To: Marlborough District Council

And to: The applicant and submitters

in the matter of	The Resource Management Act 1991
and	
in the matter of	A private plan change application (called PPC 60) by Kapiti Views Trust for a change to the Wairau Awatere Resource Management Plan pursuant to Schedule 1, RMA

Commissioners' Decision

Hearing:	19, 20 and 21 November 2012
Site Visit:	21 November 2012
Decision Date:	

Result: Application declined.

Independent Commissioners: John Maassen, Chairperson
Councillor David Oddie
Councillor Jamie Arbuckle

Terms

Act/RMA	=	The Resource Management Act 1991
Plan	=	The plan means the Wairau Awatere Resource Management Plan
RPS	=	The Marlborough Regional Policy Statement
MDC	=	Marlborough District Council
PPC 60	=	Plan Change application by Kapiti Views Trust
KVT	=	Kapiti Views Trust
The site	=	More than 300 ha of land in the Taylor Valley near the intersection of Taylor Pass Road and Maxwell Pass Road being Lots 1, DP 357141 and Lot 1, DP 9518, being 320.919 ha more or less on certificate of title 232445, Section 2 SO 7014, being 8.9 ha more or less on certificate of title 5A/644
Revised Schedule of Plan Provisions	=	The revised provisions for PPC 60 in Appendix 3 received after the hearing as part of KVT's right of reply
Plan Change Area	=	That area being 50 ha more of less delineated in green in outline development plan A (Appendix 2, Figure 4) to be zoned Maxwell Hills zone)

Appendices, Maps, Figures

General Background

1. PPC 60 is a request by KVT pursuant to Schedule 1 of the RMA to amend the Plan. The trustees of KVT are Mr JA and Mrs AL Marris. PPC 60 in its simplest form seeks rezoning of approximately 50ha (the plan change area) of Rural 4 zoned land (currently used for pastoral farming) on what are the lower slopes of a larger 320ha (approximately) pastoral farming block in the Taylor Pass and Maxwell Pass and with boundaries on Maxwell Pass Road and Taylor Pass Road. The new zone is called Maxwell Hills Zone. The new zone will contain special objectives, policies and rules contained within a new Appendix to the Plan together with consequential changes to planning maps. The new Maxwell Hills zone will authorise up to 160 residential lots ranging between 2000m^2 and 4000m^2. The character of development enabled by the Maxwell Hill Zone is therefore residential. If approved there will be a new self-contained suburb of Blenheim in the country with views to the Wairau Valley and

beyond but distinctly separate from the existing urban area of Blenheim. The current development density control for Rural 4 land is a minimum lot size of 20ha.

2. The site is located 7km from Blenheim's CBD and 2.5km from its existing urban boundary. The site is on the eastern slopes of the Taylor Valley. Across the Taylor Road is the Taylor River and Taylor Dam. The site's characteristics and the zoning context of the site and surrounding land are well illustrated in Graphics 1 and 2 of Appendix 2.

3. The locality is predominantly rural in character. Production forestry and pastoral uses predominate on the surrounding land.

4. The site topography is characterised by alluvial flats and sloping areas at the base where the proposed residential lots are to be located. The remainder of the land is moderately steep with periodic gully fingers hosting intermittent streams.

5. PPC 60 proposes access to the site from Taylor Pass Road and from Maxwell Pass Road. These are classed as local roads in the plan. Taylor Pass Road is around 6m wide with no kerbs, channels or footpaths. Vehicle movements are about 150 vehicles per day. Operational capacity of Taylor Pass Road is conservatively estimated at 1,200 vehicles per hour.

6. The Revised Schedule of Plan Provisions is contained in Appendix 3. These were presented after the hearing as a refinement of the original provisions in light of the issues arising at the hearing.

7. The people who attended the hearing and their witnesses are listed in Appendix 1. We also received the section 42A reports from the people listed in Appendix 1.

Principal Matters in Contention and Commissioners' Approach to Them

8. The 'big ticket' matters in contention that emerged from the application by KVT were:

   (a) The nature and extent of the risk of subsidence, erosion and scouring arising from the particular geophysical characteristics of the site and the sufficiency of

the plan change provisions to avoid or mitigate the hazard and the sustainability of any engineered outcome. That matter is addressed under the heading "Hazard Risk Assessment and Evaluation".

(b) The adequacy of servicing and the sustainability of the ongoing administration of onsite servicing. That matter is addressed under the heading "Servicing Assessment and Evaluation".

(c) The effects of the intended development on landscape values and rural amenity and character. That matter is addressed under the heading "Visual and Rural Character Assessment and Evaluation".

(d) The effects of the intended development on the current community of Taylor Pass residents (and hence social and cultural wellbeing) arising together with reverse sensitivity effects and elevated risk of fire. That matter is addressed under the heading "Community of Interest and Reverse Sensitivity Assessment and Evaluation".

(e) Planning assessment of sustainable urban growth in Blenheim, consistency of the intended development with the existing planning strategy in the District Plan and the relevance and significance of any inconsistency together with an assessment of whether the plan change gives effect to the RPS. That matter is addressed under the heading "Strategic Planning Assessment and Evaluation".

(f) Whether the goals of the PPC 60 meet the overall purpose of the Act. That matter is addressed under the heading "The Overall Judgement Exercise."

9. The plan change process is iterative[1]. Inevitably a hearing on a plan change application will explore the following questions in addition to the anticipated effects of the activities to be enabled by the plan change:

(a) The extent to which policy needs to be added or refined to give effect to the overarching planning goals in the form of objectives; and

[1] *Countdown Properties v Dunedin City Council* [1944] NZRMA 145 where the High Court noted that the plan change process needs to be flexible and an unduly legalistic approach is not appropriate.

(b) The extent to which rules need to contain discretions informed by policies to manage effects and the sufficiency of those tools to avoid remedy or mitigate effects.

10. In parts of the hearing we addressed through questioning (in respect of the principal matters in contention) possible refinements in policy rules, discretions and other methods (eg outline plans and landscape concept plans) to address anticipated effects. That exploration led to the applicant providing a Revised Schedule of Plan Provisions in Appendix 3. This more polished plan change means that this decision doesn't address a 'straw man' where we criticise deficiencies in the plan change that the applicant (or we) could otherwise have solved. The plan change provisions in Appendix 3 are the best that the applicant can put together and our focus in this decision can, as a result, focus on whether or not the goals of the plan change are on an overall judgement appropriate and meet the statutory tests.

11. The zone statement for the proposed Maxwell Hills Zone states:

> The Maxwell Hills Zone is intended to provide a very low density residential living environment in the rural hills setting. This zone adds to the choice of high amenity living and environments available to Wairau/Awatere community. The zone is located 2.5km from the existing Blenheim urban boundary and about 1km from the Taylor Dam River. The density of development provided is much lower than the nearby Blenheim urban area but is higher than the density of the existing rural residential zones which are around 1ha and is intended to provide for the growing demand for lots between 2,000m^2 - 4,000m^2 in area. The zone is intended to take some pressure off the demand for rural residential development in the Wairau Plain and, from a visual amenity point of view, will enable the development of a hill residential environment that is not visible from Blenheim.

12. There is a single overarching goal expressed (in a form that begs the question of sustainability) in Objective 1 of the proposed plan change that follows that zone statement. That goal is:

> An environment that provides a sustainable and alternative choice for residential living for the community while avoiding or mitigating any adverse effects on the amenity values and characteristics of this rural environment.

13. As stated, our task (after evaluating the anticipated effects) is to consider as a matter of overall judgement whether that new objective (to be understood in its context as establishing a specific Maxwell Hills Zone providing for a residential enclave in Taylor Pass) is the most appropriate objective to achieve the purpose of the RMA recognising that in discerning the purpose of the Act we are not confined to the general language of Part 2. We must also consider the RPS (that must be given effect to) which is a statement of what sustainable management means within the context of the Marlborough region.

14. The reworded plan change has other subsidiary objectives relating to:

(a) Hazards (Objective 2);

(b) Reserves (Objective 3);

(c) Landscape (Objective 4);

(d) Community Wastewater Management System (Objective 5);

(e) Reverse Sensitivity (Objective 7).

15. These objectives (Objectives 2-7) are subsidiary objectives to Objective 1 because they provide the means for achieving Objective 1. They therefore have a different character to Objective 1. If Objective 1 is an appropriate goal, then some form of objective similar to Objectives 2 and 7 would also be required. One could argue that Objectives 2 and 7 are more in the nature of general policies on the particular topics they address that then introduce the more specific policies. That is a quibble. These new objectives and policies (illustrated by the sea of green on the pages in Appendix 3) illustrates the applicant's recognition that more detailed policy guidance was needed to address the very real concerns about the adequacy of the provisions as notified in securing a subdivision consent process under Part 6 RMA that:

(a) contains sufficient policy to explain the intended outcomes of the zone; and

(b) contains sufficient discretions to enable the assessment and evaluation of the proposal against those policies so that anything that fell short could be declined if incapable of being adequately addressed by conditions.

Relevant Law

16. A leading case on the methodology for evaluation of plan changes is *Long Bay-Okura Great Park Society Incorporated v. North Shore City Council.*[2] In paragraph 20 of the decision, Jackson ECJ summarises the nature of resource management inquiry in this type of case. That paragraph reads:

> [20] The traditional fact/law/judgment division of civil cases inadequately describes the role of a local authority (or the Environment Court on appeal) in relation to a district or regional plan, a policy statement or a resource consent. We consider there are not three but four general steps in most proceedings under the RMA:
> (1) fact-finding;
> (2) the statement of the applicable law;
> (3) risk predictions: assessing the probabilities of adverse effects and their consequences;
> (4) the overall assessment as to what better achieves the purpose of the RMA.

17. In addition, Jackson ECJ in the *Long Bay-Okura Great Park* decision refined the *Eldamos* tests[3] with a more comprehensive statement of the mandatory requirements for district plan changes. While that statement in paragraph 34 of the decision requires modification for a plan that is both a district plan and a regional coastal plan, the passage is still helpful. Paragraph 34 of the *Long Bay-Okura Great Park* decision reads:

> [34] A relatively comprehensive summary of the mandatory requirements[4] for district plans or plan changes - with the different statutory tests emphasised for convenience is:
>
> A. General requirements

[2] *Long Bay-Okura Great Park Society Incorporated v. North Shore City Council* EnvC Decision no. A078/2008 dated 16 July 2008.
[3] See *Eldamos Investments Limited v. Gisborne District Council* W47/2005 at para 128.
[4] Noting again that this is under the pre-2005 Amendment version of the RMA.

1. A district plan (change) should be designed to **accord with**[5], and assist the territorial authority to **carry out** - its functions[6] so as to achieve, the purpose of the Act.[7]

2. When preparing its district plan (change) the territorial authority **must give effect to** any national policy statement or New Zealand coastal Policy Statement.[8]

3. When preparing its district plan (change) the territorial authority shall:
   (a) **have regard to** any proposed regional policy statement;[9]
   (b) **not be inconsistent with**[10] any operative regional policy statement.[11]

4. In relation to regional plans:
   (a) the district plan (change) must **not be inconsistent with** an operative regional plan for any matter specified in section 30(1)[or a water conservation order][12]; and
   (b) **must have regard to** any proposed regional plan on any matter of regional significance etc;[13]

5. When preparing its district plan (change) the territorial authority must also:
   • **have regard to** any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations;[14] and to consistency with plans and proposed plans of adjacent territorial authorities;[15]
   • **take into account** any relevant planning document recognised by an iwi authority; and
   • not have regard to trade competition;[16]

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[5] Section 74(1) of the Act.
[6] As described in section 31 of the Act.
[7] Sections 72 and 74(1) of the Act.
[8] Section 75(3)(a) and (b) of the Act.
[9] Section 74(2) of the Act.
[10] Note: under the Resource Management Amendment Act 2005 section 75(3)(c) now requires an operative RPS to be given effect to in a district plan .
[11] Section 75(3)(c) of the Act.
[12] Section 75(5) of the Act.
[13] Section 74(2)(a) of the Act.
[14] Section 74(2)(b) of the Act.
[15] Section 74(2)(b) of the Act.
[16] Section 74(3) of the Act.

6. The district plan (change) must be prepared **in accordance with** any regulation[17] (there are none at present);

7. The formal requirement that a district plan (change) must[18] also state its objectives, policies and the rules (if any) and may[19] state other matters.

B. Objectives [the section 32 test for objectives]

8. Each proposed objective in a district plan (change) **is to be evaluated** by the extent to which it is the most appropriate way to achieve the purpose of the Act.[20]

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. The policies are to **implement** the objectives, and the rules (if any) are to **implement** the policies.[21]

10. Each proposed policy or method (including each rule) is to be examined, **having regard to its efficiency and effectiveness**, as to whether it is the most appropriate method 'for achieving the objectives[22] of the district plan -+taking into account:

    (a) the benefits and costs of the proposed policies and methods (including rules); and

    (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods,[23]

D. Rules

[17] Section 74(1) of the Act.
[18] Section 75(1) of the Act.
[19] Section 75(2) of 'the Act.
[20] Section 32(3)(a) of the Act.
[21] Section 75(1)(b) and (c) of the Act (also section 76(1)).
[22] Section 32(3)(a) of the Act.
[23] Section 32(4) of the Act.

11. In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment.[24]

E. Other statutes:

12. Finally territorial authorities may be required to comply with other statutes. Within the Auckland Region they are subject to:
    - the Hauraki Gulf Maritime Park Act 2000;
    - the Local Government (Auckland) Amendment Act 2004.

18. Jackson ECJ also said in *Long Bay Okura Great Park Society Incorporated v North Shore City Council*[25] at paragraph 39 that plan changes sit on a spectrum between those that fit within existing plan objectives and policies and plan changes "*setting off in an direction of its own with different objectives and policies.*"[26] Both residential and rural residential demand for Blenheim and how it is to be met is addressed in the Plan. The locational and specific site attributes of the site mean that those provisions in the Plan are inapplicable to PPC 60. Hence the Maxwell Hills Zone is proposed to be inserted as an appendix to the Plan. KVT argues that the proposed Plan change provisions do not really set off in a completely different direction because there is another zone in appendix K to the Plan that specifically provide for development that is residential in character within the rural zone ie: the Marlborough Ridge land. Appendix K is however the exception that proves the rule. The provenance of the Marlborough Ridge zone is uncertain. Having visited the area, we would not describe it as an unqualified success. There are examples of larger lot (roughly 1 ha) rural residential development rural zone. Ben Morven is a good example of a successful rural residential development integrated with the rural environment. It is located on a spur, larger lot sizes (around 1ha on average) which, with its mature and extensive plantings, is not incongruous with the extensive vineyard patchwork on the Wairau Valley floor. PPC 60 is setting off in a new direction in terms of strategic policy.

[24] Section 76(3) of the Act.
[25] 4 EnvC D No. A078/2008.
[26] Ibid at para 39.

19. RMA, s 75 says in relation to the contents of district plans (and that is the aspect of the combined plan we are principally considering here) must *give effect to* any Regional Policy Statement.[27] RMA, s 75 also uses the term *implement* in the context of stating that the relevant plan *must state ... the policies to implement the objectives*. Often implement is seen as an appropriate synonym for the decisional verb phrase *give effect to*. Parliament however does not appear to use them synonymously in RMA s.67 and 75. The difference in the words chosen is subtle but probably reflects the fact that objectives in the plan are planning goals appropriate to the district or region and specific to its particular resources and in such circumstances the term *implement* is appropriate. The term *give effect to* recognises the regional purview of the policy statement. That interpretation is consistent with the way that the different terms are used in ss 67 and 75 where *implement* concerns direct achievement of goals through the policy and rule components of the plan whereas *give effect to* concerns effectuating the goals of a higher order plan.

20. The case law makes it plain that the term *give effect to* is a stronger decisional direction than *have regard to*.[28] [29]

21. It is also worthwhile to contrast the phrase *not inconsistent with* and *give effect to.* In the case of *Auckland Regional Council v Rodney District Council* [2009] NZCA

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[27] See s 75 (3).

[28] For example *New Zealand Fishing Association v Minister of Agriculture and Fisheries*[28] concerning the Fisheries Act, Cooke P as he then was stated: "he is directed by s.107G(7) to *have regard* to any submissions made. Such submissions are to be given genuine attention and thought. That does not mean the industries' submissions are for attention and necessarily must be accepted. The phrases 'have regard to' not 'give effect to'. They may in the end be rejected or accepted only in part. They are not, however, to be rebuffed at the outset by closed minds so as to make the statutory process some idle exercise."

[29] See also Hansen J in *Foodstuffs (South Island) Limited v Christchurch City Council* [1999] NZRMA 481 where His Honour stated: "I do not consider the term "shall have regard to" in s.104 RMA should be given any different meaning from the cases referred to above. In my view the appellant is seeking to elevate the term from 'have regard to' to 'shall give effect to'. The requirement for the decision maker to give genuine attention and thought to the matters set out in s.104, but they must not necessarily be accepted."

1999, Baragwanath J addressed the meaning of *not inconsistent with* in the context of the 2005 amendments to the RMA:

> "[15] It is not clear from the Act that, at least before the amendment of 9 August 2005, the district plan was required to coincide with what was said in the higher level documents. The only document it was specifically required to give effect to was the national policy statement. By s.75(2) the district plan was to be 'not inconsistent' with the regional policy statement and plan. This does not seem to prevent the district plan taking a somewhat different perspective, although insofar as it was inconsistent it would be ultra vires. (the 2005 amendment to s.75, requiring a district plan to 'give effect to' national policy statements, NZCPS and regional policy statements, now allows less flexibility than its predecessor." (my sub lineation)

22. Features of the term *not inconsistent with* are, therefore, that:

(a) It allows for variability in approach within the boundary of consistency;

(b) Does not necessarily require implementation, unless implementation is required to achieve consistency.

23. Considering all of the above, the following summary is our approach to the interpretation and application for an RPS in the context of policy and plan making under the Plan:

(a) That an RPS should be read in light of:

(i) The reason it was prepared;
(ii) The context of other policies and priorities of the Marlborough region;
(iii) Its purpose to achieve sustainable management;

(b) That an RPS contains objectives and policies that represent environmental goals of regional significance and are to be interpreted in the same manner as objectives and policies of regional plans (according to the approach settled by the courts) and in the context of the RPS's regional purview;

(c) That *give effect to* means to pursue (or 'cause to happen') the environmental goals (objectives and policies) of the RPS in the formulation of the provisions of a Plan. It has a close resemblance to *implementation,* but that term is used in the RMA in the context of implementing objectives of a plan itself grounded in the individual natural and physical resources of the region or district;

(d) Effectuating the environmental goals in an RPS needs to be through plans and policies in the context of the region or district and its natural and physical resources in a manner that overall achieves Part 2 as required by RMA s.32; and

(e) In determining the appropriate wording of new plans a detailed and critical analysis is required that includes an examination of:

(i) The particular objectives and policies in question and their meaning and decisional verb phraseology;
(ii) Their relevance to the resources of the region and district;
(iii) The range of options to give effect to an RPS;
(iv) An analysis of which option is best considered to achieve the purpose of the RMA.

The Plan's existing strategy for the rural zone

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24. The rural zone provisions are in Volume 1, chapter 12 of the Plan. There are special provisions for the upland environment and for the Wairau Plain which is zoned Rural 3. The subject site is zoned Rural 4 and the general provisions in section 12.4 apply.

25. Objective 1 is as follows: "*Maintenance and enhancement of the life supporting capacity of the soils and the retention of primary production options for rural land*".

26. Policies 1.4 and 1.6 respectively are as follows:

1.4 To ensure controls do not necessarily inhibit land use and management options that sustain the land and soil resources.

1.6 Ensure that subdivision/development does not compromise existing primary production options.

27. Objective 2 states:

> To provide for a range of activities which do not create an unacceptable working environment while avoiding, remedying or mitigating adverse effects on the environment.

28. The following subsidiary policies are also relevant:

Policy 2.1 To limit the scale of subdivision and dwellings for rural purposes for the creation of lots which retain the amenity values of openness, and minimise the potential conflicts between residential and neighbouring rural activities.

Policy 2.2 To enable rural activities which might generate adverse effects such as noise or smell, to operate in rural areas in accordance with accepted practices without being significantly compromised by other activities demanding higher levels of amenity.

Policy 2.3 To identify existing rural residential locations within the Rural 4 Zone and to acknowledge the demand for rural lifestyle allotments while taking into account potential adverse effects, particularly on rural amenities and on sustainable management of the land resource, of the Rural 4 Zone.

29. The associated explanation to Objective 2 and its consequential policies is as follows:

> People have differing expectations about what are acceptable amenity levels in the rural environment. Amenity means how noise levels, odour strength, air quality and visual appearance relate to the overall nature of the rural environment. The inherent nature of land based productive activities, means that intermittently higher noise levels will be produced when agricultural machinery is being used, stock is being moved or held, or crop protection mechanisms are activated. These activities may also result in increased odour levels and reduced air quality.

Principal methods to achieve the objective policies is the method of zoning and in particular Rural 4 Zoning.

30. Section 12.5 addresses rural residential activity. That is defined by the use of parentheses in the section heading in 12.5 as *Residential Activity in the Rural Environment.*

31. The issue is expressed in section 12.5.1 as follows:

> Accommodating rural residential living in a manner that does not result in incompatible activities in the rural environment.

32. That issue is further elaborated on in the succeeding paragraphs including the following paragraph that anticipates future rural residential areas in certain circumstances:

> Existing rural residential areas in the Wairau/Awatere area such as at Rarangi have been given a rural residential zoning. New locations will be considered where it can be demonstrated that there will be no adverse effect on existing legitimate rural activities and where public health concerns (such as sewage disposal), water availability and water quality issues have been addressed, along with factors involving ecology, landscape, land stability, inundation, drainage and transport.

33. Objective 1 in section 12.5.2 states:

> To adequately provide within the rural zones for a range of persons wishing to live in the rural areas without placing undue demands on existing facilities in the rural areas and without inhibiting or diminishing life supporting capacity of the soil or the primary productive capacity of the land.

34. Policy 1.3 recognises in addition to specific rural residential activities the need to provide for flexibility in the Rural 4 Zone for part time or hobby farming uses and intensive farming on small lots.

35. The methods for implementation are recognition of existing rural residential areas by means of a zone and require new localities to be accommodated through plan change procedures.

36. Subdivision of Rural 4 land is controlled in chapter 28 of the Plan. A minimum lot size to qualify as a controlled activity is 20ha. For land zoned rural residential, the minimum lot size is 4,500m^2 with 1ha average.

37. Objective 1 in Section 12.5.1 and associated policies are a little confusing. Policies 1.1-1.7 address rural residential development while obviously 1.8 concerns residential development within the coastal environment.

38. The explanation for this is probably that it is only an area zoned rural close to the coast where residential development is anticipated and in other rural areas what is anticipated is rural residential rather than residential development. Rural residential development in this context appears to mean something smaller than a hobby farm or small lots for intensive farming (ie 10ha) but something with a sufficient size as to retain good separation distances from other rural activity and a degree of openness consistent with rural character. That is distinct from small allotments where residential activity predominates as is the case with the Maxwell Hill Zone provisions.

39. On Chapter 12 of the Plan our conclusions are:

(a) The plan is reasonably agnostic about the existence of rural residential development in the rural 4 zone and in some circumstances recognises the need to positively enable it as an alternative option;

(b) The enablement is subject to the overarching proviso that the other objectives and policies for the rural zone are not unduly compromised with particular emphasis on the avoidance of conflicts between *rural users and residential activity;*[30]

(c) The appropriate vehicle for a person wishing to provide for people to reside within the rural zones is by way of plan change; and

(d) Residential development in the rural zone is not anticipated by the plan.

40. Chapter 11 of Volume 1 of the Plan addresses the residential strategy of the Plan under the heading 'Urban Environment'.

41. Objective 1 in Section 11.2.2 is:

[30] See section 12.5.2, policy 1.1.

The maintenance and creation of residential environments which provide for the existing and future needs of the community.

Policy 1.1 following on from Objective 1 states:

Accommodate residential growth and development of Blenheim within the current boundaries of the town.

42. Policy 1.4 states:

Enable lower density residential use at Blenheim urban periphery, to provide for a transition environment between expected urban and rural amenities.

43. Policy 1.5 states:

Ensure where proposals for the expansion of urban areas are proposed, that the relationship between urban limits and surrounding rural areas is managed to achieve the following:

- Compact urban forms;
- Integrity of the road network;
- Maintenance of rural character and amenity values;
- Appropriate planning for service infrastructure; and
- Maintenance and enhancement of the productive soils of rural land

44. The following explanation to Objective 1 includes the following statement:

It is very important that the interface between urban peripheries in rural areas is sustainably managed. The relationship between the urban and rural zonings is the basis of expected amenities, planning for service infrastructure and efficiency, energy conservation and the retention of the rural land for productive uses, along with its character and amenities. Any expansion of the urban limits needs to be considered in a coordinated manner having special regard to the rural/residential interface.

45. Objective 2 in Chapter 11 states:

To ensure that growth occurs in locations suitable for residential development.

46. Policy 2.1 says:

Avoid new or further development in areas subject to natural hazards.

47. Our conclusion about the plan strategy in Section 11 for enabling residential growth is:

(a) To avoid areas subject to natural hazards;

(b) Allow for a range of densities but with the usual density transect so that density diminishes from the Blenheim town centre so that low density residential is located on the periphery;

(c) Prioritise development within the town boundaries;

(d) Carefully manage the interface between urban and rural areas.

Relevant Provisions in the RPS

48. The following provisions from the RPS are relevant to our consideration of PPC60.

6.1.5 Objective – Soil Productivity and Avoidance of Soil Erosion and Degradation

- Practices which exacerbate soil erosion and degradation be avoided; and
- The potential and life supporting capacity of all soils be ensured by retaining the productive capability of those soils.

6.1.6 Policy – Soil Fertility and Avoidance of Erosion

- Take steps to reduce soil degradation and erosion where reasonably practicable.

7.1.2 Objective – Quality of Life

To maintain and enhance the quality of life of the people of Marlborough while ensuring that activities do not adversely affect the environment.

7.1.7 Policy – Amenity Values

Promote the enhancement of the amenity values provided by the unique character or Marlborough settlements and locations.

(c) The repopulation of rural communities will be promoted, consistent with environmental objectives, to ensure retention of their character and amenity values and that will allow people and communities to provide for their social, economic and cultural wellbeing.

7.1.9 Objective – Provision for Activities

To enable present and future generations to provide for their wellbeing by allowing use, development and protection of resources provided any adverse effects of activities are avoided, remedied or mitigated.

7.1.10 Policy – Type, Scale & Location of Activities

To enable appropriate type, scale and location of activities by:

- Clustering activities with similar effects;
- Ensuring activities reflect the character and facilities available in the communities in which they are located;

7.1.11 Methods

(a) Resource management plans will contain rules to control the type, scale, and location of resource related effects from activities.

7.4.2 Objective – Natural Hazards

Avoid or mitigate the actual or potential effects of loss or damage to life or property from natural hazards.

7.4.3 Policies – Hazard Mitigation

(a) Restrict land use activities in areas of known natural hazard.

(b) Restrict land use activities which would increase the risk of natural hazards to property and life.

7.4.4 (c) Incorporate within resource management plans land disturbance controls and guidelines to avoid, remedy or mitigate the effects or activities which increase the risk of natural hazards.

These controls and guidelines will apply to land disturbance for activities such as excavation, earth disturbance, vegetation removal, and fire. They will require that the best practicable means is undertaken to ensure that effects are minimised and will be targeted at those most likely to carry out these activities.

An interim plan for Land Disturbance Control will be prepared and notified. Eventually that plan will become an integral part of each of the two resource management plans.

7.4.5 Anticipated Environmental Result

No lives are lost due to natural hazards. Property damage from flood and earth movement is avoided, remedied or mitigated. No inappropriate development occurs within known hazard prone areas.

9.1.2 Objective – Control of Waste Effects

To avoid, remedy or mitigate the effects of waste and contamination on the environment.

Hazard Risk Assessment and Evaluation

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49. Graphic 1 in Appendix 2 illustrates the site well.[31] It is from a north looking viewpoint down Taylor Valley through the Wairau Plain and to the Richmond Hills beyond. The land proposed to be rezoned Maxwell Hills Zone are the alluvial flats as show in Graphic 1. The area is 50m - 200m wide of alluvial flats at the base of moderate to steep slopes of adjacent hill country. The slopes above the alluvial plains form a herring bone drainage pattern and incised river flats for depths of less than 5m.

50. The geology is in ascending depth a mixture of greywacke bedrock, Hillersden gravel, quaternary alluvium, loess and colluvium. On top of that is a topsoil of a thickness of between 0.2m and 0.3m.

51. The susceptibility of the loess soils in the Wither Hills to surface erosion and tunnel gullies is well-known. Indeed a section of Wither Hills close to Blenheim is zoned Soil Conservation. Without adequate vegetative cover, the land has seasonally induced desiccation cracks that end above a hard Frangipan layer. Cracks allow infiltration of water in wet periods down to dispersive layers at depth. Small tunnels form at the base of the cracks and with time erosion increases. Tunnel gully erosion arises from the chemical interaction between water and particular types of dispersible soils. In most instances soil dispersion can be attributed to a high percentage of exchangeable sodium.

52. The risk of tunnel gullying is the most significant hazard on the site. It is a significant hazard in the context of this application because of the extent of

[31] This is sourced from Figure 1 of the Riley Consultants' geotechnical assessment report contained in the application at page 3.

residential infrastructure intended to be located within that hazardous environment. Riley Consultants Limited for the applicant subdivided the site into areas based on hazard risk. Most of the alluvial plain on which residential development is to occur is classified as low hazard. Residential development does reach well into some of the land classified as minor or moderate hazard. The boundaries of the land to be rezoned Maxwell Hills Zone are superimposed on the hazard zones in Appendix 3.[32]

53. A section 42A report on geotechnical matters was presented by Mr Paul Russell of MWH. He noted in section 3.4.2 of his report that it is not easy in the field to identify the different properties between dispersive loess and non-dispersive loess. None of the information provided in the application addresses the location of the dispersive soils. On the basis of a MDC technical report, Mr Russell considered that anything greater than 12 degrees was subject to increased risk of tunnel gullying. That technical report is an MDC report by Dr Iain Campbell.[33] Based on experience with similar soils at Port Hills of Christchurch, Mr Russell concluded that it was essential that stabilisation of dispersive soils is undertaken at development stage. Based on his assessment of the proposed development layout that could be established under the Maxwell Hills Zone, he considered 50 properties potentially at risk from tunnel gully erosion.

54. Mr Russell did not consider that vegetation was of proven value in reducing tunnel gullying. Indeed, because of the root systems when trees die and leave holes, this can exacerbate the risks. Presumably this can also apply to cracks created by living trees where they extenuate the cracking of already fragile and dry soils through their absorption of moisture.

55. Any development of the site will involve extensive earthworks including engineering works and cut and fill with batters. The sheer magnitude of the work involved in developing this site (albeit over a long period of time) should not be underestimated. Mr Russell at section 7.2 of his report noted that it was important that dispersion properties of loess soils cannot be altered by reworking alone and chemical stabilisation (for example by the application of lime) is needed to prevent erosion. If loess or colluvium is used as fill, it must be chemically stabilised. He recommended

[32] Drawing No. 04819/6GT-4.
[33] Technical report no. 11/004 *Soil Survey of Part of the Wither Hills-Redwood Hills area Marlborough*, MDC.

that all battered slopes be retained otherwise there is an ongoing maintenance problem of a significant magnitude.

56. Mr Ladley, a senior geologist with Riley Consultants Limited, gave evidence for KVT. He gave evidence in support of the geotechnical reports supplied as part of the application and also responded to those matters raised by his colleague Mr Russell and Mr Russell's section 42 report.

57. Mr Ladley emphasised that the avoidance of water penetration into the proposed subdivision from the higher slopes was the most important element of managing risk associated with tunnel gully erosion susceptibility. At paragraph 33 of his Statement of Evidence he said:

> The controlled surface and groundwater flows is a critical element to managing the tunnel gully erosion on residential development at the site. A major element of the stormwater control for the development is a specifically engineered cut off drain above the site as outlined in the Riley reports.

58. This cut off drain will extend for a considerable distance across the site for more than one kilometre. The cut off drain was not particularly well detailed in the application. The position expressed on behalf of KVT was that that was best dealt with at the application stage. MDC officers took a contrary view. The Council officers' concerns were presented by Brin Williman and Brett Walker. The former is MDC's Rivers Planning Engineer and the latter is MDC's Infrastructure Projects Engineer. Mr Williman considered that the proposed interception drains may well be inadequate because of the heavy rain flood waters that impact on the site and will inevitably penetrate the proposed zone area. In section 3.2 of Mr Williman's and Mr Walker's report they outline the following reservations about the "sheet flow diversion bund" shown in drawings 04819/6SW in the application:

- The bund is to be built across steep land that is already approaching the angle of repose for the soil. There are likely to be issues regarding steepness and stability of the downhill batter slope.

- Not specifically mentioned, but probably required, is a cut off trench on the upstream side of this diversion bunding. The cut off trench will provide material for the diversion bunding and will carry the water flows.

- This cut off trench and bunding will need to be constructed on a steady and significant slope to discharge the nearest stream. There could be issues regarding the stability of the uphill batter of the trench.

- The indicative drawings on 084819/6SW appear to indicate that in places the diversion bunding goes uphill. This of course will not work and would need to be addressed by careful location of the bund/trench or to excavate significant cut.

- Conversely, the indicative drawings show the bunding to be very steep in places which may require erosion protection of the surface.

- The bunding/cut off trench will be ineffective at dealing with subsurface tunnels on its own as these tunnels may be in the order of 1.5m below the surface.

- This bunding/trench may have to be designed to receive water from the proposed overflow pipes as part of the treatment for tunnel gullies.

- It is possible that this diversion bunding/cut off trench will leak diverted flood flows into a tunnel gully underneath. This would cause an increase of erosion flooding sedimentation problems downstream where the tunnel emerges. The cut off trench may need to be lined with an impermeable surface such as concrete.

59. In theory, no one disputes that many of these issues can be addressed by an engineering scheme, albeit at significant cost. Even with that however, there is ongoing maintenance issues and possibly the need for upgrading in the event that the system proves insufficient. For that reason Mr Williman said that it was very unlikely that the Council would be prepared to take responsibility for this infrastructure. The applicant proposes that the maintenance and repair obligations be met by a Residents and Owners Association. A proposal we will consider under the next topic of Servicing Assessment and Evaluation.

60. The applicant accepted that the plan provisions as originally proposed were inadequate in respect of the tunnel gully hazards in that they:

(a) Failed to identify the nature of the hazard risks associated with the development of the site;

(b) Failed to identify the outcomes that had to be achieved if an application for subdivision consent was approved; and

(c) Required more detail as to the engineering design required for the interception drain which was such a critical part of the infrastructure.

61. To address these issues a new hazard section with an objective and six supporting policies was included (Objective 2 and Policies 2.1-2.6). In respect of tunnel gully erosion policy 2.2 states as follows:

> Policy 2.2 - Tunnel Gully Erosion
> To minimise the occurrence of tunnel gully erosion within the zone and to ensure that development and future use of the area is protected by careful control and management of surface and groundwater. Tunnel gully erosion will be managed by a combination of responses including:
>
> (1) All tunnel gully features identified during subdivision development will be appropriately backfilled with non-erodible material where necessary in a manner designed and certified by a suitably qualified geotechnical engineer.
>
> (2) The construction of a surface water cut-off drain and subsurface drains uphill of the zone in the location identified on the outline development plan. The surface water cut-off drain must:
>
> (i) be founded on competent and non-erodible ground (e.g. Hillersden Gravel or greywacke);
> (ii) include a specifically designed subsoil drain and filter to intercept and control groundwater flows where reguired;
> (iii) be sized to collect and pass the 1% AEP event from the immediate catchment above the drain and direct water to the natural overflow path (stabilised gullies):
> (iv) be supported by a specifically designed retaining wall or engineered hardfill bund:
> (v) be lined with well-compacted non-erodible material (e.g. chemically stabilised colluvium or the eguivalent);

(vi)be fenced to manage potential stock damage to the cut off drain and tree plots, maintain a vegetative sward for erosion protection and allow managed grazing to minimise the fire risk:

(vii) be generally in accordance with drawing 04819/6GT-5 attached (but noting (iv) above) or other suitable engineering measures detailed and approved at subdivision stage capable of achieving the same or similar outcome.

For the avoidance of doubt, the cut-off drain and subsurface drains reguired by this policy may be erected in stages based on the subdivision application(s) submitted for consent.

62. Policy 2.2 incorporates by reference diagrams by Riley Consultants showing the cut off drain. These are included within the revised schedule of plan change provisions in Appendix 3. The cross-sections show a cut off drain and its relationship to the property boundaries and proposed building platforms. The cut off drain has a 1.6m wide culvert. The drain is founded on competent material below the colluvium and the batter slope of the cut off drain has a gradient of 1:2. Subsurface water will be intercepted by a subsurface drain.

63. The intended result is that hydrological equivalent of the Maginot Line protecting the subdivision from surface water flows of events up to one in 100 year flood events based on current meteorological data.

64. All geotechnical experts agreed in respect of the tunnel gully erosion hazard that:

(a) During the development phase, careful planning is required to manage the tunnel gully risk;

(b) Retaining walls, accessways, roads and other infrastructure must be designed to ensure the risk of water intrusion is minimised and if water does intrude that the infrastructure will not fail;

(c) Ongoing maintenance and checking of infrastructure will be required to monitor and address problems before they become serious and one can expect maintenance costs a little greater than exist to normal subdivisions assuming complete best practice has been carried out in the construction of the infrastructure;

(d) Ongoing maintenance of the intercept drain will be required and monitoring of its performance will be required as it is an essential part of the overall design;

(e) Houses will need to be founded on good bearing material to minimise the risk that foundations are undermined by tunnel gullying;

(f) Detailed information must be provided to landowners of the risks of tunnel gullying and how they should manage their property in order to minimise that risk.

65. The other hazard that has been considered is the risk of flooding from the Taylor River and Maxwells Creek. Mr Budd of Riley Consultants addressed the hazard for the applicant. Mr Williman for MDC generally supported his analysis.

66. Flood flows on the Taylor River are attenuated by the Taylor Dam. Should flood levels reach the crest of the Taylor Dam, which is the maximum potential level of the Taylor River, only a small area of the site is below the crest level of the dam which is RL70.7m. The Council has recommended for buildings to be located above this level and the applicant is content to agree to those requirements as part of any subdivision if PPC 60 is approved.

67. The other waterway in the site is the Maxwell Creek which has a small catchment. Mr Budd's assessment is that the 1% AEP flood level is mostly contained within the water course between the bridges on Maxwell Pass Road and Taylor Pass Road. Land north of Maxwell Creek from the road bridge downstream will be prone to an overland flow[34]. Mr Budd considered that the water would not pond but there could be potential sheet flow. An earth bund is proposed north of the stream that can be seen denoted in green in Appendix 2, Figure 5 *Outline Development B (Flood and Stormwater).* Mr Williman agrees that this is an effective response to the potential risk of that sheet flow.

68. Mr Budd also identified the potential flood risk on a small proportion of the site as a result of overland flow from water discharging from the sloping hills on the site. Mr Budd recommended a building set back of 8m from all streams on the site.

[34] See Riley DWN drawing: 0419/6SW-1.

69. Our conclusions on our hazard assessment and evaluation are:

(a) The principal hazards are tunnel gullying and associated surface erosion from water intrusion below surface topsoils as well as surface flood water risks.

(b) The flooding risk can be managed by a mix of techniques including minimum levels for building sites, street setbacks and bund infrastructure. Those methods will give a level of protection in excess of 1% AEP. Beyond that there remains a residual risk of flooding on some sites. The precise level of risk will depend on the ultimate design.

(c) The Revised Schedule of Plan Change Provisions including a hazard objective and associated policies together with amendments to the rules and plans are sufficient guidance to a decision maker as to the intended outcomes to be achieved in the minimisation of the flood hazard risk in any application for subdivision consent.

(d) The tunnel gully erosion risk can be mitigated but not avoided.

(e) To mitigate the risk of tunnel gully erosion of central importance is the efficacy of the intercept drain to be constructed on the higher slopes. There are many variables that affect the effectiveness of the design of the intercept drain. Most important is the design level at which it is designed. The new proposed Policy 2.2(2)(iii) proposes that it be designed to manage a peak flow of 1% AEP stormwater emanating from higher slopes. That 1% AEP calculation takes no account of the uncertainties associated with:

(i) The effects of climate change and the increasing levels of high impact storms; and

(ii) Limitations on the knowledge and behaviour of stormwater at peak flows on these higher slopes.

(f) We did not have any additional comment from MDC on the additional drawing 04819/6GT-5 and if we were minded to approve the plan change we would only

insert policy 2.2(vii) unless we were satisfied that those drawings were sufficient to be included in the policy as something which must be generally complied with.

(g) The interceptor drain will require maintenance cycles and early evidence of erosion or intrusion or other concerns about its efficacy would need to be addressed immediately. The applicant proposes that that be undertaken by a Residents and Owners Association as outlined under Objective 6 and associated policies.

(h) Beyond 1% AEP there remains a residual risk of modest tunnel gully erosion and surface erosion on about 50 residential sites, particularly those on the upper slopes.

(i) There will be higher levels of maintenance of other infrastructure including retaining walls, roads and accessways with an unquantifiable additional measure of risk associated with failure of that infrastructure.

(j) Many houses will need to be founded on appropriate material through special foundation design. With that the risk of damage to foundations will be small.

(k) The extensive vegetation and planting associated with the landscape plan will accentuate the ongoing risk of tunnel gullying through an increased probability of surface cracks from soil surface desiccation from vegetation transpiration.

(l) Periodic tunnel gullying will be a feature of residential properties as a result of all of the above but not at a level as to create significant property risk.

(m)The maintenance obligations for the proposed Residents and Owners Association, given that all infrastructure is unlikely to be accepted by MDC (because it perceives the maintenance costs and value to be doubtful) are likely to be significant but unquantifiable.

(n) The objectives, policies and rules proposed in the Revised Schedule of Plan Provisions specify generally appropriate outcomes and how they are to be achieved (subject to the qualification expressed above) and the rules provide sufficient discretions in matters of control to enable an effective suite of conditions to ensure every stage of development appropriate solutions are

implemented to achieve the outcomes with the result that the residual (or unmitigated) risks not overcome will be those narratively described above. The only exception is that we should have made subdivision under proposed Rule 2.7.29 restricted discretionary activity.

Services Assessment and Evaluation

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70. The principal services that the proposed residential development will require (beyond hazard management infrastructure) are those necessary to provide or manage:

(a) Water;

(b) Wastewater;

(c) Stormwater;

(d) Access and roading.

71. MDC's water supply network ends on the northern side of Taylor Pass Road and there are new storage tracks on that road. The network pipes are sufficient to accommodate the residential sections proposed by KVT. MDC consents to a connection and the required pipe to the site will be sized to accommodate the entire development at the time of construction. Mr Marris explained that the system KVT proposes is fully reticulated and provides a maximum of 5m^3 per day to each lot with 20,000 litres of storage in each lot. That has the effect of providing a good fire fighting water reserve but also stabilises the daily peak flow to the total site. There will also be sufficient water to allow some irrigation of trees and other plantings.

72. Unlike for water, the proposed wastewater system for the development will be installed in modules as each stage is developed. The total wastewater management concept however has been scoped and this was addressed in the evidence of Mr Fleming. He is also an engineer at Riley Consultants Limited.

73. The individual development lines will be serviced by a communal onsite wastewater treatment. Discharge will be achieved using shallow pressure compensating drip

irrigation systems located within landscaped areas positioned well clear of residential lots, building platforms, steeper slopes, water courses and overland flow paths.

74. The system proposes a high quality advance secondary treatment plant and land application system. The treatment plant is based on the USA-based Renco Systems Limited Treatment Plant installed in New Zealand by Innoflow Technologies Limited.

75. Each lot will include an on lot interceptor/septic tank. This will collect wastewater from the dwelling and provide primary treatment and sedimentation. The final effluent will be filtered and then discharged to a small bore pressure reticulation system via a service connection.

76. The central treatment plant will be located in the utilities area identified in Appendix 2, Figure 5, Outline Development Plan B (Flood and Stormwater).

77. Following completion of treatment at the treatment plant, the treated effluent will be discharged to a landscaped and planted land application area comprising of pressure compensating drip irrigation lines buried in a topsoil horizon.

78. A number of potential areas have been identified as suitable for land application, all of which are located outside of the area to be rezoned Maxwell Hills Zone. Mr Fleming considered the most suitable area from an engineering perspective is the site across from Taylor Pass Road which was also shown as the utilities area. That is because it is sunny and has a relatively slight slope.

79. Mr Ian Gunn, a specialist in land based wastewater systems, provided a Section 42A report and his five findings were:

(a) There is insufficient area available on the low lands to accommodate irrigation fields of sufficient size to achieve adequate nutrient (nitrogen) reduction;

(b) Ample land is available in the highland slopes to accommodate irrigation fields;

(c) Planting and harvesting of eucalypts on highland slope irrigation fields will enable post-development nitrogen leaching levels to be kept below pre-development leaching levels from dry land beef cattle grazing;

(d) Planting of eucalypts will also control potential for slumping and soil creep in irrigation areas;

(e) Adopting a conservative design irrigation loading rate of 2mm/day will provide a high level of mitigation against the potential for soil creep.

80. Therefore, the collective opinion of the experts is that the proposed design is feasible and the potential effects can be mitigated through careful design of the proposed irrigation system to ensure nutrient reduction and nitrogen leaching is minimised. Final design will be based on assessment of the appropriate soil's hydraulic capacity, the final land use (coppiced trees or sheep grazing), site slopes, location and the modelled nutrient mitigation capacity.

81. Stormwater management is principally based on a reticulated pipe network that collects flows from roads and individual lots where possible. If that is not possible runoff will be discharged directly to watercourses or soakage pits. Water quality ponds will be constructed for each drainage catchment to treat runoff collected from the piped network. The site is divided into five catchments illustrated by the diagrams in Appendix 2, Figure 10. These show catchment areas C, D and E. We were not provided with sheets 1-3 which will show catchment areas A and B. What we do have is sufficient to show the extent of stormwater management proposed on the site. It is relatively detailed.

82. Mr Williman and Mr Walker for MDC considered that the roading layout could be improved to manage overland flow paths.

83. As the more refined drawings in Figure 10 have not been examined by MDC, we are not certain whether this solution addresses their concerns. However, these diagrams do not form part of the plan change if approved and the real question is whether or not Policy 2.5 is sufficient and we are satisfied that generally stormwater can be managed. That an appropriate design could be achieved was not in dispute between the experts.

84. The roading and access layout was not contentious.

85. The infrastructure considered in this section together with the infrastructure connected with managing the tunnel gully risk such as retaining walls and cut off drains addressed in the previous section is obviously considerable. We queried at the hearing two things:

(a) The legal vehicle for coordinating the monitoring, repair and replacement of the infrastructure and the effectiveness of that vehicle;

(b) The costs of doing the tasks in (a) above together with the management costs of the legal vehicle to deliver those tasks.

86. Making sure that there is an adequate legal vehicle to achieve the tasks and the costs of these tasks are all relevant to our consideration.

87. Typically, with residential development all servicing is outsourced by land owners to the Council. The New Zealand local government unit (ie a territorial authority) has well established statutory powers to ensure the monitoring, repair and replacement of infrastructure as well as a decision making and accountability framework that is enshrined in statute. Rural residential development on the other hand tends to operate on a self-sufficient basis in respect of most services so that servicing becomes the problem of the individual land owner and the solutions can be achieved within their domain. Thus, rural residential development typically provides for on-site waste water systems that are known before subdivision to be capable of servicing the site. The maintenance monitoring repair of that system lies with the landowner. Access is to the public road and access ways are also privately managed. Then there are lifestyle or hamlet type developments where some aspect of their servicing is conducted through a body corporate or other entity. That entity manages the facility and charges landowners. Typically wastewater systems are services where a communal element is introduced.

88. PPC 60 proposes a lifestyle type residential development governed by a Residents and Owners Association that has responsibility for a greater range of services than is usual and a far greater range of infrastructure than is usual and in respect of which the capital value will also be great.

89. Under the Local Government Act 2002 a Council is required to recognise the depreciation in value of infrastructure and to recover rates on the basis that it can sustainably finance the replacement of that infrastructure at the end of its economic life. The local government model has proved an effective means for the delivery of services and infrastructure to residential communities. We are unaware of any community relying on a level of outsourcing of services as will be required by PPC 60 to a Residents and Owners Association.

90. Ms McNae, the planner for Meadowbrook Station Limited and AR & CD Turnbull and Bluegums 2003 Limited (and others) noted on the topic of private water supplies based on her experience in the Nelson-Tasman area that:

> From my experience, where private water supplies are established, there is often further down the track pressure for that system to be taken over by the Council because of escalating costs, and potential changes in standards that have to be met. Those costs will have to be borne by the body corporate which will be presumably made up of the 160 allotment owners. A potentially foreseeable future issue is that as the costs escalate, and property owners consider what they are receiving for their rates they are paying, that there could be pressure on the Council to take over the system.[35]

91. The Revised Schedule of Plan Provisions expressly provides for the creation of a Residents and Owners Association with responsibility for the management and maintenance of infrastructure. These provisions are Objective 6 in Policy 6.1.

92. In reply Mr Hunt for KVT referred to other examples of residential development where management and maintenance was outsourced to a private entity. He referred to the Kaiuma Bay development in Marlborough Sounds which is a 200 lot self-contained development where roads are vested in Council but infrastructure, including a centralised effluent disposal, are all administered by a company set up by the developer and owned by individual owners. Mr Hunt also referred to the ownership model adopted for the development in Queenstown known as 'Jack's Point'. In the information on that development on the website the following is stated according to Mr Hunt:

[35] SOE McNae, para 81.

> As a result your property at Jack's Point differs to others in the Queenstown district in several ways. As an owner, you are a voting member of the Society and that an ownership in many of the communal facilities that make up Jack's Point. The communal facilities comprise infrastructure assets: the road network, the water supply and wastewater systems and communal amenities including the extensive reserves farmed open space, walkways and trail networks. The Society operates in a manner comparable to a local council and levies members for the cost of maintaining and operating the Society owned community facilities. The rules governing the Society, how it is set up and operates are in the Constitution. The estimated levies are set out in the Statement of Levies

93. There is no detailed information to demonstrate the comparability between Jack's Point and the proposed residential development under PPC 60. Against these examples we anticipate the instinct of communities to seek the territorial authority to take over responsibility for management of infrastructure in circumstances where their skills and competence are insufficient or the costs have become so great that the community is riven with conflict and requires an external entity to achieve a solution. In large measure the risk of the legal vehicle being inadequate to the task of managing, maintaining and replacing infrastructure in turn depends on:

(a) The skills that are required to maintain and manage the infrastructure;
(b) The likely cost associated with managing, maintaining and replacing infrastructure.

94. Questions of future community costs, even in a general sense, were not addressed in any evidence. The wastewater system we accept could be operated at a modest, per allotment cost. We consider however that the other infrastructure including retaining walls and cut-off drain may require over the longer term significant (but presently incalculable) ongoing cost in management maintenance and replacement particularly given the susceptibility of the site to tunnel gullying. This ignores depreciation and replacement costs. We also consider that there is an appreciable risk that either:

(a) Critical maintenance management and replacement will not be carried out; or
(b) MDC will be requested to take over the infrastructure.

Because of the escalating cost of management, maintenance and replacement and the level of skill required to ensure appropriate management, maintenance of the infrastructure.

95. MDC has anticipated residential growth. MDC presumably has anticipated a mix of densities. These have been built into the community long term plans and it is assumed that residential growth will involve the utilisation of that infrastructure. Other than water, PPC 60 does not propose reliance on any infrastructure from MDC. That represents an opportunity cost and an inefficient use of existing physical infrastructure.

96. Our conclusions on the topic of servicing assessment and evaluation as is follows:

(a) Sufficient water can be reticulated to the site to meet usual domestic needs and fire fighting requirements;

(b) Primary, secondary and tertiary wastewater treatment is feasible as part of the proposed development and, if properly designed, constructed and maintained, will have minimal adverse effects on the environment;

(c) A stormwater management system can be designed, constructed and implemented such as to deal with stormwater flows;

(d) Roading and access is generally appropriate and will not have any adverse traffic safety or efficiency problems;

(e) The infrastructure is intended to be maintained by an Owners and Residents Association. The ongoing maintenance costs are likely to be significant but are unquantified by the applicant. We doubt the Owners and Residents Association is a sufficiently robust vehicle to manage, maintain and replace the considerable infrastructure (including the cut-off drain) required for the residential development PPC 60 will enable. These tasks will require the application of considerable management skill;

(f) The Revised Schedule of Plan Provisions to the proposed plan change contain sufficient policies to inform the intended outcomes for onsite servicing and the

rules contain sufficient discretions to ensure conditions and controls to ensure onsite servicing is achieved with minimal effects;

(g) The structure of ongoing management is provided for in Objective 6 and associated policies. Given the area and infrastructure to be managed, the administration of this infrastructure will be considerable and require a high degree of coordination between landowners;

(h) The objectives, policies and rules proposed in the Revised Schedule of Plan Provisions specify generally appropriate outcomes and rules provide sufficient matters of control. The only exception is we would have made subdivision under R 2.7.2 a restricted discretionary activity;

(i) PPC 60 will not provide for the efficient use of existing spare capacity in MDC networks to provide for residential growth in Blenheim.

Visual and Rural Character Assessment and Evaluation

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97. The visual impact evidence for the applicant was given by Mr Glasson. For MDC, Mr Bentley provided a section 42A report. They reached different conclusions. They agreed the landscape was not an outstanding landscape. Their description of the receiving environment and landscape context was essentially the same. They each described the Taylor Pass Road area, the character of the Maxwell and Taylor Pass Valleys and the characteristics and qualities described were essentially the same. The visual impact of the development on the site was demonstrated by visual simulations included with the application. These simulations were from two viewpoints. The first viewpoint was 300m from the junction between Taylor Pass Road and Maxwells Road. Viewpoint 2 was a distance 50m north of the junction with Maxwell Pass Road and Taylor Pass Road. The simulations in the application did not include a simulation with the mature development but only the first stages up to ten years. Nor did the simulations show the batter walls and intercept drain which would be a prominent structure on the landscape. These matters were addressed by revised simulations in Appendix 2 Figure 8. From viewpoint 1 and 2, progressive development is shown over the various stages culminating in the completion of stage

3. The simulations assume vigorous growth of the intended plantings. The cross-sections contained in Appendix 2 Figure 7 show the location of these plantings relative to accessways and houses.

98. Landscape planting proposed by the applicant has the following objectives described by Mr Glasson at paragraph 58 of his Statement of Evidence:

(a) Re-establishing native dryland vegetation and associated ecosystems that will enhance the natural environment;

(b) Assisting to obtain a degree of natural character throughout;

(c) Mitigating the visual effects of roading a residential development;

(d) Improving the living environment for future residents with strategic landscape planting for privacy, shelter and shade and for visual amenity;

(e) Enhancing slope stability and reducing erosion by planting in order to slow and filter the runoff into ephemeral streams on the site; and

(f) Controlling and maintaining weed growth.

99. Mr Millen has had extensive experience in planting in Marlborough and was confident of the success of the planting programme. What can be achieved with good landscaping is evident from such development as the Ben Morven subdivision.

100. A significant beneficial outcome of the proposal is the creation of a large reserve with approximately 8.62ha adjacent to the Taylor River set aside for residential purposes. This reserve would operate as an extension to the Taylor Dam Reserve and offer a range of recreational opportunities forming part of a regional park.

101. As an additional suite of measures, the applicant proposed:

(a) A restriction of residential height to 8m rather than the 10m permitted by the rural zone;

(b) A requirement for buildings to be constructed with muted natural earthy tone colours to avoid incongruous colours with the landscape. A colour pallet was provided and was included in the graphic supplement.

102. Mr Bentley, in his section 42A report, considered the relevant provisions within the Plan regarding landscape. He drew to our attention a number of objectives and policies. The most significant were:

(a) Policy 1.9 following Objective 1 in the landscape section in chapter 5 of the plan that states "*Avoid sprawling or sporadic subdivisions for residential activity outside areas already occupied by residential settlement or incursion into landscape sensitive areas*";

(b) Objective 2 in chapter 5 which states "*To provide for appropriate development practices within areas not identified as outstanding natural landscapes*". Prefacing Objective 2 is the following explanation "*In areas where rural subdivision occurs, care should be taken to develop in a way that retains the essential rural characteristics. The location of dwellings should reflect the land form and this may require retention of any natural features such as meandering streams or trees. Where feasibility these characteristics should be maintained and enhanced ... Inappropriate 'urban' development will be resisted vigorously*".

103. The difference between the two visual impact experts lay in their assessment of the impact of the development on rural character. The essence of the difference can be captured from the following paragraphs and the conclusion of Mr Bentley's section 42A report:

> Based upon the independent re-assessment of the proposal, it is considered that the scale, density and pattern of this Plan Change is incongruous with the rural character and amenity values of the Taylor Pass Valley, to the point that housing would dominate the more intimate character of this valley landscape. The present rural simplicity of this part of the Taylor Valley will be compromised. It would be a major departure from existing settlement patterns in the Valley.
>
> As such agreement cannot be reached with the Landscape Assessment's statement at paragraph 104 which states '*the Maxwell Hills Plan Change area is a development*

which could quite easily assimilate into the valley landscape which is visually enclosed. This site has a high absorption character'.

This statement from the Landscape Assessment appears to focus solely on visual attributes rather than broader real character issues. Although a valley landscape does have the potential 'absorb development' more easily than an open flat landscape or a hillside, it depends very much on the location, scale, density and overall form and character of what is being proposed. If the proposal is inconsistent with the overall 'graining' and character of the landscape adverse effects are created.

104. The immediate land use context of the site is shown in Graphic 2 in Appendix 2.

105. As one passes south along Taylor Pass Road, there is a point as one passes through the Wither Hills into the Taylor Valley where there is a noticeable shift into rural character. That point is roughly shown as the point where the Rural 4 Zone commences in Graphic 2 in Appendix 2. That change is signalled by changes in patterns of topography, land use and spatial separation from the urban fabric. Mr Glasson describes this well in paragraph 29 of his statement of evidence when he said:

> The landscape changes when one travels south on reaching the Taylor Dam. The valley narrows, the river becomes more apparent and a rural character dominates with the high hills, an extensive grazing pattern and larger lifestyle blocks. It is a pleasant valley, popular for recreation and within close proximity to Blenheim.

106. Mr Bentley describes that visual change as commencing once one passes south from the existing Taylor Pass Road subdivision completed by the Council on the southern slopes of the Wither Hills and he describes the context in this way:

> Immediately beyond this are open fields and pastoral views towards the southern hills. Due to the gradually enclosing valley, land use activities become smaller in scale than those on the Wairau Plain. There are small scale vineyards, grazed paddocks and farm buildings. The Blenheim landfill site is located further along the road where the landfill itself is not visible from the road. There is also a carpark for mountain bike enthusiasts where numerous tracks extend into the Wither Hills farm park.

As the road extends further southwards, leaving the open plains behind, the Taylor River becomes more enclosed. The Taylor Dam represents a pleasant picnic stop along this route, lined with willows and nestled at the junction of the eastern and western hills either side of the Taylor Pass Road. Development along this corridor is limited and where it is evident appears to be small and in character with the landscape's enclosing nature. Views from the road beyond the dam are towards the grass-like covered hills supporting clusters of Kanuka and occasionally Wilding Pines. The Taylor River which the road closely follows if flanked by willows and other exotic vegetation and represents the 'greenest' part of the valley. It is at this point that the Taylor River Valley ceases to be part of the Wairai Plain landscape.

As the road extends past Sugar Loaf, the valley narrows. Within this valley exists a mosaic of different land uses, ranging from forestry, occasional small scale rural business and a dozen or so residential properties. Other than the pine trees associated with forestry plantation on the hillside, the valley supports smaller groupings of trees, associated with field boundaries or gardens.

107. Mr Bentley described the key attributes and rural character of the site and immediate area as is follows:

(a) Interlocking dry grassy hills creating small scale valley landscapes;
(b) Tree lined river corridors and sporadic small scale development;
(c) Openness created by paddocks and unencumbered hillsides;
(d) Shelter belts and unsealed roads.

108. To that we would add the following:

(a) A predominance of rural land uses;
(b) A predominance of natural elements over built form.

109. Mr Glasson satisfied himself the site had low vulnerability to change and a high visual absorption capacity. He considered that the visual change that development would bring was appropriate given:

(a) The site's modified character;
(b) The small viewing audience;

(c) The suitability of the site for revegetation and the effectiveness of that revegetation in screening many of the built elements of the development in combination with other methods such as colour controls.

110. Mr Bentley did not fundamentally disagree with aspects of Mr Glasson's technical assessment but considered that it lacked sufficient evaluation of context and appropriateness of the change within that context. That assessment he considered important given the Plan's concern with retaining rural character and amenity in the rural zone.

111. We consider that the Taylor Pass and Maxwell Pass areas have a distinctive and long standing rural character and with it amenity values associated with:

(a) An open grassy valley landscape;

(b) A bucolic pastoral ambience punctuated by fingers of viticultural development extending delicately up the margins of the Taylor River.

112. We consider that that character and amenity will be altered and diluted by development on the site that:

(a) Is residential in character;

(b) Has extensive earthworks and infrastructure associated with residential development and management of hazards including the substantial cut-off drain at a higher elevation beyond the area the subject of the plan change;

(c) Is screened in part over time by hopefully vigorous tree growth which will nevertheless not disguise the predominance of built form over open space and rural activity that presently exists.

113. The product of all of the above is that the development will present as a surprising and incongruous feature of the area.

114. Our conclusions on the topic of visual and rural character impact assessment and evaluation is as follows:

(a) The development will not be visible from Blenheim or any urban area;

(b) The principal viewing audience will be people travelling through Taylor Pass and the existing community of the Taylor Valley;

(c) The proposed development would on its completion be an incongruous element in the landscape and have significant effects on rural character because:

(i) It will be out of context with the existing rural character as we have found it to be; and

(ii) The effects will be obscured but not eliminated by the landscape planting proposed;

(d) The effects on rural character could be described by some as simply change and not adverse whereas others would regard it as adverse and unacceptable change. To some extent the evaluation of the effect is a subjective matter, however rural character and amenity is an important consideration in the plan and is a relevant consideration under the Resource Management Act 1991 and in assessing the impact we must have regard to the existing expectations of the community as expressed in their plan. We consider the effect on rural character to be at the inappropriate end of the scale;

(e) Over the course of development of the proposed Maxwell Hills zone (which may take in excess of 20 years) there will be significant adverse effects associated with progressive development not screened because of plantings that are not yet mature. There is an appreciable risk given the dryness of the Valley that the maturation of plantings will take a long time;

(f) A significant beneficial aspect of the proposal is the creation of a reserve in the Taylor Pass River;

(g) The provisions in the Revised Schedule of Plan Provisions are appropriate such that all other effects (other than those outlined above) will be addressed at consent stage except we would make subdivision under Rule 2.7.2 a restricted discretionary activity.

Community of Interest and Reverse Sensitivity Assessment and Evaluation

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115. A significant number of Taylor Pass residents appeared through their spokespeople to express concern at the scale of development PPC 60 would authorise as well as how that development would be out of keeping with the existing character and identity of the Taylor Pass community.

116. Immediately adjacent to the site is the Bluegums property owned by the Turnbull family and their land extends from Taylor Pass Road to Maxwell Pass Road. Most of the land is utilised for stock but 13.5ha of grapes have also been planted. Mr Turnbull considers that he has an opportunity to plant a further 10ha. On the opposite side of the Taylor River is the major land holding known as the Meadowbank property comprising some 2809ha. That property has resource consent for frost fans approximately 300m – 350m from the plan change area. Further up Taylor Pass is a range of smaller land holdings with lot sizes ranging from 18 – 40ha.

117. Vicki Nalder-Clyde presented a submission on behalf of a number of submitters in the upper Taylor Pass area. Below is a list of those residents and their activities in the upper Taylor Pass area.

Name	Type of holding
Linda Le Sueur	Lifestyle with forestry/cattle/sheep
Pauline & Tim Mead	Lifestyle
Rob & Gill Slatter	Lifestyle with cattle
Arthur & Vicki Clyde	Lifestyle with forestry/cattle
Lester & Joy Neal	Lifestyle with forestry/cattle/sheep
Andy Laurie	Viticulture/cattle
John & Betty Taylor	Lifestyle with cattle/horses
Jim & Sandra McCusker	Lifestyle with cattle/horses/dogs/forestry
Darren & Sarah Clifford	Honey business

Mark & Robyn Robertson	Lifestyle with forestry
Richard & Jill Cretney	Lifestyle with forestry
John & Jenny Meek	Lifestyle with forestry/cattle
Ross & Rosemary Kerr	Farm with cattle & sheep/forestry
Duncan & Karen Beattie	Lifestyle with horses/dogs/forestry
Graham & Anne Cooper	Farm with cattle & sheep/forestry
Rod & Sarah Westenra	Horse trekking business

118. Ms Nalder-Clyde identified the usual concerns about changes to landscape, amenity and traffic related matters. Another aspect of what she and others addressed might be described as a lack of 'community of interest' between the existing community in Taylor Pass and future residents of a new suburb with adverse effects on sound and cultural wellbeing. The concept of community of interest is used in the Local Government Act 2002 in the context of creating local government units.[36] We use the concept in a slightly different sense to recognise the distinctive character and identity of communities within a local government unit based on perceptual and functional indicators. The definition of sustainable management is intrinsically tied with community, social, cultural and economic well-being. Both the plan and RPS contain objectives and policies that point towards sustaining communities of interest and in particular sustaining the identity and social and cultural wellbeing of rural communities.

119. New populations appropriate areas in many tangible and imperceptible ways. Significant population change with a different focus and interest in the landscape compared with that in the community that exists at present can have effects on the social, economic and cultural wellbeing of the existing community. While there are no quantitative metrics for how adverse any change might be we must apply our common sense to the task.

120. The Taylor Pass residents are a distinctive sub-community of the Wairau Plain in a perceptual sense because:

(a) There is a distinctive valley in which the population is contained;
(b) The valley has a relatively stable rural character;

[36] See LGA 2002, Schedule 3, Subpart 2, Clause 3.

(c) The valley has strong historical association as an area of rural activity beyond the urban fabric;

(d) The entrance to Taylor Pass heralds a point of demarcation between town and country;

(e) The members of the community share a common appreciation of the rural environment.

121. The Taylor Pass residents are a distinctive rural sub-community of the Wairau Plain in the functional sense because they generally work on the land or engage in land based activities either as a form of work, recreation or sheer need because of the size of their properties. As a consequence the common purpose contains within it an acceptance of everything that comes with rural living.

122. There will be, in our view, a predictable erosion of the distinctive community character and identity of the Taylor Pass area that would follow from approving PPC 60.

123. Many of the other issues raised by submitters fall into the category of potential reverse sensitivity effects. Some of these are very familiar concerns such as:

(a) Residential sensitivity to rural noise associated with pest control shooting;

(b) Resident sensitivity to frost control of vineyards by helicopters and frost fans;

(c) Residents dogs worrying stock;

(d) Riding, harvesting activities and log transportation particularly outside normal working hours and on weekends.

124. Ms Arnold gave planning evidence on behalf of Nelson Forest Limited that has forest interests in the Marlborough region and a 230ha forest in Taylor Pass. She noted that in response to the operational requirements of forestry NFL has received the following requests in the past:

(a) Reverse engineering beepers for safety on loaders and hauler tooters be turned off;

(b) The operations cease during the summer months;

(c) Night trucks be stopped so people have uninterrupted sleep;

(d) Daytime operations are delayed so that night shift workers can sleep;

(e) Trucks not operated on the school bus route while the bus is collecting and dropping off children.

125. Mr Grigg who farms the Meadowbank Station in the Taylor Valley with his brother Duncan was also concerned at the impact of a suburb in the rural environment affecting their rural activity. Meadowbank Station is 2809ha. It has a 42 hectare vineyard. The 42ha vineyard employs 4.5 full time staff equivalents and a further 12ha is to be developed in 2013. It has resource consent for installation of five frost fans on 40 ha of land behind the Taylor Dam and adjacent to the Maxwell Hills Zone. The area generally is highly esteemed by wine companies and recently land acquisition has occurred by the Antinori family which is one of the pre-eminent wine making families in Italy. Meadowbank has an allocation of water from the Southern Valley Irrigation Scheme of 133ha and obviously has very long term ambitions to develop the area close to the Taylor River and its environs as a premiere wine producing location by virtue of it being sheltered with free draining silt and sandy loam soils. If this increased production comes to pass then it is entirely foreseeable that noise will be generated by frost protection by helicopters and frost fans as well as noise from bird scaring.

126. Meadowbank Station also stocks 11,000 – 12,500 stock units with a lambing percentage of 150%. The pastoral operation employs five full time staff equivalents. Ongoing development is evident and future plans including a stock water reticulation scheme, fencing, pasture renovation and weed and noxious animal eradication.

127. Mr Turnbull, a pastoral farmer and viticulturist with land adjoining Taylor Pass Road and Maxwell Pass Road made similar points.

128. Some of the reverse sensitivity effects that might arise from locating a residential suburb in the rural area are difficult to measure. They are nevertheless real. The wisdom of co-location of activities together with ensuring there are interfaces between activities with different qualities and characteristics is a reason residential land use typically follows a distinct declining density in the transect extending from the centre of a town or city.

129. The revised schedule of plan provisions in Appendix 3 contains a new objective 7. In addition policy 7.1 has as a policy a requirement for *an encumbrance or equivalent legal requirement, to be placed on each residential title providing advice to purchasers that they are residing in close proximity to a working rural/forestry environment and prevent complaints from owners about any nuisance effects arising from legitimate rural/forestry activities.*

130. Therefore, KVT's principal method to address the reverse sensitivity issue is to require a legal instrument in the form of a land encumbrance to be placed on titles at the time of subdivision regarding the rural working environment in order that:

(a) Future purchasers are aware at the time of purchase that they are purchasing land in a rural working environment;

(b) The land owners are prevented from making complaints about any nuisance arising from *legitimate rural/forestry activities.*

131. Of course what are *legitimate* activities within the meaning of the encumbrance is a highly contestable concept. Legitimacy may derive from an existing resource consent or it may arise from the existing provisions of a plan. While a resource consent may operate indefinitely the provisions of plans do not and through the Schedule 1 process the permitted effects on the receiving environment are adjusted frequently to reflect modifications in the 'receiving environment' to be managed. Placing a residential population in the rural environment substantially modifies the receiving environment. Consequential changes to policy are not unexpected with those modifications. A topical example in the Marlborough context are controls over frost fans and the regulatory creep that follows from the presence of sensitive land uses such as residential activity. Note also in the recent Environment Court decision on that topic the distinction made between the Wairau Plain and the less populated Awatere Valley.

132. The RMA contemplates under Part 6 people consenting to effects on them with the consequence that the effects on those people are disregarded. We also consider that it is not inconsistent with the RMA to use encumbrances in appropriate

situations. It is a question of scale and degree whether or not those instruments are appropriate. Where:

(a) The potential incompatibility between activities is significant;
(b) The future population to be subjected to that incompatibility is large:

then we consider that the more pragmatic and sustainable path is to avoid the incompatibility rather than to attempt to manage through the use of encumbrances. Not least because it is either ineffective for an encumbrance to preclude someone participating in the Schedule 1 process which reviews the performance standards of permitted activities in plans or it would be inelegant to do so.

133. Ms Arnold for Nelson Pine Forest also raised a concern regarding fire risk. It is well known that in drought conditions the Wither Hills is one of the highest fire risk areas in New Zealand. The Boxing Day fire in 2000 which burnt more than 6,000 ha was, as Mr Grigg said *a stark reminder of the damaged property and loss of animals and potentially people's lives.*[37] Mr Grigg had his own photos that illustrated the devastation graphically.

134. Ms Arnold said that open air burning should be a prohibited activity in the zone. She said a precautionary approach should be followed to eliminate this risk. Ms Arnold pointed out that under Section 2.2.8.2 of PPC 60 lists "*incineration*" is a permitted activity. Ms Arnold said this activity should be prohibited.

135. Ms Arnold used the term 'defensible space' to refer to a concept where there is a space between the vegetation and building that may be defended in the event of a fire. To achieve this it is necessary to minimise in that area fuel loads from vegetation in that space. She produced more detailed information on the concept of a defensible space in advisory note 44 produced by Victorian authorities as part of the implementation of recommendations by the Victorial Bushfires Royal Commission (2009).

[37] SOE Grigg, para 23.

136. Ironically, the fire risk was brought home by the fact that at the conclusion of the hearing there was a fire emergency in the Taylor Pass area which had to be brought under control using fire buckets. The fire may have emanated from a rogue flare.

137. The applicant in the Revised Schedule of Plan Provisions proposes a new policy 2.6 that says in respect of the fire risk hazard:

(a) The installation of pressurised water supply shall include provision for fire fighting;

(b) Property owners should be made aware of the concept of defensible space through the Residents and Owners Association.

138. Our conclusions on the topic of community of interest and reverse sensitivity assessment and evaluation is as follows:

(a) The Taylor Pass residents are a definable rural community subgroup of the Wairau Plain and environs;

(b) The distinctive character and identity of that community will be fundamentally altered by PPC 60 which will open the door to a substantial influx of new people with the concerns and priorities of urban dwellers rather than rural dwellers;

(c) The appropriation of the landscape and environment that inevitably follows from significant new urban population in a rural area will magnify the reverse sensitivity effects to a degree that there will be:

(i) Conflict between the requirements of the existing rural working community and the urban community;

(ii) The need for greater management of rural activities than would otherwise follow from a more homogenous rural environment;

(iii) Future opportunities for development of rural activities that require separation distance from urban environments will be constrained;

(iv) The new urban population proposed by PPC 60 will elevate the risk of fire escaping with potentially significant effects on pastoral and forestry activities;

(v) Resident population of PPC 60 will be exposed to a potential risk of fire hazard if the level of planting on properties is that contemplated by the landscape concept plan in conjunction with patterns of amenity planting typified by similar development in the Wairau Plain and environs such as the Ben Morven development.

Strategic Planning Assessment and Evaluation

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139. The existing provisions of the RPS and Plan as set out earlier contain an orthodox planning strategy typical of New Zealand regional communities which includes the following elements:

(a) A centres based approach that has residential activity concentrated around existing urban infrastructure with low density on the urban periphery in order to maximise use of physical, community and transportation resources;

(b) A clear demarcation between rural and residential activities through careful management of the interface;

(c) Co-location of activities that possess common needs, values and expectations;

(d) Preservation of the productivity identity and character of rural working environments and communities.

140. At many levels PPC 60 challenges this orthodoxy. That in itself does not make it wrong or invalid. We did, however, expect from KVT's planner, Ms Carter, a strategic planning assessment that persuasively demonstrated:

(a) Either that the existing RPS and Plan strategy did not represent sustainable management in the Marlborough Region and specifically the Wairau Plain; or

(b) The site had features, characteristics and qualities that were exceptional such that an exception to the overall existing planning strategy is justified.

141. Regrettably, Ms Carter's strategic planning analysis did not engage in that level of argument and consideration. Ms Carter's analysis seemed to boil down to the following propositions:

(a) PPC 60 proposes a lifestyle residential development (Proposition 1);

(b) A lifestyle type residential development is not provided for in the plan which currently provides for conventional residential development and then rural residential development with a minimum lot size of 1 hectare (Proposition 2);

(c) There is a demand for lifestyle type residential development (Proposition 3);

(d) PPC 60 meets a demand and through its provisions adequately internalises the effects (Proposition 4).

142. The conclusion from the four propositions is that therefore PPC 60 proposes something that meets the ethic of sustainable management.

143. From this analysis we must also conclude that Ms Carter would consider (and this is also evident from the rest of her evidence):

(a) There is nothing special about the site that separates it from the rest of the Rural 4 zone;

(b) Ms Carter would support any plan change anywhere and in any place within the Rural 4 zone that provides for urban activities currently not provided for in the Plan where the effects within the site can be appropriately internalised.

144. We are unaware of any general planning theory for urban growth that would support the underlying basis for Ms Carter's assessment. We are unaware of any case law that has applied such a narrow concept of sustainable management in the urban growth context. We note also that we do not accept that all effects of PPC 60 have been appropriately internalised.

145. A counter 'argument' or analysis for what sustainable management of residential growth looks like for the Southern Marlborough region is found within the study called the South Marlborough Urban Growth Study (SMUGS). The SMUGS was commissioned by MDC as part of its district plan review process. A statement of proposal was prepared for public consultation in July 2010 and matured from there. Many of the recommendations and areas identified for development are not yet confirmed and various more intense levels of assessment are occurring in respect to some preferred sites. Some preferred sites have been eliminated by reason of further hazard assessment. In particular liquefaction risk. The study was led by the consultancy Urbanism Plus. The methodology used is rooted in that school of urban development theory called New Urbanism and the associated concept of Smart Growth. New Urbanism and Smart Growth and the principles associated with them have some degree of international planning pedigree.

146. SMUGS sets the context for Blenheim and its outlying townships based on population and natural and physical resources. It considered future growth pressures and population projection. It examined in the context of Blenheim and the Wairau Awatere townships their relevant features including: community networks, ecology, water supply, stormwater and flooding, versatile soils, wastewater, public open space, transportation networks and proximity to activity centres.

147. Against that context a set of urban design goals were identified that included five key elements as follows:

(a) Development patterns and intensity;

(b) Movement networks: building interfaces;

(c) Range of densities: mix of uses; flexibility of buildings;

(d) Town form: visual character, special places;

(e) Ecosystems: green networks; urban water; waste; energy.

148. All of these urban design goals were further explained in greater narrative detail.[38]

149. Various options were identified for achieving these goals including:

(a) Minimal planning control;

(b) Use of zoning but based on current market preferences;

(c) Zone on the basis of market preferences and sustainability imperatives;

(d) Picking winners.

150. Approach (c) above was selected as being the most sustainable option for the district which involved ensuring a balance between meeting the projected demand and working with constraints in the respective settlements. The identified approach recognised that it would lead to a combination of infill, intensification, greenfields and some rural residential development.

151. The overarching approach is summarised at page 39 of SMUGS consultation document as follows:

(a) Enhancing existing settlements rather than establishing new ones;

(b) Developing strongly defined communities with unique identities, which minimise their impact on the environment, landscape and productive and valuable soils;

(c) Focussing new growth where it can best leverage from existing community infrastructure;

(d) Providing for urban expansion where it will make logical sense and be affordable from an infrastructure perspective;

[38] See SMUGS consultation paper, page 235.

(e) Encouraging urban intensification where it is feasible and is supported by conveniently located amenities;

(f) Looking to support lifestyles which are less energy intensive, in particular where people have more choice in how to meet their daily needs other than by car.

152. SMUGS considered 12 areas as candidates for future growth of Blenheim. KVT put forward its site as one of those candidates.

153. Mr Whyte, a consultant planner with BECA, presented a Section 42A report on behalf of MDC. At paragraph 31 of his report he stated:

> The MHZ site (or the Kapiti Views development as it was known) was one of 12 areas assessed for future growth of Blenheim. The site scored the lowest of the 12 sites and scored poorly for community, activity centre and transport. The Growth Strategy has undergone an extensive consultation process including public meetings, focus groups, design workshops and public submissions. In April 2011 MDC rejected the Kapiti Views development as an option because it was not within the scope of the strategy (in relation to its proximity to Blenheim).

154. Those sites selected under SMUGS that pass muster under any further investigation (such as hazards) will, we anticipate, not require change to the existing objectives and policies of the plan set out in this decision. All that will be required is changes to methods. That is because the methodology for SMUGS is entirely consistent with the existing objectives and policies of the Plan. By contrast, to facilitate PPC 60 a new framework outside the Plan is required.

155. Ms McNae pertinently pointed out that many of the services such as the cutoff drain, utility area and wastewater treatment areas lie outside the plan change area but within the site. Hence many of the objectives and policies can only be fulfilled by activities that will occur outside the area to be zoned Maxwell Hills zone. That is one reason we would consider any subdivision should be at least restricted discretionary if we were minded to approve PPC 60. The other principal reason is that the importance of achieving the objectives and policies in the Revised Schedule of Plan

Provisions at a high technical standard is so great that MDC must be in a position to decline an application (and where the engineering design is not adequate to meet the risks to the required standard) rather than having the sole remedy of setting revised conditions which would follow from a controlled activity status.

156. Our conclusions on the topic of the Strategic Planning Assessment and Evaluation topic are:

(a) The present Plan objectives and policies for urban growth and management of the rural environment appear to us to meet the ethic of sustainable management;

(b) SMUGS is not a statutory document that we are required to take into account but we can consider it. Its methodology for identifying areas suitable for urban growth is entirely consistent with the present plans, objectives and policies for urban growth and management of the rural environment. It is significant that the community, through this study, has produced a methodology for assessment that is underpinned by principles that are substantially consistent with the present Plan's objectives and policies. Many of the areas identified for SMUGS (but not all) will provide opportunities for urban growth. To the extent that lifestyle lots are in demand one can expect some provision for these in the urban growth nodes;

(c) PPC 60 is inconsistent with the Plan's current objectives and policies for urban growth and management of the rural environment;

(d) The site and the proposed development under PPC 60 does not have any characteristics that would merit exceptions to the existing Plan's objectives and policies. Indeed it has distinctive negative features that strongly militate against it being exceptional in a positive sense;

(e) We consider that PPC 60, on average, poorly implements the RPS in the following respects:

(i) Soil productivity and avoiding the acceleration of erosion;

(ii) Natural hazards (objective 7.4.2 in Policy 7.4.3);

(iii) Co-location of activities with common effects, characteristics nad values (Policy 7.1.9 and 7.1.10);

(f) PPC 60 lacks a coherent underlying planning strategy for providing for residential growth and in light of our previous conclusions could not stand as an exception that proved the rule but rather undermined the rule. The rule in this context being the current objectives and policies for urban growth and management of the rural environment.

The Overall Judgement Exercise

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157. We are required to stand back and make an overall judgment of the plan change against the ethic of sustainable management in Part 2 RMA. The question can be concisely framed as follows:

> Is Objective 1 (paraphrased as the enablement of a lifestyle residential suburb of Blenheim on the site) the most appropriate means of managing the natural and physical resources of the site, the locale and the wider Blenheim area in accordance with the ethic of sustainable management.

158. In evaluating that question we must have regard to all of our conclusions in the previous sections. If we add to the recipe of our evaluation (and our conclusions already) a healthy dose of respect for choice and in particular:

(a) The fact that the site owners will, over time, endeavour within the constraints of the Revised Schedule of Plan Provisions to meet market requirements controlled by market disciplines and will respond in a way that maximises hedonic value for individual lot purchasers;

(b) Individuals can make voluntary assumptions of risk both as to hazards and future costs of management of infrastructure, reverse sensitivity and other concerning features of the proposed developments;

Despite that we cannot come close to considering that PPC 60 represents the sustainable management of natural and physical resources to provide for residential growth whether viewed at the local scale or at the higher scale of Blenheim and its environs.

159. Accordingly, we unanimously decline the application.

John Maassen (Chairperson) David Oddie Jamie Arbuckle

Date: 22 March 2013.

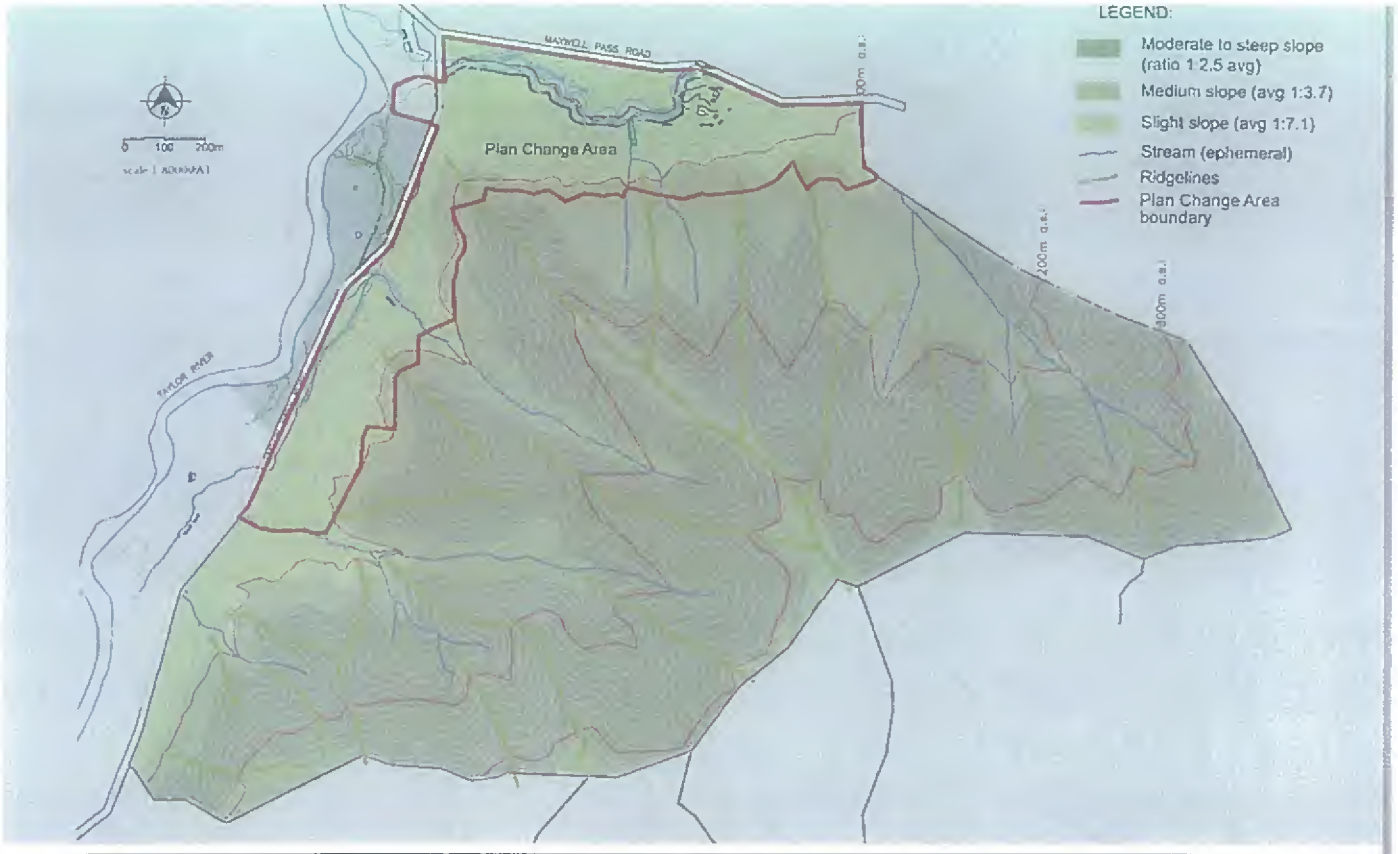
Appendix 1

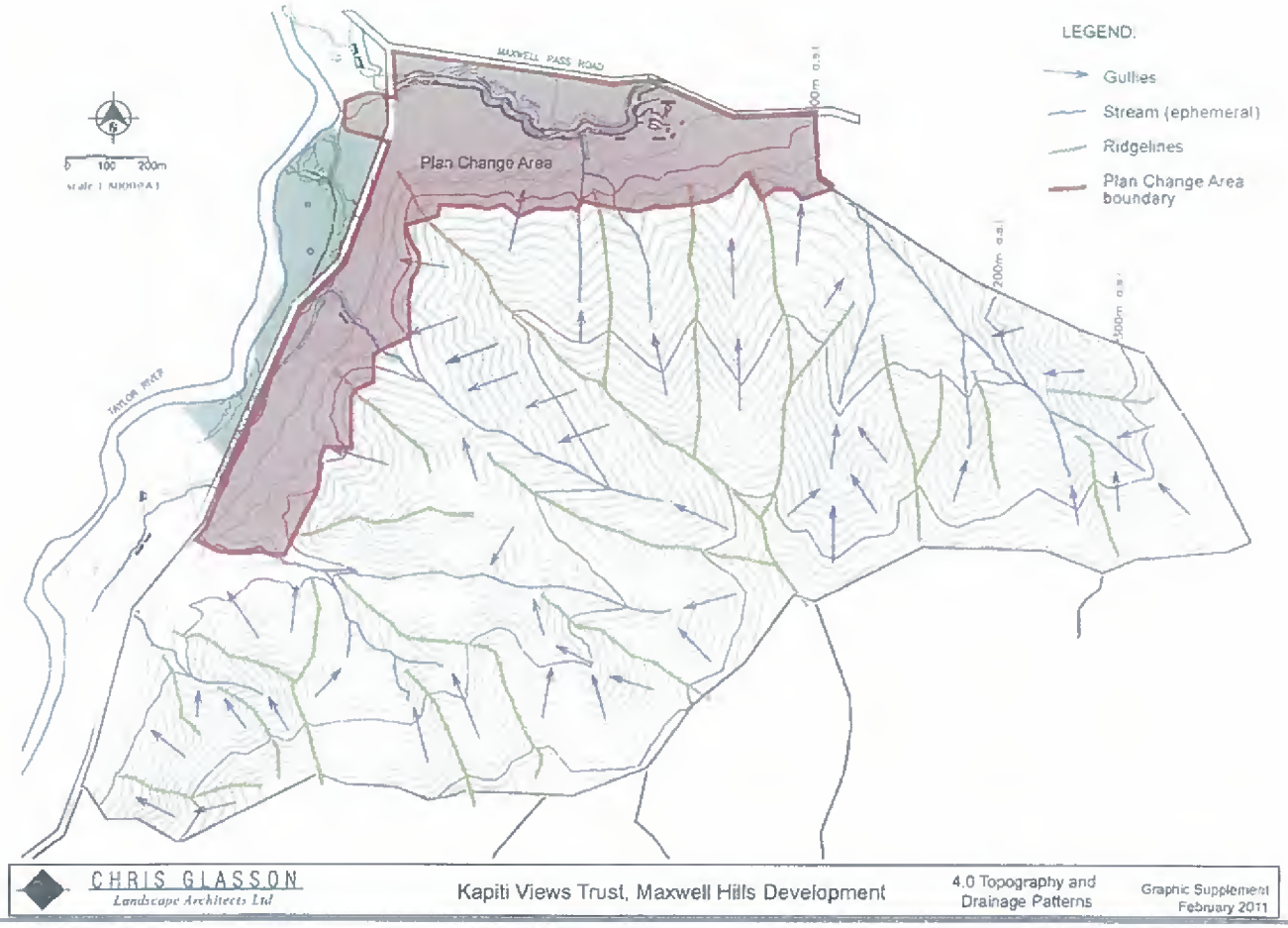
Submitter	Presenter	
Chairman's Introduction/House Keeping		
Applicant - Kapiti Views Trust	Murray Hunt John Marris Chris Glasson Paul Millen Terry McGrail Ben Macky Mark Taylor Gary Clark Ed Ladley Grant Fleming Jason Budd Janice Carter	Legal Counsel Applicant Landscape Architect Forestry Consultant Surveyor Real Estate Agent Ecological Consultant Traffic Engineer Geotechnical Engineer Waste Water Engineer Civil Engineer Environmental Planner
NZ Fire Service have chosen not to attend the hearing but have provided a letter to the Committee.		
Upper Taylor Pass Residents Timothy & Pauline Mead Russell Hopkins Rob Lawrence Break AR & CD Turnbull & Bluegums 2003 Ltd, Meadowbank Station & Others and GT Cooper & Am Robinson Nelson Forests Limited & P M Gilbert Lunch - **David Oddie required to attend meeting at Council between 1:00 pm & 2:30 pm** Site Visit	Vicki Nalder & Others Pauline Mead Russell Hopkins Rob Lawrence Julian Ironside Jacqueline McNae Will Grigg A Turnbull Heather Arnold	 Legal Counsel Planner Meadowbank
Marlborough District Council Frank Porter is not available but Steve James can be called upon if required	Paul Whyte James Bentley Brin Williman Ian Gunn Paul Russel Steve James	Planner Landscape Rivers Engineer Waste Water Engineer Geotechnical Engineer Roading Engineer

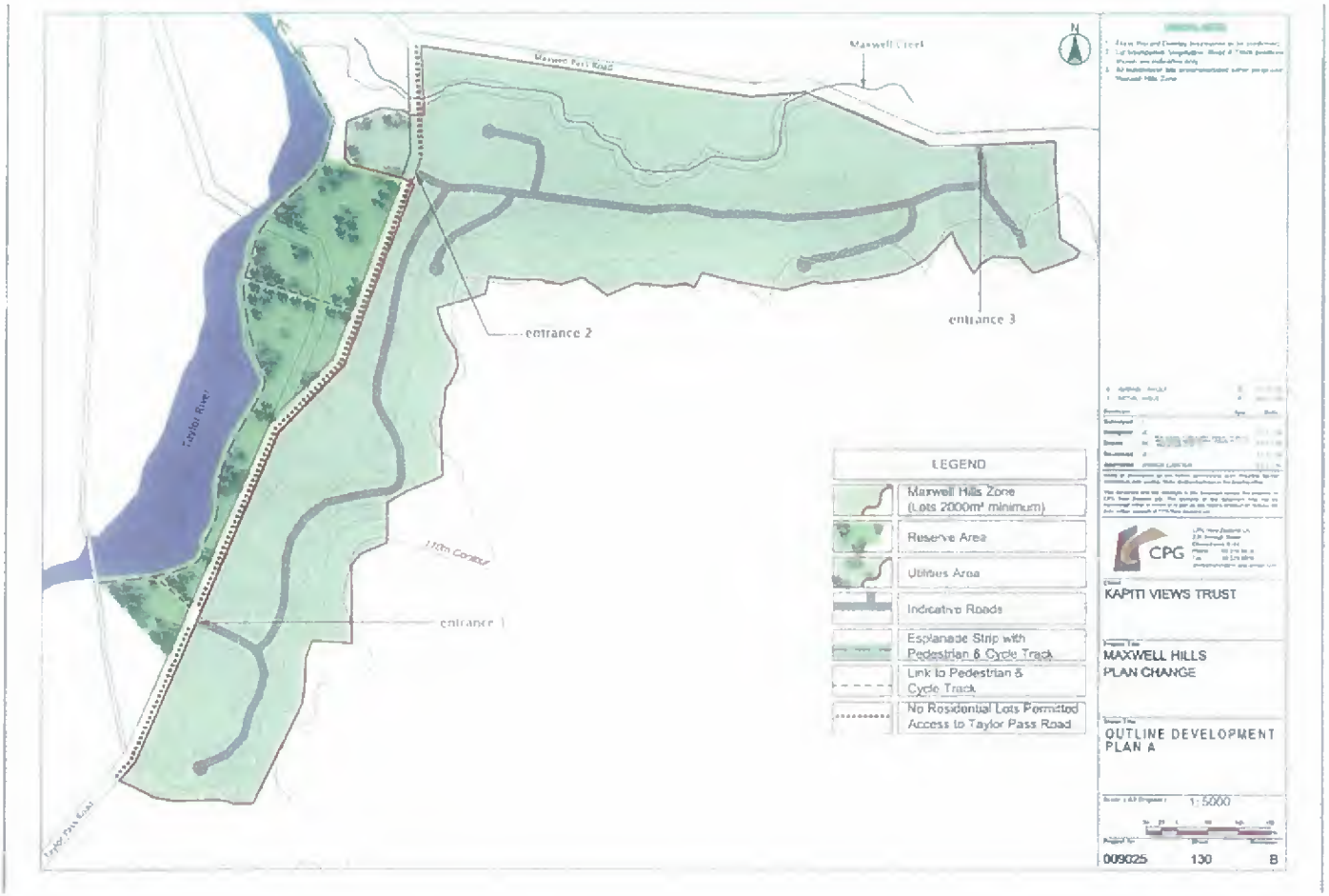
Appendix 2

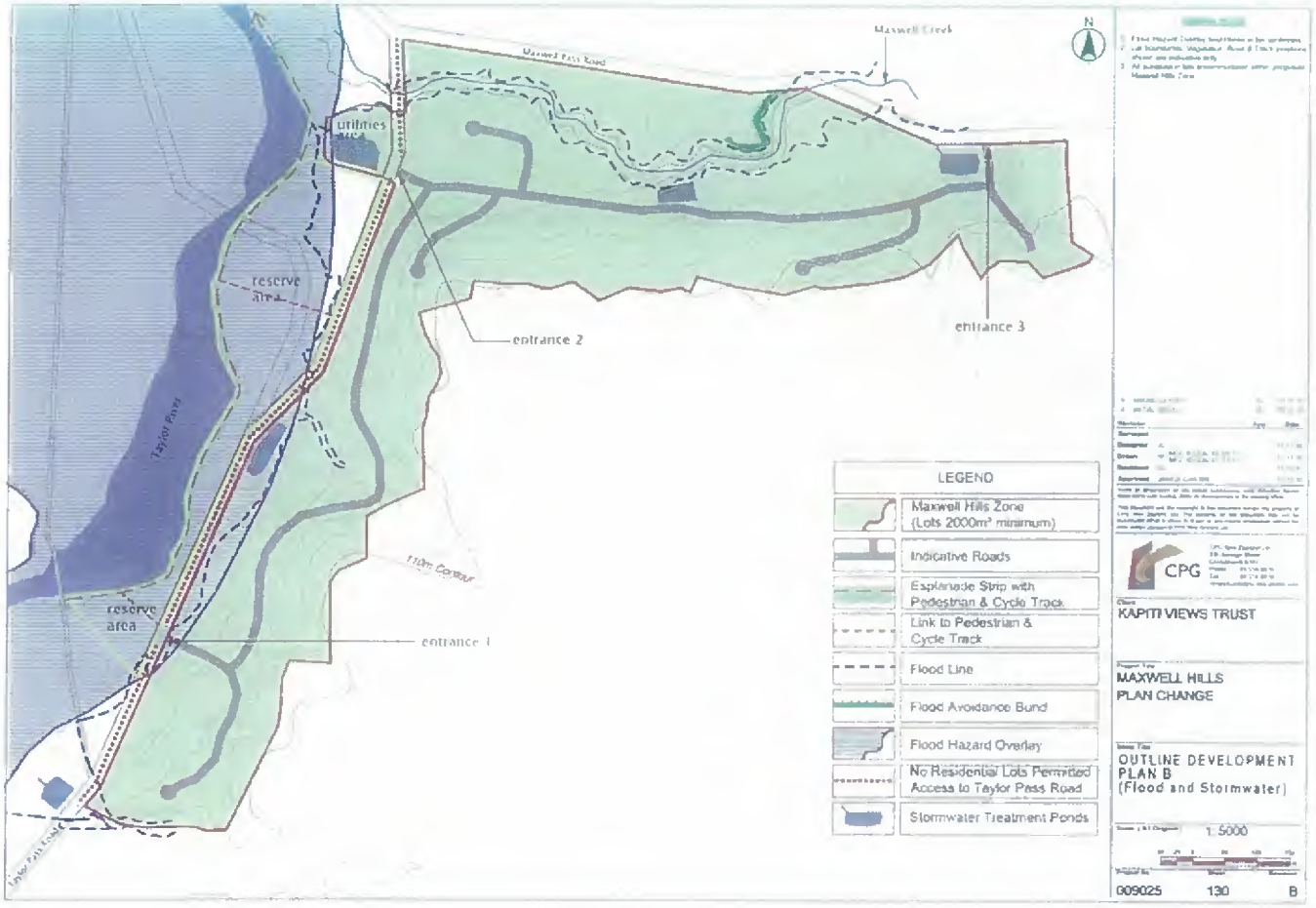
1.1 Site context - location map

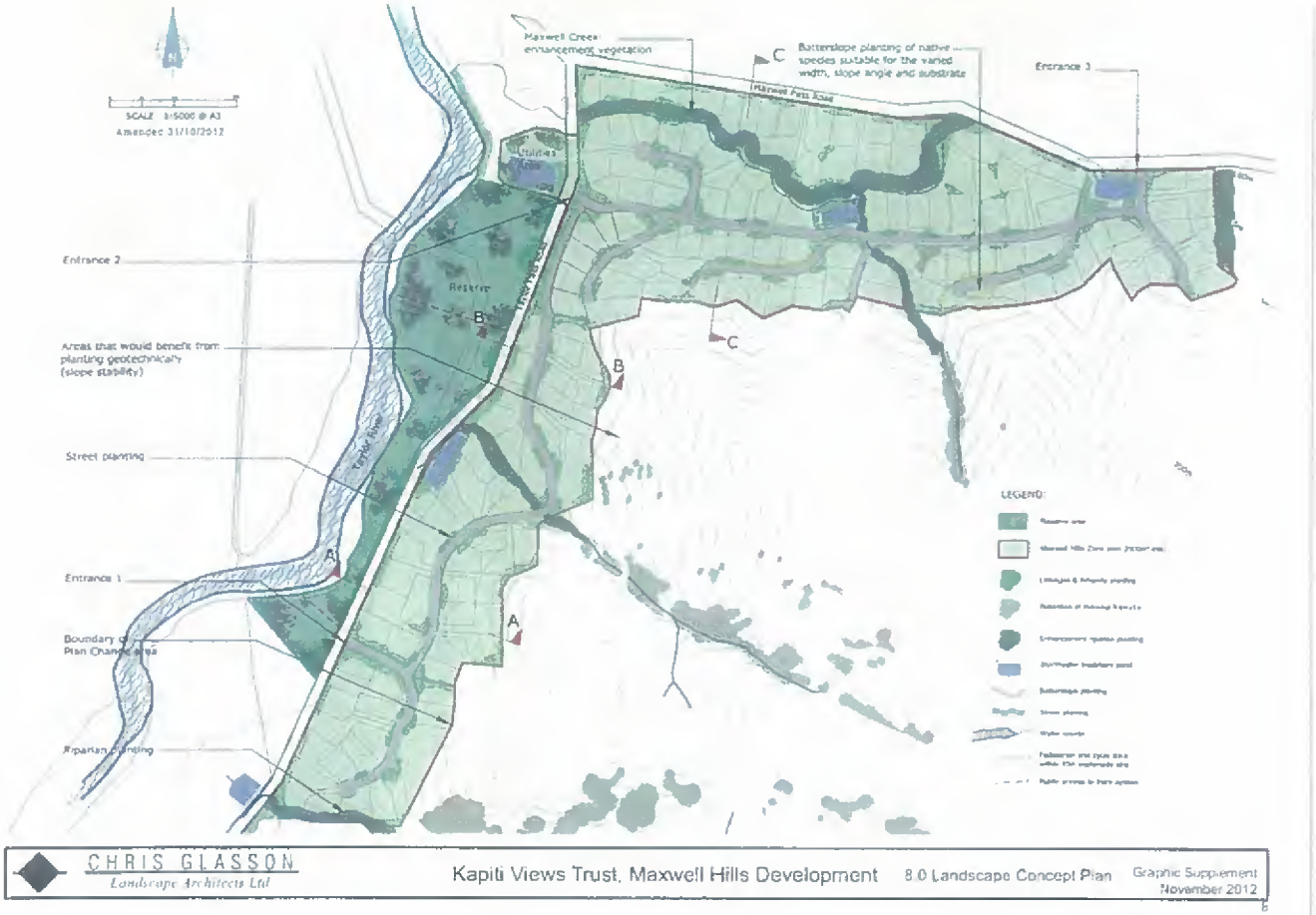
1.2 Site context - landscape of the Wairau Plain

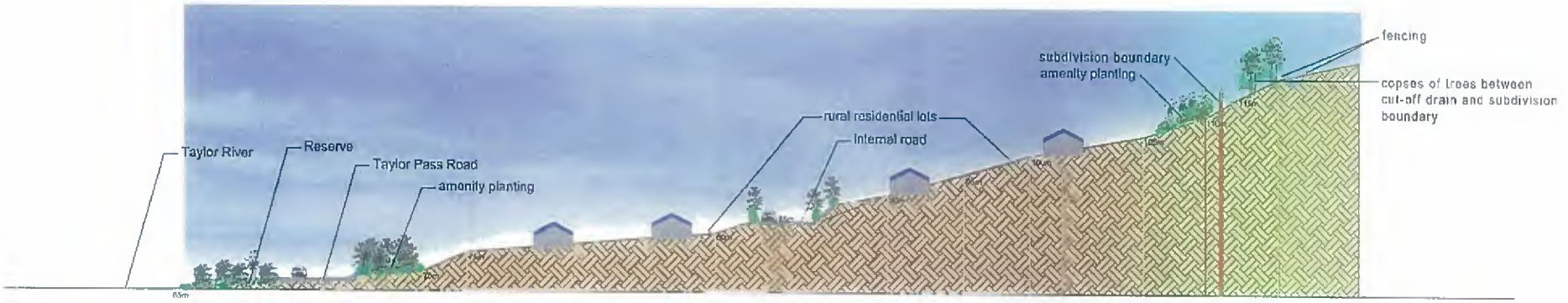

LEGEND:
Moderate to steep slope (ratio 1:2.5 avg)
Medium slope (avg 1:3.7)
Slight slope (avg 1:7.1)
Stream (ephemeral)
Ridgelines
Plan Change Area boundary
Plan Change Area
MAXWELL PASS ROAD
TAYLOR RIVER
0 100 200m
CHRIS GLASSON
Landscape Architects Ltd
Kapiti Views Trust, Maxwell Hills Development
5.0 Slope Analysis
Graphic Supplement
February 2011
5


LEGEND.
Gullies
Stream (ephemeral)
Ridgelines
Plan Change Area boundary
Plan Change Area
MAXWELL PASS ROAD
TAYLOR PASS ROAD
200m a.s.l
300m a.s.l
0 100 200m
CHRIS GLASSON
Landscape Architects Ltd
Kapiti Views Trust, Maxwell Hills Development
4.0 Topography and Drainage Patterns
Graphic Supplement
February 2011

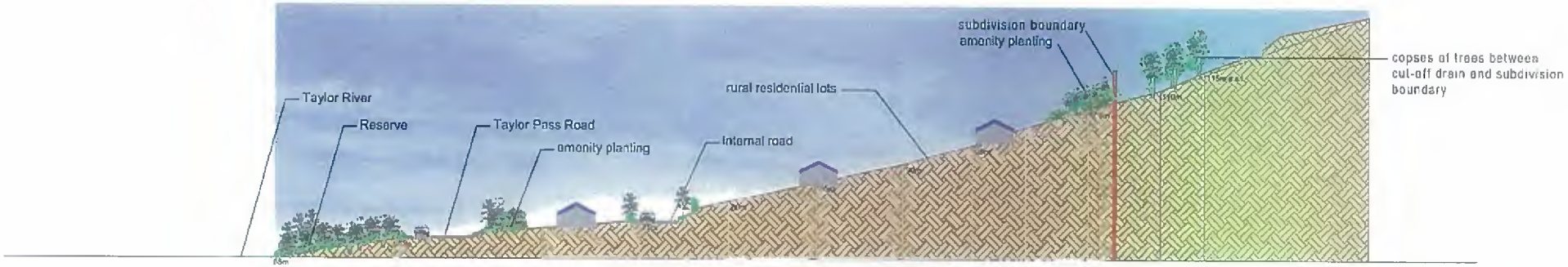

Maxwell Creek
Maxwell Park Road
entrance 2
entrance 3
entrance 1
Taylor River
110m Contour
Taylor Pass Road
LEGEND
Maxwell Hills Zone (Lots 2000m² minimum)
Reserve Area
Utilities Area
Indicative Roads
Esplanade Strip with Pedestrian & Cycle Track
Link to Pedestrian & Cycle Track
No Residential Lots Permitted Access to Taylor Pass Road
CPG
KAPITI VIEWS TRUST
MAXWELL HILLS PLAN CHANGE
OUTLINE DEVELOPMENT PLAN A
1:5000
009025
130
B


Maxwell Creek
Maxwell Pass Road
utilities area
reserve area
entrance 2
entrance 3
Taylor Pass
110m Contour
reserve area
entrance 1
Taylor Pass Road
N
LEGEND
Maxwell Hills Zone (Lots 2000m² minimum)
Indicative Roads
Esplanade Strip with Pedestrian & Cycle Track
Link to Pedestrian & Cycle Track
Flood Line
Flood Avoidance Bund
Flood Hazard Overlay
No Residential Lots Permitted Access to Taylor Pass Road
Stormwater Treatment Ponds
CPG
KAPITI VIEWS TRUST
MAXWELL HILLS PLAN CHANGE
OUTLINE DEVELOPMENT PLAN B (Flood and Stormwater)
1:5000
009025
130
B

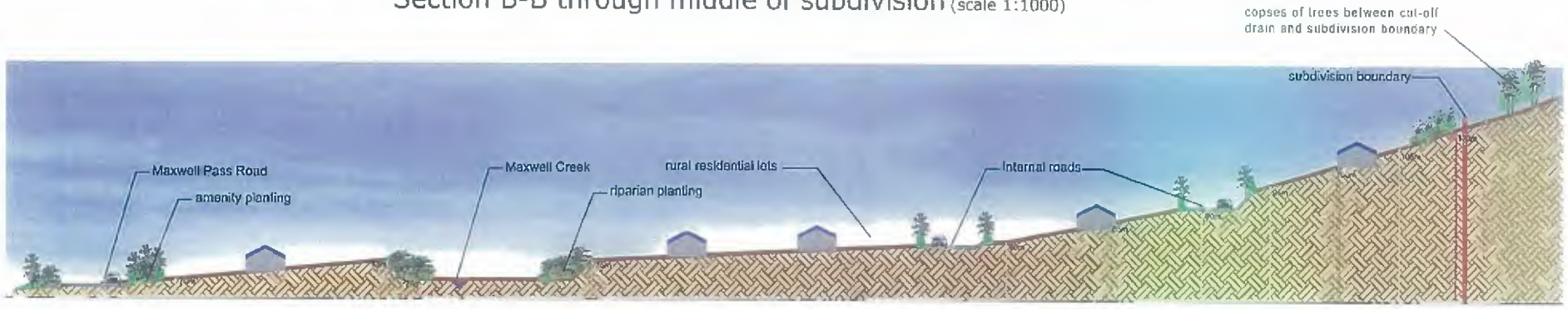

Maxwell Creek enhancement vegetation
C
Batterslope planting of native species suitable for the varied width, slope angle and substrate
Entrance 3
Maxwell Park Road
Utilities
Reserve
Entrance 2
Areas that would benefit from planting geotechnically (slope stability)
Street planting
Entrance 1
Boundary of Plan Change area
Riparian planting
A
B
C
LEGEND:
CHRIS GLASSON
Landscape Architects Ltd
Kapiti Views Trust, Maxwell Hills Development
8.0 Landscape Concept Plan
Graphic Supplement
November 2012



Section A-A through southern end of subdivision (scale 1:1000)



Section B-B through middle of subdivision (scale 1:1000)



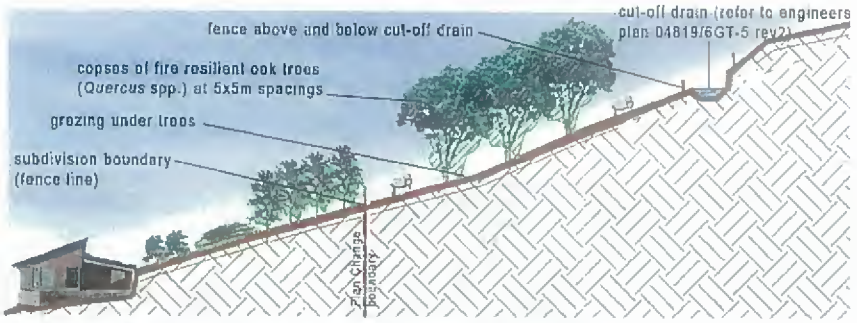
Section C-C through northern end of subdivision (scale 1:1000)

CHRIS GLASSON

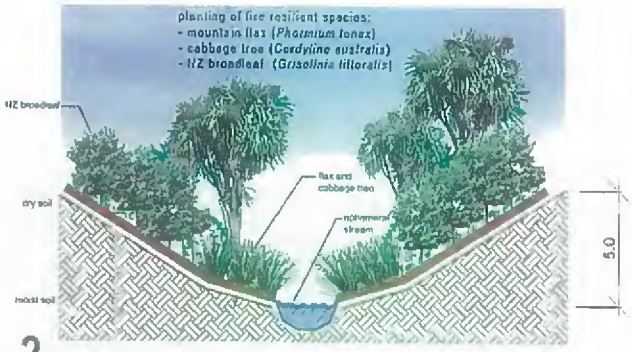
Kapiti Views Trust, Maxwell Hills Development

3.0 X-Sections AA-CC
Amended 25/11/12

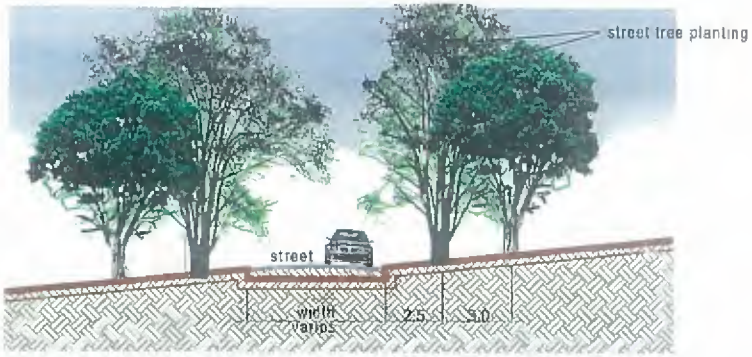
Figure 7



1. Typical section of planting below cut-off drain - scale 1:500



2. Typical section of gully planting - scale 1:200



3. Typical roadside tree planting - scale 1:200

4. Typical framework planting within allotments and road reserve (undertaken by the applicant) - scale 1:500

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Kapiti Views Trust, Maxwell Hills Development

2.0 X-Sections 1-4
Amended 28/11/12

View Point 1 from Taylor Pass Road, 300m north of junction with Maxwell Pass Road.
of the existing site with the location of construction works.

View Point 1 Simulation from Taylor Pass Road, 300m north of junction with Maxwell Pass Road.
5-7years: Stage 1

CHRIS GLASSON

Kapiti Views Trust, Maxwell Hills Development

5.0 Simulation - VP 1
300m from junction

Figure 8

View Point 1 Simulation from Taylor Pass Road, 300m north of junction with Maxwell Pass Road.
10-15years: Stages 1&2

View Point 1 Simulation from Taylor Pass Road, 300m north of junction with Maxwell Pass Road.
15-20years: Stages 1,2&3

CHRIS GLASSON

Kapiti Views Trust, Maxwell Hills Development

6.0 Simulation - VP 1
300m from junction

View Point 2 from Taylor Pass Road, 50m north of junction with Maxwell Pass Road, of the existing site with the location of construction works.

View Point 2 Simulation from Taylor Pass Road, 50m north of junction with Maxwell Pass Road.
5-7years: Stage 1

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Kapiti Views Trust, Maxwell Hills Development

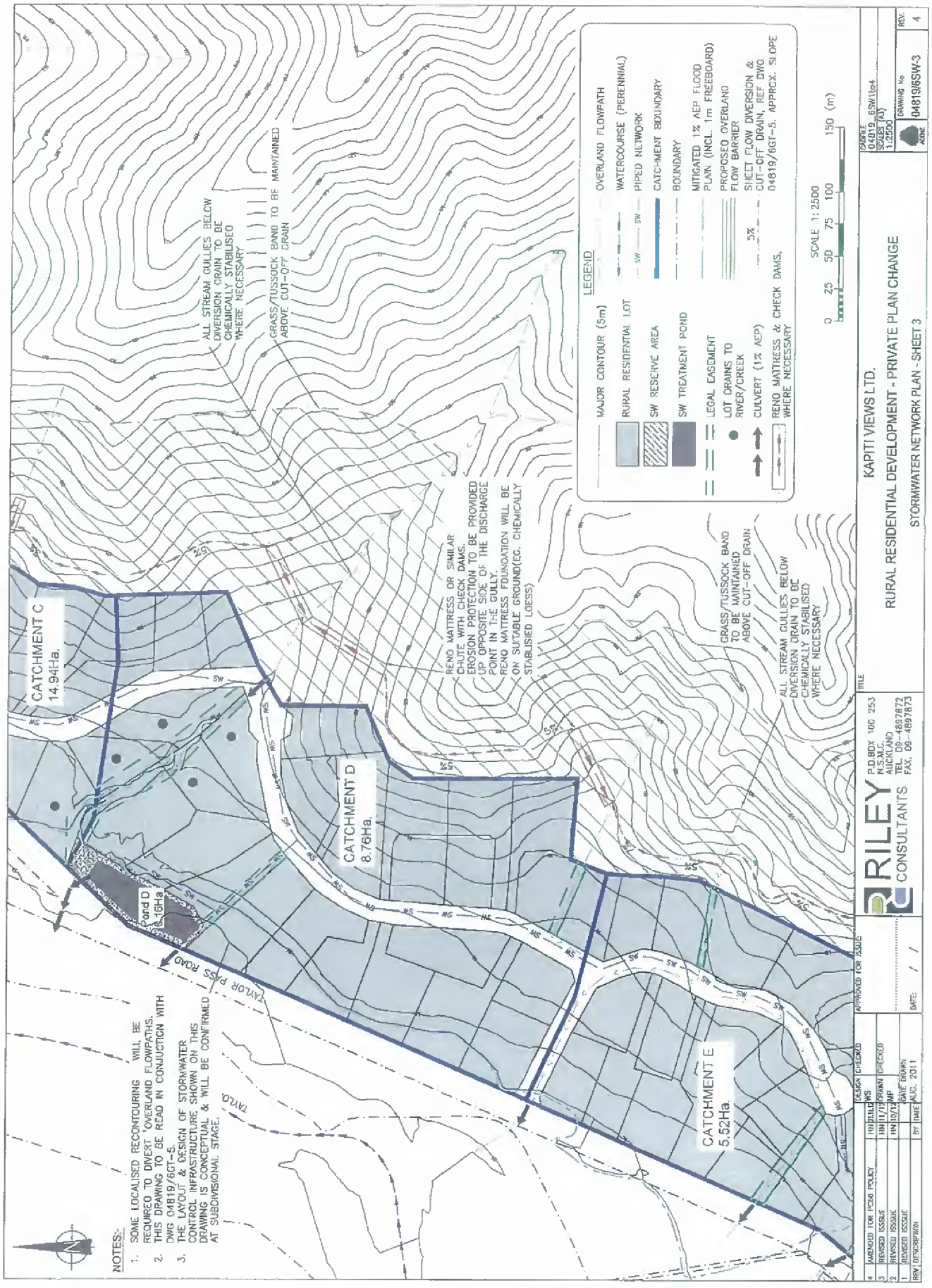
7.0 Simulation - VP 2
50m from junction

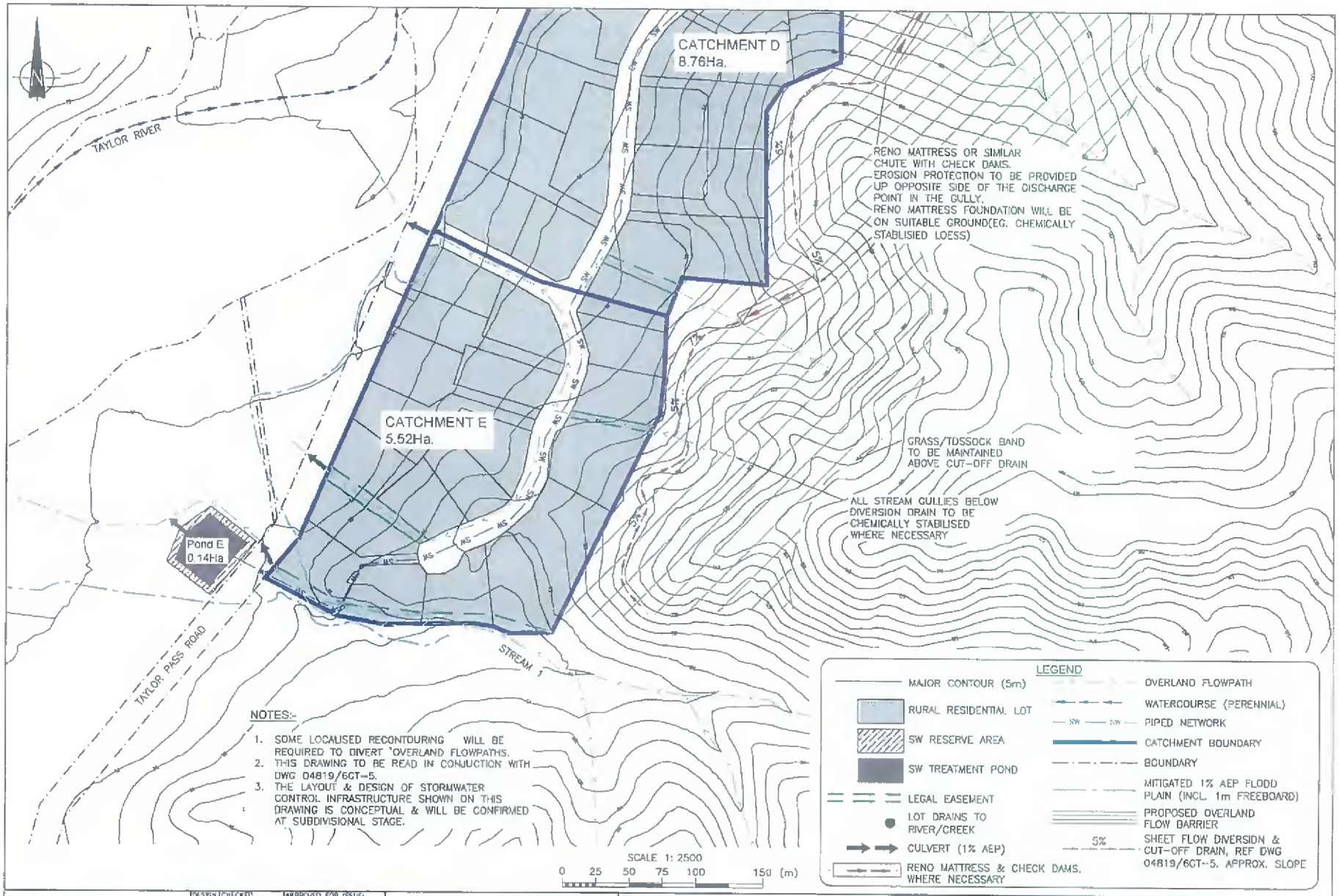
View Point 2 Simulation from Taylor Pass Road, 50m north of junction with Maxwell Pass Road.
10-15years: Stages 1&2

View Point 2 Simulation from Taylor Pass Road, 50m north of junction with Maxwell Pass Road.
15-20years: Stages 1,2 & 3


Scale 1:4000@A2
Maxwell Creek enhancement vegetation
1.5m-3.0 high retaining walls and battrslopes throughout
Planting of native species suitable for the varied width, slope angle and substrate. Cut faces will be retained with timber walls while the filled slopes will either be engineered batter slopes or timber walls
Maxwell Pass Road
see engineers plans for components of utilities area
Utilities Area
Taylor Pass Road
Reserve
existing conifer shelter belt
100m
cut-off drain
grazing
copper/al fire resistant oak trees below cut-off drain (see detail 1)
riparian planting (see detail 2.)
Taylor River
framework planting of trees within allotments and road reserve (see detail 4.)
road reserve (see detail 3.)
riparian planting (see detail 2.)
LEGEND:
Reserve area
Maxwell Hills Zone (avg 2400m² lots)
Framework planting
Retention of manuka/kanuka
Riparian planting
Stormwater treatment
Water course
Pedestrian and cycle track within 10m esplanade strip
Public access to track system
Cut-off drain
Fence above cut-off drain
Cut and fill batter slopes 1.5-3.0m high
PLANTS LIST
Botanical Name
Common Name
Native trees and shrubs throughout allotments:
Plants for damp areas:
Taylor Pass & Maxwell Hills Road boundary planting
Suitable conifers throughout subdivision:
Framework trees to include throughout subdivision
CHRIS GLASSON
BNZ BUILDING, 137 Armagh St
Christchurch, NEW ZEALAND
P.O. Box 13182
Ph. 03 366 4509
Kapiti Views Trust, Maxwell Hills Development
1.0 Landscape Concept Plan
Amended 28/11/2012

Figure 9


CATCHMENT C
14.94Ha.
CATCHMENT D
8.76Ha.
CATCHMENT E
5.52Ha.
Pond D
8.16Ha
TAYLOR PASS ROAD
TARO
ALL STREAM GULLIES BELOW DIVERSION DRAIN TO BE CHEMICALLY STABILISED WHERE NECESSARY
GRASS/TUSSOCK BAND TO BE MAINTAINED ABOVE CUT-OFF DRAIN
RENO MATTRESS OR SIMILAR CHUTE WITH CHECK DAMS. EROSION PROTECTION TO BE PROVIDED UP OPPOSITE SIDE OF THE DISCHARGE POINT IN THE GULLY. RENO MATTRESS FOUNDATION WILL BE ON SUITABLE GROUND(EG. CHEMICALLY STABILISED LOESS)
LEGEND
MAJOR CONTOUR (5m)
OVERLAND FLOWPATH
RURAL RESIDENTIAL LOT
WATERCOURSE (PERENNIAL)
SW RESERVE AREA
PIPED NETWORK
SW TREATMENT POND
CATCHMENT BOUNDARY
LEGAL EASEMENT
BOUNDARY
LOT DRAINS TO RIVER/CREEK
MITIGATED 1% AEP FLOOD PLAIN (INCL. 1m FREEBOARD)
CULVERT (1% ACP)
PROPOSED OVERLAND FLOW BARRIER
5%
SHEET FLOW DIVERSION & CUT-OFF DRAIN, REF DWG 04819/6GT-5. APPROX. SLOPE
RENO MATTRESS & CHECK DAMS, WHERE NECESSARY
SCALE 1:2500
0 25 50 75 100 150 (m)
NOTES:-
1. SOME LOCALISED RECONTOURING WILL BE REQUIRED TO DIVERT 'OVERLAND FLOWPATHS. THIS DRAWING TO BE READ IN CONJUCTION WITH DWG 04819/6GT-5.
3. THE LAYOUT & DESIGN OF STORMWATER CONTROL INFRASTRUCTURE SHOWN ON THIS DRAWING IS CONCEPTUAL & WILL BE CONFIRMED AT SUBDIVISIONAL STAGE.
4 AMENDED FOR PCPA POLICY HB/11/12 WS
3 REVISED ISSUE HB/11/12 DRAWN CHECKED
2 REVISED ISSUE HB/10/12 MP
1 ISSUED ISSUE DATE DRAWN
REV DESCRIPTION BY DATE AUG. 2011
DESIGN CHECKED
APPROVED FOR ISSUE
DATE / /
RILEY CONSULTANTS
P.O.BOX 100 253
N.S.M.C.
AUCKLAND
TEL 09-4897872
FAX. 09-4897873
TITLE
KAPITI VIEWS LTD.
RURAL RESIDENTIAL DEVELOPMENT - PRIVATE PLAN CHANGE
STORMWATER NETWORK PLAN - SHEET 3
DWGFILE 04819_6SW1to4
SCALES (A1) 1:2500
DRAWING No 04819/6SW-3
REV 4



REV	DESCRIPTION	BY	DATE
4	AMENDED FOR PCRD POLICY	HH	27/11/13
3	REVISED ISSSUE	HH	11/12
2	REVISED ISSSUE	HH	10/12
1	REVISED ISSSUE		

DESIGN WS | CHECKED
DRAWN MP | CHECKED
DATE DRAWN AUG. 2011
APPROVED FOR ISSUE:
DATE: / /

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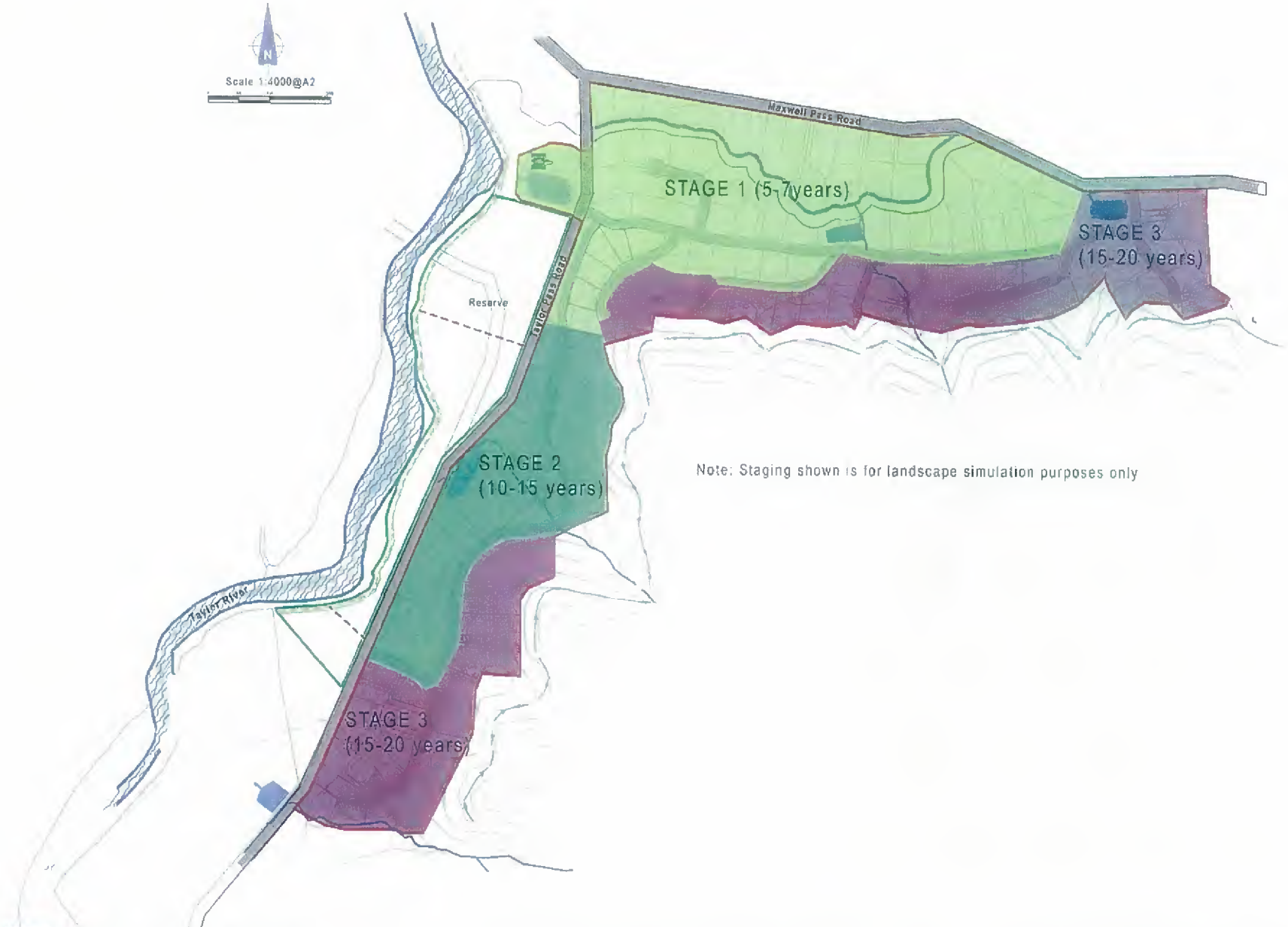
FAX. 09-4897873

TITLE
KAPITI VIEWS LTD.
RURAL RESIDENTIAL DEVELOPMENT - PRIVATE PLAN CHANGE
STORMWATER NETWORK PLAN - SHEET 4

CADFILE 04819_6SW1to4
SCALES (A0) 1:2500
DRAWING No. 04819/6SW-4
REV. 4

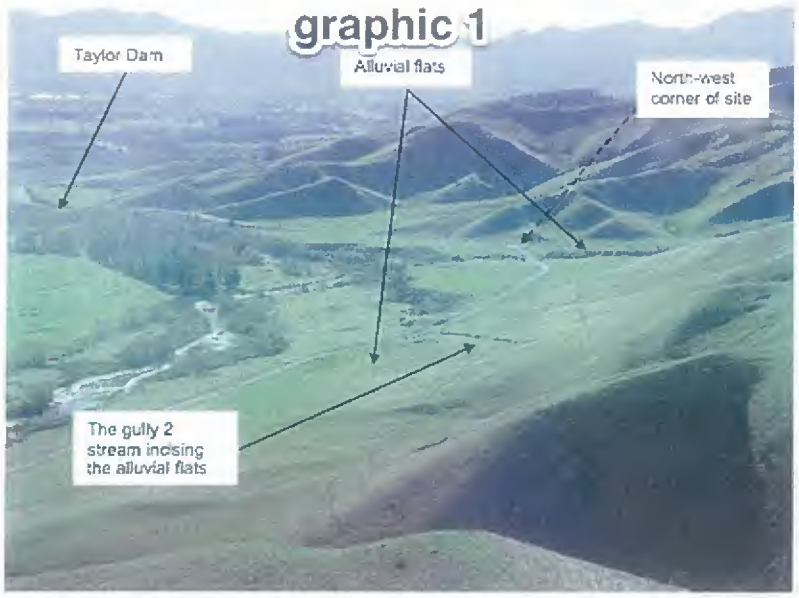


CHRIS GLASSON

Kapiti Views Trust, Maxwell Hills Development

4.0 Simulation Staging Plan
Amended 29/11/12

Figure 11



Looking north down Taylor Valley towards the alluvial flats along the western and northern margins of the property.

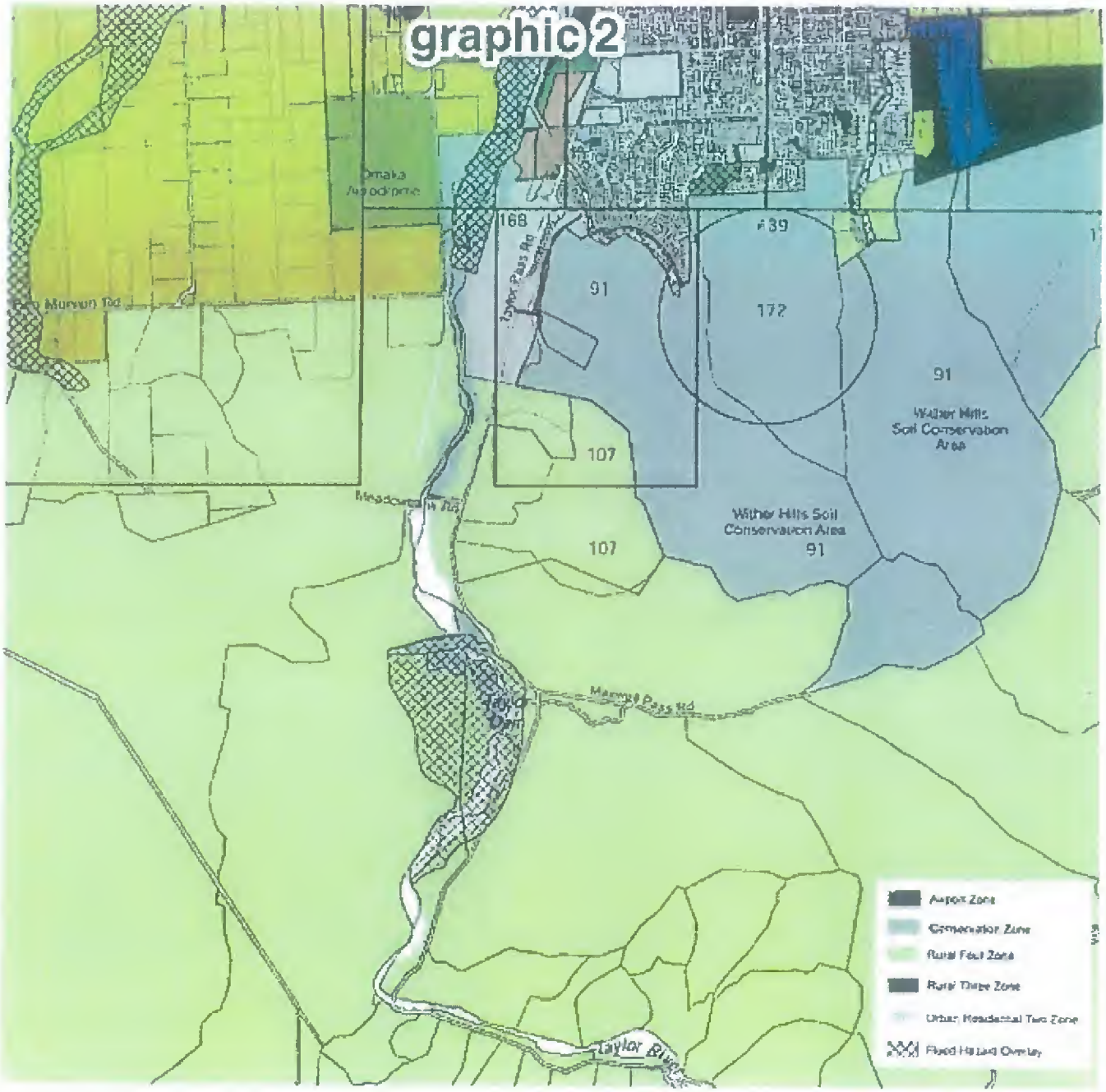
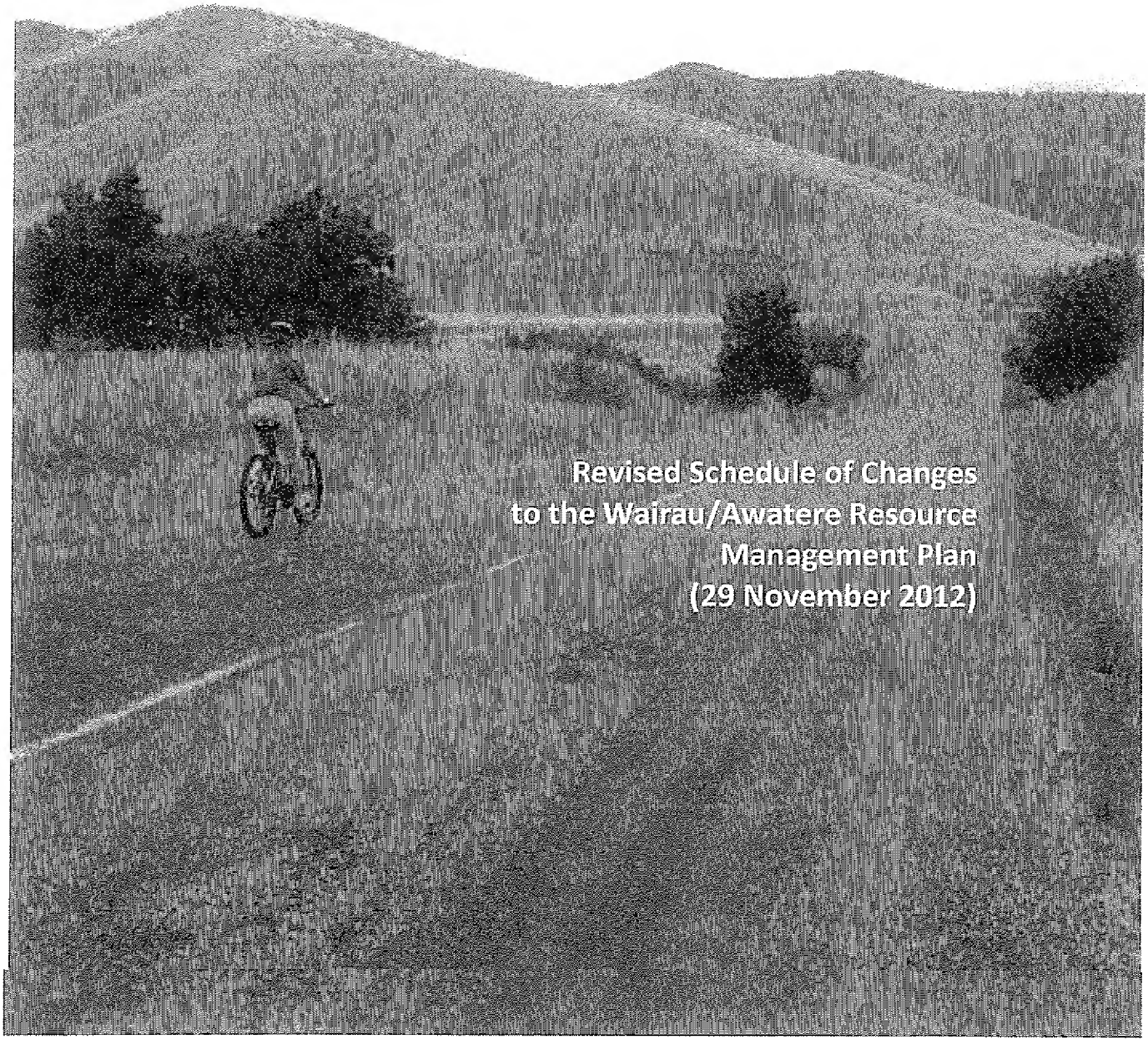


Plate 6: Image created using Map 155(Blenheim) and Map 185 (Taylor Pass to Awatere Valley) from the WARMP Planning Maps. This map illustrates the division between Rural 3 and Rural 4 zoned land, as well as the extent of Conservation Zoned land and the extent of the urban southern limits of Blenheim.(Not to scale)

Appendix 3



Revised Schedule of Changes to the Waiŕau/Awatere Resource Management Plan (29 November 2012)

SCHEDULE OF CHANGES TO THE WAIRAU AWATERE RESOURCE MANAGEMENT PLAN

It is proposed to change the Wairau Awatere Resource Management Plan (the Plan) as follows:

Note: Where text is proposed to be added to the Plan it is shown as underlined.

Volume 2 Rules

1 Add a new Appendix R Maxwell Hills Zone, including an Outline Development Plan (A & B), a landscape concept plan, a hazard plan, and a concept cut-off drain cross section as attached.

2 Add "**Appendix R Maxwell Hills Zone**" to the Table of Contents after "Appendix Q Schedule of Water Bodies for Riparian Management Purpose"

Volume 3 Planning Maps

3 Amend Planning Map 185 to include the new Maxwell Hills Zone with reference to Appendix R, as attached.

4 Amend the Legend to the Planning Maps to show a key for the Maxwell Hills Zone with specific reference to Appendix R, as attached.

Appendix R Maxwell Hills Zone

1. Zone Statement

The Maxwell Hills Zone is intended to provide a very low density residential living environment in a rural hills setting. This zone adds to the choice of high amenity living environments available to the Wairau/Awatere community. The zone is located 2.5 kilometres from the existing Blenheim urban boundary and about 1 kilometre from the Taylor Dam recreational area. The density of development provided is much lower than the nearby Blenheim urban area but is higher than the density of the existing rural residential zones which are generally around 1 hectare and is intended to provide for the growing demand for lots between 2000- 4000 square metres in area. The zone is intended to take some pressure off the demand for rural residential development in the Wairau Plain and from a visual amenity point of view will enable the development of a hill residential environment that is not visible from Blenheim.

An Outline Development Plan is included for this zone to ensure integrated development of the site with appropriate roading, servicing, recreation and reserve networks.

While several options exist, provision of an adequate water supply will be fundamental to the development of this rural residential area.

1.1 Objective and Policies

General

Objective 1: An environment that provides a sustainable and alternative choice for residential living for the community while avoiding or mitigating any adverse effects on the amenity values and characteristics of the surrounding rural environment.

Policy 1.1 Provide for the establishment of a residential hills environment through zoning land at Maxwell Hills for very low density residential activity.

Policy 1.2 Ensure that all building development within the Maxwell Hills Zone avoids areas subject to hazards, unless those hazards can be sufficiently mitigated.

Policy 1.3 Provide for the maintenance and enhancement of the amenity and visual character of the locality through sensitive landscape planting, building densities and building design.

Policy 1.4 Provide for a range of small scale non residential activities in conjunction with residential activity to facilitate the social, economic and cultural well being of the community while avoiding and mitigating adverse effects on the environment.

Policy 1.5 Encourage opportunities that will create a more sustainably focused residential environment to that found in traditional residential environments within the District, including but not limited to enabling increased use of solar energy, cycling and pedestrian activity.

Hazards

Objective 2. People, property and infrastructure within and surrounding the zone are protected from the adverse effects of natural and human induced hazard events through avoidance and/or mitigation and/or management.

Policy 2.1 - Geotechnical Hazard Map
To utilise the information on geotechnical hazard plan 04819/6GT – 4 attached to assess resource consent applications involving land both within the zone and land in the immediate area servicing the zone.

Policy 2.2 – Tunnel Gully Erosion
To minimise the occurrence of tunnel gully erosion within the zone and to ensure that development and future use of the area is protected by careful control and management of surface and groundwater. Tunnel gully erosion will be managed by a combination of responses including:

(1) All tunnel gully features identified during subdivision development will be appropriately backfilled with non-erodible material where necessary in a manner designed and certified by a suitably qualified geotechnical engineer.

(2) The construction of a surface water cut-off drain and subsurface drains uphill of the zone in the location identified on the outline development plan. The surface water cut-off drain must:

(i) be founded on competent and non-erodible ground (e.g. Hillersden Gravel or greywacke).

(ii) include a specifically designed subsoil drain and filter to intercept and control groundwater flows where required.

(iii) be sized to collect and pass the 1% AEP event from the immediate catchment above the drain and direct water to the natural overflow path (stabilised gullies).

(iv) be supported by a specifically designed retaining wall or engineered hardfill bund.

(v) be lined with well compacted non-erodible material (e.g. chemically stabilised colluvium or the equivalent).

(vi) be fenced to manage potential stock damage to the cut off drain and tree plots, maintain a vegetative sward for erosion protection and allow managed grazing to minimise the fire risk.

(vii) be generally in accordance with drawing 04819/6GT-5 attached (but noting (iv) above) or other suitable engineering measures detailed and

approved at subdivision stage capable of achieving the same or similar outcome.

For the avoidance of doubt, the cut-off drain and subsurface drains required by this policy may be erected in stages based on the subdivision application(s) submitted for consent.

(3) The provision of surface and groundwater controlling structures as part of subdivision development, including:

(i) Structures to intercept, convey and discharge all stormwater from impervious surfaces such as roofs and roads.

(ii) Incorporation of a specifically designed subsurface filter drain into any structural retaining walls required to be constructed.

(4) The on-going maintenance and upgrading of the surface water cut-off drain and subsurface drains, and other structures, by the Residents and Owners Association, or other similar legal entity, as part of the community infrastructure required to be owned and managed to service the development.

(5) On all proposed new residential lots where subdivisional stage geotechnical assessments identify tunnel gully hazards, specific building platforms will be required to be identified. Building platforms will be required to be protected by specifically constructed cross-slope stormwater and groundwater cut-off drains where site conditions warrant it. Roads, buildings and accessways shall be founded on competent ground. Subdivision consent applications will contain a condition(s) requiring a consent notice(s) where appropriate to implement this policy.

(6) The treatment or re-instatement of areas affected by tunnel gullies and un-collapsed tunnels by appropriate techniques including, but not limited to, chemically stabilised colluvium backfilling, over-excavation and backfilling, grouting of tunnels. This work will be completed as part of the subdivision development.

(7) Subdivision consent applications will be required to contain conditions of consent requiring a consent notice to be registered on the title advising owners of their obligation to check the lot on a regular basis for signs of tunnel gully erosion. An information pack will be required to be provided to all new owners of lots by the Residents and Owners Association, or other similar legal entity, where natural conditions may exist for erosion to occur. This package will outline recommended frequency of inspection, and general 'do's and don'ts' for living on slopes susceptible to erosion.

Policy 2.3 Land Information Memoranda

To ensure that prospective owners are aware of the nature and extent of the naturally occurring hazards, information identifying the hazards on land within and adjacent to the

zone will be recorded by the Council on the Land Information Memoranda database (LIM) for each lot.

Policy 2.4 – Development in areas with potential to flood
To minimise the potential for flooding the following restrictions, maintenance and protection measures will be adopted:

(1) Habitable buildings and structures will be restricted to land above the flood line identified on the outline development plan. The flood line is based on a 1% AEP event (1 in 100 year flood) and includes 1 metre freeboard.

(2) The provision of an earth bund to the north of Maxwell Creek and locally raising the road level to provide protection from overland flow should Maxwell Creek flood.

(3) Requiring a building setback of 8 metres from all streams on the site.

Policy 2.5 – Stormwater Management
Ensure that the stormwater management network to service the zone provides for the effective run-off of stormwater during storm events by providing both a primary piped drainage network designed for the 10% AEP event and secondary overflow paths for larger events up to the 1% AEP as per the MDC Code of Practice for Subdivision and Land Development, 26 June 2008. The stormwater management measures will include:

(1) Provision of a reticulated pipe network to collect flows from roads and individual lots; with provision to allow, where feasible,

(i) stormwater to drain directly to a water course, or

(ii) disposal of stormwater runoff to an on-site soakage pit for individual lots located on alluvial soils.

(2) The construction of water quality treatment ponds, or similar treatment device, generally in the locations identified in the outline development plan, and designed in accordance with Auckland Regional Council Technical Publication TP10 "Stormwater Management Devices, Design Guidelines Manual" 2nd Edition, May 2003, or any replacement standard.

Policy 2.6 –Development in a locality subject to high fire risk
The risk of fire hazard in the zone shall be avoided, mitigated and/or managed by:

(1) Requiring the installation of a pressurised water supply to the development with provision for fire fighting as a condition of subdivision consent.

(2) Ensure that property owners within the zone are aware of 'defensible space' fire risk management concepts by making it a responsibility of the Residents Owners Association, or similar legal entity, to provide such information to property owners. In particular property owners will be provided by the Residents Owners Association, or similar legal entity, with a copy of the booklet entitled "Fire Smart Home Owner's Manual", National Rural Fire Authority, Version 2, 2009 (or any updated equivalent).

(3) When making decisions on subdivision consent applications require that a "Priority Zone One" fuel free 10 metre wide strip is set aside around all buildings as per the Fire Smart Home Owner's Manual, National Rural Fire Authority, Version 2, 2009, by way of Consent Notice to be registered on each Title.

(4) To require within the structure of the Residents Owners Association, or similar legal entity, provision for the appointment of a person to specifically liaise with the Marlborough Kaikoura Rural Fire Authority's local fire officer responsible for the area on issues including, but not limited to, fire risk awareness, early fire detection both in and around the zone, and advice on planting fire retardant plants.

(5) Recognition of the availability of a large body of permanent water at the Taylor Dam and the availability of helicopters and monsoon buckets within a short flying distance via the Omaka Aerodrome.

Reserve

Objective 3 Establishment of a large public reserve in the locality to provide for the recreational needs of residents, the wider community and visitors to the district.

Policy 3.1 – Provision of Reserve Area
To ensure the provision of the reserve identified in the outline development plan by requiring it to be included as "reserve to be vested in the Marlborough District Council" in an application for subdivision consent either prior to, or at the same time as, the first application for subdivision consent is sought to create residential lots in the Zone. This provision is to ensure that the reserve is vested in the Council at the earliest possible opportunity and is to be taken as part of the reserve fund contribution for the development.

Landscape

Objective 4 A carefully landscaped, well planted and spacious residential environment that is able to sit within a larger scale rural environment and which contributes positively to the amenity and diversity of the area.

Policy 4.1 – Landscape and visual impact
To minimise any impact of the development on the landscape by including features that enable integration with the surrounding landscape, including:

(1) Restricting allotments and roads to lower slopes, terraces and flat lands.

(2) Provision of a large public recreation reserve.

(3) The implementation of a landscape concept plan including planting of trees along streets, in allotments and in open space.

(4) Revegetation of gullies and embankments.

(5) Retaining a maximum building height of 8 metres.

Community Wastewater Management System

Objective 5: An efficient and effective reticulated community wastewater treatment and discharge system owned, operated and maintained by the community.

Policy 5.1 – Wastewater Design, Treatment and Management
Ensure that a community wastewater collection, treatment and discharge system is provided to service the zone, designed in accordance with AS/NZS 1547:2012, and includes adequate provision for on-going maintenance and upgrading. The wastewater management system will include:

(1) An on-site interceptor tank on each new lot.

(2) The collection and conveyance of wastewater from each lot by a sealed pressure effluent sewer to a central treatment plant located as shown on the outline developmentplan.

(3) Treatment of effluent to an advanced secondary standard prior to discharge via a specifically designed irrigation system to selected disposal areas within part of Lot 1 DP 9518, and part of Lot 3 DP 357141, with potential to use a small part of Lot 1 DP 357141 and Lot 2 DP 357141.

(4) Selection of loading rates that takes into account the soil structure, topography and evapotranspiration of the irrigation site and ensures that nutrient levels being discharged into the catchment are equal to, or constitute a net improvement to, the nutrient levels from current land use.

(5) Provision for the on-going maintenance and upgrading of all wastewater infrastructure by the Residents and Owners Association, or other similar legal entity, as part of the community infrastructure required to be owned and managed to service the development.

Conditions of consent and consent notices, as appropriate, will be included to ensure the implementation of this policy.

Ownership Structure for Community Infrastructure and Facilities

Objective 6: A community that is self-sustaining in terms of ownership, management and maintenance of essential community infrastructure and services in the absence of Council involvement.

Policy 6.1 – Residents and Owners Association
To ensure that management and ownership systems are in place to provide for the ongoing maintenance and operation of community infrastructure and facilities required to service the development. This will include:

(1) The establishment of a Residents and Owners Association, or other similar incorporated legal entity, to own, operate, manage, maintain and monitor the water supply, wastewater, stormwater, the surface water cut-off drain uphill of the

zone, and any other necessary community infrastructure not provided or maintained by the Council. The Association structure shall include:

(i) Rules and methods prescribing how the Association will be set up and operated.

(ii) Compulsory membership for all owners of individual lots.

(iii) Provision for levies to be collected from owners to fund maintenance, management and monitoring of community owned and operated infrastructure.

(iv) Provision for the appointment of a person to liaise with Marlborough Kaikoura Rural Fire Authority.

(v) Provision for the reverse sensitivity policy to be enforced by holding the benefit of the encumbrance provided for in that policy.

(2) A requirement to place, as a condition on subdivision consent application(s), a consent notice to be registered on the Title advising owners of the role of the Residents and Owners Association, or other similar legal entity, and their responsibilities in respect to it.

Reverse Sensitivity

Objective 7: No loss of production or restrictions placed on adjoining or nearby legitimate existing rural and forestry operations due to the presence of the Maxwell Hills residential area.

Policy 7.1 Reverse Sensitivity Encumbrance
To reduce the potential for reverse sensitivity effects to arise by requiring an encumbrance, or equivalent legal requirement, to be placed on each residential title providing advice to purchasers that they are residing in close proximity to a working rural/forestry environment and preventing complaints from owners about any nuisance effects arising from existing legitimate rural/forestry activities.

The encumbrance shall be irrevocable and shall apply in relation to all rural/forestry activities in the area.

2. Rules

Unless specifically excluded by a rule below the definitions of Chapter 26.0, the Rules of Chapter 27.0 (General Rules Having Application in All Zones, Rivers, Riverbeds and Lakes) and Chapter 29.0 (Standard Requirements for Subdivision and Development) apply.

2.1 Permitted Activities

The following activities are permitted activities provided that they comply with the Outline Development Plan and the permitted activity conditions specified:

- Residential activity, limited to one dwelling house per lot.
- Homestay, limited to not more than five visitors.
- Professional offices, veterinary clinics and home occupations, provided these are ancillary to the principal residential activity.
- retail sales of:
  farm and garden produce grown, reared or produced on the site.
  handicrafts produced on the site.
- Parks, reserves (owned and administered by a public authority).
- Grazing for maintenance of open space.
- Temporary buildings.
- Discharges

2.2 Conditions for Permitted Activities

2.2.1 Outline Development Plan

2.2.1.1 All development shall be undertaken in accordance with the Outline Development Plan in Clause 2.8.

2.2.2 Vehicle Access

2.2.2.1 For any proposed activity the owner, occupier or developer shall make provision for on-site all-weather vehicle parking. Any driveway formed on a lot for a permitted activity shall not exceed a gradient of 1 in 6.

2.2.2.2 With respect to Maxwell Hills Zone all vehicle access, including driveways and intersections, shall comply with Austroads Guide to Traffic Engineering Practice Part 5 "Intersections at Grade" and the following general rules in Chapter 27.2 (Rules Relating to Transportation) shall not apply:

Rules 27.2.4.4, 27.2.4.5, 27.2.4.6, 27.2.4.7 and 27.2.5

2.2.2.3 **Gradients - Excavation**

The gradient of any side cut excavation must not exceed an average of 9.5° (1:6) and must not exceed 11.3° (1:5) along any length of more than 20 metres.

2.2.2.4 **Water Control and Culverts**

Stormwater controls, watertable cut-offs, and culverts are to be installed to ensure that erosion does not occur on the inside edge of the cut. No culvert size less than 300 mm may be used to drain any side-cut excavation.

2.2.2.5 Stabilisation

Batters and side castings are to be stabilised by appropriate measures such as retaining, seeding, compacting, drainage and/or other methods of revegetation.

2.2.2.6 Run-off

Run-off from watertables or surfaces of side cut excavations is to be directed to stable land areas.

2.2.2.7 Access to Taylor Pass Road

Residential lots which adjoin Taylor Pass Rd shall not have vehicle access directly to or from Taylor Pass Road.

2.2.3 Parking Space Requirements

Refer to Chapter 27, Rule 27.2.3.

2.2.4 Amenities

2.2.4.1 Residential Site Density - Residential Activity

The minimum net site area for each residential unit shall be:

(i) A minimum of 2,000m^2;
(ii) Of such shape that it will contain a circle of 15 metres diameter; and
(iii) Dedicated for the exclusive use and occupation of the unit and contiguous with it.

2.2.4.2 Open Space - Residential Activity, Home Occupations, Homestays

The maximum percentage of net site area which may be covered by buildings shall be: 30% or 600m^2, whichever is the least.

2.2.4.3 Maximum Building Height - All Activities

The maximum permitted height of any building or structure shall be 8 metres.

2.2.4.4 Sunlight and Privacy for Neighbours - All Activities

2.2.4.4.1 No part of any building shall exceed a height equal to the recession plane angle determined by the application of Figures 2 and 3 of the Definition Chapter. To determine the maximum permitted height in relation to boundaries on the site the diagram in Figure 2 (Recession Plane Indicator) must be viewed within the site, and orientated north. The angle of inclination relative to a particular boundary is determined by the angle on the diagram in Figure 3 adjacent at that boundary.

2.2.4.4.2 Within the Maxwell Hills Zone the angle shall be measured from a starting point 2.3 metres above ground level (x = 2.3 m).

2.2.4.4.3 Except where a site boundary abuts the street or road, no part of any building should exceed a height limit imposed by a line drawn at an angle of 55° from the horizontal and originating and drawn at right angles from a point 2 metres above the boundary of the site where it abuts the street or road.

2.2.4.4.4 Exception for a garage

Any part of the garage building may intrude into a recession plane, until the recession plane reaches 3 metres in height with reference to the boundary level, to enable the garage building to be sited up against or nearer to a side or rear boundary provided that:

(a) The continuous or aggregate length of a building or buildings sited on or near to the boundary and intruding into the recession plane may not exceed 9.0 metres.
(b) The exemption can be applied to only one side boundary and one rear boundary.
(c) Any such building shall be sited at least 5.5 metres from the front boundary. This does not apply to side entry garages, where a 90-percentile vehicle can park between the front boundary and the garage entrance.
(d) The maximum height of the building within 1 metre of the boundary does not exceed 3 metres.

2.2.4.5 Siting Requirements for Garages

A front yard of 5.5 metres depth shall be provided for a garage having vehicular access directly from the road or street.

2.2.4.6 Noise

All activities shall be conducted so as to ensure that noise arising from such activities does not exceed the following noise limits at or within the boundary of any other site zoned Maxwell Hills **or within the notional boundary of any dwelling on land zoned Rural**:

55 dBA L_{10}	0700 hrs - 2200 hrs Monday to Friday and 0700 hrs - 1200 hrs Saturday
45 dBA L_{10}, and 70 dBA L_{max}	At all other times including any public holiday

Provided on any day between 0700 hrs - 2200 hrs the L_{max} limit shall not apply

2.2.5 Heritage

Note:
Notwithstanding any permitted activity status herein, an authorisation from the New Zealand Historic Places Trust is required before any person may destroy, damage or modify the whole or part of any historical, cultural or archaeological site.

2.2.6 Hazards

2.2.6.1 Flood Protection / Riparian Management

2.2.6.1.1 All buildings, structures and trees shall be set back a minimum of 8 metres from the top of any natural river or stream bank, or wetland, or any stopbank.

2.2.6.1.2 No dwelling house(s) shall be sited on the river/stream side of the flood line shown on the Maxwell Hills Zone Outline Development Plan (see Clause 2.8).

2.2.6.1.3 No dwelling house(s) shall be sited within the Flood Hazard overlay area shown on the Outline Development Plan (see Clause 2.8).

2.2.6.1.4 The earth bund shown on the Outline Development Plan in Clause 2.8 must be constructed before any dwellings can be constructed on the north side of Maxwell Creek.

2.2.7 Earthworks

2.2.7.1 Excavation

2.2.7.1.1 No excavation shall take place within 8 metres of the landward toe of a stopbank and the depth of any excavation may not exceed 20% of the distance from the stopbank.

Exemptions

Filling or excavation associated with the construction or maintenance of flood protection works. This includes stopbanks or retention basins constructed by or on behalf of the Council.

2.2.7.2 Content

2.2.7.2.1 Material other than rubble, ballast, stones, soil material and demolition material shall not be used as fill or for the filling of land or depressions.

2.2.7.2.2 Fill material shall not contain any putrecible, inflammable or hazardous components.

2.2.7.2.3 Fill material shall contain no more than 5% vegetative material which is not incidental to the cleaning of sites.

2.2.7.3 General

2.2.7.3.1 No woody material of greater than 100 mm diameter shall be left in any permanently flowing river, lake, or wetland as a result of any earthworks.

2.2.7.3.2 All sites subject to excavation or fill are to be stable when subject to a storm event of return frequency of 1 in 10 years or less.

2.2.8 Discharges

2.2.8.1 Domestic Effluent Disposal

2.2.8.1.1 Provision must be made for the satisfactory disposal of all effluent and greywater in accordance with the requirements of this Plan. The requirements of this Plan are deemed to have been met where all domestic effluent and greywater is connected to a public system expressly designed for this purpose.

2.2.8.2 Incineration

2.2.8.2.1 The discharge of contaminants to air from incineration of untreated wood, vegetation, newspapers, magazines and cardboard shall be a Permitted Activity provided that:

(a) The waste is generated on the property where incineration occurs.
(b) Any vegetative matter is dry.
(c) The waste being incinerated shall not include:

(i) Car tyres;
(ii) Plastic agrichemical containers;
(iii) Hazardous substances or containers of hazardous substances;
(iv) Oil based products;
(v) Food scraps;
(vi) Aerosol cans;
(vii) Foam products;
(viii) Paper, unless there is a fly ash guard;
(ix) All tyres and rubber, and all plastics.

(d) Weather conditions are such that any nuisance effects from smoke are minimised.

2.2.8.3 Other Discharges to Air

Any discharge of contaminants to air associated with any Permitted Activity is also a Permitted Activity provided:

(a) There shall be no objectionable or offensive odour to the extent that it causes an adverse effect beyond the boundary of the site of the discharge.
(b) The discharger at all times, adopts the best practicable option to avoid, remedy or mitigate any adverse effects on the environment.

2.2.8.4 Discharge of Electro Magnetic Radiation (EMR)

The discharge of EMR (Electric Magnetic Radiation) is a Permitted Activity, provided the level of discharge meets the requirement/limitations of NZS 6609.

2.2.8.5 Application of Agrichemicals

The discharge of a contaminant or contaminants onto land or into air in connection with the spray application of agrichemicals on domestic or residential properties or in domestic quantities on industrial and trade premises is permitted provided that the person responsible for the activity shall:

(a) Apply sprays strictly in accordance with the manufacturers instructions.

(b) Notify the Council immediately in the case of accidental discharge into a water body.

(c) Take all reasonable steps to ensure that no spray drift occurs beyond the boundary of the property.

(d) Apply sprays in a manner which does not cause or is not likely to cause deposition into surface waters.

(e) Apply sprays with hand held equipment only.

2.2.9 Rules Applicable to Temporary Buildings

The following temporary buildings shall be a Permitted Activity:

(a) Temporary buildings ancillary to a building or construction project, provided that any such building does not exceed 40 m^2 in area, or remain on the site for longer than the duration of the project or twelve months, whichever is the lesser.

(b) Temporary buildings or other structures including tents, ancillary to carnivals, bazaars, and public meetings, provided that such activities or buildings shall not remain on site longer than one month.

(c) Where a building is intended for the care of a nominated dependent relative and the maximum site coverage requirement for buildings has already been reached then a building of not more than 80 m^2 will be permitted subject to the building being relocatable. The landowner shall enter into a bond with the Council to ensure that the building is removed when no longer required for the housing of the nominated dependent relative (the bond shall be registered under the Land Transfer Act 1952 against the Certificate of Title to the land and shall be of a covenant running with the land which binds all subsequent owners of the land).

2.3 Limited Discretionary Activities

2.3.1 Application must be made for a resource consent for a limited discretionary activity for the following:

- Wastewater infrastructure that does not meet rule 2.1 and/or 2.2, but meets rule 2.3.1.1.
- Wastewater discharges that do not meet rule 2.1 and/or 2.2, but meet rule rule 2.3.1.2.
- Minor non-compliance with the standards for Permitted Activities to the extent specified in rule 2.3.1.3 below.

2.3.1.1 Reticulated Community Wastewater Treatment Plant and Associated Infrastructure

2.3.1.1.1 A Reticulated Community Wastewater Treatment Plant and associated on-site infrastructure including primary treatment tanks is a Limited Discretionary Activity provided that the activity conforms to the following Standards and Terms.

(a) All allotments with dwellings have an on-site interceptor tank with a minimum storage capacity of 24 hours.
(b) Secondary treatment shall be by a recirculating textile packed bed reactor treatment plant or similar technology;
(c) The Treatment Plant shall be:
    (i) Located in the utilities area in general accordance with the Outline Development Plan.
    (ii) Monitored by a remote telemetry unit.

(iii) Of sufficient capacity for emergency storage volume of at least 24 hours at peak flow following any Treatment Plant malfunction.

(iv) Planted along boundaries to provide screening of the site from the road.

2.3.1.1.2 Matters to which the Council has restricted the exercise of its Discretion:

For a reticulated community wastewater treatment plant that conforms with the standards and terms in rule 2.3.1.1, the Council limits its discretion to, and may impose conditions with respect to:

(a) The location, siting, bulk and design of the plant and associated infrastructure;
(b) Staging of installation of the Treatment Plant and associated infrastructure;
(c) The quality of the effluent to be created;
(d) Screening of the Treatment Plant from the road, including proposed height of plants at time of planting;
(e) Maintenance contracts and management plans;
(f) Monitoring systems, alarms and emergency response;
(g) Systems of reporting to the Council;

2.3.1.1.3 All applications under rule 2.3.1.1 will not require the written approval of other persons and shall be non-notified. However, the Council may consult with iwi.

2.3.1.2 Discharge of Treated Wastewater

2.3.1.2.1 Discharge of treated wastewater is a Limited Discretionary Activity provided that the discharge is from a wastewater treatment plant that complies with the standards and terms in rule 2.3.1.1.

2.3.1.2.2 Matters to which the Council has restricted the exercise of its Discretion:

For discharge of treated wastewater that complies with rule 2.3.1.2, the Council restricts its discretion to and may impose conditions with respect to:

(a) The location and siting of the discharge areas;
(b) Fencing and barrier planting, and amenity planting;
(c) Vegetation within the land application area/s;
(d) The quality of the effluent to be discharged
(e) The rate of discharge sufficient to avoid slope instability or erosion, and avoid contamination of water;
(f) The design of the land irrigation system;
(g) Systems for monitoring and maintenance;
(h) Emergency and malfunction management systems;
(i) Management Plans;
(j) Systems of reporting to Council;

2.3.1.2.3 All applications under rule 2.3.1.2 will not require the written approval of other persons and shall be non-notified, however, the Council may consult with iwi.

Note:

Discharge of treated wastewater to land within the Maxwell Hills Zone is likely to be limited, but could include discharge in the utilities area specified in the Outline Development Plan at Clause 2.98 and/or recycling of high quality effluent to irrigate road berms, landscaped areas and private lawns.

2.3.1.3 Minor Non-compliance with Some Standards for Permitted Activities

2.3.1.3.1 Minor non-compliance with the standards for Permitted Activities to the extent specified below:

- Buildings exceeding the maximum permitted site coverage up to a maximum of 20% of the specified standard.
- Buildings or structures exceeding the maximum permitted height up to a maximum of 20% of the specified standard.
- Buildings encroaching the height envelope created by the recession plane angles by a maximum of 1 metre in any direction.
- Buildings, structures and trees within 8 metres of any drainage channel or landward toe of any stopbank - up to 100% dispensation.
- Parking requirements.
- Access gradients - up to 5%.

2.3.1.3.2 All applications for minor non-compliance shall be non-notified, however, the Council may require the written approval of every person who may in the Council's judgment be adversely affected by the granting of the consent for non-compliance unless it is considered unreasonable in the circumstances to require such approval.

2.3.1.3.3 Matters to which the Council has Restricted the Exercise of its Discretion

In considering any application for minor non-compliance the Council will in the exercise of its discretion have regard to the following matters:

(a) The non-compliance should not diminish the overall residential character of the locality.
(b) The non-compliance should not significantly and adversely obstruct views from nearby residential properties to the surrounding hills and valley
(c) The non-compliance should not adversely affect privacy enjoyed on adjoining residential properties.
(d) The non-compliance should not significantly diminish the daylight available to adjoining properties or cause shading of outdoor living areas, service courts, open space or habitable rooms on adjoining properties.
(e) The non-compliance should not significantly reduce the usability or enjoyment of open space, living courts, or service courts on the applicant's site.
(f) The non-compliance should not put at risk any private property from foreseeable flood hazard.
(g) The non-compliance should not interfere with the protection of any natural or any other floodway. The non-compliance should not adversely affect the hydraulic integrity of any watercourse or stream. The non-compliance should not adversely affect on-site vehicle manoeuvring or car parking areas or affect the safe flow of traffic on adjoining roads.

2.4 Discretionary Activities

2.4.1 Application must be made for a resource consent for a Discretionary Activity for the following:

- Activities listed as Permitted which do not comply with standards and/or conditions or with the provisions for minor non-compliance dealt with as Limited Discretionary Activities. Except that this provision shall not apply to activities listed as Non-Complying or Prohibited Activities.
- Activities provided for under Rules 2.3.1.1 and 2.3.1.2 that do not comply with the standards and terms of those rules.
- Relocated buildings of greater than 36m^2 in area.
- Visitor accommodation, including camping grounds.
- Community facilities and activities, places of assembly, religious institutions.
- Recreational facilities (other than parks and reserves).
- Retail facilities not provided for as a permitted activity.
- Educational facilities.
- Marae and marae-based activities.
- Hazardous facilities having an effects ratio no greater than 1.0.
- Emergency service activities.
- Development that is not in general accordance with the Outline Development Plan.

2.5 Non-Complying Activities

2.5.1 Application must be made for a resource consent for a Non-Complying Activity for the following:

- Any activity not provided for as a Permitted, Controlled, Limited Discretionary, Discretionary or Prohibited Activity shall be deemed to be a Non-Complying Activity.
- Any non-compliance with Rule 2.2.4.1 (Residential Site Density).
- Within any area identified as a Flood Hazard on the Planning Maps the following are Non-Complying Activities:
  Any building.
  Construction of stopbanks, modification of existing stopbanks or deposition of material in ephemeral channels.

Construction of impermeable walls, fences or similar structures which would divert water.
Any excavation.

2.6 Prohibited Activities

2.6.1 The following are Prohibited Activities for which no resource consent shall be granted:

- The disposal of hazardous waste substances to land or water.

- The combustion of:
  Materials associated with the recovery of metals from insulated electrical cables in the open; or
  Materials and metals used in motor vehicles in the open; or
  Any other PVC plastic, or rubber tyres, waste oils, treated timber, or agricultural chemical wastes in the open.

Note:
In the open means other than in an enclosed incineration device with a chimney.

2.7 Subdivision

2.7.1 Permitted Subdivision Activities

The provisions of Chapter 28, Rule 28.1.1 and Rule 28.1.2 shall apply.

2.7.2 Controlled Subdivision Activities

2.7.2.1 Subdivision which complies with the following standards shall be a controlled activity:

(a) Allotment Standards

Zone	Allotment Type	Environmental Assessment Threshold Lot Area m^2	Environmental Assessment Threshold Building Platform Shape Factor	Environmental Assessment Threshold Frontage metres	Qualification
Maxwell Hills Zone	Front and rear with sewerage reticulation	2,000 m^2 minimum; and 2,400m^2 average (see note 1 below)	15 metre diameter circle (see note 2 below)[2]	N/A	Access requirements apply, refer Chapter 28, Rule 28.2.3 as for all residential zones.

Notes:
1 Lot areas prescribed are net areas, exclusive of access

2 The minimum building platform shape factor may be applied anywhere within the proposed allotment.

(b) Subdivision in the Maxwell Hills Zone shall be in general accordance with the Outline Development Plan at Clause 2.8.

(c) The General Standards for controlled subdivision activities contained in Chapter 28, Rule 28.2.4 shall apply.

(d) Reverse Sensitivity

Subdivision to create any new lots less than 20 hectares shall include a restrictive covenant or other appropriate legal instrument and shall be registered on each title for the purpose of:

i preventing the making of complaints against lawfully established forestry and rural activities in relation to noise, landscape change and dust, and

ii providing information to the registered proprietor and potential purchasers identifying that the land adjoins a rural working environment.

~~(e) Where the subdivision is to be completed in stages, at the time that the first subdivision consent is sought, the application must include provision for the area identified on the Outline Development Plan as "reserve area" to be vested in the Council.~~

(e) Landscape and planting areas shall be established generally in accordance with the Landscape Concept attached.

2.7.2.2 Matters over Which the Council will Exercise Control

2.7.2.2.1 The matters for control identified in Chapter 28, Rule 28.2.5 shall apply.

2.7.2.2.2 In addition to the matters identified in Rule 28.2.5, the Council will also exercise control over:

i. landscape treatment, and.

ii. The securing of appropriate covenants or other instruments to deal with the recognition of the surrounding rural working environment from complaints associated with reverse sensitivity effects.

2.7.3 Discretionary and Non-Complying Subdivision Activities

Subdivision is a Discretionary Activity where the subdivision does not comply with one or more of the Permitted or Controlled Activity requirements for the Maxwell Hills Zone, except that where the environmental assessment threshold lot area is not met the subdivision activity shall be a non-complying activity.

In assessing a discretionary or non-complying subdivision activity, the Council may take into consideration the matters contained in Chapter 28, Clause 28.3.5 and may impose conditions indicated in Chapter 28, Clause 28.3.6.

2.7.4 Reserve

~~At the time that the first subdivision consent is sought within the zone, the application shall include provision for the area identified in the Outline Development Plan as~~

'reserve area' to be vested in the Council, unless such provision has already been made. Where this rule is not met with the application shall be considered as a non-complying activity.

~~2.7.4~~2.7.5 Information to be Supplied with All Applications for Subdivision Consent

~~2.7.4.1~~ 2.7.5.1 The relevant provisions of Chapter 29.0, Clause 29.1 shall apply to all applications for subdivision consent. In addition the specific information requested below shall be required:

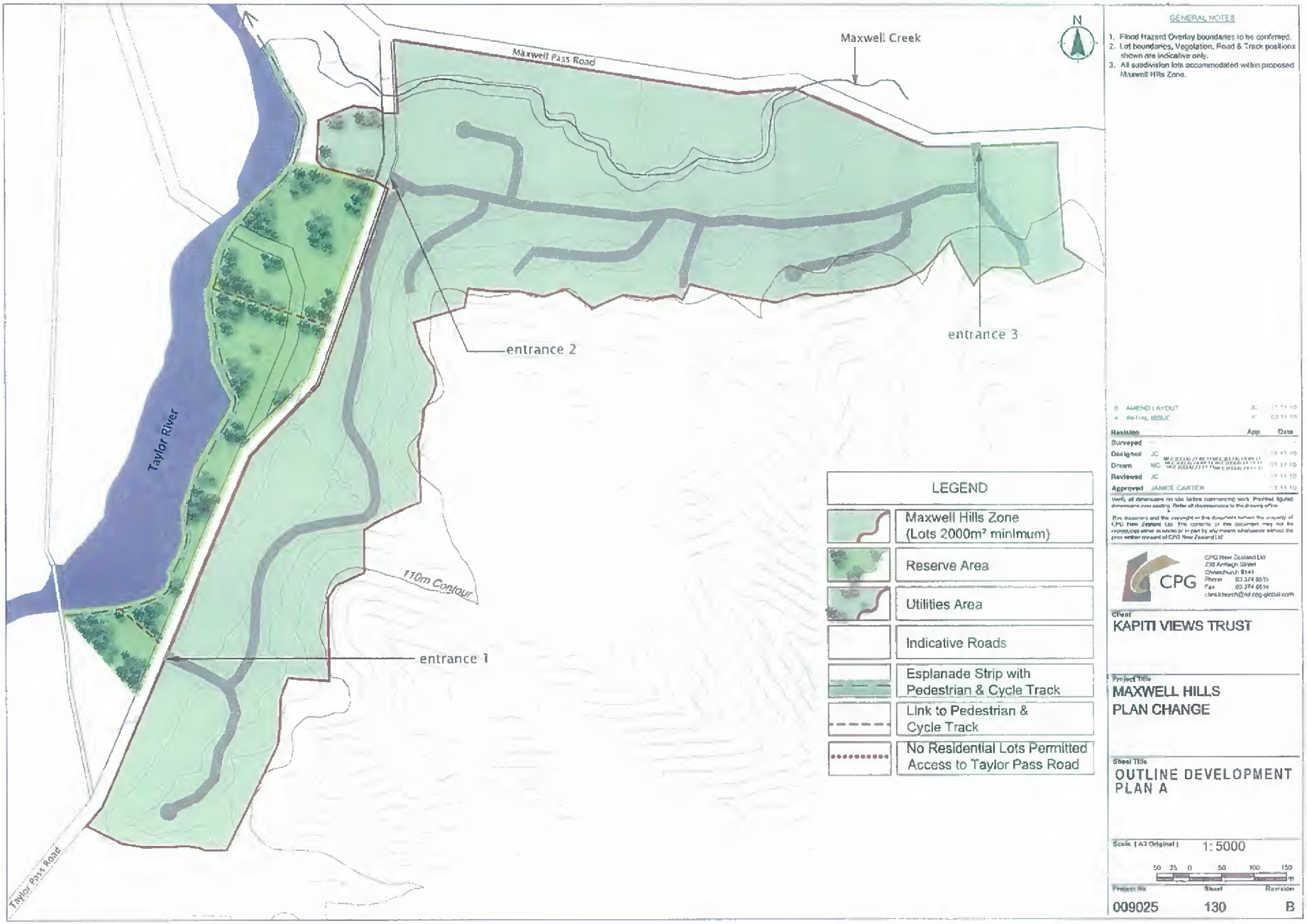
(a) A landscape plan detailing the species, density, planting programme as well as maintenance regime.

~~2.7.5~~ 2.7.6 Requirements for Subdivision and Development

~~2.7.5.1~~ 2.7.6.1 The provisions of Chapter 29.0, Clause 29.2 shall apply. In respect to Clause 29.2.19.4 the amount required for reserve fund contribution shall be as for the Rural Residential Zone.

2.8 Outline Development Plan for Maxwell Hills Zone

[next page]


Maxwell Pass Road
Maxwell Creek
N
entrance 2
entrance 3
entrance 1
Taylor River
110m Contour
Taylor Pass Road
LEGEND
Maxwell Hills Zone (Lots 2000m² minimum)
Reserve Area
Utilities Area
Indicative Roads
Esplanade Strip with Pedestrian & Cycle Track
Link to Pedestrian & Cycle Track
No Residential Lots Permitted Access to Taylor Pass Road
GENERAL NOTES
1. Flood Hazard Overlay boundaries to be confirmed.
2. Lot boundaries, Vegetation, Road & Track positions shown are indicative only.
3. All subdivision lots accommodated within proposed Maxwell Hills Zone.
Revision
Surveyed
Designed JC
Drawn NC
Reviewed JC
Approved JAMES CARTER
CPG
Client
KAPITI VIEWS TRUST
Project Title
MAXWELL HILLS PLAN CHANGE
Sheet Title
OUTLINE DEVELOPMENT PLAN A
Scale (A3 Original) 1:5000
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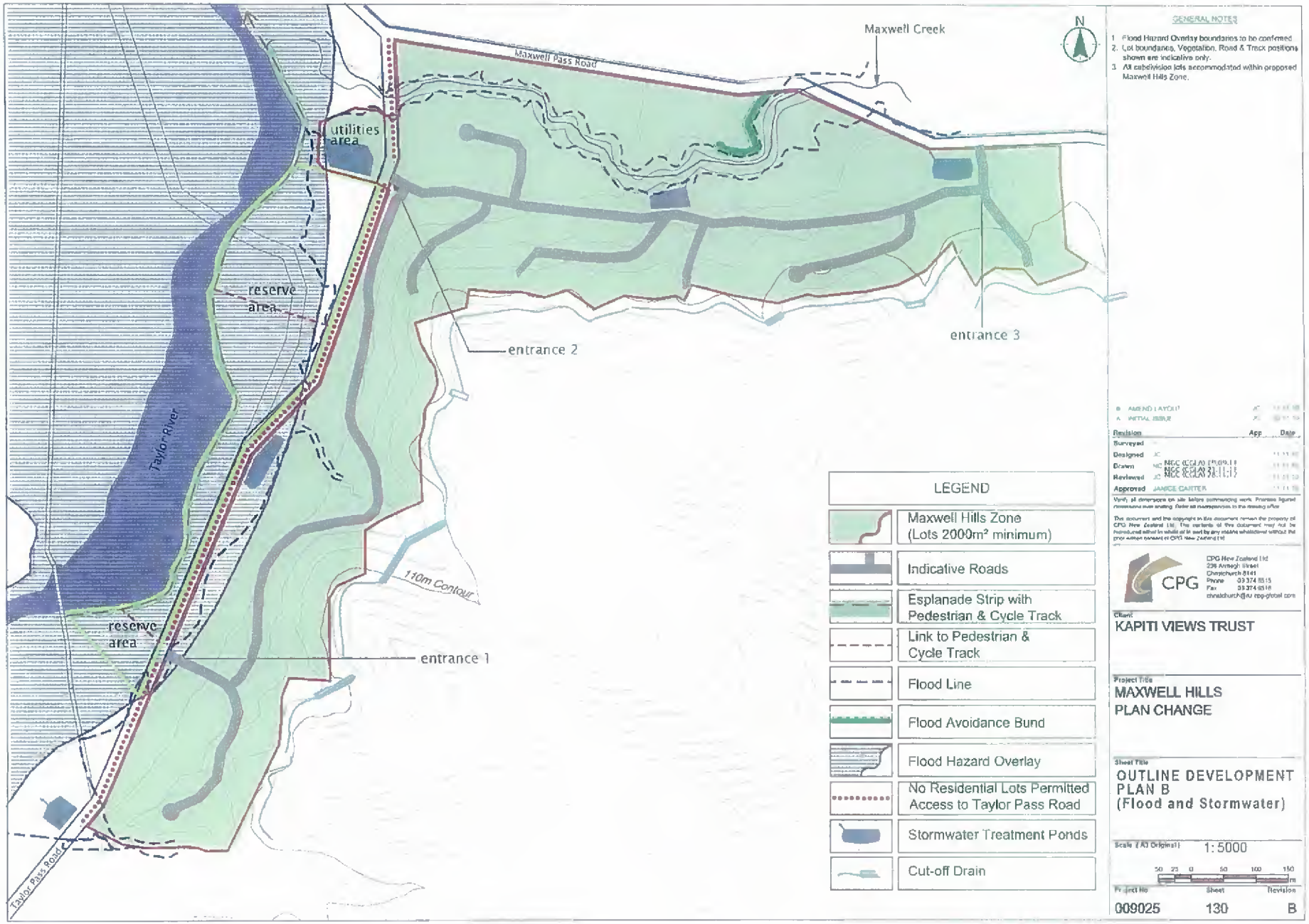
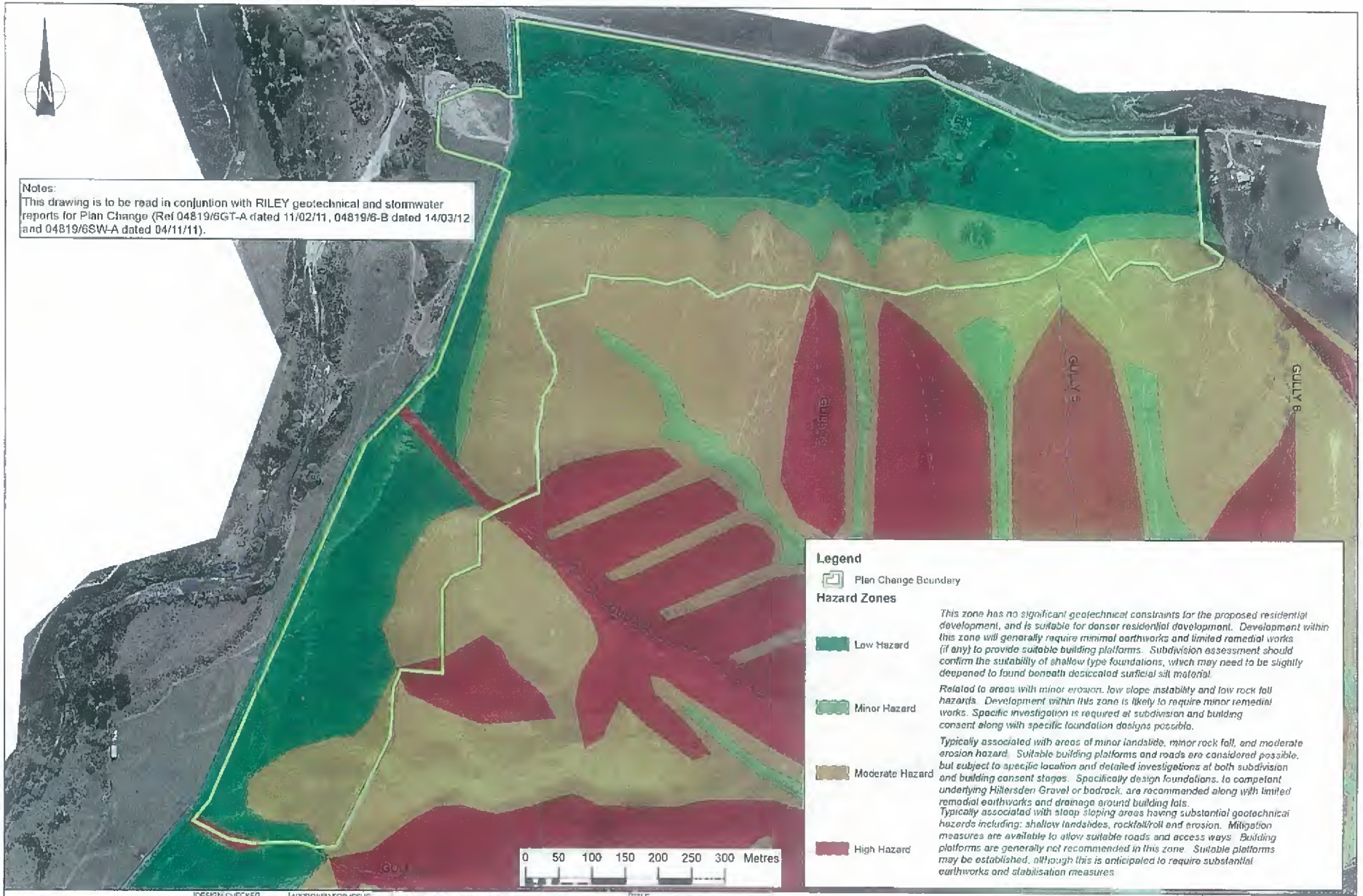
Project No
009025
Sheet
130
Revision
B


Maxwell Creek
Maxwell Pass Road
utilities area
reserve area
Taylor River
entrance 2
entrance 3
110m Contour
reserve area
entrance 1
Taylor Pass Road
N
GENERAL NOTES
1 Flood Hazard Overlay boundaries to be confirmed
2 Lot boundaries, Vegetation, Road & Track positions shown are indicative only.
3 All subdivision lots accommodated within proposed Maxwell Hills Zone.
LEGEND
Maxwell Hills Zone (Lots 2000m² minimum)
Indicative Roads
Esplanade Strip with Pedestrian & Cycle Track
Link to Pedestrian & Cycle Track
Flood Line
Flood Avoidance Bund
Flood Hazard Overlay
No Residential Lots Permitted Access to Taylor Pass Road
Stormwater Treatment Ponds
Cut-off Drain
A INITIAL ISSUE
Revision
App
Date
Surveyed
Designed
Drawn
Reviewed
Approved JANICE CARTER
CPG
CPG New Zealand Ltd
Christchurch 8141
Phone 03 374 8515
Fax 03 374 8516
Client
KAPITI VIEWS TRUST
Project Title
MAXWELL HILLS PLAN CHANGE
Sheet Title
OUTLINE DEVELOPMENT PLAN B
(Flood and Stormwater)
Scale (A3 Original) 1:5000
50 25 0 50 100 150 m
Project No
Sheet
Revision
009025
130
B

Geotechnical Hazard Plan, Landscape Concept Plan, and Cut-Off Drain Concept Plan for Maxwell Hills Zone



REV	DESCRIPTION	BY	DATE
2	MINOR AMENDMENTS	SL	31/12
1	AMENDMENTS FOR RC00	SL	31/12
0	FIRST ISSUE		

DESIGN CHECKED: SRO
DRAWN CHECKED: GAF
DATE DRAWN: 7/02/2011
APPROVED FOR ISSUE
DATE

RILEY CONSULTANTS
P.O. BOX 100 253
N.S.M.C.
AUCKLAND 0629
TEL. 09-4897872
FAX. 09-4897873

TITLE

KAPITI VIEWS TRUST
RURAL RESIDENTIAL DEVELOPMENT - PRIVATE PLAN CHANGE
GEOTECHNICAL ASSESMENT - GEOTECHNICAL HAZARD PLAN

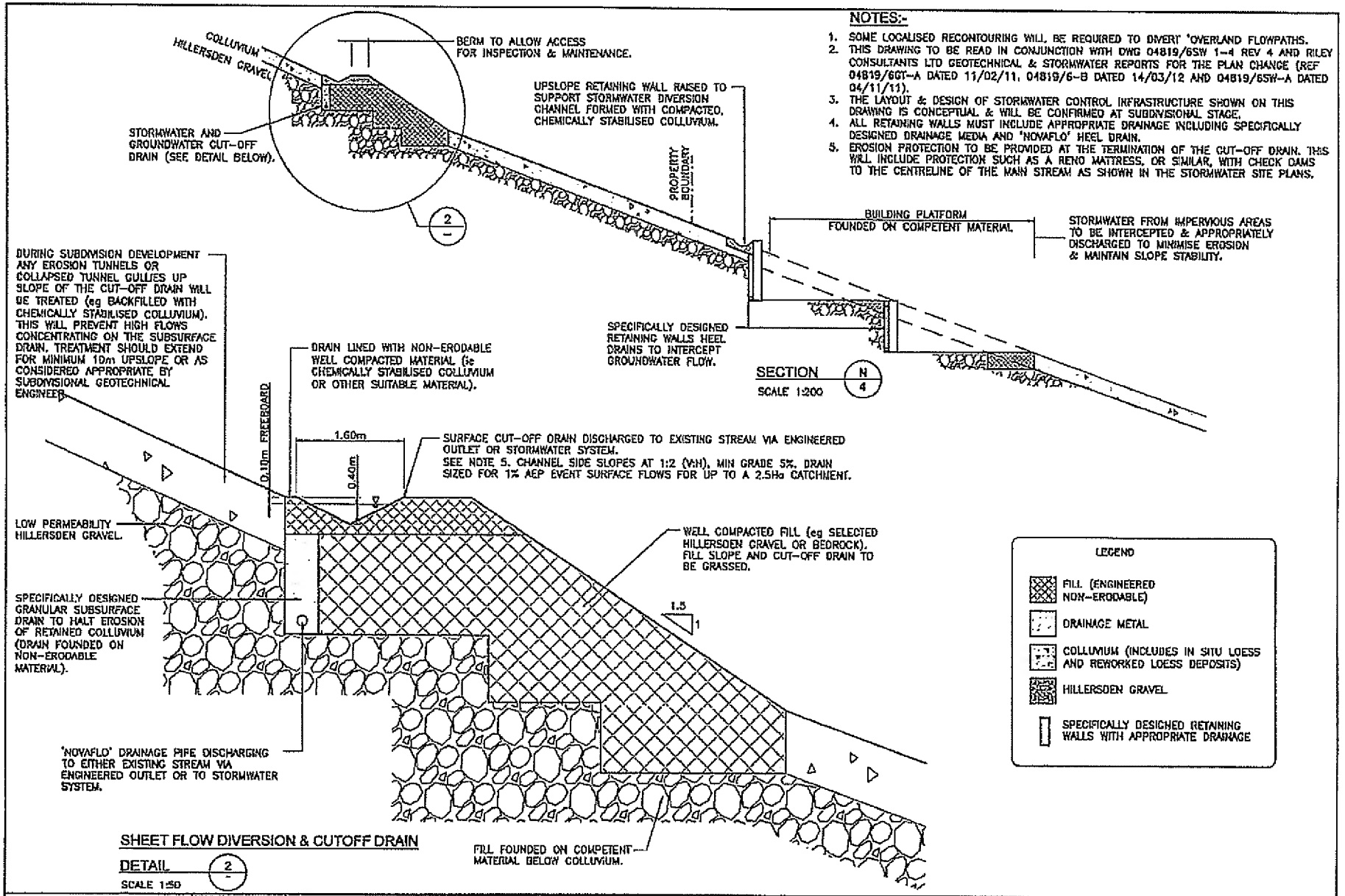
G:\FILE: 04819\6GT.MXD
SCALE: 1:5,000
DRAWING No: 04819/6GT-4
REV: 2

CHRIS GLASSON

Kapiti Views Trust, Maxwell Hills Development

Landscape Concept Plan

Amended 28/11/2012



SHEET FLOW DIVERSION & CUTOFF DRAIN

DETAIL 2 –

SCALE 1:50

NOTES:-

1. SOME LOCALISED RECONTOURING WILL BE REQUIRED TO DIVERT 'OVERLAND FLOWPATHS.
2. THIS DRAWING TO BE READ IN CONJUNCTION WITH DWG 04819/6SW 1-4 REV 4 AND RILEY CONSULTANTS LTD GEOTECHNICAL & STORMWATER REPORTS FOR THE PLAN CHANGE (REF 04819/6GT-A DATED 11/02/11, 04819/6-B DATED 14/03/12 AND 04819/6SW-A DATED 04/11/11).
3. THE LAYOUT & DESIGN OF STORMWATER CONTROL INFRASTRUCTURE SHOWN ON THIS DRAWING IS CONCEPTUAL & WILL BE CONFIRMED AT SUBDIVISIONAL STAGE.
4. ALL RETAINING WALLS MUST INCLUDE APPROPRIATE DRAINAGE INCLUDING SPECIFICALLY DESIGNED DRAINAGE MEDIA AND 'NOVAFLO' HEEL DRAIN.
5. EROSION PROTECTION TO BE PROVIDED AT THE TERMINATION OF THE CUT-OFF DRAIN. THIS WILL INCLUDE PROTECTION SUCH AS A RENO MATTRESS, OR SIMILAR, WITH CHECK DAMS TO THE CENTRELINE OF THE MAIN STREAM AS SHOWN IN THE STORMWATER SITE PLANS.

REV	DESCRIPTION	BY	DATE
2	AMENDED FOR PC60 POLICY	HN	21/12
1	REVISED ISSUE	HN	11/12
0	FIRST ISSUE		

DESIGNED EL
DRAWN HN
CHECKED

RILEY CONSULTANTS
P.O.BOX 100 253
N.S.M.C.
AUCKLAND
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FAX. 09-4897873

TITLE

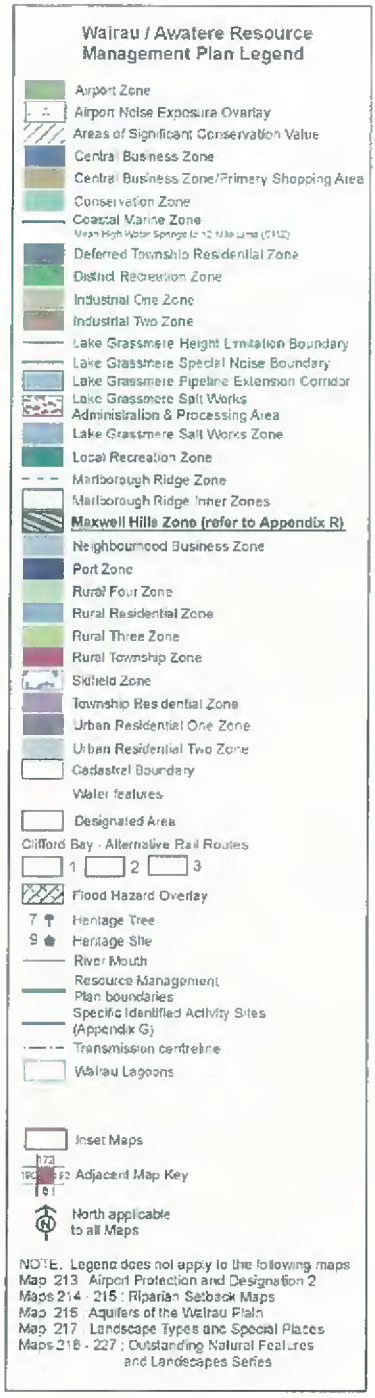
KAPITI VIEWS TRUST

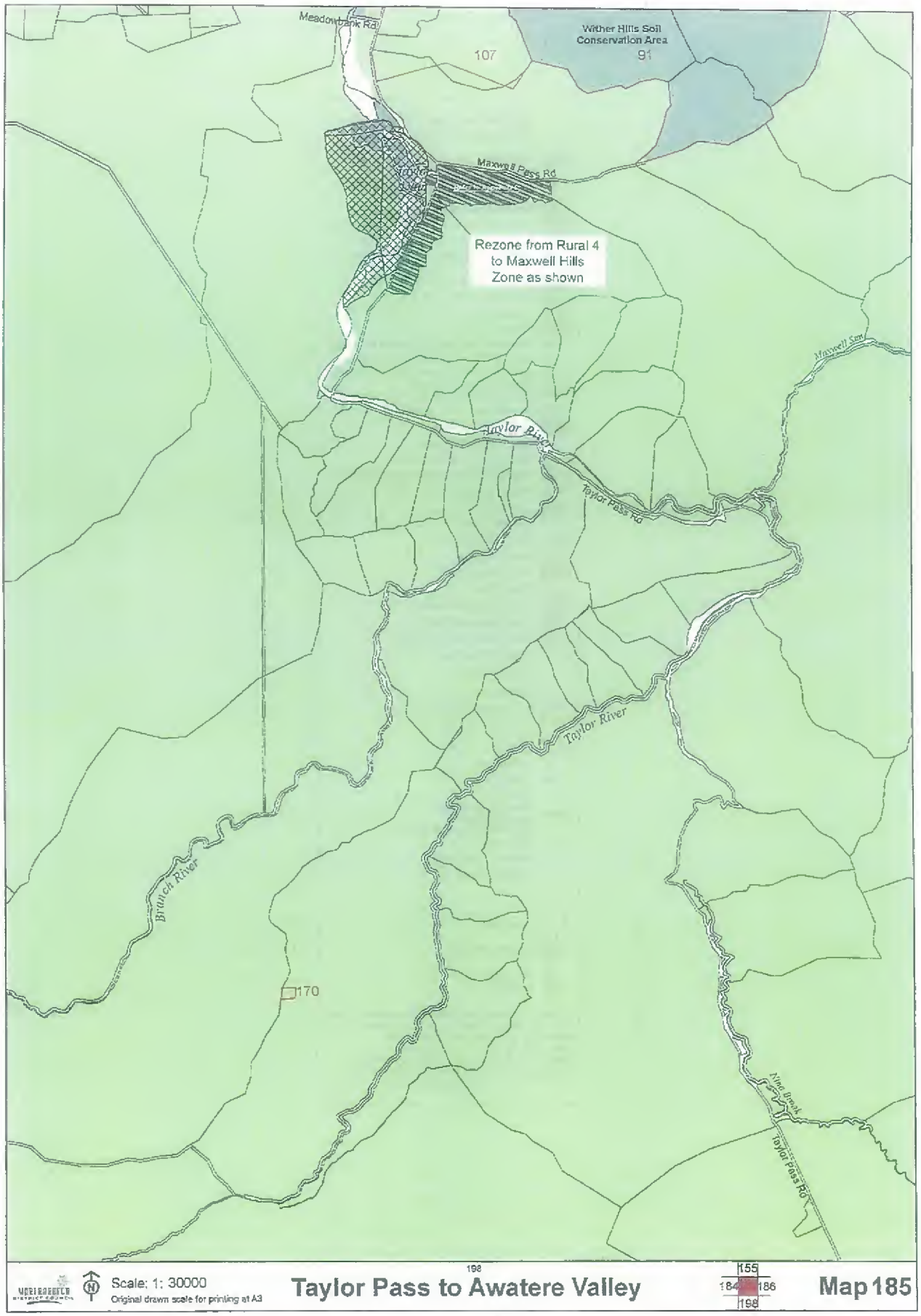
MAXWELL HILLS DEVELOPMENT - STAGE 1

CONCEPTUAL SURFACE & SUBSURFACE WATER CONTROL

DRAWING 04819_6GT-5
DATE 31 OCT 2012
SCALES (A3) AS SHOWN
DRAWING No. 04819/6GT-5
REV. 2

Changes to Volume 3 Planning Maps and Legend


Wairau / Awatere Resource Management Plan Legend
Airport Zone
Airport Noise Exposure Overlay
Areas of Significant Conservation Value
Central Business Zone
Central Business Zone/Primary Shopping Area
Conservation Zone
Coastal Marine Zone
Deferred Township Residential Zone
Distinct Recreation Zone
Industrial One Zone
Industrial Two Zone
Lake Grassmere Height Limitation Boundary
Lake Grassmere Special Noise Boundary
Lake Grassmere Pipeline Extension Corridor
Lake Grassmere Salt Works Administration & Processing Area
Lake Grassmere Salt Works Zone
Local Recreation Zone
Marlborough Ridge Zone
Marlborough Ridge Inner Zones
Maxwell Hills Zone (refer to Appendix R)
Neighbourhood Business Zone
Port Zone
Rural Four Zone
Rural Residential Zone
Rural Three Zone
Rural Township Zone
Sidfield Zone
Township Residential Zone
Urban Residential One Zone
Urban Residential Two Zone
Cadastral Boundary
Water features
Designated Area
Clifford Bay - Alternative Rail Routes
1
2
3
Flood Hazard Overlay
7 Heritage Tree
9 Heritage Site
River Mouth
Resource Management Plan boundaries
Specific Identified Activity Sites (Appendix G)
Transmission centreline
Wairau Lagoons
Inset Maps
Adjacent Map Key
North applicable to all Maps
NOTE: Legend does not apply to the following maps
Map 213 Airport Protection and Designation 2
Maps 214 - 215 : Riparian Setback Maps
Map 216 Aquifers of the Wairau Plain
Map 217 Landscape Types and Special Places
Maps 218 - 227 : Outstanding Natural Features and Landscapes Series



PROPOSED PLAN CHANGE: REZONING FROM RURAL 4 TO MAXWELL HILLS ZONE