the purposes of Rule 8.6.11(a), 8.6.16(a), or Rule 14.12.2.16 or 14.5.3.2.15.
  1. The scope for development of the area for residential purposes is limited, as extensive filling for subdivision and building would reduce the storage capacity of the basin and increase the risk of flooding to local and downstream residential areas. Land development around parts of the basin's periphery is however possible and can be maximised through engineering

works, in particular compensatory stormwater storage. Development of areas zoned Rural Urban Fringe is severely constrained due to its location in the flood ponding area.

2. Area 1 is to connect with SE Halswell ~~Residential New Neighbourhood~~ **Future Urban** Zone, Area 3 will form an extension of the Westmorland neighbourhood, Area 4 will form a link between the Westmorland and Cracroft neighbourhoods, but is to have its own identity.
3. New development is to be designed to take maximum advantage of the outlook across Hendersons Basin **wetlands** and allow visual and physical access to the basin for the wider community. This will be achieved through the provision of view shafts, alignment of **roads** and footpaths, orientation of **allotments** and convenient access points for pedestrians and cyclists. In Area 4c (Hendersons East) these matters are achieved through the ODP and do not require any further consideration for development within allotments.
4. Cashmere Stream and its enhancement will be a key feature of this area. The Cashmere Drainage system is registered as an historic area under the **Historic Places Act 1993** (List number 7482) this includes the drain which runs between Area 4a and 4b. This should be safeguarded and recognised through on-site interpretation.
5. Kahikatea stumps are noted in the South West Area Plan (Plan 5). These should be further investigated and addressed as necessary, through the development process.
6. An open and attractive interface should be created between the edge of new residential areas and adjacent open land. This may require **roads** to be located along the boundary with stormwater basin/recreational/conservation or rural land, or if private property **boundaries** back onto the open area, appropriate **boundary** planting or fencing is required.
7. Where public access along the Hendersons Basin edge is expected, a design solution which addresses privacy and security issues will be required. Consideration is to be given to the view of urban development across the basin from Sparks, Cashmere and Hendersons Roads.
8. To provide a less harsh edge to development, a more sinuous alignment of the boundary between the residential development area and adjacent rural zoned land is encouraged, providing there is no increase in the total development area.
9. All development is to have a good interface with adjacent **roads**. In general the **subdivision** design should encourage houses to front onto **roads** and the interface treatment should be consistent along the length of the **road**.
10. Where existing properties are to remain, distribution lines cross the residential area or new residential areas adjoin rural or existing residential areas, larger section sizes and planting buffers may be required.
11. Higher **yield density** development, above 15 hh's/ha, is anticipated in Area 4a, particularly at the eastern end and/or adjacent to the stormwater basin.
12. There is an opportunity for interpretation boards and structures alongside the Cashmere Stream route to include history of the floodplain, raupo swamp and significance to tangata whenua.

#### **8.10.138.D DEVELOPMENT REQUIREMENTS**

- a. The development requirements for the purposes of **Rule 8.6.11(a)**, **Rule 8.6.16(a)**, and **Rule 14.12.2.16 and 14.5.3.2.15** are described below and shown on the accompanying plan.

##### **1. INTEGRATION**

- a. There are multiple land owners within this ODP area and a number of existing properties. **Subdivision** designs are to demonstrate good connectivity between different land ownership areas through **road**, open space and pedestrian and **cycle way** linkages.



## 2. DENSITY VARIATIONS

- a. Area 2 – The land slopes steeply up to Cashmere Road making both access to Cashmere Road and development on the slope difficult. There are also existing properties here. Rule 8.6.11(b) density exemptions apply to this constrained area.
- b. Area 3 – The developable area will be impacted in Area 3.a by the realignment of Cashmere Stream and the need for compensatory stormwater storage and in 3.b., where there are existing buildings. Rule 8.6.11(b) density exemptions will apply to this constrained area.
- c. Area 4b – There are existing substantial properties, including those in Boonwood Close. Rule 8.6.11(b) density exemptions apply to this area.

## 3. OPEN SPACE, RECREATION AND COMMUNITY FACILITIES

- a. Land for recreational/conservation use in conjunction with use for stormwater management.
- b. A community (neighbourhood) park along Sutherlands Road.
- c. The development of parts of a recreational route that connects from Sutherlands Road and runs through to Hendersons Road, running predominantly alongside Cashmere Stream. A recreational route to provide a link and a viewshaft from Westmorland to the basin area.
- d. An extension of the existing Kaiwara Street reserve. ~~Should a road connection to Blakiston Street through the existing reserve prove acceptable, including from a parks planning perspective, the loss of the reserve will need to be compensated for through an enlarged reserve on the south side of the new road.~~

## 4. ACCESS AND TRANSPORT

- a. A secondary road through Area 1 to run from Sutherlands Road from a point immediately opposite the collector road running through South East Halswell ~~Future Urban Zone RNN~~ to Sparks Road. At least two road links are to be created from Sutherlands Road to the new secondary road.
- b. Road accesses between ~~this the Area 1 Future Urban Zone RNN~~ area and Sutherlands, Sparks and Cashmere Roads. These are to be safely located in relation to road accesses into S.E. Halswell and North Halswell ~~Future Urban Zone RNN's~~, Redmond Spur subdivision and Westmorland.
- c. A road network which provides a connection between Cashmere Road and Hoon Hay ~~via Leistrella Road~~ but is designed to avoid traffic shortcutting between Westmorland and Hoon Hay. ~~This is likely to be via Leistrella Road. Alternatively a connection from the end of Blakiston Street, may be possible.~~
- d. The junction with Cashmere Road is to be spaced a safe distance from Penruddock Rise. Alternatively a signalised crossroads with Penruddock Rise may be constructed.
- e. A fully interconnected local road network within Area 1 and Area 4, that achieves a high level of accessibility for people, including opportunities for walking, cycling and public transport.
- f. Pedestrian and cycle connections between residential areas and public spaces, including a shared pedestrian cycle path link through Area 4c from Cashmere Road through to Sparks Road.
- g. Where development interfaces with Cashmere Road, provision will be made to enable local road widening to better manage the needs of cyclists in the area.

## 5. STORMWATER

- a. Land to be set aside for compensatory stormwater storage or other stormwater management as shown on the ODP. Where no such land is shown on an allotment which also has a residential development area, additional land may be required, to be determined at the time of subdivision. Further rural land may be required for stormwater management in the future.
- b. There are known to be springs in the western part of the neighbourhood. These are to be identified and safeguarded at the time of subdivision.
- c. Existing waterways and stormwater drains shown on the ODP are to be enhanced in conjunction with residential development. All watercourses are to have a natural form and may require realignment.
- d. Land set aside for stormwater management is to also incorporate wetland habitats, walkways and cycle ways.

## 6. WATER AND WASTEWATER

- a. Most new development in this ODP area can be serviced from the existing water supply network. However a water supply master plan for the Halswell **Future Urban Zone Residential New Neighbourhoods**, to be developed by Council, will confirm the infrastructure required. Some additional improvements may be required upon further more detailed investigations being undertaken by Council and/or at the time of subdivision.
- b. Area 1 to be serviced by a pressure sewer area. New residential development will be required to connect to new trunk mains along Sutherlands and Sparks Roads. A pressure sewer along Cashmere Road serving the Redmund Spur subdivision, will be upsized for Area 2. The wastewater servicing of the remaining areas will be determined at the time of subdivision.
- c. No more than 487 houses in East Hendersons shall connect to the pressure sewer system in the Pump Station 68 catchment. If additional houses are developed an upgrade to the sewer system may be required.

## 7. STAGING

- a. There are no staging requirements other than those relating to the provision of infrastructure. Development is however expected to generally proceed from existing roads inwards towards the basin.

**Appendix 5 – revised CDP provisions – Chapter 8 (Subdivision) and Chapter 14 (Residential)**

Black green and blue text is as contained in the Operative Plan

Black ~~bold strikethrough~~ and **bold underline** shows notified PC14 amendments

Red ~~strikethrough~~ and underline shows the submitter's amendments

Text in purple underlined indicates text recommended in the s42A report to be added and text in ~~purple strikethrough~~ text recommended in the s42A report to be deleted

## Chapter 8 – Subdivision, Development and Earthworks

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### 8.2 Objectives and policies

...

#### 8.2.2.43 Policy – Identity

- a. Create or extend neighbourhoods which respond to their context and have a distinct identity and sense of place, by ensuring that subdivision, where relevant:
  - i. incorporates and responds to existing site features (including trees, natural drainage systems, buildings), cultural elements and values and amenity values (including by taking advantage of views and outlooks);
  - ii. incorporates public spaces that provide opportunities for formal and informal social interaction;
  - iii. has a pattern of development that responds to the existing **and planned** urban context;
  - iv. is designed with a focus on the use of open space, commercial centres, community facilities, and the use of views;
  - v. outside the Central City, in addition to iv., is designed with a focus on density, roads, land form, stormwater facilities and, in the ~~Residential New Neighbourhood~~ **Future Urban** Zone and Medium Density Residential Zone in Hendersons Basin (East – Area 4c), development requirements in an outline development plan, as key structuring elements; and
  - vi. incorporates and responds to Rangatiratanga – the expression of te reo kawa, tikanga, history, identity and the cultural symbols of Ngāi Tahu.

...

#### 8.2.2.87 Policy – Urban density

- a. **Encourage** ~~S~~subdivision in the ~~Residential~~ Medium Density ~~Residential~~ Zone **mustto** enable development which achieves a net ~~density yield~~ of at least 30 households per hectare.
- b. In the ~~Residential New Neighbourhood~~ **Future Urban** Zone residential development areas and Medium Density Residential Zone at Hendersons Basin (East – Area 4c):
  - i. a minimum net density of 15 households per hectare shall be achieved when averaged across the whole of the residential development area within the relevant

outline development plan, except: **in areas shown on an outline development plan as being subject to development constraints**

**~~A. in the Residential New Neighbourhood (Prestons) Zone a minimum net density between 13 and 15 households per hectare shall be achieved; and~~**

**~~B. in areas shown on an outline development plan as being subject to development constraints;~~**

- ii. any subdivision, use and development which results in a residential net density lower than the required density shall demonstrate, through the use of legal mechanisms as appropriate, that the residential net density required across residential development areas of the outline development plan can still be achieved; and
  - iii. except as provided for in (ii) above, where an application is made for subdivision that would not achieve the required residential density, Council will regard all owners of greenfield (undeveloped) land within the outline development plan area as affected parties.
- c. In the **~~Residential New Neighbourhood Future Urban~~** Zone, encourage higher density housing to be located to support, and have ready access to, commercial centres, community facilities, public transport and open space, and to support well-connected walkable communities.
- d. **Encourage** subdivision in the **~~Residential Central City Zone~~** **High Density Residential Zone** **~~must that~~** enables development which achieves a net **density yield** of at least 50 households per hectare.

...

#### **8.2.2.109 Policy – Comprehensive Residential Development**

- a. In the **~~Residential New Neighbourhood Future Urban~~** Zone, encourage comprehensive residential developments that are in accordance with the relevant outline development plan as a means of achieving co-ordinated, sustainable and efficient development outcomes.

...

### **8.5 Rules – Subdivision Activity status tables Rules - Activity status tables**

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#### **8.5.1.2 Controlled activities**

	Activity	Relevant standards	Matters of control
C4	Subdivision to create allotments for access, utilities, emergency service facilities, roads and reserves	a. The minimum net site area requirements do not apply.	Rule 8.7.3
C5	a. Subdivision in any area subject to an outline development plan or	a. Activity standards in Rules 8.6.1 – 8.6.12. b. The subdivision shall be undertaken in accordance with the	a. Rule 8.7.4; and b. where relevant for industrial zones, Rule 8.7.5 (except that in the Industrial General Zone

Activity	Relevant standards	Matters of control
<p>development plan <b>in the Future Urban Zone</b>, except as otherwise specified in:</p> <ul style="list-style-type: none"> <li>i. <a href="#">Rule 8.5.1.2</a> C4, C6, C7, <del>C8</del>, <del>C9</del>;</li> <li>ii. <a href="#">Rule 8.5.1.3</a> RD2, RD4 to RD14<del>5</del>;</li> <li>iii. <a href="#">Rule 8.5.1.4</a> D1 to D4; and <a href="#">Rule 8.5.1.5</a> NC1 to NC7<del>8</del>.</li> </ul>	<p>relevant <b>outline development plan</b> or development plan, except that:</p> <ul style="list-style-type: none"> <li>i. in relation to any <b>outline development plan</b> in a <b>Residential New Neighbourhood Future Urban Zone</b>, the activity shall meet the activity standard in <a href="#">Rule 8.6.11(a)</a>;</li> <li>ii. in relation to any <b>outline development plan</b> contained in <a href="#">Chapter 15</a> or <a href="#">Chapter 16</a>, compliance is only required with the <b>key structuring elements</b> for that <b>outline development plan</b> area as described in the relevant chapter.</li> <li>c. In the Industrial Park Zone (Awatea), disposal of wastewater shall be via the <b>Council</b> reticulated sanitary sewage disposal system.</li> <li>d. For <b>subdivision</b> in areas marked as controlled on the Awatea Outline Development Plan – Tangata whenua layer diagram in <a href="#">Appendix 8.10.142</a>, a cultural assessment shall be provided.</li> </ul> <p>For <b>subdivision</b> in the Industrial General Zone (North Belfast), activity standards in <a href="#">Rule 8.6.14</a>.</p>	<p>(North Belfast), <a href="#">Rule 8.7.4.1</a> (r) and <a href="#">Rule 8.7.4.6</a> (a)-(i) &amp; (k) shall not apply).</p> <ul style="list-style-type: none"> <li>c. In addition, in areas marked as controlled on the Awatea Outline Development Plan – Tangata whenua layer diagram in <a href="#">Appendix 8.10.142</a>: <ul style="list-style-type: none"> <li>i. matters arising from consultation undertaken with tangata whenua representatives in the design phase of the <b>subdivision</b> and preparation of the cultural assessment</li> <li>ii. the means of incorporating the findings of the cultural assessment in the design and implementation of the <b>subdivision</b>.</li> </ul> </li> <li>d. In addition to the matters above, the following shall also apply within Area 5 in <a href="#">Appendix 8.10.3023</a> East Papanui Outline Development Plan <ul style="list-style-type: none"> <li>i. The matters set out in <a href="#">Appendix 8.10.3023.C</a>;</li> <li>ii. Whether the <b>subdivision</b> is exemplary, including whether it: <ul style="list-style-type: none"> <li>A. Provides for neighbourhood design hat</li> </ul> </li> </ul> </li> </ul>

**Commented [AL1]:** Removes MRZ allotments from this rule

	Activity	Relevant standards	Matters of control
			<p>supports the principles of universal access; and</p> <p>B. Demonstrates innovation in the neighbourhood layout; <b>and</b></p> <p><b>e. Where relevant, Rule 8.7.12.</b></p>
<b>C8</b>	<p><b>Subdivision that creates any vacant allotments within the Medium Density Residential and High Density Residential Zones.</b></p>	<p><b>The following standards apply:</b></p> <p><b>a. Activity standards 8.6.1, and 8.6.3 – 8.6.9, 8.6.12, and 8.6.15, and 8.6.16.</b></p> <p><b>Note: Where each allotment contains a residential unit for which land use consent is concurrently sought, or a current resource consent has been obtained but not yet implemented, Rule 8.5.1.2 C8 does not apply. Refer to Rule 8.5.1.2 C9, below.</b></p>	<p><b>a. Rule 8.7.4 and,</b></p> <p><b>b. Where relevant, Rules 8.7.7-8.7.11 and 8.7.13; and</b></p> <p><b>c. Rule 8.7.12</b></p>
<b>C9</b>	<p><b>Subdivision within the Medium Density Residential and High Density Residential zones where no vacant allotments are created and each allotment:</b></p> <p><b>a. Contains an existing residential unit; and/or</b></p> <p><b>b. Is proposed to contain a residential unit, approved as part of a resource consent; and/or</b></p>	<p><b>a. Activity standards in Rules 8.6.3-8.6.9, 8.6.12, and 8.6.15, and 8.6.16 apply</b></p> <p><b>b. The subdivision shall not result in, or increase the degree of, non-compliance with the density-built form standards of the applicable zone (14.5.2 and 14.6.2).</b></p> <p><b>Note: Land use consent is also required where an applicable density-built form standard is breached.</b></p>	<p><b>a. Rule 8.7.4 and,</b></p> <p><b>b. Where relevant, Rules 8.7.7-8.7.11 and 8.7.13;</b></p> <p><b>c. Rule 8.7.12</b></p> <p><b>d. If an application is made under activity standard c.i of Rule 8.5.1.2 C9, the order in which dwelling construction and subdivision occurs.</b></p>

**Commented [AL3]:** Captures matters relevant to achieving ODP outcomes – see amendments below to include the MRZ Hendersons Basin ODP area

**Commented [AL2]:** This is a modified version of 8.6.11 – Additional standards for the RNN/FUZ, as appropriate to the MRZ Hendersons Basin ODP area

**Commented [AL5]:** As above

**Commented [AL4]:** As above

Activity	Relevant standards	Matters of control
<p>c. Is subject to a <u>concurrent resource consent application for a residential unit</u>; <u>except as otherwise specified in Rule 8.5.1.2 C1A and C2A.</u></p>	<p><u>c. If, at the time of lodging the subdivision consent application, the residential unit(s) relied upon under Rule 8.5.1.2 C9.b or C9.c have not yet been constructed to the extent that its exterior is fully closed in, either:</u></p> <p><u>i. The residential unit(s) must be constructed to the extent that its exterior is fully closed in before obtaining a certificate under section 224 of the Resource Management Act 1991; OR</u></p> <p><u>ii. It must be practicable to construct a residential unit on each allotment within the proposed subdivision, as a permitted activity.</u></p> <p><u>d. Within the Suburban Density Precinct and Suburban Hill Density Precinct, this rule shall only apply when in accordance with Rule 14.5.3.1.4 RD19.</u></p> <p><u>Note: Where standard (c) is not met, then the lot will be treated as a vacant allotment and Rule 8.5.1.2 C8 shall apply.</u></p>	

### 8.5.1.3 Restricted discretionary activities

Activity	Relevant standards	Matters of discretion for the purpose of imposing conditions	Matters of discretion for the purpose of granting or declining consent and imposing conditions
<p>RD2 a. <u>Subdivision</u> in any zone that does not meet any one or more of the</p>	<p>Nil</p>	<p>a. <u>Rule 8.7.4</u>; and,</p> <p>b. where relevant, <u>Rules 8.7.5 - 8.7.11 and 8.7.15<sup>1</sup></u>(except that in the</p>	<p>a. As relevant to the activity standard that is not met:</p> <p>i. for <u>Rule 8.6.1</u> - Minimum net site area and dimension: <u>Rule 8.8.11</u>;</p>

<sup>1</sup> We note that there is no 8.7.15 in the section 42A version and the correct reference appears to be 8.7.12.



<p>relevant standards in:</p> <p>i. <a href="#">Rule 8.5.1.2</a> C5, C6 or <del>C8C10</del>; or</p> <p>ii. <a href="#">Rule 8.5.1.3</a> RD7;</p> <p>except as otherwise specified in;</p> <p>i. <a href="#">Rule 8.5.1.4</a> D1 to D45; and</p> <p>ii. <a href="#">Rule 8.5.1.5</a> NC1 to NC78.</p> <p>b. For <a href="#">subdivision</a> in the <del>Residential New Neighbourhood Future Urban</del> Zone that does not meet <a href="#">Rule 8.6.11.a</a> outline development plan or <a href="#">Rule 8.6.11.b</a> Residential net density, <a href="#">Rule 8.4.1.1.a.i</a> does not apply.</p> <p><a href="#">c. Subdivision within the Medium Density and High Density zones that does not meet the following standards:</a></p> <p>i. <a href="#">Rule 8.5.1.2 C8 (a)</a></p> <p>ii. <a href="#">Rule 8.5.1.2 C9 (a)</a>.</p> <p><del>ed</del>. In the instance of</p>		<p>Industrial General Zone (North Belfast), <a href="#">Rule 8.7.4.1 (r)</a> and <a href="#">Rule 8.7.4.6 (a)-(i) &amp; (k)</a> shall not apply).</p> <p>In addition to the matters above, the following shall also apply to Area 5 in <a href="#">Appendix 8.10.3023</a> East Papanui Outline Development Plan:</p> <p>c. The matters set out in <a href="#">Appendix 8.1.3023.C</a></p>	<p>ii. for <a href="#">Rule 8.6.3</a> – Access: <a href="#">Rule 8.8.2</a>;</p> <p>iii. for <a href="#">Rule 8.6.4</a> - Roads: <a href="#">Rule 8.8.3</a>;</p> <p>iv. for <a href="#">Rule 8.6.5</a> – Service lanes, cycle ways and pedestrian access ways: <a href="#">Rule 8.8.4</a>;</p> <p>v. for <a href="#">Rule 8.6.6</a> – Esplanade reserve, strip or additional land: <a href="#">Rule 8.9.5</a>;</p> <p>vi. for <a href="#">Rule 8.6.7</a> – Water supply: <a href="#">Rule 8.8.6</a> ;</p> <p>vii. for <a href="#">Rule 8.6.8</a> – Wastewater disposal: <a href="#">Rule 8.8.6</a>;</p> <p>ix. for <a href="#">Rule 8.6.12</a> – Radiocommunications: <a href="#">Rule 8.8.6.i</a> ;</p> <p>x. in the Industrial Heavy Zone (South West Hornby), for <a href="#">Rule 8.6.10</a> - <a href="#">Rule 8.8.3</a>.</p> <p>xi. In the <del>Residential New Neighbourhood Future Urban</del> Zone, for <a href="#">Rule 8.6.11 .a</a> (outline development plan) and <a href="#">Rule 8.6.11 .b</a> (Residential net density): <a href="#">Rule 8.8.8</a> and <a href="#">Rule 8.8.9</a>.</p> <p>xii. In the <del>Residential New Neighbourhood Future Urban</del> Zone, for <a href="#">Rules 8.6.11 .c</a> to <a href="#">i</a>: The matters referred to in clauses <a href="#">i</a> to <a href="#">ix</a> above as applicable, and also those in <a href="#">Rule 8.8.9</a>.</p> <p><a href="#">xiii. In the Medium Density Residential Zone in Hendersons Basin, for <a href="#">Rule 8.6.16 .a</a> (outline development plan) and <a href="#">Rule 8.6.16 .b</a> (Residential net density): <a href="#">Rule 8.8.8</a> and <a href="#">Rule 8.8.9</a>.</a></p>
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**Commented [AL7]:** Replicates xi. above for the MRZ Hendersons Basin ODP area

<p>non-compliance with RD2 b., written approvals and either limited or public notification may apply.</p>			<p><u><a href="#">xii. In the Medium Density Residential Zone at Hendersons Basin, for Rules 8.6.16 .c to f: The matters referred to in clauses i to ix above as applicable, and also those in Rule 8.8.9.</a></u></p>
<p><u><a href="#">d. Subdivision in the Medium Density Residential Zone in Hendersons Basin that does not meet Rule 8.6.16(a) outline development plan or Rule 8.6.11(b) Residential net density, Rule 8.4.1.1.a.i. does not apply.</a></u></p>			<p>b. In an area shown on an outline development plan <b>and in the Future Urban Zone, Rule 8.8.8 and 8.8.9</b> where applicable.</p> <p><u><a href="#">bA. In an area shown on the outline development plan for the Medium Density Residential Zone at Hendersons Basin, Rule 8.8.8 and 8.8.9 where applicable.</a></u></p> <p>c. In the Industrial Park Zone (Awatea), in relation to the disposal of wastewater: <a href="#">Rule 8.8.6.</a></p> <p>d. In the Rural Banks Peninsula Zone, in relation to the relevant standards for <a href="#">Rule 8.5.1.2 C6: Rule 8.8.13.</a></p> <p>e. <b>For subdivision in the High Density Residential Zone that does not meet <a href="#">Rule 8.5.1.2 C8 (a): In the Residential Central City Zone: Rule 8.8.11(g)</a></b></p> <p>f. In the Industrial General Zone (North Belfast), for <a href="#">Rule 8.6.14 – Wāhi taonga, wāhi tapu and urupā – North Belfast: Rule 8.8.14.</a></p> <p>g. Where the site is within the Akaroa Heritage Area, <a href="#">Rule 9.3.6.3.</a></p> <p>h. In addition to the matters above, within Area 5 in <a href="#">Appendix 8.10.3023</a> East Papanui Outline Development Plan:</p> <p>i. Whether the <b>subdivision</b> is exemplary, including whether it:</p>

**Commented [AL8]:** Replicates xii. Above for the MRZ Hendersons Basin ODP area

**Commented [AL6]:** Replicates clause (b) above for the MRZ Hendersons Basin ODP area

				<p>A. Provides for neighbourhood design that supports the principles of universal access; and</p> <p>B. Demonstrates innovation in the neighbourhood layout.</p> <p><b><u>j. Where the site is the Medium or High Density Residential Zones in North Halswell, Rule 8.8.17</u></b></p>
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## 8.6 Activity standards

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### **8.6.16 Hendersons Basin (East – Area 4c)**

#### **a. Outline development plan**

**i. The subdivision shall be in accordance with the development requirements specified in the Hendersons Basin ODP in Appendix 8.10.13.**

#### **b. Residential net density**

**i. Except as provided for in (ii), a subdivision shall achieve a minimum net density within residential development areas of 15 households per hectare;**

**ii. subdivision shall be exempt from achieving the minimum net density required in (i), if the following requirements are met:**

**A. the consent application nominates site(s) within the subdivision and outline development plan area for future higher density for the purpose of ensuring any shortfall in achieving the relevant minimum net density requirements under (i) through the subdivision would be made up by future subdivision and development of the nominated site(s); and**

**B. the consent application includes the written approval of each of owner of the nominated site(s) (if not the applicant) and an associated legal instrument that specifies the minimum net density for the site(s), binds all owners and the applicant, is enforceable by the Council (to the Council's reasonable satisfaction) and satisfies C hereof; and**

**C. the legal instrument effectively prevents subdivision and land use at the nominated site(s) below its specified density in order to ensure that any shortfall in achieving the relevant minimum net density requirements of (i) through the**

**Commented [AL9]:** Replicates relevant provisions from 8.6.11 – Additional matters applying to the RNN/FUZ. Inclusion of these matters has been agreed through Urban Design witness caucusing

subdivision can be made up by future subdivision and development of the nominated site(s).

c. Maximum cul-de-sac length

i. Where there is a pedestrian connection from the cul-de-sac head to an adjacent street the maximum cul-de-sac length shall be 150m.

ii. All other culs-de-sac shall have a maximum length of 100m.

d. Road frontage to public reserves

i. The minimum road frontage to a public reserve to which the public has a general right of access (excluding local purpose reserves for walkways) shall be 25% of the length of the reserve perimeter.

e. Reserve width

i. A reserve vested in Council for utility, pedestrian access or stormwater conveyance purposes shall have a minimum width of 8m, except for any reserve linkage to Sparks Road, which shall have a minimum of 6m.

f. Walkable block size

i. Any block containing residential allotments shall have a publicly accessible maximum perimeter length of 800m.

## 8.7 Rules as to matters of control — subdivision

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### 8.7.4 General matters

#### 8.7.4.1 Subdivision design

- a. Whether the allotments (including any balance allotment) are of sufficient size and dimension to provide for any existing land use or a permitted land use such as might reasonably be expected to establish on a site, and provision of access, storage space and service connections.
- b. Whether the dimensions and orientation of the allotments will ensure the capture of solar gain appropriate to the subsequent land uses.
- c. Outside the Central City, whether any corner allotments have an appropriate corner rounding.
- d. The relationship of the proposed allotments within the site and their compatibility with the pattern of the adjoining subdivision and land use activities.
- e. The degree to which natural topography, drainage and other features of the natural environment, sites of Ngāi Tahu cultural significance identified in Appendix 9.5.6, or existing built features of significance, determine site boundaries where that is practicable.
- f. Whether any local purpose reserves, or easements are required, such as for services,

**Commented [AL10]:** Updates throughout these matters of discretion to apply ODP matters to the MRZ Hendersons Basin ODP area

stormwater, access, party walls, floors or ceilings, and that they are sufficiently designed for their purpose.

- g. The extent to which the subdivision design mitigates adverse effects, including reverse sensitivity to nearby National Grid or electricity distribution lines shown on the Planning Maps, Radio New Zealand Limited's Gebbies Pass Road facilities or other strategic infrastructure.
- h. In an outline development plan area in the Future Urban Zone or Medium Density Residential Zone, integration and connection to and within the site and whether the subdivision would preclude or discourage development in another part of the outline development plan area in the Future Urban Zone or Medium Density Residential Zone.
- i. The extent to which conditions are appropriate on a subdivision consent in a Residential New Neighbourhood Future Urban Zone or Medium Density Residential Zone in order to give effect to the development requirements specified in the relevant outline development plan.
- j. The extent to which the subdivision in a Residential New Neighbourhood Future Urban Zone is designed in accordance with the principles in 8.8.9 Residential New Neighbourhood Future Urban Zone.
- k. In zones other than the Residential New Neighbourhood Future Urban Zone or Medium Density Residential Zone, the extent to which a development needs to comply with any flexible element of an outline development plan, including for phasing or location of infrastructure or other internal elements; and consideration of the effects of the movement of any elements on other landowners of land located within or adjacent to the outline development plan area, or on the safe, efficient or effective operation of infrastructure.
- l. Outside the Central City, whether the application provides allotments of a size and dimension that promotes building typologies with a high level of visual interaction with the street and other public spaces, while providing for a cohesive street scene and neighbourhood.
- m. Outside the Central City, whether the subdivision meets the required household density target, the housing typologies proposed to meet that target and location and mix of typologies within the subdivision, including whether the typologies cater for all life stages, physical abilities, and opportunities for socio-economic diversity.
- n. In the Residential New Neighbourhood Future Urban Zone or Medium Density Residential Zone, the means of achieving overall outline development plan densities as required by Policy 8.2.2.87, including the adequacy of any legal mechanism proposed to give effect to a density transfer or density staging proposal.
- o. Outside the Central City, where the allotment is to be used for residential purposes, whether the application supports the provision of residential allotments which would allow garaging and parking to be secondary to habitable spaces both with respect to size and expression of form, and which are able to be incorporated into the overall building design especially when accessed directly from the street.
- p. Whether fire safety requirements are met in relation to the conversion of existing residential units into multiple residential units.
- q. Outside the Central City, the extent to which the subdivision design and construction

allows for earthworks, buildings and structures to comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

- r. Where the subdivision is of land which includes a Site of Ngāi Tahu Cultural Significance identified in Appendix 9.5.6, the matters set out in Rule 9.5.5 as relevant to the site classification:
  - i. Rule 9.5.5.1 - Wāhi Tapu / Wāhi Taonga, Mahaanui Iwi Management Plan Silent Files and Kaitōrete Spit;
  - ii. Rule 9.5.5.2 - Ngā Tūranga Tūpuna; and
  - iii. Rule 9.5.5.3 - Ngā Wai.

#### 8.7.4.2 Hazard constraints

- a. For any site that has been identified as contaminated or potentially contaminated, whether the site is safe for habitation, and the adequacy of any proposed mitigation and remediation.
- b. The extent to which any hazard or geotechnical constraints exist on the land and the appropriateness of measures to reduce risk, including liquefaction, flooding, rockfall, cliff collapse and other matters addressed in Chapter 5 (Natural Hazards).

#### 8.7.4.3 Servicing and infrastructure

- a. Whether each allotment has appropriate servicing and connections to water supply, wastewater disposal, stormwater management systems and other services; whether it is necessary to provide or upgrade services or utilities to enable the allotment to be serviced, and whether the design, location, capacity, type and construction of services and infrastructure, including the suitability of the proposed water supply for fire-fighting purposes, and any required infrastructure upgrades, are acceptable to the Council.
- b. Whether the electricity and telecommunications supply and connection to any new allotment(s) are appropriate and provide adequate capacity, including whether it is appropriate to require additional space for future connections or technology and whether any ducting or easements are required to achieve connection.
- c. Whether appropriate provision is made for onsite storm water treatment or connection to a catchment based treatment network.
- d. Outside the Central City, the contribution of proposals towards the development of an integrated naturalised surface water network of soil absorption, sedimentation and detention basins, wet-ponds, swales and/or wetlands to treat and manage surface water and avoid (where practicable) a proliferation of smaller facilities.
- e. Outside the Central City, the extent to which the construction or erection of utilities for servicing a site incorporate and/or plant appropriate indigenous vegetation.
- f. Outside the Central City, whether any proposed ponding area will be attractive to birdlife that might pose a birdstrike risk to the operation of Christchurch International Airport Limited.

- g. Outside the **Central City**, where wastewater capacity is close to reaching a limit, whether to reduce the lapsing period of the **subdivision** consent below five years to enable that capacity to be utilised by others if the development opportunity that is the subject of the consent is not implemented.
- h. The ability for maintenance, inspection and upgrade of **utilities** and infrastructure occur, including ensuring continued access for the same.
- i. The extent to which the design will minimise risk or injury and/or property damage from **utilities** or infrastructure.
- j. The extent to which potential adverse effects of electricity lines, including visual impacts, are mitigated, for example through the location of **building** platforms and landscape design.
- k. The suitability of the proposed water supply for fire-fighting purposes (the Council may obtain a report from the Chief Fire Officer), including the extent of compliance with SNZ PAS:4509:2008 in respect of the health and safety of the community, including neighbouring properties.
- l. The extent to which conditions are appropriate on a **subdivision** consent in a **Residential New Neighbourhood Future Urban** Zone **or Medium Density Residential Zone** in order to give effect to the development requirements specified in the relevant **outline development plan**.
- m. In zones other than the **Residential New Neighbourhood Future Urban** Zone **or Medium Density Residential Zone**, the extent to which a development needs to comply with any flexible element of an **outline development plan**, including for phasing or location of infrastructure; and consideration of the effects of the movement of any elements on other landowners of land located within or adjacent to the **outline development plan** area, or on the safe, efficient or effective operation of infrastructure.
- n. Within the Lyttelton Port Influences Overlay, the imposition of an appropriate, volunteered condition prohibiting noise **sensitive activities** on the **allotments**, to be complied with on a continuing basis, for the purpose of incorporation into a consent notice to be issued by the **Council**.
- o. Whether wastewater disposal and stormwater management systems recognise the cultural significance of Ngā Wai **sites of Ngāi Tahu cultural significance** identified in **Schedule 9.5.6.4**, and do not create additional demand to discharge directly to Ngā Wai.

#### 8.7.4.4 Transport networks

- a. Whether the provision, location, design, safety and efficiency of any **road**, frontage **road**, **access** (including access for fire-fighting), pedestrian **access way**, **service lane**, **cycle way**/route/lane, corner rounding, intersections, **landscaping** or **parking area** including the formation and construction, is suited to the development it serves and is acceptable to the **Council**.
- b. Whether **service lanes**, **cycle ways** and pedestrian **access ways** are required or appropriate and are located and constructed in a safe and efficient manner.
- c. Whether the **subdivision** layout and **road** network supports walking, cycling and public transport, including **access** to **reserves**, facilities, commercial areas, **public**

transport facilities.

- d. Whether provision of a **cycle way** or pedestrian **access way** encourages active modes of transport, including to **community facilities**.
- e. Any works or upgrades to the **Council's road** network required, including in relation to any network **utility**, state highway or rail line.
- f. In the case of multiple **site subdivision** where parking is provided as a common facility, whether that **parking area** has appropriate **access** to a **formed road** and has an appropriate layout and number of **parking spaces**.
- g. For the Industrial General Zone (Stanleys Road) and Industrial Park Zone (Tait Campus): the extent of the developer's contribution to the costs of Wairakei/Wooldridge Roads intersection upgrading will be agreed with the **Council** in accordance with the **Council** Development Contribution Policy, which may include a Private Developer Agreement.
- h. The extent to which conditions are appropriate on a subdivision consent in a **Residential New Neighbourhood Future Urban** Zone **or Medium Density Residential Zones** in order to give effect to the development requirements specified in the relevant **outline development plan**.
- i. In zones other than the **Residential New Neighbourhood Future Urban** Zone **or Medium Density Residential Zone**, the extent to which a development needs to comply with any flexible element of an **outline development plan**, including for phasing or location of internal elements; and consideration of the effects of the movement of any elements on other landowners of land located within or adjacent to the **outline development plan** area, or on the safe, efficient or effective operation of transport networks.

#### **8.7.4.5 Open space, reserves and recreation (including esplanade reserves, strips or additional land)**

- a. Outside the **Central City**:
  - i. The need, type, location and layout of any land to be provided for **reserves** for open space and recreation purposes, including whether an active frontage is provided and any requirements for the formation of that land prior to it vesting in the **Council**, where applicable.
  - ii. The degree to which the **subdivision** encourages active frontages to **reserves** for open space and recreation purposes.
  - iii. The provision and/or width of an **esplanade reserve** or esplanade strip.
  - iv. The manner in which the **subdivision** responds, in particular, to the place making and context, block layout, and relationship to street and **public open spaces**.
  - v. Any impact of **subdivision** works on land for open space and recreation, on **sites** or areas of cultural value to tangata whenua, or on waterways, **springs**, **sites of Ngāi Tahu cultural significance** identified in **Appendix 9.5.6**, **indigenous biodiversity**, mahinga kai and the coastline.
  - vi. The need for land to be set aside and vested in the **Council** as a **reserve** for open space and/or recreation where it will provide for one or more of the following:



- A. land for a local neighbourhood park, accessible to the user population and of a size adequate to accommodate children's play equipment, substantial tree plantings and open space;
  - B. a linkage or potential linkage along or to significant natural features, or between other areas of public open space and community facilities;
  - C. protection and enhancement of significant mature trees, significant areas of indigenous vegetation, margins of waterways or other significant natural features;
  - D. protection or enhancement of historic or cultural features of significance to the population;
  - E. a usable area of open space for planting as visual relief from a built or highly developed environment;
  - F. a flat usable area of land for district sports fields, accessible with full road frontage, and of a size adequate to accommodate at least two rugby-sized sports fields and associated user facilities and training field, tree planting, a playground and open space required for other recreation activities;
  - G. recognition of Ngāi Tahu cultural values, and historic and contemporary identity associated with sites of Ngāi Tahu cultural significance identified in Appendix 9.5.6; and
  - H. smaller sized public spaces that allow for community interaction, including seating and planted areas.
- vii. Whether appropriate mechanisms are in place to ensure the maintenance of open space areas and reserves not being vested in Council.
  - viii. The extent to which conditions are appropriate on a subdivision in a Residential New Neighbourhood Future Urban Zone or Medium Density Residential Zone in order to give effect to the development requirements specified in the relevant outline development plan.
  - ix. In zones other than the Residential New Neighbourhood Future Urban Zone or Medium Density Residential Zone, the extent to which a development needs to comply with any flexible element of an outline development plan, including for phasing or location of internal elements; and consideration of the effects of the movement of any elements on other landowners of land located within or adjacent to the outline development plan area, or on the safe, efficient or effective operation of open space and reserves.

#### 8.7.4.6 Natural and cultural values

- a. The extent to which springs are protected, maintained and enhanced, including in relation to ecological, cultural and amenity values and the extent to which the development provides for pathways, for the water to flow from the spring head, that have regard to the existing natural flow path.
- b. Any adverse effects of the proposal on the quality of surface and ground water, mahinga kai,

including within waterways, on drainage to, or from, [adjoining](#) land, existing drains, waterways, and/or ponding areas.

- c. The extent to which the proposal would protect and provide for the flood storage and conveyance capacity of waterways, or on drainage to, or from, [adjoining](#) land, existing drains, waterways, and/or ponding areas.
- d. The extent to which the proposal manages erosion and sediment discharge to waterways.
- e. Recognition of Ngāi Tahu's history and identity and cultural values.
- f. The extent to which Ngāi Tahu cultural values associated with waterways, [springs](#), [indigenous biodiversity](#) and mahinga kai are protected.
- g. The extent to which the [subdivision](#) enables the retention of [archaeological sites](#).
- h. The manner in which the [subdivision](#) responds to values provided for in Chapter 9 (Natural and Cultural Heritage), including any requirement for a consent notice where a condition is to be complied with on a continuing basis.
- i. In relation to the removal of consent notices created through [subdivision](#) to protect trees whether the effect on [amenity values](#) can be offset by other trees on or surrounding the [site](#) or the replacement of the tree or trees with appropriate species on-site or other appropriate locations. The appropriateness of species will include consideration of the time required for any new trees to reach a size where the negative impact of tree removal would be offset.
- j. In relation to the Industrial General Zone (North Belfast) only, whether a protocol has been agreed with Te Ngāi Tūāhuriri Rūnanga for managing any accidental discovery. This may include a cultural monitor, who shall be a representative approved by Te Ngāi Tūāhuriri Rūnanga and contracted by the applicant to be on-site if deemed necessary by the Rūnanga.
- k. Where the [subdivision](#) is of land which includes a [Site of Ngāi Tahu Cultural Significance](#) identified in [Appendix 9.5.6](#), the matters set out in [Rule 9.5.5](#) as relevant to the site classification:
  - i. [Rule 9.5.5.1](#) - Wāhi Tapu / Wāhi Taonga, Mahaanui Iwi Management Plan Silent Files and Kaitōrete Spit;
  - ii. [Rule 9.5.5.2](#) - Ngā Tūranga Tūpuna; and
  - iii. [Rule 9.5.5.3](#) - Ngā Wai.

#### **8.7.4.7 Consent notices**

- a. The requirement for any consent notice where a condition is to be complied with on a continuing basis.

...

## **8.8 Rules as to matters of discretion - subdivision**

### **8.8.8 Compliance with outline development plans and density**

- a. For subdivision in a residential zone, whether the subdivision precludes the required household density target to be met across residential development areas of the outline development plan area, including the housing typologies required to meet that target, and whether the typologies cater for all life stages, physical abilities, and opportunities for socio-economic diversity.
- b. Whether the subdivision precludes or discourages development in another part of the outline development plan area.
- c. Whether the subdivision integrates and connects appropriately to other parts of the outline development plan area, and the surrounding area, and any layering diagrams.
- d. Whether the proposed layout is practicable and provides for the existing or intended purpose or land use.
- e. Whether the potential effects of natural hazards will be appropriately avoided or mitigated.
- f. The extent to which the subdivision affects the ability of any future subdivision stages by other landowners in the outline development plan area to be in accordance with the outline development plan.
- g. The extent to which a development complies with any fixed or flexible elements of an outline development plan, or with the development requirements of an outline development plan in a **Residential New Neighbourhood Future Urban Zone** or Medium Density Residential Zone at Hendersons Basin (East – Area 4c), including for phasing or location of infrastructure or other internal elements; and consideration of the effects of the movement of any elements on other landowners of land located within or adjacent to the outline development plan area, or on the safe, efficient or effective operation of infrastructure.

**Commented [AL11]:** Updated to apply ODP matters to the MRZ Hendersons Basin ODP area

### 8.7.5 **Additional matters — ~~Residential New Neighbourhood Future Urban Zone~~ and Medium Density Residential Zone at Hendersons Basin**

**Commented [AL12]:** Updates to apply ODP matters to the MRZ Hendersons Basin ODP area

#### 8.7.5.1 **Integration, context and placemaking**

- a. Whether the **subdivision** integrates with the existing context including retention of existing natural and built features, adjacent patterns of development and potential visual and physical connections.
- b. Whether the **subdivision** responds to and complements the design and layout of adjacent blocks, streets and open spaces.
- c. Whether the **subdivision** provides for **adjoining** land within the **outline development plan** to be developed in accordance with **Residential New Neighbourhood Future Urban Zone** or Medium Density Residential Zone standards (as applicable) and the **outline development plan**.
- d. Whether the **subdivision** contributes to the sense of place envisaged in the **outline development plan**, drawn from its context and delivered through the block, street and open space layout, to the configuration of **allotments** and elements of the open space.

## Chapter 14 – Residential Zones

### 14.5 Rules – Medium Density Residential Zone

**Commented [AL13]:** Updated to apply ODP general accordance rules to the MRZ Hendersons Basin ODP area, consistent with rules for the RNN/FUZ

#### 14.5.1.3 Restricted discretionary activities

Activity	The Council's discretion shall be limited to the following matters:
<u>R32</u> Activities and buildings that do not meet 14.5.3.2.5 – Hendersons Basin (East – Area 4c) Outline Development Plan	<u>a. Outline Development Plan – Rule 14.15.37</u>

#### 14.5.3.2 Area-specific built form standards

##### 14.5.3.2.15 Hendersons Basin (East – Area 4c) Outline Development Plan

a. Any activity in Hendersons Basin (East – Area 4c) shall be in general accordance with the Outline Development Plan in Appendix 8.10.13

### 14.15 Rules – Matters of control and discretion

#### 14.15.357 Outline development plan

a. The appropriateness of the proposal taking into account the outcomes sought by the outline development plan and relevant environmental effects with respect to those outcomes.