

Before the Marlborough District Council

In the matter of
The Resource Management Act 1991

In the matter of
Plan changes 64-71 promoted by the
Marlborough District Council pursuant
to Resource Management Act 1991,
Schedule 1.

Commissioners' Decision

Decision Date: 21 May 2014 .

Commissioners: John Maassen, David Oddie and Laressa Shenfield

Circulation: Marlborough District Council, Submitters and Further Submitters

An Overview of Plan Changes 64-71

Context

- [1] This decision concerns eight (8) plan changes 64-71 separately proposed and separately processed under RMA, Schedule 1 but to some extent inter-related. They were notified together and heard together. Plan changes 64-70 propose re-zoning the land to which they relate from Rural 3 to Residential 2 under the Wairau-Awatere Resource Management Plan (see Appendix 1, Figure 2, page 106).
- [2] In addition to a change of zoning, plan changes 64-70 propose map notations shown as dotted lines denoting the location of “indicative road layout (essential connection)” and “indicative road layout (alternative)”. These connections provided connections to Blenheim and to adjoining plan change areas (see Appendix 1, Figure 1, page 105).
- [3] Plan change 71 identifies as growth areas (to be shown in appendix AL in the Wairau-Awatere Resource Management Plan), those areas to be re-zoned by plan changes 64-70. In respect of those areas, plan change 71 proposes a new rule (Rule 29.1.4.2) requiring subsoil investigation as part of subdivision. In addition, plan change 71 proposes an additional policy in chapter 23 of the Wairau-Awatere Resource Management Plan to support the indicative roading layouts proposed in plan changes 64-70. That proposed policy (Policy 1.18) reads:
- “Where indicative roading layouts are shown on the planning maps, the roading network proposed at the time of subdivision and development shall be in general accordance with the layout.”
- [4] The areas to which plan changes 64-70 relate are generally (with the exception of area 70) on the northern and western periphery of the existing Blenheim urban

boundary. Collectively, the areas to which plan changes 64-70 relate are intended to accommodate projected urban growth in Blenheim for the next 20 years. This assessment is based on projected rates of residential land uptake assuming single dwellings on standard allotment sizes, typical of the existing pattern of urban development in Blenheim.

- [5] The logic for numbering of the areas to which plan changes 64-70 related was not apparent. We were told the numbering relates to the assessment (following consultation with landowners) of the likelihood of the area being developed, together with an assessment of the preferred infrastructure ‘roll out’ of the Marlborough District Council. However, sequencing and priority found no expression in the plan changes. If all plan changes were approved then all the land will be Residential 2 and the distinction between the areas behind the plan change numbering would evaporate once the plan changes became operative.
- [6] There was a tendency in evidence for witnesses to refer to areas based on sequencing numbers, or in other cases to their “Area” reference in the Marlborough Urban Growth Revision Strategy (the Revision Strategy).
- [7] An additional difficulty was that the spatial extent of the growth areas in the Revision Strategy are not identical with the plan change areas. Further, many technical reports supporting the RMA, s 32 analysis described and analysed pockets of land using different descriptions and different area delineations.
- [8] To avoid adding to the confusion in this decision, where we are required to analyse each plan change area we do so by commencing in the northern quadrant above the Blenheim urban boundary commencing at plan change 68 and proceed in an anticlockwise direction until we reach the south western corner where the area covered by plan change 70 is located. This gives the following order: 68, 64, 65, 67, 66, 69 and 70.

[9] Collectively, the plan change areas were identified as areas suitable for residential zoning because they met the criteria in the Revision Strategy. The methodology for defining the spatial extent of each of the additional plan change areas was not based on resource characteristics or qualities. Rather, it was informed by cadastral boundaries, land ownership interests and land owner preferences for development. A partial element of the strategy to distinguish between the different areas was to ensure that any challenge to one particular plan change area did not hold up others.

[10] Section 1 of the RMA, s32 analysis for plan changes 64-71 provides a useful description of the overall planning strategy. It states:

“Blenheim is Marlborough’s social and economic centre. The social and economic needs of the people of Marlborough require that in Blenheim there must always be sufficient land available for new housing. Planning for new housing needs to be long term and areas chosen must be suitable for their purpose and must be able to be serviced within the economic capacity of the on-going community. To the end the Marlborough District Council has undertaken a major growth strategy over the last four years to address future anticipated demand.

The settlement of Blenheim grew around the confluence of the Opawa and Taylor Rivers on low lying fertile land. As Blenheim has grown, development has been towards the higher southern lands, but development in this direction has been constrained by fragile loessal soils and limited available suitable land. Under previous planning, including initially the growth strategy, it was thought that significant future development should be directed towards the east where there is available land and relative closeness to essential infrastructure. Development to the north and west was also contemplated.

The Christchurch earthquakes have caused this policy for the future to be reviewed. It is now apparent that certain areas which were previously thought suitable for new housing development are likely not to be suitable on account of ground stability and liquefaction issues. This review has resulted in Council having to identify new areas to the north and west.

These Plan Changes accordingly propose seven separate areas to the north and west of Blenheim, where it is proposed that the zoning be changed from rural to residential. These areas, combined with existing unused resources, including the areas of infill housing are expected to accommodate the future new housing needs for Blenheim for the next 20 years or so. While these areas proposed for new housing lie on soils of high quality and versatility, in many cases the future use of the soils for food production has already been compromised and as well, the reality has to be faced that Blenheim urban area has developed on soils of high quality.

It is expected the progressive demands of the market, the need for new services infrastructure to be put in place and paid for, along with the wishes of existing land owners will mean the actual development will occur in sequence involving closest in areas being developed first. The direct cost to development and some of the consequential costs of development will be required to be met by developers through financial and development contributions. Council's intention is that the rating status plans within the Plan Change areas will not change until development occurs."

What are Marlborough District Council's Aspirations in Promoting Plan Changes 64-71?

[11] We endeavoured through the hearing to ascertain what Marlborough District Council's aspirations were in promoting plan changes 64-71. This was in order to understand how Marlborough District Council saw sustainable management of urban growth for Blenheim in order to assess whether or not the plan changes would deliver those aspirations and what changes were necessary (and within scope) if the overarching aspirations were, in our view, consistent with the ethic of sustainable management.

[12] As we understood it, the Marlborough District Council's goals were:

- (a) To identify in the Wairau-Awatere Resource Management Plan, by means of zoning, those areas suitable for urban growth on the periphery of the existing Blenheim urban fabric because:
 - (i) The areas met the criteria for SMART¹ growth in the revised growth strategy for Blenheim (the Revision Strategy)²; and
 - (ii) Are areas that should not be eliminated by reason of the geotechnical hazard susceptibility analysis by Opus Consultants dated February 2013.³
- (b) To ensure urban growth in the identified areas is carried out in a way that is logical and efficient from an infrastructural network perspective having regard to:
 - (i) The demand for infrastructure beyond the immediate boundary of any subdivision, including for the entire residential growth area;
 - (ii) To achieve urban growth goals such as connectivity and integrated recreation planning.
- (c) To ensure new residential areas are of a high quality.
- (d) To ensure that the sequencing of development matches, but does not exceed, the intended provision of capital expenditure in Marlborough District's Long Term Plan in order that the pace and location of development is modulated by and corresponds with planning under the Local Government Act 2002.

¹ A reference to movement bearing that name having its origins in New Urbanism and that informed

² Revision of the Strategy for Blenheim's Urban Growth (Urbanism Plus) November 2012.

³ Opus Consultants Limited "Blenheim Urban Growth Strategy, Stage Two: Site Investigations Factual Report", February 2013.

- (e) The total area of future growth is sufficiently large to meet anticipated demand for the next 20 years with the following consequential outcomes:
 - (i) Clear long term strategic direction for Blenheim’s future growth;
 - (ii) A platform for long term planning for Blenheim’s future infrastructure requirements pursuant to the Local Government Act 2002; and
 - (iii) To have a sufficient breadth of residential opportunity available so that competitive market forces can operate in order to moderate section price inflation and achieve affordable housing.
- (f) To allow existing rural land owners to make their own choices when their land is made available for residential development and in the meantime to allow their activities to continue as they would have under the existing Rural 3 zoning.

Plan Change Provisions as Notified

[13] Plan changes 64-70 as notified simply proposed re-zoning the land areas to which they applied from Rural 3 to Residential 2. The consequence of approving the plan changes as notified would be to make available approximately 209.95 hectares⁴ of new residential land, able to be developed subject only to the controls in the operative Wairau-Awatere Resource Management Plan applying to land zoned Residential 2. The only additional control introduced by Plan Change 71 is the requirement for site investigations to examine liquefaction risk and the use of a policy relating to indicative roads, to apply when setting conditions, where

⁴ Sutherland SOE at [17].

required, regarding the formation and development of roads within land to be subdivided.

[14] Chapter 28 of the Wairau-Awatere Resource Management Plan governs subdivision of, amongst other things, urban residential zones including Residential 2. Subdivision in the Residential 2 zone is a controlled activity under Rule 28.2. The only standards for controlled activity classification are the allotment standards in Rule 28.2.1. For the Residential 2 zone, it is a minimum lot size of 400m² with a building platform shape factor of a 15 metre diameter circle, and a minimum frontage for a front lot of 15 metres. As long as those allotment requirements are met, together with the additional standards for rear lots in Rule 28.2.3 (and some other miscellaneous but not important standards for present purposes) then a consent must be granted and the only extent of reservation of control is that set out in Rule 28.2.5. In Rule 28.2.5 the Wairau-Awatere Resource Management Plan reserves to the Council control over:

- (a) Use of the site;
- (b) The shape and position of any lot;
- (c) Water supply, water storage and water treatment;
- (d) Effluent disposal systems and maintenance requirements;
- (e) Storm water control requirements;
- (f) Service easements;
- (g) Roading, access, parking and manoeuvring standards including any necessary easements;

- (h) Financial and land contributions in accordance with the requirements of this plan;
- (i) Provision of esplanade reserves and esplanade strips around the coastline and margins of lakes and rivers;
- (j) Protection of existing vegetation and re-vegetation;
- (k) The securing of any necessary covenants or other instruments to protect any significant environmental features or other special features on any lot;
- (l) Fencing responsibilities;
- (m) Conditions relating to staged developments or the timing of any works by any conditions;
- (n) Controls to mitigate the adverse effects of subdivision construction;
- (o) Flood hazard;
- (p) Council access to river and drainage channels; and
- (q) Geotechnical report.

[15] Where an activity is a controlled activity, then any reservation of control specified in the Plan can only be used for the setting of conditions.

[16] It was not obvious to us how one could achieve the goals of the Marlborough District Council as specified above under the regulatory regime proposed by plan changes 64-71, which limited the Council to:

- (a) Setting conditions if the limited performance standards were met; and
- (b) Setting conditions only on the matters listed in Rule 28.2.5.

[17] In respect of future development of greenfields area where little detailed structure planning has been undertaken, and even less planning for provisions of other urban infrastructure such as reserves, our initial assessment was that the reserved discretions and matters of control proposed by plan changes 64-71 were inadequate to ensure that the Marlborough District Council's goals would be achieved. Furthermore, there was a manifest deficiency in the proposed plan changes in terms of policy to inform the exercise of appropriate matters of discretion and control.

[18] The Marlborough District Council recognised the deficiencies that we identified above and proposed amendments in order to address those concerns and the concerns of submitters. These changes are addressed in the next section.

Amendments to Plan Changes Proposed by Marlborough District Council at the end of the Hearing

[19] At the end of the hearing, in its right of reply, Marlborough District Council proposed a raft of changes to meet concerns identified by submitters and the Commissioners during the course of the hearing.

[20] Marlborough District Council proposed changes to the planning maps, and in particular:

- (a) To introduce a new zone in the Wairau-Awatere Resource Management Planning Maps called "Urban Residential 2 Greenfield Zone";

- (b) The re-zoning of the areas, to which plan changes 64-71 applied, from Rural 3 to Urban Residential 2 Greenfields Zone;
- (c) The extent of a possible exclusion of some of the land originally identified for re-zoning. In particular:
 - (i) Land beneath and adjacent to the 100kv transmission lines (Blenheim-Kikiwa A (BLN-KIK A) and Blenheim to Stoke A (BLN-STK A) (see Appendix 1, Figure 8, page 118);
 - (ii) Land adjacent to the Westwood retail area (see Appendix 1, Figure 9, page 119); and
 - (iii) Certain sites in the PC69 area where substantial rural industry infrastructure exists (see Appendix 1. Figure 7, page 117).

[21] Marlborough District Council proposed changes to chapter 3 of the Wairau-Awatere Resource Management Plan at the close of hearing. These provisions govern subdivision and development. They are contained in Appendix 2 to this decision. In particular:

- (a) A new issue at 23.6 that states:

“A shortage of sustainably managed greenfield residentially zoned land in Blenheim can inhibit growth and reduce the choice of housing.”

- (b) A new objective at 2.36.1 that reads:

“Objective 1: To enable a high quality residential development in greenfield areas (areas 1-7) in a manner sustainable in order to provide for the future growth of Blenheim.”

- (c) 12 new policies listed as policies 1.1-1.12; and
- (d) A new Rule 28.2A classifying subdivision in Urban Residential 2 Greenfield Zones as limited discretionary activity, with matters of discretion limited to matters ((a) – (s)) i.e. 18 matters, some of which are duplication of matters of control in Rule 28.2.1;
- (e) A new Rule 32.9.1 introducing a “buffer corridor” around national grid infrastructure; and
- (f) Scheduling an appendix G of the beekeeping operation at 168 Old Renwick Road.

[22] Appendix 2 contains footnotes that identify the submission that provided the scope for the changes made by Marlborough District Council. This was compiled by the Marlborough District Council’s consultant planner, Mr Whyte.

[23] The bulk of changes are changes to policies or methods (including rules). We will assess in our separate RMA, s 32 assessment these amended provisions rather than the plan provisions as notified.

A Consideration of the Plan Change Areas in More Detail and the Location of Submitters

[24] Attached in Appendix 1 is Figure 3, pages 107-113 identifies the name of each submitter within each plan change area and the location of that submitter’s land holding. Reference is to surnames only for simplicity and no disrespect is intended.

Plan Change 68

- [25] The area is north of Old Renwick Road, to the west of Waipuna Street. It comprises 20.5 hectares and is anticipated to yield approximately 206 dwellings based on 10 dwellings per developable hectare and existing development. The area has a small number of land owners. The site generally comprises large residential lots, grazing and viticulture. The site contains class 2 versatile soils. The site is zoned Rural 3 but adjoins Urban Residential 2 Zoning to the west at Waipuna Street and to the south on the opposite side of Old Renwick Road. The area is located in reasonable proximity to schools (for example Springlands), early childhood facilities and shopping, although these facilities are generally located on the opposite side of Old Renwick Road.
- [26] The area is part of the area identified as Area 10 in the South Marlborough Urban Growth Strategy (SMUGS). For the wider area the indicative cost per allotment for servicing is stated to be \$45,000.00, which is at the higher end of the spectrum. This pocket was also part of area N1 in the SMUGS and a preferred urban growth path. However, that was on the assumption that the entire area incorporated all of the land from Old Renwick Road to the northern boundary of the plan change 68 area.
- [27] Plan change 68 is now a block separated from Old Renwick Road by an area of largely rural residential development and vineyards which is to remain Rural 3. At its eastern boundary it dovetails with the recent urban subdivision serviced by Waipuna Street and Clearwater Place.
- [28] The reason much of the area immediately adjacent to Old Renwick Road has been eliminated is because of its potential susceptibility to liquefaction as identified in the Opus Consultant liquefaction assessment risk. In the methodology of that assessment, areas close to waterways had recommended buffer areas ranging between 50 metres – 200 metres (see Appendix 1, Figure 4, page 114).

[29] The consequence is that plan change area 68 as notified has limited potential for direct access to the urban fabric of Blenheim.

[30] Ownership of the properties from east to west lies with the following parties:

- (a) Phillips (not a submitter);
- (b) Herkt (a supporter of the plan change with a request for further of his land to be included);
- (c) James (a supporter of plan change with concerns that his landholding further to the south adjacent to Old Renwick Road is not included);
- (d) Lock (a supporter of plan change with concerns that his land to the south adjacent to Old Renwick Road is not included); and
- (e) Thompson (not a submitter).

[31] Submitters to plan change 68 who are not owners are:

- (a) Morgan (owning land to the north and concerned about indicative roadways crossing his access);
- (b) Gibson (representing four properties wanting to be included in the area);
and
- (c) Stanton (to the north).

[32] In the RMA, s 42A report Mr Whyte, the consultant planner for Marlborough District Council, identified in his table 5 the potential adverse effects of plan change 68 including:

- (a) Reverse sensitivity with rural activities that will remain predominant to the north;
- (b) Loss of rural amenity; and
- (c) Loss of rural land and versatile soils.

Plan Change 64

[33] The area is north of Old Renwick Road, approximately 350 metres east of Thompsons Ford Road. It comprises 22.2 hectares and is anticipated to yield 220 dwellings (based on 10 dwellings per developable hectare and existing development). The area has a small number of land owners. The site is zoned Rural 3, but adjoins the Urban Residential 2 Zone to the south on the opposite side of Old Renwick Road. The site is generally comprised in large residential lots, grazing and viticulture. The site contains Class 2 soils. The site is located in reasonable proximity to schools, early childhood facilities and shopping, although these facilities are generally located on the opposite side of Old Renwick Road.

[34] The area comprises part of area Na and area Nb SMUGs. Originally in SMUGs, the entire pocket comprising areas Na and Nb were envisioned to be developed as an integrated whole with a range of densities as shown in figure 6-31 of that strategy.

[35] The proposed plan change maps show essential road connections travelling in a north-south and east-west directions, bisecting the site and providing connections to plan change areas 68 to the east and 65 to the west. This is based on the

Essential Street Connection Analysis” by Urbanism Plus Limited, who were the urban growth consultants employed by Marlborough District Council.⁵

[36] In the sequencing map the area is identified as the most likely location to be ‘first off the block’ because:

- (a) Significant proportions of the land are owned in the single ownership of a developer;
- (b) The land is an obvious candidate for early release for residential development by virtue of its proximity to Blenheim; and
- (c) The land is easily serviced by extensions of existing networks.

[37] The effects of implementation of plan change 64 identified in table one of Mr Whyte’s Section 42A report. These include:

- (a) Reverse sensitivity effects with adjacent rural activities;
- (b) Loss of productive rural land;
- (c) Loss of rural amenity.

[38] Ownership of properties within plan change 64 area are:

- (a) Cobbett-Tribe (the vineyard area to the north);
- (b) Deluxe Properties Limited (the south western block and a small allotment on Old Renwick Road); and

⁵ Urbanism Plus Limited “Essential Street Connections”, June 2013, page 3.

(c) Nardella, Bridgen, Ficher and Harper (the remaining allotments to the south and east).

[39] Deluxe Properties Limited is the only owner who is a submitter and Deluxe supports the plan change.

[40] Gibson, who owns land to the east and represents other owners of rural residential allotments to the east, seeks to be included in the plan change area 64.

Plan Change Area 65

[41] This area is north of Old Renwick Road and is bisected by Thompsons Ford Road. It comprises 39 hectares and is anticipated to yield approximately 351 dwellings based on 10 dwellings per developable hectare and existing development.

[42] The area is owned by a small number of land owners. The site is bisected on either side of Thompsons Ford Road by Transpower 110kv transmission lines that connect to the substation located on the corner of Old Renwick Road and Thompsons Ford Road. The site is zoned Rural 3 but adjoins Urban Residential 2 Zoning to the south and the opposite side of Old Renwick Road. The site is generally comprised in large residential lots, grazing and viticulture. The site contains Class 2 versatile soils. The area is located in reasonable proximity to schools, early childhood facilities and shopping, although these facilities are generally located on the opposite side of Old Renwick Road.

[43] The area comprised more or less area N1 and area N-b at its eastern extent in SMUGs. That area excluded the Blenheim substation on the corner of Old Renwick Road and Thompsons Ford Road.

[44] Of the 14 owners, shown in Appendix 1, Figure 3 at page 109, only three submitted as follows:

- (a) Hawke (supports the plan change but seeks some possible roading re-alignment);
- (b) Wilkes (supports the plan change for part of his property); and
- (c) Transpower (opposes the rezone of part of the land (section 1 SO4932) and supports rezoning subject to appropriate protections in relation to its substation and transmission lines).

[45] In addition Woodbury (outside the area) made a general submission advocating care with aesthetics in land development.

Plan Change Area 67

[46] The area is north of Old Renwick Road and adjoins Blicks Lane to the west. It comprises 33.2 hectares and it has an anticipated yield of approximately 238 dwellings based on ten dwellings per developable hectare and existing development. The land is owned by a small number of land owners. The site is zoned Rural 3, but adjoins the Urban Residential 2 Zoning to the south on the opposite of Old Renwick Road. The site is generally compromised in large residential lots, grazing and viticulture. The site contains Class 2 soils. The area is located in proximity to schools, early childhood facilities and shopping, although these facilities are generally located on the opposite side of Old Renwick Road. Similar effects from implementation of the Plan Change were identified for this area as for area plan change area 64.

[47] The area is identified as part of Area 1 in the Revision Strategy.⁶

[48] A conceptual layout for Area 1 is shown in figure 4.1 of the Revision Strategy.

[49] The owners within the plan change area who have submitted are:

- (a) Bush (opposes);
- (b) Cresswell (opposes);
- (c) Stark (supports); and
- (d) Barnett (supports).

[50] Submitters who are against the plan change and who are nearby land owners outside the plan change area are:

- (a) Ballagh;
- (b) N Gifford;
- (c) A & V Gifford;
- (d) Hale;
- (e) Salmond; and
- (f) Sandall.

⁶ Urbanism Plus Limited, "Revised Strategy for Blenheim's Urban Growth"; November 2012.

[51] The Bush submission is quite specific and seeks to protect the honey manufacturing and bee-keeping operation at 168 Old Renwick Road. That is proposed to be addressed by the Marlborough District Council by scheduling that activity in appendix g to the Wairau-Awatere Resource Management Plan.

Plan Change 66

[52] The area is located between Old Renwick Road and Middle Renwick Road (SH6) and is adjoined by Rene Street and the Westwood retail area on its western boundary. It comprises 44.6 hectares and is anticipated to yield approximately 389 dwellings based on 10 dwellings per developable hectare and existing development. The area is owned by a limited number of land owners. The area generally comprises large residential lots, viticulture, raspberry and strawberry growing operations and storage facilities. The site is zoned Rural 3 and adjoins the Residential 2 zone on its eastern boundary. The site contains Class 1 and Class 2 soils. The area is located in reasonable proximity to childhood facilities and shopping areas. Similar effects from implementation of the Plan Change were identified for this area as for plan change area 64.

[53] The area comprises part of Areas 3 and Areas 5 in the revision Strategy (November 2012).

[54] Residential areas 3, 4 and 5 are identified as suitable for integrated development for residential development a range of densities. Indicative layouts for these areas are shown in figures 4-2, 4-3 and 4-4 in the Revision Strategy.

[55] There are only 12 owners of whom three are submitters as follows:

- (a) Jones (supports subject to no rating increases);
- (b) Price (opposes); and

- (c) Outer Limits Limited (supports plan change 66, but asks that its land be excluded and seeks that certain reverse sensitivity issues be addressed as part of residential development).

Plan Change 69

[56] The area is located between Old Renwick Road and Middle Renwick Road (SH6) and is adjoined by Rene Street and Westwood retail area on its eastern boundary. It comprises 32.25 hectares and is anticipated to yield approximately 270 dwellings based on 10 dwellings per developable hectare and existing development. The area contains a cold storage building at the north-west corner and also pack house and storage facilities further to the South. The remainder of the area is generally comprised in viticulture and horticulture with a small number of houses. The site is zoned Rural 3. The site contains Class 1 and 2 soils. The area is located in reasonable proximity to schools, early childhood facilities and shopping. The area is parts of Areas 3 and 4 of the Revision Strategy. Similar effects from implementation of the plan change were identified for this area as for plan change area 64.

[57] There are 12 separate owners, only two of whom have submitted against. These are Provincial Cold Stores and Talley's. Foodstuffs on the other side of the zone boundary and located in plan change areas 66 and 69 has submitted and raised reverse sensitivity issues.

Plan Change 70

[58] The area is located in the vicinity of Battys Road, Severn Street and David Street. It comprises 18.2 hectares and has anticipated yield approximately 130 dwellings, based on ten dwellings per developable hectare and existing development. The area already has considerable residential development on smaller lots with the

remainder of the area generally comprised in residential larger lots, grazing and horticulture. The ownership is fragmented with a large number of owners. The site is zoned Rural 3 and adjoins the Urban Residential 2 Zone on its eastern and northern boundaries. The site contains Class 2 soils. The area is located in reasonable proximity to schools, early childhood facilities and shopping. The area is part of Area 6 identified in the Revision Strategy. Other parts of Area 6 have been excluded from plan change 70 because of the presence of the Old Fairhall Stream (see Appendix 1, Figure 4, page 114).

[59] There are three submitters from within the proposed plan change area:

- (a) Gissing & Bunting (who support the plan change);
- (b) Ramsay (who is against the plan change); and
- (c) Brooks (who is against the plan change).

[60] There are three submitters immediately outside the plan change area:

- (a) Lindstrom (who supports the plan change and wishes to be included);
- (b) Roughan (who supports the plan change and wishes to be included); and
- (c) Brooks (who opposes the plan change).

[61] There is a further submitter who owns land some distance away, Mr and Mrs Morgan, who wish to be included in the plan change area.

Analysis of Issues – A Methodology

[62] The task of analysing a plan change and the submissions on a plan change is complex for at least two reasons:

- (a) The web of statutory tests to be applied; and
- (b) Submissions are pitched at often different levels ranging from submissions that are opposed to a plan change at a fundamental level to those submissions that generally support the plan change but suggest some improvement to it.

[63] The complexity of that task is added to in this case by the following factors:

- (a) There are eight plan changes with seven plan change areas;
- (b) Some submissions are specific to plan change areas, whereas others have a broader scope;
- (c) While they are individual plan changes, the broader scoped submissions affect all of them; and
- (d) The scale of the affected areas.

[64] The statutory requirement for assessment of plan changes and the evidence on them based on the amendments to the Resource Management Act by the Resource Management Amendment Act 2009 were recently summarised by the Environment Court in *Colonial Vineyard Limited v Marlborough District*

*Council*⁷ at para 17. The requirements summarized in that decision are set out below:

A. General requirements

1. A district plan (change) should be designed to **accord with**¹⁸ — and assist the territorial authority **to carry out** — its functions¹⁹ so as to achieve the purpose of the Act²⁰.
2. The district plan (change) must also be prepared in **accordance with** any regulation²¹ (there are none at present) and any direction given by the Minister for the Environment²².
3. When preparing its district plan (change) the territorial authority **must give effect to**²³ any national policy statement or New Zealand Coastal Policy Statement²⁴.
4. When preparing its district plan (change) the territorial authority shall:
 - (a) **have regard to** any proposed regional policy statement²⁵;
 - (b) **give effect to** any operative regional policy statement²⁶.
5. 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 order²⁷; and
 - (b) **must have regard to** any proposed regional plan on any matter of regional significance etc²⁸.
6. When preparing its district plan (change) the territorial authority must also:

⁷ [2014] NZEnvC, 55

- **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 regulations²⁹ to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities³⁰;
 - **take into account** any relevant planning document recognised by an iwi authority³¹; and
 - not have regard to trade competition³² or the effects of trade competition:
7. The formal requirement that a district plan (change) must³³ also state its objectives, policies and the rules (if any) and may³⁴ 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 Act³⁵.
- 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 policies³⁶;
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 objectives³⁷ of the district plan **taking into account**:
- (i) the benefits and costs of the proposed policies and methods (including rules); and

- (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods³⁸; and
- (iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances³⁹.

D. Rules

- 11. In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment⁴⁰.
- 12. Rules have the force of regulations⁴¹.
- 13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive⁴² than those under the Building Act 2004.
- 14. There are special provisions for rules about contaminated land⁴³
- 15. There must be no blanket rules about felling of trees⁴⁴ in any urban environment⁴⁵.

E. Other statutes:

- 16. Finally territorial authorities may be required to comply with other statutes.

F. (On Appeal)

- 17. On appeal⁴⁶ the Environment Court must **have regard to** one additional matter — the decision of the territorial authority⁴⁷

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18. Section 74(1) of the Act.
 19. As described in section 31 of the Act.
 20. Sections 72 and 74(1) of the Act.
 21. Section 74(1) of the Act.
 22. Section 74(1) of the Act added by section 45(1) Resource Management Amendment Act 2005.
 23. Section 75(3) RMA.
 24. The reference to "any regional policy statement" in the *Rosehip* list here has been deleted since it is included in (3) below which is a more logical place for it.
 25. Section 74(2)(a)(i) of the RMA.
 26. Section 75(3)(c) of the Act [as substituted by section 46 Resource Management Amendment Act [2005],
 27. Section 75(4) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].
 28. Section 74(2)(a)(ii) of the Act.
 29. Section 74(2)(b) of the Act.
 30. Section 74(2)(c) of the Act.
 31. Section 74(2A) of the Act.
 32. Section 74(3) of the Act as amended by section 58 Resource Management (Simplifying and Streamlining) Act 2009.
 33. Section 75(1) of the Act.
 34. Section 75(2) of the Act.
 35. Section 74(1) and section 32(3)(a) of the Act.
 36. Section 75(1)(b) and (c) of the Act (also section 76(1)).
 37. Section 32(3)(b) of the Act.
 38. Section 32(4) of the RMA.
 39. Section 32(3A) of the Act added by section 13(3) Resource Management Amendment Act 2005.
 40. Section 76(3) of the Act.
 41. Section 76(2) RMA.
 42. Section 76(2A) RMA.
 43. Section 76(5) RMA as added by section 47 Resource Management Amendment Act 2005 and amended in 2009.
 44. Section 76(4A) RMA as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.
 45. Section 76(4B) RMA — this "Remuera rule" was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.
 46. Under section 290 and Clause 14 of the First Schedule to the Act.
 47. Section 290A RMA as added by the Resource Management Amendment Act 2005.

[65] The logical analysis from objectives to policies and then to rules is evident from the way in which RMA s32 is framed. That hierarchy is also evident from RMA, s 75(1) that requires that District Plan must state:

- (a) The objectives for the district;
- (b) The policies to implement the objectives; and

(c) The rules (if any) to implement the policies.

[66] Objectives, sometimes called goals, are the essence of planning under the RMA. As Hammond J said in *TV3 Network v Waikato District Council*⁸:

“The legislation also rests on the “changed conception of what ‘planning’ is all about”. In terms of actual function land user planners were conventionally problem solvers within the parameters of set policies and traditions. But now, planning theorists come to recognize that “goal formation is not only the most important, but also the most neglected part of the planning process...” (Chadwick A, *Systems View of Planning* (1978) 124”

[67] Therefore evaluation of issues concerning plan change goals or objectives may be termed ‘first order issues’. The evaluation of the efficacy of the plan change policies and rules to implement the objectives may be described to be ‘second order issues’.

[68] From this one can break down the submissions into the following two classes:

- (a) Those that address or contest first order issues and raise what are called “goal issues”; and
- (b) Those that address or contest second order issues and raise what are called “implementation issues”.

[69] There are two major goal issues raised by submissions as follows:

- (a) **Goal Issue 1** – This issue is whether or not the areas identified in plan changes 64-70 should be used for good quality residential development?

⁸ [1997] NZMA 539 at 542

The reasons given in submissions for answering that issue in the negative include:

- (i) Residential development should not be located on highly productive soils;
 - (ii) There are other locations that are more convenient and efficient to develop; and
 - (iii) The areas are subject to hazards.
- (b) **Goal Issue 2** – Should the goal of providing for good quality residential development be applied to other areas outside plan change areas 64-70?

[70] If one gets to the point that the goal issues are settled in favour of some or all of the land resources within the areas covered by plan changes 60-70 being used to achieve good quality residential development then that requires, next, an examination of implementation issues.

[71] We identify the following implementation issues:

- (a) **Implementation Issue 1** – Are there sufficient policies, controls, and discretions to ensure that site specific evaluation of subdivision development achieves reasonable urban design and integrates well with the future development of adjoining land that is also residentially zoned as well as addressing such issues as hazard and contamination mitigation or remediation?; and
- (b) **Implementation Issue 2** - Are the interfaces with existing non-residential development or uses at the boundaries of the plan change areas adequately

avoided, remedied or mitigated by the policies or methods (including rules) proposed?; and

- (c) **Implementation Issue 3** – Is staged and, as yet, unfinalised infrastructural roll out required for residential development adequately addressed in the plan change provisions?

The History Behind Plan Changes 64-71

[72] Plan changes 64-71 are the culmination of strategic work undertaken by Marlborough District Council known as “Growing Marlborough” which commenced in 2009.

[73] Development of this strategy was split into two parts:

- (a) Townships and settlements of South Marlborough (August 2009 to May 2011); and
- (b) North Marlborough (February 2010 to November 2011).

[74] The South Marlborough study included Blenheim. The process undertaken was called “Inquiry by Design” which means it was urban design focussed and involved engagement with Council staff, politicians, affected land owners and interested parties. Outcomes of strategic work were notified under the Local Government Act 1974. The relevant growth strategy for Blenheim is found in the South Marlborough Urban Growth Strategy (SMUGS)⁹. The key features of the SMUGS study were:

- (a) A time horizon of 20 years (i.e. 2031);

⁹ South Marlborough Urban Growth & Development (SMUGS), May 2010, Marlborough District Council.

- (b) Assessment of greenfield demand based on 1,500 new households to accommodate Blenheim’s projected population growth;¹⁰ and
- (c) A multi-criteria assessment methodology for evaluating future growth nodes.

[75] The final approval for the strategy in SMUGS under the Local Government Act 2002 was delayed because Marlborough District Council identified that some of the preferred growth nodes (particularly to the east) were potentially susceptible to significant liquefaction risk. Geotechnical investigation by Opus Consultants in May 2012 revealed that the eastern areas with surficial characteristics associated with the Dillons Point formation were particularly susceptible to liquefaction and therefore expensive to develop because of special foundation requirements.¹¹

[76] As a result of elimination of areas to the east, focus returned to the areas in the north and west, although an earlier preferred growth node Blenheim Na and Nb also required further detailed geotechnical investigation.

[77] Following the geotechnical investigation a further investigation for replacement areas to accommodate growth in the periphery of Blenheim was initiated. That resulted in the revision of the strategy for Blenheim’s urban growth called “Revision to Growth Strategy” (the “Revision Strategy”)¹².

[78] The Revision Strategy used the same criteria for sites for growth node selection as SMUGS including:

- (a) Affordable growth;

¹⁰ See SMUGS section 6.1.4 “Projected Residential Growth Needs for Blenheim”, page 117.

¹¹ Blenheim Urban Growth Study Geotechnical Evaluation (Opus), May 2012.

¹² Revision of the Strategy for Blenheim’s Urban Growth (Urbanism Plus), November 2012.

- (b) Sufficient access;
- (c) Valuable soils;
- (d) Healthy eco systems;
- (e) Quality open space;
- (f) Unique towns;
- (g) Thriving tourism; and
- (h) Growing employment.

[79] As a result of the investigation through the Revision Strategy only areas to the north west and south west were identified as suitable for development. These were further assessed against core disciplines, including:

- (a) Flooding and storm water;
- (b) Strategic planning;
- (c) Wastewater infrastructure;
- (d) Water supply;
- (e) Geotechnical
- (f) Ground water;
- (g) Open space and recreation;

- (h) Transport; and
- (i) Community infrastructure.

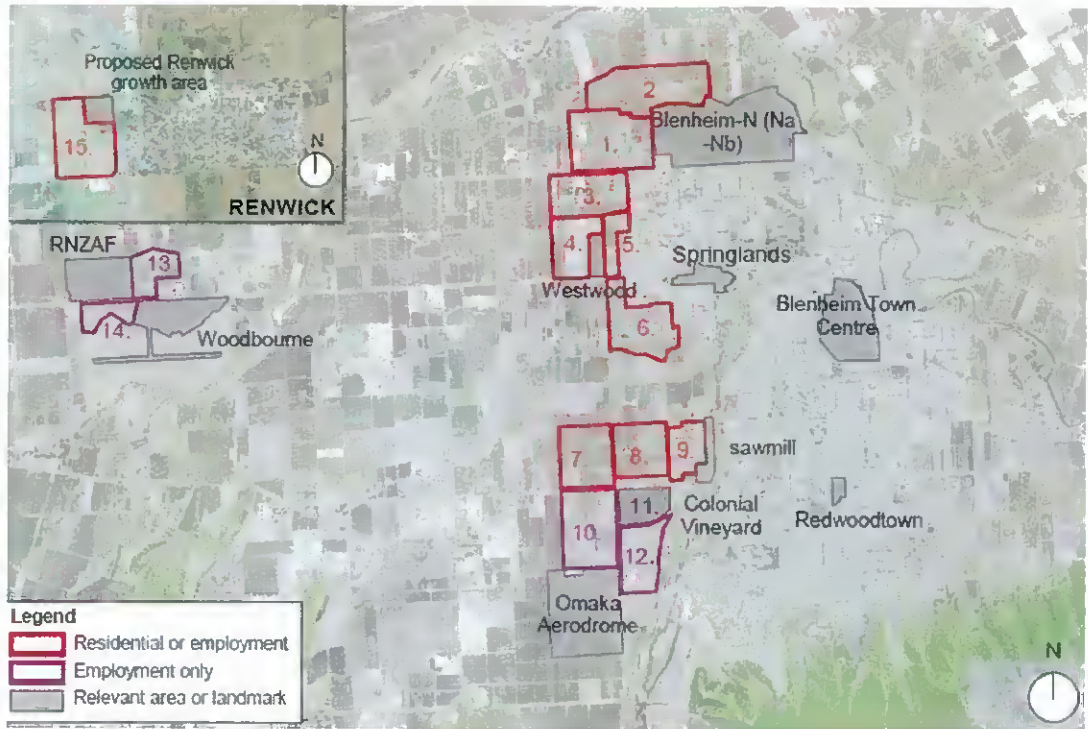
[80] The Revision Strategy identified areas to the north and north-west as more suitable than the south and south-west for residential growth by reason of:

- (a) Quality of connection;
- (b) Reduced reverse sensitivity effects;
- (c) Geotechnical;
- (d) Proximity to Springlands and Westwood retail facilities;
- (e) The desirability of clustering and growth.

[81] Before finally approving those areas to the north and north-west the Council commissioned further geotechnical investigation by Opus Consultants called the “Stage 2 Geotechnical Evaluation”¹³

[82] The areas identified in the Revision Strategy are shown in the plan below.

¹³ Blenheim Urban Growth Study Stage 2 Geotechnical Evaluation (Opus) February 2013



[83] The Revision Strategy identified nine areas of potential growth. The preferred areas of growth were:

- (a) Parts of Na and Nb not eliminated by risk of lateral spread by reason of proximity to waterways;
- (b) Area 1;
- (c) Area 3;
- (d) Area 5; and
- (e) Area 4.

[84] These areas in combination more or less define the spatial extent of the areas covered by plan changes 64-70 with the exclusion of plan change area 70 which forms a smaller part of Area 6.

[85] Areas 2, 7 and 9 were eliminated for the following reasons:

- (a) Area 2 was assessed to have a higher liquefaction risk. In addition the transmissions lines and distance from centres and schools were obvious detracting factors;
- (b) Area 7 was assessed as having a higher liquefaction risk and is plainly disconnected and would require significant infrastructure upgrading; and
- (c) Area 9 is currently zoned and developed for rural residential and has significant reverse sensitivity issues.

[86] In March 2013 the final strategy called *Growing Marlborough: A Strategy for the Future* (March 2013) was adopted by the Council under the Local Government Act 2002. The strategy implements the findings of the Revision Strategy and identifies Blenheim N and Areas 1, 3 4, 5 and 6 as future residential growth areas.

RMA Section 32 Analysis of Plan Changes 64-71 Including Technical Reports

[87] Plan changes 64-71 were accompanied by an RMA, s32 analysis. This incorporated by reference eight detailed technical reports on such topics as:

- (a) Growth demand;
- (b) Geotechnical;

- (c) Servicing;
- (d) Transportation;
- (e) Contamination.

[88] The technical reports are listed below:

- (a) **Appendix 1** – *Residential Land Availability (Blenheim & Renwick)* by EMS Limited (January 2011);
- (b) **Appendix 2** – *Blenheim Urban Growth Study: Geotechnical Investigation*, by Opus (May 2012);
- (c) **Appendix 3** – *Revision of the strategy of Blenheim Urban Growth*, by Urbanism Plus (November 2012);
- (d) **Appendix 4** – *Blenheim Urban Growth Study, Stage 2*, by Opus (February 2013);
- (e) **Appendix 5** – *Blenheim Residential Growth Areas Essential Street Connections*, by Urbanism Plus (June 2013);
- (f) **Appendix 6** – *Blenheim Urban Growth Provision of Infrastructure*, by MDC, June 2013;
- (g) **Appendix 7** – *Residential Plan Change Transportation Effects*, by GHD (June 2013); and

- (h) **Appendix 8** – *Marlborough Urban Growth and Development Study – Assessment of Suitability for Residential Development*, by Paddle Delamore (May 2011).

[89] We now set out the major conclusions of these technical reports on the following topics:

- (a) Growth demand;
- (b) Geotechnical;
- (c) Urban design;
- (d) Infrastructure;
- (e) Transportation; and
- (f) Contamination.

Growth Demand

[90] Environmental Management Services Limited did an update on residential land availability in its report dated January 2011 (Appendix 1 to the RMA s32 analysis). The analysis confirms that Blenheim and Renwick are quickly losing their available vacant residential zoned land supply. The prediction was made that if development and subdivision rates continue then within two to five years all available supply will be exhausted.

[91] The methodology of assessment including consideration of:

- (a) Existing greenfields areas in the relevant mesh blocks;

- (b) Rates of subdivision and development;
- (c) Incidence of subdivision and development supplied by “Infill”; and
- (d) Historical patterns of development and density.

[92] The report noted that the typical pattern of subdivision and development in Blenheim resulted in a yield of about 10 units per hectare. The report noted:

“Higher densities are achievable through comprehensive development of amalgamated parcels. However, that does not appear to be the ‘practice’ or ‘habit’ of development to date in Blenheim or Renwick. A cultural shift will be required in both the development and home-buying rounds, to achieve a higher density of 15 units per hectare consistently across all future land subdivision.”¹⁴

[93] The above quote is in the context of the 15 units per hectare mooted by the urban growth consultants for Marlborough District Council, Urbanism Plus.

[94] The extent to which available land (greenfield and infill) can meet future demand depends significantly on the density and style of development. Based on historical patterns the report estimates that the potential greenfields supply is 747 sections and the potential infill supply is 216 sections. This is well short of the estimated 2,625 sections required to meet projected growth to 2031.

[95] The report notes that building and subdivision demand has been significantly less since 2009 compared with say 2004. This is attributable to the global financial crisis. Pre GFC rates were between 150 to 250 dwellings and sections per year. Since 2008 that has dropped to between 100 to 150 per annum.

¹⁴ Residential Land Availability (Blenheim and Renwick) EMS Limited (January 2011) at page 21, section 5.3.

[96] The key message from the report is stated laconically at section 9.3 as follows:

“The overriding message remains: In 2007, vacant land supply was diminishing and time was short. In 2010, vacant land supply is short and time is shorter”.

Geotechnical

[97] The Opus Geotechnical Investigation Report (May 2012) notes that:

“The Blenheim area is underlain by Holocene age marine/estuarine silts and sands of the Dillons Point Formation and alluvial gravels and sands of the Rapaura Formation. Both formations have layers of loose material which are susceptible to liquefaction. The Dillons Point Formation soils are highly vulnerable to liquefaction, which investigation show to be thicker than 15m to the south east of Blenheim.”¹⁵

[98] The cost of residential development needs to factor in the cost of mitigation of hazards. Hazard mitigation based on a 500 year return period was considered an appropriate design standard. As a consequence, development in the eastern area of Blenheim would be far more expensive than other locations. As the Opus Report noted at page 1:

“Ground improvement and robust deep foundations to mitigate the risk of liquefaction and lateral spreading are very costly. These measures are generally adopted for important and high value facilities. In our experience these very costly methods are likely to lead to prohibitively high development costs. In this regard we also note the government’s decision not to allow redevelopment of (red zone) residential areas in Christchurch that were subject to liquefaction and lateral spreading, rather than carry out very costly ground improvement to mitigate against future liquefaction.

From a sustainability perspective, it would not be prudent to encourage development on land which will require considerable cost and consume substantially more resources compared to development on land which is more stable in earthquake and other hazards.

¹⁵ Blenheim Urban Growth Study, Geotechnical Investigation, Opus (May 2012), page 1.

This is on the basis that it would be more sustainable to develop areas subject to a lower level of hazard, such as the alluvial gravel plains to the west of Blenheim.”

[99] Following the Revision Strategy in November 2012 Opus published the Stage 2 Geotechnical Report and assessed in respect of preferred growth nodes in the north and west the following hazards:

(a) Liquefaction; and

(b) Lateral spread.

[100] The Opus Report notes:

“Liquefaction will occur when saturated loose to medium dense fine grain granular materials and silt are subjected to ground shaking. Liquefaction can cause sand boils, subsidence, lateral spreading and flow slides. Damage from such deformation can include flotation of buried structures, fissuring of the ground, subsidence of large areas, differential subsidence and foundation failure caused by loss of support as the liquefied soil substantially loses its shear strength.”

[101] The Opus Report describes lateral spreading in the following manner:

“Lateral spreading occurs predominantly in the vicinity of free surfaces such as water courses where liquefied soil can laterally displace towards the water course, but it can also occur where there is slope along which the liquefied ground can displace. This can lead to large displacements of the ground from hundreds of millimetres to a few metres. Lateral spreading can extend to 200m or more from water courses but is typically more severe nearer the river. In some situations it has extended 300m to 500m due to block sliding. This may be mainly in areas where the land can spread in more than one direction due to bends or loops in the water course. Experience from the 2010 Darfield and 2011 Christchurch earthquakes shows the ground damage due to lateral spreading reduces at a distance greater than 130m from a river or stream.”

[102] From the overarching assessment of lateral spread, figure 5 of the Opus Report shows 50, 100 and 200 metres buffer from existing water courses (see Appendix 1, Figure 4, page 114).

[103] In the second Opus Report at page 8 Appendix 4, conclusions are reached regarding hazard risk in Area Na:Nb and Areas 1-5.

[104] In respect of Area Na:Nb Opus stated:

“Liquefaction in this area may lead to lateral spreading of the land towards nearby streams and drains, although the effects are likely to be limited given the relatively thin deposits of liquefiable material. The effects of lateral spreading are likely to be most significant at the eastern end of this area, where the land is underlain by thicker deposits of liquefiable material and where water courses run in close proximity to the north eastern and southern boundaries (Opawa River and Caseys Creek, respectively).

[105] In respect Areas 1-5 Opus stated:

“Liquefaction in these areas is not considered likely to cause significant lateral spreading given the thin deposits of liquefiable material in a flat terrain with only minor water courses (shallow farm drains).”

[106] In its first report (May 2012) Opus stated in respect of areas subject to high risk of liquefaction, such as parts of Na:Nb, at section 7.2, page 14:

“Therefore it would be prudent to not zone for intensive development, the areas subject to severe lateral spreading, such as in substantial areas of Area E1 and E2 and smaller areas in Na:Nb. These areas subject to liquefaction and lateral spreading can be used for less intensive land uses such as parks and gardens or agriculture. This could be achieved by appropriate zoning the land through district planning measures.”

[107] Area 6 is part of the area covered by plan change 70. In respect of this area in the Stage 2 Opus Report (Appendix 4 to the RMA, s 32 analysis) at page 8, it is stated:

“Lateral spreading is likely to be a significant issue in Area 6, particularly along the southern boundary where up to 7.5m of soft silt and clay soils are present adjacent to the Old Ferrell Stream. Other water courses such as Murphy’s Creek and Cameron’s Creek cross this area and may also present a lateral spreading risk, however these water courses are shallower with only thin liquefiable deposits and so the potential ground damage is likely to be less significant.”

Urban Design

[108] The Revision Strategy evaluated remaining growth options in view of the Opus geotechnical assessment and concluded that the only viable options for greenfields growth in Blenheim were in the north-west or south-west.¹⁶

[109] Nine residential urban growth areas were identified, with the aim to provide sufficient land for 1,434 dwellings. In table 17 to the Revision Strategy the areas were assessed against nine criteria and rated on a traffic light system of:

- (a) Least constrained;
- (b) Constrained;
- (c) No constraint.

[110] The nine areas were selected applying nine guiding principles as follows:

- (a) Responding to the projected increase in population and activity in a way that is affordable in the long term;

¹⁶ Revision of the Strategy of Blenheim Urban Growth, UrbanismPlus (November 2012), page 16.

- (b) Making sure that access to goods and services provided an affordable and more environmentally friendly way;
- (c) Considering valuable and productive soils for future generations;
- (d) Restoring, growing and connection valuable eco systems;
- (e) Providing good quality and sufficient public open space for people to recreate and children to play in.
- (f) Retaining and reinforcing the unique character and role of the different urban settlements;
- (g) Complementing Marlborough's natural area and viticulture based tourist attractions with more urban visitor attractions and facilities;
- (h) Providing and protection settings that respond to economic needs and stimulate economic growth.

[111] As part of that analysis at page 18 the Revision Strategy , in summary, states:

- (a) There are a number of contrasts between the growth areas;
- (b) No one growth area was considered ideal from the perspective of all relevant technical disciplines. All growth options are constrained. However, the mix of constraints varies;
- (c) In most cases constraints can be overcome by expenditure;

- (d) Some growth areas ‘scored’ better on a larger number of things than others; and
- (e) The aim should be to identify the least constrained while identifying the growth areas that can give most benefit to the existing community.

[112] As part of its overall conclusion at page 18, the Revision Strategy stated:

“Analysis identified that the north west is marginally more preferred for residential development than the south west. The reasons behind this include:

- It is better connected to the township and public amenities including schools and open space;
- It is not effected by potential Omaka reverse sensitivity and noise effects;
- It is not effected by potential the timber sawmill reverse sensitivity or adverse environmental effects;
- Based on information available during the assessment, the land between Old and Middle Renwick Road is less constrained from a geotechnical perspective;
- Growth in the area will promote the Springlands and Westwood retail and other facilities;
- Clustering growth and combining it with growth area (Blenheim-N, which is likely to develop to at least some extent) gives the best chance of new amenities example, storm water, mains improvements, bus services etc.”

[113] Growth area 2 was excluded and in respect of that area the report notes at page 18:

“The transmission lines would form a major negative impact on a coherent and efficient development structure of Area 2, whilst in Area 1 this may be more easily overcome by good planning and design.”

[114] The Revision Strategy at section 2.2 recommended “a structure plan for each growth area” designed prior to subdivisions. This is to achieve coherent urban

form. Consistent with that recommendation the Revision Strategy provides illustrative concepts of the recommended growth areas in Section 4. In respect of those areas where there is an interface at the boundary with Rural 3 land, the report recommends a “buffer in the form of landscaping or larger lots with building set backs on the interface”.

Infrastructure

[115] The Infrastructure Report at Appendix 6 (June 2013) identified the high level analysis of infrastructural improvements required to support development in the plan change areas identified in plan changes 64-70. In particular, core services were analysed including:

- (a) Water;
- (b) Storm water; and
- (c) Waste water.

[116] That high level of investigation gives the Marlborough District Council confidence that the development of the growth nodes can be supported from an infrastructural point of view. That high level analysis then requires further work to develop a “accepted services plan”. This plan will incorporate:

- (a) Essential transportation connections;
- (b) Routes for reticulation of services;
- (c) Reticulation capacity requirements; and
- (d) Easement corridors.

[117] Mr Walker, an engineering officer employed by Marlborough District Council, confirmed in evidence that these accepted services plan will be finalised as part of the sequenced development of land in the growth nodes.

Transportation

[118] Urbanism Plus prepared an essential connections report dated June 2013 (at Appendix 6 to the RMA, s 32 analysis). This showed the spatial location of essential roading connections in and between the plan change areas.

[119] At page 2 of the report by Urbanism Plus the following principles were stated to inform the location of roading:

- (a) Maximise connectivity for all transportation nodes;
- (b) Create layouts that are legible and easy to understand for all users;
- (c) Create networks that encourage walking and cycling;
- (d) Create networks that are able to facilitate (future) public transport services;
- (e) Avoid conflicting right turns between T-intersections in close proximity to each other. Favoured cross sections are the T-intersections. Apply small offsets of the carriageways within the road reserves to force the traffic that has to give way to stop or slow down;
- (f) Avoid roundabouts in areas with high pedestrian and cycling traffic;

- (g) Minimise dependencies between land owners and maximize opportunities for independent and efficient development by individual land owners while maximizing current activity and coherence;
- (h) Create layouts whereby fronts of properties/dwellings face other fronts across a public street and backs face backs while avoiding rear lots;
- (i) Create layouts that set up as many north-south blocks (and hence east-west lots) for maximum solo access;
- (j) Assume the retention of existing dwellings in the areas immediately surrounding those.

[120] The “Essential Connections” Report then informed the location of essential and alternative roading connections notations in the notified plan changes.

[121] The GHD Report, at Appendix 7 to the RMA, s 32 analysis, analyses the transportation effects of the proposed “essential street connections”. The GHD Report identifies the road and intersection improvements required as a result of the essential connections and intended level of development from residential rezoning. The overarching conclusion is that no significant safety issues will arise from residential development. In addition, that development will not significantly impair existing efficiency of the transportation network. This was further confirmed in evidence at the hearing by Ms Skilton who has 25 years experience in transportation planning.

Contamination

[122] The Pattle Delamore Report at Appendix 8 assesses contamination risk for a number of potential growth locations. Many of these are not relevant to plan changes 64-70. In addition, a number of areas within plan changes 64-70 were

not assessed. However, the analysis of risk for some areas is relevant to areas covered by plan changes 64-70. The reason for this is that the distribution of existing land use is not very different across the entire north western sector of the periphery of Blenheim. The conclusion for Area Na and Nb at section 3.6 of the report (page 11) states:

“Overall the area appears suitable for residential development with limited potential for contamination. The assessment found that the area is predominantly used for cropping until viticulture began to dominate in the 1990s. Persistent pesticides residues in soil resulting from these land uses are not expected. However, limited potential chemical residue build up may have occurred in localized areas and hydrocarbon or other chemical contamination from storage and spills, farm waste fires or sheep dips. Resulting chemical residues from these activities are persistent and can accumulate in soil in concentrations above that recommended for residential use. It is therefore recommended that the following considerations are made prior to any residential development of the site:

- Further investigation of the possibility of sheep dips at one of the properties;
- Soil sampling in areas where waste fires have been, long time storage sheds and near the hydrocarbon spill;
- Fuel tanks for hydrocarbon impact the soils are encountered during development, soil sampling is likely to be indicated to determine any residual hydrocarbon impact.”

[123] From this report we conclude that there must be investigation on a site specific basis of contamination at the time of development and there must be sufficient power for the Marlborough District Council to require remediation of any contamination exceeding national standards.

Some Observations About Planning for Residential Growth

[124] Planning for good quality residential neighbourhoods is recognised in New Zealand as important. Marlborough District Council recognises that and indeed

that is a major reason why Urbanism Plus was engaged to undertake a systematic analysis of growth opportunities using accepted good urban design principles.

[125] There is always in resource management (and particularly when planning for urban growth) an appropriate balance to be struck in relation to:

- (a) The level of investigation that is undertaken as part of the plan change process and how much is left till later as the market reveals its 'hand'; and
- (b) The level of specificity of outcome to be achieved in the planning document.

[126] There is no right answer in any case and there are trade-offs in every approach. Urbanism Plus plainly contemplated, in their assessments, a higher level of structure planning and specificity as to urban design outcome than the Marlborough District Council ultimately decided was appropriate. Philosophically, the Marlborough District Council appears to have preferred an approach which:

- (a) Made it clear where Blenheim's growth was to occur;
- (b) Systematically planning for infrastructure for that development through its Local Government processes informed by market signals and the efficient and logical roll out of infrastructure;
- (c) Subject to securing essential connections, to ensure that land owners had maximum flexibility to meet market conditions as they saw fit.

[127] There are however some urban growth bottom lines to which everyone subscribes. These include:

- (a) Achieving good connectivity;
- (b) Provision for multiple transport modalities;
- (c) Adequate provision of reserve and public spaces;
- (d) Arrangement of lots that provide good residential amenity; and
- (e) Logical roll out of infrastructure which has an eye to the future development of adjoining residential land.

[128] Where urban growth is planned for in a detailed way and secured by a prescriptive planning regime, then there is less need for large reservation of matters of control and discretion in respect of development which conforms with that detailed planning. Conversely, where there is significantly less detailed planning and much less certainty about the intended outcome, the more important it is that there are sufficient controls and discretions to achieve the desired outcome and sufficient policy to ensure that the discretions and controls are exercised in a manner that achieves the desired outcome.

[129] Plan changes 64-70 as notified did not prescribe urban growth outcomes for the plan change areas to a high degree of specificity. In particular:

- (a) The road connections are not part of a structure plan or master plan. They are only indicative and there are no rules requiring (as part of activity classification) the provision of roads in the locations identified;
- (b) The hierarchy of roading and their intended layout and design is very limited and does not provide detailed indication of streetscape, pedestrian provision and road reserve architecture;

- (c) There is no provision for reserves or public amenities;
- (d) There is no recognition of variations in density, including provision of larger lots at the interface with the Rural 3 boundary;
- (e) There is no detailed site specific geotechnical investigations;
- (f) There is no detailed site specific contamination assessments;
- (g) There is no design guide identifying the intended urban design outcomes.

[130] In addition to the above, there is the complexity that many plan change areas cover multiple individual land holdings. This increases the challenge of achieving coherent residential development.

[131] Despite the lack of specific planning for each plan change area, plan changes 64-71 nevertheless proposed Residential 2 Zoning with limited change to the policy and regulatory framework. That would mean in many cases individual allotments could be subdivided and the Council would be limited to the matters of control and discretion for controlled activities set out in Rule 28.2. However, during the course of the hearing the Marlborough District Council recognized that significantly higher level of discretion and control was required in respect of subdivision and development within the proposed plan change areas. We consider that to be an appropriate concession.

The Marlborough Regional Policy Statement

[132] The most relevant policy statement in the hierarchy of planning instruments that gives expression to the meaning of “sustainable management” in the context of the Marlborough Region is the Marlborough Regional Policy Statement that

became operative on 28 August 1995. The Marlborough Regional Policy Statement identifies nine environmental issues. Many of those issues address the key natural resources; land, water and air. In that context, the Marlborough Regional Policy Statement examines what sustaining the life supporting capacity of these resources as directed by RMA, s 5(2)(a) means for the Marlborough region. The two sections of the Marlborough Regional Policy Statement that are relevant to our decision are sections 6 and 7. The first examines sustaining the land resources of the Marlborough Region. The second, in section 7 examines community wellbeing.

[133] Our decision must give effect to the Marlborough Regional Policy Statement in making our decision. The Marlborough Regional Policy Statement is particularly relevant to our consideration of Goal Issue 1. Goal Issue 1 involves squarely addressing the tension between using high quality soils for urban growth and hence losing their productive capacity on the one hand and on the other hand achieving the positive dimension of sustainable management, and in particular sustainable urban growth to meet community wellbeing. The latter aspect of sustainable management has four dimensions:

- (a) Providing affordable housing that meets appropriate hazard resilience standards;
- (b) Efficiently utilises existing community infrastructure in an economically efficient and sustainable manner; and
- (c) Recognises the central function and importance of Blenheim as the social hub of Marlborough; and
- (d) Recognises the importance of good urban design and the associated social, economic and cultural benefits that flow from good urban design.

[134] The more specific the Marlborough Regional Policy Statement is on a particular resource management topic, the more directly our obligation to “give effect to” the Marlborough Regional Policy Statement is engaged and hence the more

influence the Marlborough Regional Policy Statement exerts on our overall assessment.

[135] The Marlborough Regional Policy Statement does not attempt to grapple with and resolve or provide guidance on the particular question whether high quality soils should be used for Blenheim’s urban growth and if so what requirements or pre-requisites must be satisfied before a decision of that type is made. It doesn’t identify the tension between managing urban growth and the use of high quality soils as a specific regional issue. The Marlborough Regional Policy Statement was not developed within RMA, s 32 analysis that enabled a reasoned and thorough examination of the relevant matters that would inform an assessment of sustainable urban growth in light of the reality of Blenheim’s location on or adjacent to some of the best soils in Marlborough. So we must be realistic and acknowledge that the Marlborough Regional Policy Statement does not provide us with direct guidance on Goal Issue 1. Rather, there are indications in the Marlborough Regional Policy Statement that identify the importance of protection of high quality productive soils as well as achieving sustainable urban growth and the four dimensions of sustainable urban growth mentioned above. All of these matters are addressed at a reasonably high level of generality. We consider that the best we can say is that all of these matters must be relevant to and factored into the assessment of achieving sustainable urban growth for Blenheim. We know that that has been done by the Marlborough District Council, because in both SMUGS and the Revision Strategy factors informing selection of urban growth nodes included:

- (a) Avoiding productive soils where practicable;
- (b) Achieving sustainable urban growth in the dimensions referred to above.

[136] Our conclusion on what “giving effect to” in this context means is justified by the more detailed examination below of relevant provisions of the Marlborough Regional Policy Statement.

[137] In Section 6 of the Marlborough Regional Policy Statement at the end of the description of the issue relating to land at Section 6.1.1, it is stated: *It is important to recognise that the community relies on the use and development of many land ecosystems for cultural, social and economic wellbeing.*”

[138] The land that is proposed for urban growth does not support an indigenous land ecosystem and therefore objective of 6.1.2 in the Marlborough Regional Policy Statement is not relevant. Objective 6.1.5 states:

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 capacity of those soils.

[139] Below objective 6.1 is an explanation that includes the following italicised words:

“Protection of highly productive land is essential for the continued safe and efficient production of food”

[140] But for the italicised portion above, the objective is focussed on maintaining life supporting capacity generally and is not directed at high quality soils specifically. The explanation is a general explanation and does not specifically address the question of urban growth on the fringes of Blenheim.

[141] The method of implementation of those policies relevant to highly productive soils is contained in Section 6.1.7 of the Marlborough Regional Plan and identifies the use of resource management plans to identify areas of high productive soils which contain controls to ensure that the productive capability and potential of highly productive soils is maintained. This is implemented in the Wairau-Awatere Resource Management Plan through the Rural 3 Zone that covers highly productive soils in the Wairau Plain and restricts subdivision of that land.

[142] This is as detailed as the Marlborough Regional Policy Statement gets on management of highly productive soils. It does not have any quantitative limits or any specific restrictions in relation to the use of that land to sustain urban growth in existing settlements.

[143] In the “Community Wellbeing” section of the Marlborough Regional Policy Statement, the introduction states:

The regional policy statement so far has concentrated on establishing the environmental limits within which people in communities can operate. This does not mean that resources cannot be used. This Regional Policy Statement also seeks to enable people in communities to provide for their social, economic and cultural wellbeing provided those limits are achieved.

[144] The introduction goes on to say:

The wellbeing of people in communities is indicated by the quality of life available to them. This includes:

- The provision of food, shelter and clothing;
- Economic prosperity;
- Health and safety;
- Spiritual and cultural freedom; and
- Cultural and characteristics of the community they live in

(The Act calls these attributes “amenity values”).

Quality of life comes from interactions between individuals in the community and their surroundings. Community interaction provides personal support, spiritual and cultural awareness and social development. Interaction with the surroundings provides employment, recreation and cultural and education opportunities for people. These opportunities are consistent with the principles of Agenda 21.

[145] Objective 7.1.2 of the Marlborough Regional Policy Statement is to maintain and enhance the quality of life of the people of Marlborough *while ensuring that activities do not adversely effect the environment.*

[146] This is implemented through policy, including the policy of achieving amenity values as defined in the Resource Management Act. Methods include in Section

7.2.1 recognition of the special function, nature and character of Marlborough settlements. The plan goes on to say:

The plans will define the function and character of major settlements in locations from towns to rural and recreation localities. Following are examples of attributes which make up the amenity values of some settlements and localities. These descriptions will be developed within resource management plans

Blenheim is the main urban, business and service settlement in Marlborough. Defining Blenheim's role within Marlborough will enable provincial development with a strong co-ordinating town. It also provides a place for activities consistent with Blenheim's functions to continue to develop within the town. This will promote better use of the existing built infrastructure, rather than creating or expanding other settlements.

- [147] In relation to type and scale and location of activities, Section 7.1.10 has a policy that enables clustering of activities with similar effects. The objective for community infrastructure is Objective 7.1.14 that states: *"Provide for safe and efficient operation of community infrastructure in a sustainable way."*
- [148] This has both land transportation and network utility dimensions. Anticipated environmental results include at Section 7.1.23 (a) *"Enhanced conditions with a healthy community which can function without undue constraint as indicated by infrastructure, arrangement of settlements and economic benefits produced for the community"*.
- [149] Finally, in Section 7.4.2 is an objective in relation to natural hazards that reads: *"Avoid or mitigate the actual potential loss or damage to life of property from natural hazards"*.
- [150] That objective is implemented by policies that are essentially directed at minimising the risk of natural hazards of property and life.

Analysis of and Conclusions on Goal Issue 1

Overview

[151] It will be recalled that ‘Goal Issue 1’ was framed as follows:

“Whether or not the areas identified in plan changes 64-70 should be used for good quality residential development.”

[152] Our conclusion is that the goal of enabling good quality residential development should not be applied at present to the following land resources:

- (a) The land within plan change 68;
- (b) The land within plan change 70;
- (c) The land beneath or adjacent to the 100kv transmission lines connected to the Blenheim Substation; and
- (d) Miscellaneous pockets of land within the plan change areas 66, 67 and 69 to address land owner preferences and other site specific considerations.

[153] In all other respects we consider that the goal of good quality residential development should be applied to land within plan change areas 64, 65, 66, 67 and 69. We do not agree that either individually or collectively the reasons given by submitters for requesting land within these plan change areas to be excluded are sufficient to reach the conclusion that retaining the land’s zoning as Rural 3 land is the most appropriate means of achieving the overarching objective of sustainable management. The main reasons given by submitters for excluding land from residential development that we consider should be included are:

- (a) Use of productive soils;
- (b) Infrastructural development difficulties; and
- (c) Hazards.

[154] Our analysis follows the structure of the overview described above.

Exclusion of Land Within Plan Change 68

[155] The area within plan change 68 was part of the preferred growth node Na:Nb identified in SMUGS. The first Opus Geotechnical Report identified liquefaction and lateral spread risks with this area. The more detailed investigation completed in 2013 in the second Opus study is the reason that the boundary of plan change 68 is no longer Old Renwick Road. Now the boundary is significantly to the north and excludes large parcels of land with immediate frontage to Old Renwick Road, including parts of the allotments owned by Messrs Locke, James and Herkt. The result is a plan change area that no longer has many of the spatial attributes that lead to its selection as a preferred growth area.

[156] In particular:

- (a) The area no longer enjoys good connection to Blenheim;
- (b) The area is a relatively isolated pocket juxtaposed between two Rural 3 areas; and
- (c) Provides limited transportation connections to the wider transportation network, other than an indicative road which extends outside the plan change area along the right of way that provides access to the Morgan property and which is owned by Mr and Mrs Morgan.

[157] Mr James, Mr Locke and Mr Herkt all made submissions supporting the rezoning and expressing concern that Plan Change 68's limited extent left 'pockets' of their land as Rural 3 making the vineyards on those 'pockets' uneconomic.

[158] The current state of the geotechnical information, does not support the conclusion that residential development is an appropriate outcome for those parts of the Locke, James and Herkt land that have been excluded by Plan Change 68 for rezoning to Residential 2. At present, the recommendation is for that land excluded to remain as Rural 3 or to be used for some form of public amenity. We also note that a pocket of land immediately to the west of Waipuna Street falls within the 200m buffer zone identified in the second Opus report. If the land owned by Messrs Locke, James and Herkt is not suited for residential development from a geotechnical perspective, then what will result from the development of plan change 68 is a relatively isolated island of residential development sitting within a working rural environment that is highly productive. We agree with the submission of the New Zealand Institute of Surveyors that that result would be suboptimal.

[159] It was submitted on behalf of Marlborough District Council that the submissions of Messrs Locke, James and Herkt seeking extension of the boundary to the entire extent of their land was not "on" the plan change for the purposes of RMA, schedule 1, clause 6. That submission was made in reliance upon the High Court decision *Palmerston North City Council v Motor Machinists Limited*¹⁷. We are not certain that that case is directly applicable here for the following reasons:

- (a) There is High Court authority that a submission seeking modest extension of the zone boundary to include land within a single title or allotment so all parts will be rezoned can be "on" the plan change, even though beyond the spatial boundaries of the proposed zoning¹⁸;

¹⁷ [2013] NZHC 1290.

¹⁸ *Taylor v Manukau City Council* 8 NZTPA 71 (HC).

- (b) The rezoning of the land owned by Locke, James and Herkt but not proposed to be rezoned was the subject of significant number of technical reports in the overall evaluation of the final boundaries of the area of plan change 68;
- (c) We doubt that there would be any material prejudice to members of the public arising from considering the submissions by Locke, James and Herkt on their merits. No one could have been surprised at their proposal that Residential 2 boundary be extended across all their land to Old Renwick Road.

[160] We reject the submissions by Locke, James and Herkt to extend the Residential 2 zoning to the land adjacent to Old Renwick Road because the evidence in the 2nd Opus report as far as it goes identifies the land is potentially at high risk from lateral spread and therefore unsuitable for residential development. Further detailed investigation might reveal more information and a better understanding of the underlying geotechnical conditions, but that information was not provided by any of the land owners.

[161] The risk of approving Plan Change 68 as it stands at present is, that it will remain a relatively isolated pocket of residential development. We consider that there is merit in further investigation and reconsideration of the area for residential development if it is revealed on further investigation that the land owned by James, Locke and Herkt excluded from plan change 68 can be economically developed for intensive residential development. As an alternative, a sympathetic design of the entire area could possibly be achieved that provides for a much lower density of development on those parts of the Herkt, James and Locke land that is presently assessed as susceptible to material hazard from lateral spread (with high quality housing comprising special foundation design) and that incorporates public amenities that are well connected to intensive residential

development in the area covered by plan change 68. For example, the incorporation of walkways and reserves along Casey's Creek.

[162] In short, we are not convinced based on the level of investigation that has currently occurred and the limited extent of the plan change area that Plan Change 68 should be approved. Further investigation, design and planning is required. To preserve the opportunity of residential development in the plan change area 68, we have maintained the essential roading connections to that land in the adjoining block in Plan Change 64.

Exclusion of the Land within Plan Change 70

[163] Plan Change 70 is unlike the other plan change areas in that it is not what one would call a "greenfields" area. Much of the land on the western side of Severne Street has been developed for low density residential use pursuant to resource consents. Further development is possible, but the opportunities are limited. No doubt in the fullness of time this land will be rezoned Residential, but it is misleading to describe it as a potential "growth node".

[164] A significant portion of the land within plan change 70 (in the block bounded by Severne Street, David Street and Batty's Road) is owned by interests associated with Mr Brooks. Mr Brooks opposes the plan change.

[165] The land owned by Mr Brooks, and a portion of that which is not in this general locale is within the 100 and 200 metre buffer zones identified by Opus (see Appendix 1, Figure 6, page 116). It is acknowledged that the Opus Stage 2 Report states that the potential risk of lateral spread in this area is not as significant as for others because of the likely depth of the surficial formations. Nevertheless, the magnitude of cost to remedy the residual risk is uncertain and not supported by detailed site investigation.

[166] On balance, we see no purpose served by rezoning land, much of which is owned by a person who opposes the plan change and which has a subsisting hazard risk over a significant area that may mean the land, even if developed, is not capable of making a worthwhile contribution to affordable housing to accommodate Blenheim's growth. We therefore exclude this area from rezoning to Residential 2. We do recognize that if:

- (a) Further geotechnical investigation is carried out; and
- (b) That geotechnical investigation reveals that the risk of lateral spread is acceptably low; and
- (c) Any residual risk can be managed by affordable foundation design

then it is likely that the area covered by plan change 70 will in the medium term be rezoned to Residential 2.

Exclusion of Land beneath the 100kv Transmission Lines

[167] The Revision Strategy excluded Area 2 to the north of plan change area 65 in part because of the presence of transmission lines. The existence of the transmission lines in plan change area 65 was not a factor that was sufficiently strong to exclude those 'affected' parts in plan change 65, but Urbanism Plus did recommend specific planning to mitigate the inevitable adverse effects associated with planning around such significant transmission infrastructure. Plan change 65 did not provide any design response to address this reverse sensitivity issue.

[168] Mr Renton gave engineering evidence on behalf of Transpower. He noted the importance of the transmission lines in the overall Transpower network. The two transmission lines that traverse plan change area 65 transport electricity generated in the south to supply Blenheim Substation from Kikiwa and Stoke. The

Blenheim-Kikiwa lines were built in 1960 and the Blenheim-Stoke lines were built in 1974. Mr Renton explained in detail the engineering challenges of maintaining transmission infrastructure where subdivision and development encroaches on the “transmission corridors”.

[169] Transpower’s planning evidence was to respond to the engineering risks by introducing planning rules managing building and earthworks within a 12m corridor either side of the transmission lines to be called the “National Grid Yard”. A further land use control corridor spanning 32m either side of the lines was also sought by Transpower outside the 12m yard.

[170] The National Policy Statement on Electricity Transmission (NPSET) contains a number of policies relevant to management of subdivision and development adjacent to or under transmission assets. The relevant policies for present purposes are policies 2, 10 and 11, which read:

Policy 2

“In achieving the purpose of the Act, decision-makers must recognize and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.”

Policy 10

“In achieving the purpose of the Act, decisions-makers must, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading and development of the electricity network is not compromised.”

Policy 11

“Local authorities must consult with the operator of the national grid, to identify and appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors they may request the operator of the national grid to provide local authorities with its medium to long term plans for the alteration or

upgrading of each effected section of the national grid (so as to facilitate the long term strategic planning of the grid).”

[171] The two transmission lines (BLK-STK-A and BLK-KIK-A) are adjacent to each other but separated by a reasonable distance. If the buffer corridors proposed by Transpower were implemented there would only be a small sliver of land that could be developed without reverse sensitivity controls. Much of the 12m corridors have to be kept clear and the remainder 35m corridor developed to minimise impediments to the repair and maintenance of the transmission lines. It was difficult for us to see in those circumstances how an appropriate urban design outcome could be achieved for any land beneath or adjacent to the two transmission lines. We were not given any evidence to resolve this conundrum. Marlborough District Council produced a further plan in reply that excludes land beneath the transmission lines, together with an appropriate set back, as proposed by Transpower, both for the transmission lines and the Blenheim Substation. We consider that hatched land in Appendix 1, figure 8, page 118 should be excluded from Residential 2 rezoning and therefore remain Rural 3. We reach this conclusion on the following grounds:

- (a) Exclusion of land best gives effect the National Policy Statement for Electricity ;
- (b) Residential development under or adjacent to the transmission lines will not receive levels of visual (and potentially aural) amenity that is anticipated by the plan in the objectives for the Residential Zone; and
- (c) Exclusion of the land best gives effect to objective two of the Regional Policy Statement which is to ensure that “residential growth occurs in suitable locations.”
- (d) Neither landowners nor the Marlborough District Council provided evidence to an alternative method of addressing the risks we identified.

Exclusion of Land with Frontage to Blicks Lane

[172] Blicks Lane is a short no exit road off Old Renwick Road providing access to a tapestry of rural residential allotments that collectively provide a pleasant country style ambience. Rural activities predominate in and around these allotments. The *cul de sac* configuration provides a strong sense of community identity. Some residents on Blicks Lane that own properties to be incorporated in the area for plan change 68 oppose rezoning. Furthermore, we heard from many land owners to the east who do not want residential development encroaching to the boundary of Blicks Lane for reverse sensitivity reasons.

[173] On balance we consider that the allotments shown in Appendix 1, figure 3, page 110 with the numbers 4, 5, 6, 7, 8, 9, 10 and 11 should be excluded from the plan change area for plan change 67 for the following reasons:

- (a) Land owner preference;
- (b) Maintenance of the rural-residential amenity and ambience until residential development has occurred in other growth areas; and
- (c) Preservation of a rural residential buffer at the north-western boundary of the north-western growth node.

Exclusion of Land Owned by Outer Limits Limited, Provincial Coolstores, Richards/PGC and Talley's

[174] The Westwood retail area has access from Middle Renwick Road. Outer Limits Limited is the development company responsible for developing the Westwood retail area.

[175] The March 2013 *Growing Marlborough* study says at page 41:

“Large Format Retail

Large format retail has been established at the Westwood site during the course of preparing the Strategy. It may be appropriate to revisit the future of the Westwood site as the residential growth on the north-west periphery of Blenheim provided for in this strategy occurs – it may be possible to service the residential growth from this site.”

[176] Outer Limits Limited supports residential growth as generally proposed in plan changes 64-71. It does want reverse sensitivity at the boundary with the Westwood retail area managed and this is dealt with more fully in the submission by Foodstuffs (South Island) Limited that has a supermarket in the Westwood Retail Area. Also, Outer Limits Limited seeks to have land to the north of the Westwood retail area which it owns, excluded from plan change area 66 so that it will remain Rural 3. The reasoning is that this preserves the opportunity for the future rezoning of the land (to be addressed as part of the review of the Wairau-Awatere Resource Management Plan). We infer that Outer Limits Ltd’s aspiration is for some form of retail development on the land to support and service residential growth on the eastern and northern boundaries of that land with appropriate connections to that future residential development.

[177] It seems sensible to us and to Marlborough District Council that consideration of the appropriate zoning of the land owned by Outer Limits Limited be deferred until the review of the Wairau-Awatere Resource Management Plan. Exclusion of the area has no deeper rationale than that. The ultimate zoning of the land will depend on the detailed consideration that is yet to occur. Appendix 1, figure 9, page 119 shows the area to be excluded from plan change 68 as a consequence of our acceptance of the submission by Outer Limits Ltd.

[178] The area within Plan Change 69 contains a range of diverse land uses. A significant feature is the collection of significant rural industry, including storage at the end of Rene Street and on the frontage to Old Renwick Road. The facility called Provincial Coolstores represents substantial physical infrastructure that is

important for rural activities. The Talley's and Richards properties at the end of Rene Street involve both storage and commercial activity. None of these land owners want their land to be rezoned to Residential 2. They also wish to manage development around their boundary to ensure reverse sensitivity effects are adequately mitigated.

[179] We agree that these sites should remain Rural 3 for the following reasons:

- (a) They are rural industries specifically provided for in the Rural 3 zone and the zoning best reflects the nature of the activities that occur on these sites;
- (b) The land has on it significant physical resources that are best sustained by retaining the appropriate zoning that reflects the nature of these activities;
- (c) A change to Residential 2 zoning will mean any development of the activities on the site or reordering of the activities on the site will be assessed against the existing use right provisions under the RMA. This would not be efficient and potentially limit the effective use of the existing physical resources and land owner preferences.

More General Reasons for Opposition to Plan Changes 64-71

Protection of Productive Soils

[180] A number of submitters opposed plan changes 64-71 because they involved the irreversible loss of high quality soils by conversion (over time) from rural use to residential use. The idea that irreversible loss of high quality soils is unsustainable has an atavistic power. This is particularly so in a region such as Marlborough where agriculture production is so much a part of the life and rhythm of the region. It is for that reason that protection of soil productivity is mentioned as an issue in the Marlborough Regional Policy Statement.

[181] Land use capability assessment is a mature science in New Zealand. It categorises land according to scientific criteria related to its capability to support food production having regard to the wider climactic conditions to which the soil is exposed. Generally, land that is LUC Class 1 and 2 supports the highest level of food production per hectare under any agricultural production system. It also has the added virtue that it can sustain a wide variety of horticultural production with relatively low input costs and the ability to efficiently absorb applied nutrients.

[182] It is interesting to note that the principles in RMA Part 2 do not provide any explicit directions concerning the protection of high class soils to inform the weighing exercise required to ascertain how best to achieve sustainable management, but maintaining soils life sustaining capacity is intrinsic to the definition of sustainable management. So the absence of any specific mention of the protection of high class soils in the principles may not be particularly significant. RMA, s 7(g) requires decision makers to have particular regard to "*any finite characteristics of natural and physical resources*". That direction is particularly relevant to the assessment of whether or not productive soils should be irreversibly lost to accommodate Blenheim's growth. RMA, s 7 also directs particular regard to "*the efficient use and development of natural and physical resources*". The dimension of that subparagraph that was emphasised in evidence that we heard was that plan changes 64-71 enabled efficient use and development of existing urban resources by reason of its proximity to the existing urban fabric of Blenheim.

[183] At a national scale the disturbing trend towards loss of productive soils has been the subject of expert analysis¹⁹. In particular, there is a national trend for loss of Class 1 and 2 soils to urban and rural residential development. That trend also

¹⁹ Rutledge & Ors "*Thought for Food: Impacts of Urbanisation Trends on Soil Resource Availability in New Zealand*"; Manaaki Whenua Land Care Research NZ Limited, NZ Grassland Publication No. 49.

exists in Marlborough. In "*Land-use Trends of Marlborough District: Consequences for Soil Resources*"²⁰ noted that versatile soils surrounded Blenheim and at page 41 further noted:

"Given the proximity to existing urban areas and past land-use change trends, versatile soils remain vulnerable to further urbanisation."

[184] That analysis did not purport to assess the economics of conversion of productive land to urban use.

[185] Mr Sutherland gave evidence for Marlborough District Council on this topic. He has an MA from Canterbury University and a Diploma of Natural Resources from Lincoln University. He noted that the river terraces and fluvial outwash have resulted in land to the west and north of Blenheim being of a very high and in some cases elite quality. Prior to the introduction of the wine industry to Marlborough, this land was used for market gardening and the produce sent to the Wellington market.

[186] Now, there is a notable absence of horticultural activity, other than cherry growing in the area within plan change 69. That is because the wine industry changed everything. Over a relatively short period, extensive viticulture activity replaced existing patterns of horticultural activity in the fertile Wairau Plain.

[187] Mr Sutherland's evidence addressed the question whether the lands which are the subject of plan changes 64-70 are of such value for food production that they ought not be allowed to go into residential development. He ruefully answered that question in the negative. He gave two reasons:

²⁰ Rutledge *et al* "*Land-use Trends in Marlborough District: Consequences of Soil Resources*" (April 2010).

- (a) The land which is covered by the plan changes has already been substantially compromised by existing development, such that *“the potential for food production from these areas has already been substantially reduced.”*²¹

- (b) In a numerical sense the loss of elite soils is not great. The loss of elite soils in the plan change areas is around 36 hectare or 1.8% of the 1,913 hectares of Wairau Series Soils on the Plain. The remainder of the plan change areas is dominated by Grovetown Series Soils which have a versatility ranking of 3. This is 173.95 hectares or 32.2% of the Grovetown Series Soils identified on the Wairau Plain²².

[188] In conclusion Mr Sutherland said at [18]:

“I have come to the conclusion that factors associated with the protection of lands for food production should not as a matter of overall judgment prevent the use of the Plan Change Areas for residential development. The areas approximate to Blenheim and are proximate to services and they are inherently attractive for residential development. Relatively little food production is coming off these lands. The likelihood of these lands reverting to food production is remote. Any agricultural production from those parts of the land which have not been developed will be viticulture production. There are no rules which prevent viticulture production on high quality lands.”

[189] It is plain from our site inspection that most of the land covered by the plan change areas is used for viticulture and much of it has been ‘broken up’ into lifestyle allotments smaller than the usually permissible 8ha. Viticulture can be carried out on difficult and non-versatile soils. Viticulture in the Otago region is a good example. We agree with Mr Sutherland that the long term use of the land, if it is not used for residential, will be for viticulture. We do not consider that the use of the land covered by plan changes 64-70 represents an unsustainable use of

²¹ See Sutherland SOE at [14].

²² See Sutherland SOE at [17].

productive soils compared to its most likely alternative use for viticulture, but we do consider that if the trajectory continues whereby land is converted from rural to urban to accommodate Blenheim's growth, then that trajectory will, in that longer term, be unsustainable. We do accept that it is neither efficient nor desirable that residential development occur on productive soils at levels of density that do not maximise residential utilisation allowing for reasonable market preferences.

[190] Under the plan changes notified a significant risk is that land owners use the opportunity presented by Residential 2 zoning to create lifestyle blocks. This would be a grossly inefficient use of the land resource and represent a significant missed opportunity. For that reason we invited the Marlborough District Council to amend the plan provisions to extinguish this possibility. We also consider it appropriate to facilitate opportunities for more dense development than the usual configuration that exists within Blenheim at the moment. This is reflected in our recommended changes to those provisions presented by Marlborough District Council in closing.

[191] In summary, we do not consider the loss of productive soils is sufficient reason to exclude plan change areas 64-70 (other than the areas already excluded) for the reasons given in this decision and the supporting reports, including the Revision Strategy. We do, however, consider that the plan change provisions should promote densities of at least between 10-12 per hectare in the plan change areas.

Infrastructure Costs

[192] Some submitters, such as Mr Suleiman, expressed concern that plan change areas would be costly to service. The principal reason given is the higher ground water levels in the north western area of Blenheim. That high ground water level makes it a greater challenge to ensure ground water contamination does not occur. In

addition, because the land is low lying, storm water and sewer networks will require pumping which is a significant on-going cost.

[193] It is acknowledged in the Revision Strategy that the north-western sector is not the cheapest area to develop from an infrastructural point of view. Locations to the south and east are cheaper. On the other hand, the predicted per allotment cost is not the highest in the relativity assessment in SMUGS and the Revision Strategy. Furthermore, areas that are cheaper to develop, such as in the east actually involve greater cost to achieve appropriate levels of hazard resilience.

[194] We are satisfied that the issue of infrastructural costs has been examined in sufficient detail by Marlborough District Council for it to conclude that development in the north and west is efficient. We are also mindful that the Marlborough District Council is providing infrastructure in its executive capacity through the publicly accountable process of the Local Government Act 2002. Detail as to the infrastructural costs and their potential impacts on the rating base is best left to those processes. Detailed costings will only be undertaken as areas develop, but it is plain that the clustering of the current location of growth areas will create economies of scale.

[195] There were very few submission on alternatives and even less evidence. There was no systematic analysis of the attributes of that land or the preferences of landowners that might be affected. Consideration of alternatives in a plan change context is, in itself, complex. That is made worse here by a complete paucity of information about the relative merits of opportunities. We are in the acute position of having a virtually complete absence of qualitative and quantitative evidence as to the relative strengths of alternatives and hence cannot make a reasoned assessment of them. That leads us inexorably to the conclusion, that through the extensive process that was carried out by the Marlborough District Council, alternatives were properly evaluated and eliminated.

Hazards

[196] Some submitters raised concerns about potential hazards in the areas covered by plan changes 64-70²³. We did not receive any expert geotechnical information in support of these submissions. In some cases we have excluded areas that are at risk from hazards that were not excluded from the areas covered by plan changes 64-71. In those cases where land has not been excluded, we are satisfied the geotechnical assessment is sufficiently robust for the Marlborough District Council to conclude (and for us to conclude) that the land is generally suitable for intensive residential development. It is accepted that on the margins there will be areas where special geotechnical assessment at the subdivision stage will reveal the need for special foundations. Where that is required that will be specified as a requirement as part of the subdivision consent.

Overarching Conclusion on Goal Issue 1

[197] Our answer to Goal Issue 1 is that those areas identified in plan changes 64, 65, 66, 67 and 69 (other than those parts expressly excluded) should be used for good quality residential development. However, achieving that goal will not be through simply adopting the objectives for subdivision and development that currently apply in the Residential 2 zone in the Wairau-Awatere Resource Management Plan. Rather, a new objective is required.

[198] We agree with Mr Whyte that it is good practice for there to be a statement of the issue and we agree with his wording in Appendix 2 and the issue statement at Section 23.6 in Appendix 2. That issue statement restates no more than what was obvious to the public when plan changes 64-70 was notified.

[199] We also agree with the introduction of Objective 1 at Section 23.6.1 as proposed by Mr Whyte in Appendix 2. Again, this is simply a modification of the existing

²³ See for example submissions by Kapatī Views Trust and Maris.

objectives which were proposed for the land (by virtue of the proposed Residential 2 zoning) with recognition that they are greenfield areas that require special controls and discretions. However, Objective 1 now needs to be modified because we are only approve five new areas to be zoned “Urban Residential 2 Greenfield Zone”.

Analysis of and Conclusions on Goal Issue 2

[200] Some submitters propose land outside plan change area 64-70 for rezoning from Rural 3 to Residential 2. Goal Issue 2 addresses the question whether the goal of providing for good quality residential development should be applied to other areas outside plan change areas 64-70 as suggested by submitters.

[201] A number of submissions, as stated, proposed other opportunities for rezoning (see example Messrs Morgan and Sisson) Mr Morgan’s land is immediately adjacent to the Yelverton Stream and is identified in the second Opus Report as being highly susceptible to risk of lateral spread in a seismic event. It is also very disconnected from plan change area 70 as notified. No technical evidence in support of that proposal was put forward, and the same is true of other areas which were proposed for inclusion within the Residential 2 zoning.

[202] We have already dealt with the proposals for extension of Residential 2 zoning by Messrs Locke, James and Herkt. All other submissions seeking Residential 2 zoning outside the plan change areas are also rejected for the following reasons:

- (a) The submissions are not “on” the plan change for the purpose of RMA, schedule 1, clause 6;
- (b) There is no technical evidence in support of the rezoning; and
- (c) In some cases the land was disconnected from the plan change area.

Analysis of and Conclusions on Implementation Issue 1

- [203] Implementation Issue 1 addresses whether there is sufficient policy, controls and discretions to ensure that site specific evaluation of subdivision and development achieves reasonable urban design and integrates well with the future development of adjoining land that is also residentially zoned, as well as addressing such issues as hazard and contamination mitigation or remediation.
- [204] Other issues that need to be addressed by policies or methods including reverse sensitivity and 'infrastructural management' are addressed under Implementation Issues 2 and 3.
- [205] There are a range of submissions that express concern that the plan changes notified would not secure good urban design and would not secure logical connection between individual parcels of land within a plan change area. There are also submissions about the sufficiency of matters of discretion and control to address hazards and contamination.
- [206] Many of the submissions raised topics or concerns without proposing specific changes to the plan change provisions. Our approach is to consider these topics generally and assess whether or not amendments to policies or methods to address the concern is a sufficient and effective and efficient response.
- [207] The following is a list of some of the relevant submissions.
- [208] Ms Bunting identified that single resource consents without an overarching strategy can result in poor urban design.
- [209] Dr Woodbury's submission (albeit limited to a submission on Plan Change 65) expressed concern at the depth of analysis of the intended urban design outcomes.

In her oral submission she pointed to the absence of detailed presence of parks and bike paths in the overall planning, together with a lack of density mix that managed reverse sensitivity at the urban/rural interface.

[210] Mr Hawke expressed concern in his submission on plan change 71 that there was no formal consultation on the proposed infrastructural upgrades shown in the report by Mr Walker at Appendix 6 to the RMA, s32 analysis. Mr Hawke expressed the hope that there would be consultation on that analysis. We interpreted his submission as a request that land owners within the plan change area are notified of infrastructural development within each plan change area. Mr James expressed a similar concern.

[211] The New Zealand Institute of Surveyors raised a concern about ensuring there was sufficient discretion to allow flexibility in roading layout.

[212] The submission of Ms Savile-Smith in relation to plan change 71 can be broadly described as a concern regarding urban design outcomes and amenity outcomes amongst other things.

[213] Mr Smith for Deluxe Properties Limited identified a desire for coordinated development and wished the opportunity for discussions about options for integrated design of areas to be developed.

[214] The Marlborough District Council proposed changes to plan change 71 to address Implementation Issue 1 (see Appendix 2 to this decision). In essence the Marlborough District Council proposed:

- (a) Policies that justify the existence in rules of matters of discretion and control and that also guide the intended future exercise of those matters of discretion and control.

- (b) A subdivision and development rule/activity cascade based on performance standards with the key trigger being allotment size. Furthermore, the activity classification is no more favourable than limited discretionary to ensure that:
 - (i) Matters of discretion and control can be applied in the decision making process; and
 - (ii) The matters of control and discretion may form a basis for declining consent.
- (c) Reservation of estimable matters of control and discretion to address such matters as development design, layout, roading configuration, provision of open spaces and foundation design.

[215] We agree with the Marlborough District Council that those provisions generally proposed in Appendix 2 are a more efficient and effective means of achieving good quality residential development in the plan change areas 64, 65, 66, 67 and 69 that we consider should be used for good quality residential development.

[216] We also consider that the proposed provisions provide adequate flexibility as requested by submitters in relation to roading layout. This is particularly achieved by the way proposed Policy 1.5 is drafted, which reads:

“Where indicative roading layouts are shown on the planning maps, the roading network proposed at the time of the subdivision development shall be in general accordance with the layout.”

[217] We note that neither in the policy nor in the matters of control or discretion is the question of contamination addressed. We consider that a new policy should be inserted in Section 23.6.1 that reads:

“Contaminated sites shall be identified and contamination mitigated or remediated so the land is suitable for residential development.”

[218] We also recommend a matter of control be added to Rule 28.2A.1 that reads:

“Contamination mitigation and remediation.”

[219] We agree with the approach of the Marlborough District Council in its reply (and as provided for in Appendix 2) that uses the vehicle of a new zone called the “Urban Residential 2 Greenfield Zone” to distinguish greenfield growth areas under plan changes 64, 65, 66, 67 and 69 from the existing Residential 2 zone. This is an essential part of establishing wider matters of discretion and control then would apply under the existing Residential 2 zone.

Analysis of and Conclusions on Implementation Issue 2

[220] Reverse sensitivity was a dominant theme in submissions. Concern with reverse sensitivity at the interface with the Rural 3 zone was notably from landowners adjacent to the plan change areas. However, there were some land owners within the plan change areas that were also concerned that with progressive change to residential use their existing legitimate rural activities could be constrained. There were also site specific considerations. For example, concern at reverse sensitivity effects adjacent to existing facilities such as the Westwood retail area and the Talley’s and Provincial Coolstore facilities.

[221] Finally, J. Bush & Sons Limited is concerned about the impact of residential development encroaching on their existing apiaries and honey production facility at 168 Old Renwick Road.

[222] Mr Whyte in his RMA s42A report addressed submissions on this point including those from KE Hale and D. Ballagh, C & L Sowman, AL & VM Gifford and NG Sandall. After evaluating the provisions of the Wairau-Awatere Resource Management Plan relating to reverse sensitivity, Mr Whyte concluded at [74]:

- (a) The Wairau-Awatere Resource Management Plan recognises there are issues at the rural/urban interface;
- (b) Urban activities at the rural/urban interface must expect to compromise their urban amenity expectations where they are justifiable and reasonable effects as a result of primary production activities in the rural environment. This sentiment is repeated in three different places in the plan.
- (c) Given the presence of residential activities, rural activities will be required to mitigate their effects;
- (d) There are no controls on residential activities at the rural/urban interface other than a policy indication that amenity expectations may be compromised;
- (e) The use, shape and position of allotments which may include density can be used to manage conflict at the urban/rural interface through the subdivision process.

[223] On the general issue of the rural/urban reverse sensitivity issue our conclusions are:

- (a) There is inevitably going to be reverse sensitivity effects from the progressive incursion of residential activity into an existing rural area, but are not so great that they require significant control;

- (b) Recognition of existing rights to continue rural operation should be achieved in policy;
- (c) No complaint covenants should be a method of managing expectations of new residents as suggested by Federated Farmers. As we apprehend it, the major reverse sensitivity risk is noise and covenants of that type will be useful in that context. Spray drift and other noxious effects beyond a boundary are not permitted by the plan in any event and do not require specific management in this plan change;
- (d) Buffer zones through larger lot developments should only be on the extremities of the plan change areas and not a feature of development inside the plan change areas, even though they will result in residential areas abutting land that is still used for rural use. Otherwise, the density of development will not be sufficient to accommodate future growth needs and will be highly inefficient .

[224] We accept the submissions and evidence for Foodstuffs (South Island) Limited and Talley's Group Limited that the plan changes as notified contain insufficient matters of discretion and control to manage potential reverse sensitivity effects associated with residential development close to large rural industries and retail areas. These concerns are sufficiently responded to in the amended plan change provisions proposed by Marlborough District Council in Appendix 3. In particular we note:

- (a) A new policy 1.11 that requires that subdivision design have particular regard *"to the Westwood Retail Centre as it relates to reverse sensitivity effects relating to noise, truck movements and light spill"*; and
- (b) The introduction of the matter of control in Rule 28.2A.1(s) that reads:

“The proximity of existing lawfully established rural and non-residential activities and appropriate measures to avoid, to remedy or mitigate reverse sensitivity effects on these activities, including consideration of the following measures:

- Insulation of dwellings for noise purposes;
- Setbacks of dwellings from boundaries, including Zone boundaries;
- No complaints covenants;
- Imposition of consent notices in respect of the above matters; and
- Location of larger lots (between 1,000m² and 4,000m²) adjoining non-residential activities to provide a buffer.”

[225] Transpower is concerned at reverse sensitivity effects of residential development adjacent to the Blenheim Substation. The risk of reverse sensitivity effects has been brought forcefully home to Transpower as a result of complaints from an existing adjoining neighbour concerning noise. There is no doubt that the Blenheim Substation is an important piece of infrastructure to the region and reverse sensitivity effects must be addressed at the subdivision and design stage. We consider that the proposed amendments to plan change 71 proposed by the Marlborough District Council in its reply are sufficient to respond to this concern. Specifically, Rule 30.3.1A as proposed. That rule establishes a 150 metre perimeter regulatory ‘fence’ around the Blenheim Substation site (Sec 1 SO4246, Lot 1 DP8572 & Pt Sec 1 SO6949) and makes any subdivision development within that area a limited discretionary activity with matters of control sufficient to address the potential for reverse sensitivity effects. Transpower is identified in the proposed rule as the only affected party.

[226] The reverse sensitivity concerns identified by J Bush & Sons Limited are real for that distinctive land use. We consider that the concern of reverse sensitivity is

adequately addressed by the general reverse sensitivity matter of control and discretion in proposed Rule 28.2A. As an ancillary point, J Bush & Sons Limited wanted to ensure that any rezoning did not in any way limit the right to continue their beekeeping and honey making operation. Mr Bush did not go as far as to seek exclusion from the Residential 2 rezoning proposed in plan change 65. We are satisfied that the proposed scheduling of the activity of beekeeping and honey making at 168 Old Renwick Road (Lot 1 DP2064) is sufficient to address J Bush & Sons Limited's concerns. We consider it is important to do so because we were persuaded by Mr Bush that the breeding programme from that site was important for the wider Marlborough region and the processing activity made an important contribution to the Marlborough economy.

Analysis of and Conclusions on Implementation Issue 3

[227] Implementation Issue 3 addresses whether the infrastructural roll out required for residential development is adequately addressed in the plan change provisions.

[228] This is relevant to a number of submissions, including submissions by Mr and Mrs Hawke and the New Zealand Institute of Surveyors. We also note the submission by Outer Limits Limited that sought a decision in its submission that:

“The plan change 71 should be modified in such a way that the required infrastructure is a prerequisite to development on the site and a prerequisite to the rezoning or that deferred residential zonings are utilised until the infrastructure is provided for.”

[229] Rezoning land from Rural 3 to Residential 2 (or any other similar rezoning) carries with it the expectation that network services will be provided by the local authority in the short to medium term to support development. If a local authority wants to earmark land for residential development but has no immediate intention

to provide infrastructure to service the land, then a common method is to rezone the land “deferred residential”.

[230] The Marlborough District Council does not intend to provide services to all the land within the plan change area 64-70 in the short or medium term. It anticipates providing infrastructure based on how that will best provide for the needs of the community, including affordable housing, having regard to:

- (a) The intended development time frame of land owners;
- (b) The ease of infrastructure roll out; and
- (c) The logical sequencing of infrastructure roll out.

[231] The Marlborough District Council understandably dislikes the idea of a deferred residential zoning, for the simple reason that it is not possible to predict with accuracy when land is ‘mature’ for development. Then when the land is so ‘mature’ one has to go through the clumsy procedure of rezoning the land to Residential.

[232] We agree with the Marlborough District Council that the smartest strategy is to enable in the plan provisions residential development in sufficient suitable areas and on multiple fronts so that the diversity of development opportunities will excite the operation of market forces. That in turn will engender the procedure for selection of roll out options that optimally achieve the Council’s goals as expressed in its local government plans and strategies for community development.

[233] We consider that it is important that the plan change identifies growth areas as different from the existing Residential 2 zone. The introduction of the new zone called “Urban Residential 2 Greenfield Zone” will achieve this in part. Also

importantly, tied to this zone are the proposed issue statements, objectives and policies that plainly signal that infrastructural roll out will be progressive and rational and at a level that the community can afford. Furthermore, the methods for controlling infrastructural roll out will include local government processes including:

- (a) Provision for capital expenditure in the Marlborough District Council's Long Term Plan;
- (b) Provision for development contributions through additions to the Funding and Finance Policy and (its allied policy called the Development Contributions Policy) so the costs of growth are fairly distributed across the landowners that benefit from the expenditure; and
- (c) Development of an indicative services plan.

[234] Items (a) and (b) above must be developed using the special consultative procedure under the Local Government Act 2002. Item (c) above is likely to be prepared with public consultation, even if it is not mandatory or does not trigger the Council's significance policy under the Local Government Act 2002.

[235] These local government process are methods by which people can participate in decision making concerning future infrastructural roll out and development of the areas identified as Urban Greenfield Residential 2 Zone and participate in the allocation of cost of infrastructure that is necessary to support that growth. A coherent Development Contributions Policy that estimates likely rates of residential units of demand per hectare will ensure that the cost of any services that are oversized in any particular development are paid for by the Council operating as 'temporary banker' with the ultimate cost attributable to growth paid for by land owners.

Overarching Conclusion on Implementation Issues

[236] We are satisfied, subject to the specific exceptions described above, that the amended provisions in Appendix 2 efficiently and effectively implement Objective 1 as expressed in Section 23.6.1 in Appendix 2 and address the implementation issues that have been considered above.

[237] The one exception is that we do not consider that sufficient attention in the policy context has been given to ensuring that maximum utilisation of the land for residential use will be achieved. We propose an amendment to policy 1.2 as proposed by the Marlborough District Council as follows:

“Subdivision yield should aim at a yield of between 10 and 12 dwellings per hectare. A greater yield will be encouraged where it is demonstrably shown that this produces appropriate urban design outcomes. Allotment sizes greater than 800m² are discouraged other than at the boundary between the greenfields area and any non-residential zone and only to the extent reasonably necessary to manage reverse sensitivity effects having regard to the range of methods available to manage those effects.”

Statutory Requirements for Decision Making

[238] Earlier in this decision, we set out our analysis of the issues in a methodology for analysis. We also set out the statutory requirements for evaluation of plan changes at [65].

[239] RMA, Schedule 1, Clause 10 specifies the responsibilities of a local authority in decision making on plan changes. That provision provides:

10 Decisions on provisions and matters raised in submissions

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
 - (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
 - (i) the provisions of the proposed statement or plan to which they relate; or
 - (ii) the matters to which they relate; and
 - (ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with [section 32AA](#); and
 - (b) may include—
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.
- (3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
- (4) The local authority must—
 - (aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and
 - (a) give its decision no later than 2 years after notifying the proposed policy statement or plan under [clause 5](#); and
 - (b) publicly notify the decision within the same time.
- (5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.

[240] The cross reference in RMA, Schedule 1, Clause 10 is to section 32AA. That provision is set out below:

32AA Requirements for undertaking and publishing further evaluations

- (1) A further evaluation required under this Act—

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and
 - (b) must be undertaken in accordance with section 32(1) to (4); and
 - (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
 - (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement), or the decision on the proposal, is publicly notified; or
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
- (3) In this section, **proposal** means a proposed statement, plan, or change for which a further evaluation must be undertaken under this Act.

[241] Our evaluation to meet these statutory requirements comprises this decision and the tables that follow which provide an assessment against each of the requirements for a plan change as summarised [65] of this decision.

Statutory Requirement	Analysis
A. General Requirement	
1. A district plan (change) should be designed to accord with - and assist the territorial authority to carry out - its functions so as to achieve the purpose of the Act.	Every exercise involving a plan change must start with the proposition that the overarching outcome must achieve the single purpose of the Resource Management Act which is the sustainable management of natural and physical resources. The natural resources in question here is the land proposed to be re-zoned. The physical resources are the networks and urban fabric that make up Blenheim and its surrounding area. A Plan Change inevitably involves a

	<p>review of objectives, policies and methods applying to natural physical resources and consideration of their amendment to achieve “integrated management of effects of the use developmental protection of land and associated natural and physical resources”. Under RMA, s 31 we must consider the control of actual or potential effects of the development of land, if we decide that is the appropriate course, including:</p> <p>(a) Avoidance of mitigation of natural hazards; and</p> <p>(b) Prevention or mitigation of any adverse effects of development or subdivision on the use of contaminated land.</p> <p>In controlling effects, the methods may include controls on subdivision (See RMA, s 31(2)).</p> <p>A fundamental element of sustainable management in this context is providing affordable housing. Good quality housing is, and always will be, an indicator of community wellbeing. In addition, one must recognise the cultural and social values of particular communities and legitimate aspirations for particular styles of development.</p> <p>Continued use of productive soils is not an insignificant matter and that needs to be assessed in the overall judgment. There is however no requirement in the hierarchy of instruments for unqualified protection of these resources, however any use of resources must be undertaken efficiently and so as to maximally achieve the efficient use of that land for residential purposes.</p>
<p>2. The district plan (change) must also be prepared in accordance with any regulation (there are none at present) and any direction given by the Minister for the Environment.</p>	<p>Not applicable</p>

<p>3. When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement.</p>	<p>The only relevant National Policy Statement is the National Policy Statement on Electricity Transmission. Relevantly, Policy 2 and Policy 10 of that National Policy Statement are achieved by our decision to exclude the areas from Plan Change 65 that we have identified when addressing Goal Issue 1. Excluding land beneath or adjacent to the 110 KV lines goes further than is required by the National Policy Statement which can in most cases be satisfied by appropriate regulated corridors. However, given the configuration of the 110 KV lines and the absence of any detailed urban design that would convince us that it adequately responds to the significant impact of these 110 KV lines, we consider exclusion of the land is the most appropriate outcome.</p>
<p>4. When preparing its district plan (change) the territorial authority shall:</p> <ul style="list-style-type: none"> (a) have regard to any proposed regional policy statement; (b) give effect to any operative regional policy statement. 	<p>The decisions we have made approving Plan Changes 64, 65(in part), 66 (in part), 67 (in part) and 69 (in part) does give effect to the Community Wellbeing section of the Marlborough Regional Policy Statement and the potential impact on high quality production and food production has been assessed and considered seriously as part of the evaluation for urban growth but has been overshadowed by the concern to ensure integrated urban development clustered around Blenheim’s existing urban fabric in locations that allow for mitigation of hazard while still providing affordable housing for population growth. The overall outcome does give effect to the Marlborough Regional Policy Statement and there is no direction in the Marlborough Regional Policy Statement setting any particular urban limits or constraining use of adjoining productive soils.</p>
<p>5. In relation to regional plans :</p> <ul style="list-style-type: none"> (a) the district plan (change) must not be inconsistent 	

<p>with an operative regional plan for any matter specified in section 30(1) or a water conservation order; and</p> <p>(b) must have regard to any proposed regional plan on any matter of regional significance etc.</p>	
<p>6. When preparing its district plan (change) the territorial authority must also:</p> <p>(a) 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 to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities;</p> <p>(b) take into account any relevant planning document recognised by an iwi authority; and</p> <p>(c) not have regard to trade competition or the effects of trade competition:</p>	<p>Urban growth is critically linked to local authority functions under the Local Government Act 2002. Fundamentally, urban growth involves the extension of community owned services in locations prioritised for that purpose in order to achieve community wellbeing. The <i>Growing Marlborough Strategy</i> (March 2013) is a plan developed under the Local Government Act 2002 after an extensive urban growth strategic evaluation using robust criteria and involving public consultation processes. The outcome of that strategy is something that we consider should be given considerable weight, particularly as urban growth involves future decisions concerning community funding of extensions TO essential networks. As the Marlborough District Council is the custodian of these public facilities, decision making expressing its preferences should be accorded significant weight.</p>
<p>7. The formal requirement that a district plan (change) must also state</p>	<p>The District Plan Change did not state any new objective and only had limited policies and rules. To that extent, it</p>

<p>its objectives, policies and the rules (if any) and may state other matters.</p>	<p>appropriated the relevant objectives and policies applying to land that is zoned Residential 2. As we have identified in our decision, that was a little optimistic in light of the stage of “readiness” of the land affected for development and the additional controls and discretions required to ensure the aspirations of the Marlborough District Council are achieved.</p>
<p>B. Objectives [the section 32 test for objectives]</p>	
<p>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.</p>	<p>The proposed objective in Appendix 2 now needs to refer to 5 greenfield areas. The objective is as its wording expressly states: ‘enabling’ of high quality residential development. It is to do so in a sustainable manner and for the purpose of providing for the future growth of Blenheim. We are satisfied that this represents the sustainable management of the natural and physical resources of Blenheim and its environs. The words “sustainable manner” refers to the development of land in a way and at a rate that is appropriate having regard to the growth in Blenheim and desirability of ensuring integrated management of the effects of subdivision and development of greenfield land. The use of a distinct objective to recognise special circumstances of greenfield development is in our opinion the most appropriate means of achieving the Act. It is a halfway house between the Plan Change as notified in the proposal by Outer Limits Limited in its submission on Plan Change 71 seeking a deferred zoning pending infrastructural provision to service the areas.</p>
<p>C. Policies and methods (including rules) [the section 32 test for policies and rules]</p>	

<p>9. The policies are to implement the objectives, and the rules (if any) are to implement the policies;</p>	<p>All of the policies and rules will be evaluated in the next section against the tests in RMA, s 32. It is sufficient to note that in this context, the hierarchy provided in RMA, s 32 and the requirement that each level of the hierarchy implements the level above. Policies are implemented by rules in one or more of the following ways:</p> <ul style="list-style-type: none"> (a) Setting levels of activity classification appropriate to achieving the policies; (b) Setting performance standards for activity classification that reflect the requirements of policy; and/or (c) Providing matters of discretion or control sufficient to enable achievement of the requirements of policy on a site specific basis.
<p>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 of the district plan taking into account:</p> <ul style="list-style-type: none"> (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; and (c) if a national environmental 	<p>Policy 1.1</p> <p>Enables continuity of existing farming activities until the transition to residential occurs. This is important because otherwise with rezoning farming activities are limited to existing use rights. Express policy recognition of the on-going entitlement of landowners to continue their farming activities is important as part of the policy framework. It gives them assurance that long established existing uses are not to be unreasonably constrained by encroaching residential development. The benefits of this approach is to recognise the existing investment in rural activity in the greenfields areas. It also recognises the entitlement of landowners to continue those activities and any reasonable extension of them. There are no obvious costs associated with the policy other than the fact that certain reverse sensitivity effects might endure while land is in the transitional phase to residential, than would otherwise be the case. As we have already noted however, we consider</p>

<p>standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.</p>	<p>that these reverse sensitivity effects can be adequately managed. There are no special risks associated with this policy as management of reverse sensitivity effects will be considered on a case by case basis as subdivision development proceeds. Any particular reverse sensitivity risk can be evaluated at that point.</p> <p>Policy 1.2</p> <p>We have suggested amendment to Policy 1.2 to ensure there is sufficient direction regarding appropriate yield from residential development to ensure rural land is developed in an efficient and effective manner. The policy also provides some encouragement for a more intensive residential development where appropriate urban design outcomes are achieved. We consider that the benefit of this policy is to ensure that valuable rural land is not developed for larger lifestyle blocks which would have the obvious cost of consuming valuable land suitable for residential development while producing minimal residential yield. Rural residential development should not occur on land that, by reason of its proximity to existing infrastructure can be more efficiently and effectively developed for an urban residential development.</p> <p>Policy 1.3</p> <p>The direction is to “have regard to” reverse sensitivity effects. This is a sufficient direction that ensures that reverse sensitivity is considered in the overall assessment. It applies to both rural and non-residential activities. The latter includes such activities as the Talley’s and Provincial Coolstores facilities. Subdivision and development must manage effects and a relevant effect is reverse sensitivity. The benefits of evaluating these</p>
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	<p>matters at the subdivision and development stage is that:</p> <ul style="list-style-type: none"> (i) existing activities that may be impacted by reverse sensitivity effects are not unduly constrained by new subdivision and development; and (ii) site consideration at the development stage enables tailoring responses to the specific risks of reverse sensitivity effects. No universal metric is available and each situation is site specific. Hence no “one size fits all” approach is justified and in those circumstances a matter of control and discretion is warranted at the level of a rule. <p>Policy 1.4</p> <p>Management of hazards is critical and should be controlled at the early stage of development which is normally subdivision. This policy ensures that applicants are required to undertake geo-technical investigation to establish whether or not special foundation design is required to mitigate the effects of liquefaction. We consider that additionally the Policy should refer “lateral spread” so that the policy now reads: <i>“Subsoil conditions of sites shall be investigated to establish appropriate foundation designs of buildings are required to mitigate the effects of liquefaction or lateral spread”</i>.</p> <p>The identification of hazards at the earliest stage of development ensures that the Regional Policy Statement is given effect to and also provides for hazard resilience in the community which facilitates economic, social and cultural wellbeing of the community. There are costs associated with geo-technical investigation and potentially new foundation design, but these costs are an acceptable price to achieve that hazard resilience.</p>
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	<p>Policy 1.5</p> <p>The indicative roading layouts have been properly tested through the plan change process and a few major objections were presented in opposition to them. The policy introduces an element of flexibility in implementation.</p> <p>Policy 1.6</p> <p>Council reserve areas will be identified in discussions and development of neighbourhood plans following consultation with land owners. These will be funded by the Development Contributions Policy and land will be purchased by private treaty. The benefits involve provision of reserve areas and community facilities that make urban areas attractive and provide sufficient recreation opportunities for families in the immediate vicinity. The policy enables, together with the rule stream, provision for reserves as part of the development consenting phase. This is efficient and effective.</p> <p>Policy 1.7</p> <p>This policy ensures that people’s expectations, regarding development, do not exceed the orderly provision of services by the Marlborough District Council pursuant to its local government processes. We propose amending the wording because the words “services shall be in place” are ambiguous and the more common phraseology is that “services are available for connection”. We also prefer the phrase “reticulated services” to make it plain that what is expected is subdivision and development that is connected to the networks of the Marlborough District Council.</p> <p>Policy 1.8</p>
--	---

This policy makes it plain that plan change areas will open up in a logical way and in a manner that is prioritised by Council based on the sequential and orderly extension of existing infrastructure. The orderly and sequential exchange of infrastructure is efficient and effective and if too many areas opened up the infrastructural rollout can be beyond the capacity of the Marlborough District Council or otherwise economically unsustainable or inefficient. Allocation of funding will be through the Annual Plan and Long Term Plan, each of which must be developed using the special consultative procedure under the Local Government Act 2002. Competing demands for limited Council resources are best addressed through that process then through allocation in a District Plan.

Policy 1.9

The extent of reverse sensitivity arising from the Transpower Blenheim Substation is not sufficiently clear to make definitive rules. Therefore, a regulatory 'fence' is proposed around the area sufficient to encompass any potential reverse sensitivity effects. Any subdivision development within that fence will be assessed under a separate rule. The benefit is that the requirements to address reverse sensitivity for transmission resources is addressed as required by the National Policy Statement and an intelligent assessment of reverse sensitivity effects can be undertaken at the stage of subdivision and development. Other than transactional costs associated with analysing the reverse sensitivity effect and addressing them, there are no special costs associated with the proposed policy and rules.

Policy 1.10

This simply recognises the fact that there are particular

	<p>issues to address in relation to roading layout in areas 2 and 5.</p> <p>Policy 1.11</p> <p>This addresses reverse sensitivity effect specifically in relation to the Westwood Retail Centre and again it is an efficient methodology to have those effects assessed on a site specific basis when and if subdivision and development occurs.</p> <p>Policy 1.12</p> <p>This policy ensures that at the final interface between the Urban Greenfield Residential 2 Zone and the Rural 3 zone special consideration of reverse sensitivity effects is undertaken so that both activities can live together without unnecessary conflict arising from the different nature of these uses.</p> <p>Methods of implementation</p> <p>Section 23.6 of the Wairau Awatere Resource Management Plan is amended and recognises the function of the Long Term Plan and infrastructural planning through an “Indicative Services Plan” are methods for managing infrastructural rollout under the processes provided in the Local Government Act 2002. We have amended this section by adding in the paragraph that commences “Indicative Services Plan” with the words: “repared in consultation with landowners and adjoining properties”. This responds to submissions requesting that future infrastructure rollout be carried out by the Marlborough District Council in consultation with the community. Specific recognition of the consultation obligation in the District Plan is appropriate and may trigger the Council’s “Significance Policy”.</p>
--	--

	<p>Urban Residential 2 Greenfield Zone</p> <p>This zone is a method that distinguishes greenfields areas from the existing Residential 2 zone. Distinguishing them for the purpose of managing subdivision and development is efficient and effective and for the reasons given in this decision. There are no special costs associated with this “up zoning” of Rural 2 land. Existing landowners can continue to use their land. The Urban Greenfield Residential 2 zone is an additional ‘development opportunity’ arising from rezoning and that opportunity carries with it responsibilities for the management of potential effects.</p> <p>New Rule 28.2A</p> <p>The rule gives effect to the policies above. The matters of discretion are sufficient to implement the policies and therefore the RMA, s 32A test is satisfied. There are no additional benefits or costs that require special consideration in selecting the activity classification and matters of control and discretion. It is not possible for the activity to be anything less than limited discretionary and still implement the objective and policies for the new zone.</p> <p>Rule 28.3.2</p> <p>A discretionary activity classification for those activities that otherwise don’t meet the performance standards for limited discretionary classification is appropriate and allows opportunities for more intense development that is well designed.</p> <p>Rule 28.3.4.4 – Blenheim Substation</p> <p>This is the rule that specifically addresses the regulatory ‘fence’ around the Blenheim substation to assess reverse</p>
--	---

	<p>sensitivity effects and is sufficiently specific and while directed to ensure that these matters are addressed.</p> <p>Amendment to Appendix G by adding as Item 11 the Bush & Sons Ltd Bee Keeping Operation</p> <p>This scheduling of the activity of “bee keeping and honey making” efficiently protects the existing operation and any reasonable expansion despite the change in underlying zoning. This is beneficial for the existing business and does not appear to impose any unreasonable externalities. Development close to the facility will be separately assessed in relation to reverse sensitivity effects.</p>
D. Rules	
11. In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.	Noted
12. Rules have the force of regulations	Noted
13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive than those under the Building Act 2004.	Noted
14. There are special provisions for rules about contaminated land.	These have been specifically considered and we have added an additional policy and matter of discretion in rule 6.2A.1 to protect the health of future residents.
15. There must be no blanket rules about felling of trees in any urban environment.	Noted
E. Other statutes:	

16. Finally territorial authorities may be required to comply with other statutes.	Noted
--	-------

[242] The result from our conclusions above for each submission can be summarised by topic. These are set out in the table below.

Submitter Topic	Outcome
Submissions seeking an extension of Residential 2 zone to areas outside plan change areas and plan changes 64-70.	Rejected
Submissions by Outer Limits Limited, Provincial Coolstores, Richards, PGC and Talleys to have their land excluded from rezoning to Residential 2	Accepted
Submissions seeking plan changes 64-71 be declined on grounds that they impact on land that is highly productive.	Rejected in part, but the part is addressed to the extent that policies and rules ensure that land rezoned is not lost to rural/residential development
Submissions supporting plan change 68.	Rejected, but further investigation for the land's suitability for residential development is recommended
Submissions opposing plan change 68.	Accepted.
Submissions supporting plan change 64.	Accepted.
Submissions opposing plan change 64.	Rejected
Submissions supporting plan change 65.	Accepted in part but excluding certain areas
Submissions opposing plan change 65	Accepted in part but excluding certain areas.
Submissions supporting plan change 67.	Accepted in part but excluding allotments

	adjacent to Blicks Lane.
Submissions opposing plan change 67.	Accepted in part but excluding allotments adjacent to Blicks Lane.
Submissions supporting plan change 66.	Accepted
Submissions opposing plan change 66.	Rejected
Submissions supporting plan change 69.	Accepted
Submissions opposing plan change 69	Rejected
Submissions supporting plan change 70.	Rejected
Submissions opposing plan change 70.	Accepted
Submissions by Transpower Limited on plan change 65 addressing reverse sensitivity effects	Accepted but addressed in a different way than proposed.
Submissions raising reverse sensitivity as a matter in plan changes 64-71.	Accepted in part by changes to policies, rules and methods
Submissions on plan change 71 that infrastructure roll out be addressed in a staged manner.	Accepted in part.
Submission on plan change 64-71 seeking greater flexibility in relation to roading layout.	Accepted in part by greater flexibility in the policy and rule suite.
Submission by Outer Limit seeking deferred rezoning for plan changes 64-71.	Accepted in part but achieved by a different means and establishing of the greenfields "Urban Residential 2 Greenfield Zone".
Submissions seeking plan changes 64-71 be deleted on the grounds there are better alternatives.	Rejected
Submissions on plan changes 64-71 regarding hazard risk.	Accepted in part.
Submissions on plan changes 64-71 seeking better urban design outcomes.	Accepted in part.

Submissions raising reverse sensitivity as a matter in plan changes 64-71.	Accepted in part
--	------------------

Outcome

[243] Below is a summary of the outcomes arising from this decision and the Council may make such additional minor corrections as required to implement this decision.

[244] Plan change 68 is declined.

[245] Plan change 64 is approved.

[246] Plan change 65 is approved, but excludes the areas shown in Appendix 1, figure 8, page 118.

[247] Plan change 67 is approved, but excludes allotments numbered 4-11 in Appendix 1, figure 3, page 110.

[248] Plan change 66 is approved, but excludes land owned by Outer Limits Limited as shown in figure 9, page 119.

[249] Plan change 69 is approved, but excludes land owned by Provincial Cool Stores Limited, Richards and Talleys as shown in figure 7, page 116.

[250] Plan change 70 is declined.

[251] Plan change 71 is approved, but modified as shown in Appendix 2, with the following additional modifications to Appendix 2.

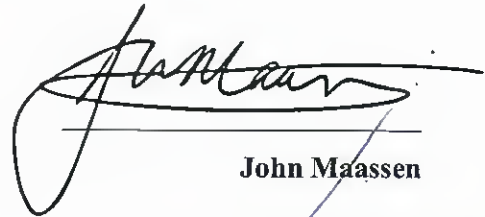
- (a) Identify 5 greenfields areas only as required by this decision and amend references in Appendix 2 accordingly.
- (b) Modify Policy 1.2 as recorded in this decision at [238];

- (c) Modify Policy 1.4 by adding “and lateral spread” at the end;
- (d) Modify Policy 1.7 by substituting the word “services shall be in place” with the words “reticulated services owned by, or to be vested in the Council shall be available for connection and utilised”;
- (e) Add a new Policy on contamination as stated at [218];
- (f) Add to the definition of Methods of Implementation in 23.6, at the end of the paragraph entitled “Indicative Services Plan” the words “prepared in consultation with the landowners and adjoining property owners”;
- (g) Add to the matters of discretion in Rule 26.2A.1(a) the words “and urban design”;
- (h) Amend the word “stage” in Rule 26.2A.1(m) to “staged”;
- (i) Amend Rule 26.2A.1(o) to read “hazard avoidance, remediation or mitigation”;
- (j) Add new matters of discretion and control in 26.2A.1: “any other matters allowed as conditions under RMA, ss 108 or 220”;
- (k) Add a new matter of discretion and control in Rule 26.2A.1 as set out at [218];
- (l) Reduce minimum allotment size for Rule 28.3.2 to 250m².

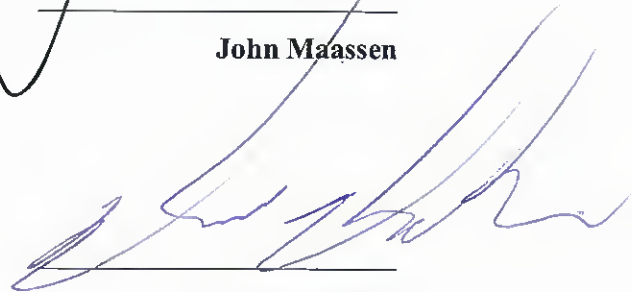
Rating

[252] A number of submitters raised the concern that rezoning will result in a change of rating for their land from the Rural 3 general rate to the Residential 2 general rate. Issues of rating are beyond the scope of our functions under the Resource Management Act 1991. We note however, that Marlborough District Council has advised us that all rating of land will remain at the Rural 3 level until the land is subdivided or a change of use occurs to residential. Providing for the Urban Greenfield Residential 2 zone, also provides a clear zoning demarcation to the Residential 2 zone. What the Marlborough District Council proposes is, as we

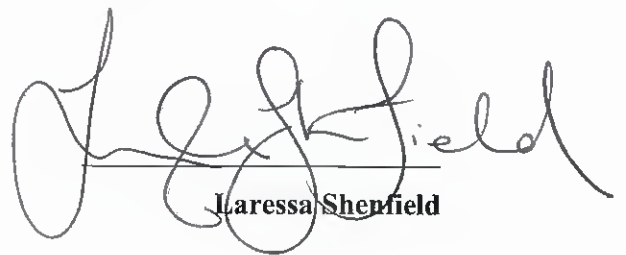
understand it, normal practice for territorial authorities and we do not expect a change in rating classification merely by reason of our decision.

A handwritten signature in black ink, appearing to read 'J Maassen', written over a horizontal line.

John Maassen

A handwritten signature in blue ink, appearing to read 'D Oddie', written over a horizontal line.

David Oddie

A handwritten signature in black ink, appearing to read 'Laressa Shenfield', written over a horizontal line.

Laressa Shenfield

Appendix 1

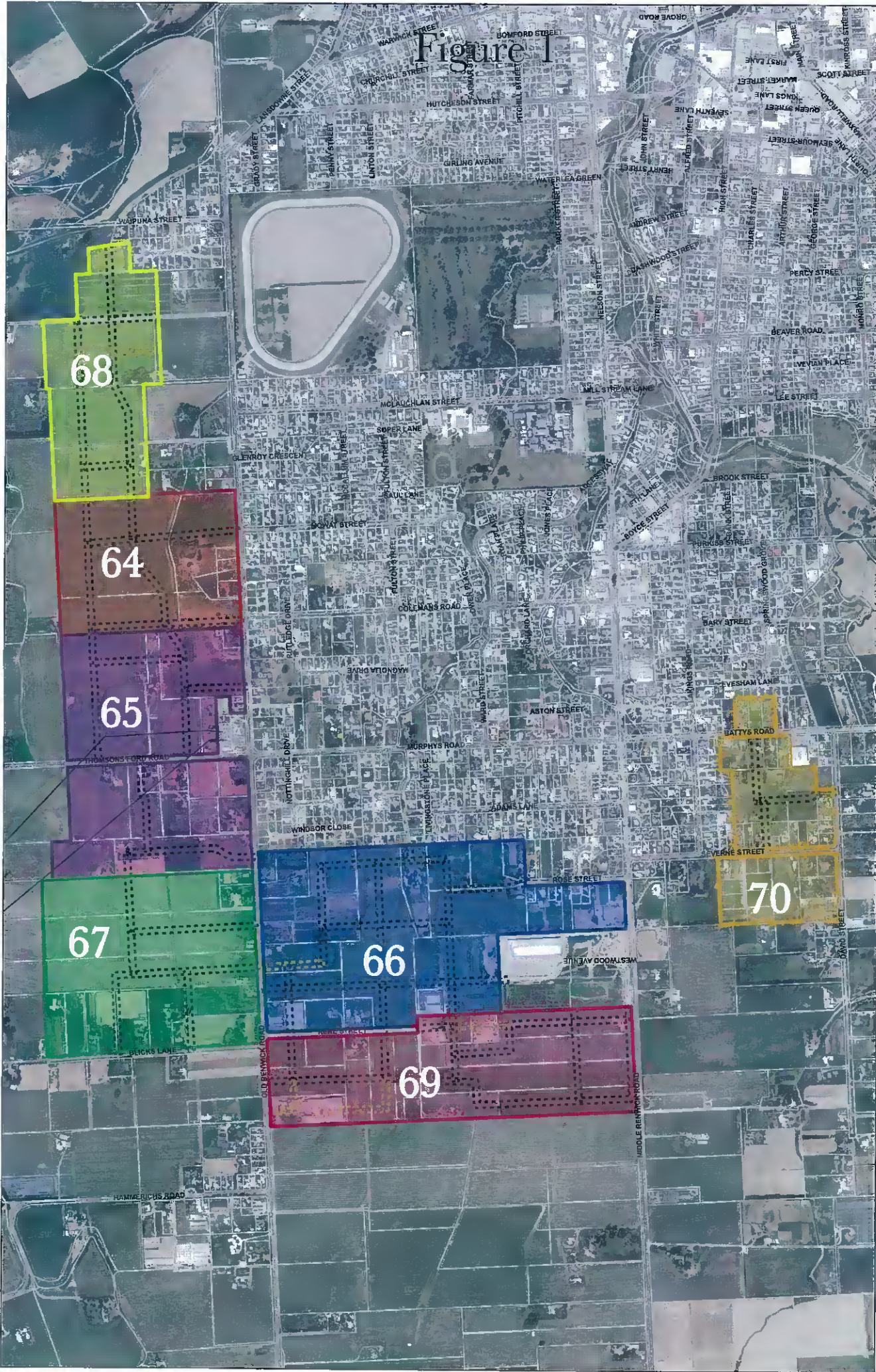


Figure 1

Urban Growth Plan Change Overview

- Legend**
- Transpower Line
 - Purcell
 - Indicative Road Layout (Alternative)
 - Indicative Road Layout (Essential)
 - Plan Change 64
 - Plan Change 67
 - Plan Change 05
 - Plan Change 06
 - Plan Change 66
 - Plan Change 68
 - Plan Change 70
 - Plan Change 69

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Date: 21/02/2014

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105

0 0.25 0.5 1 Kilometers

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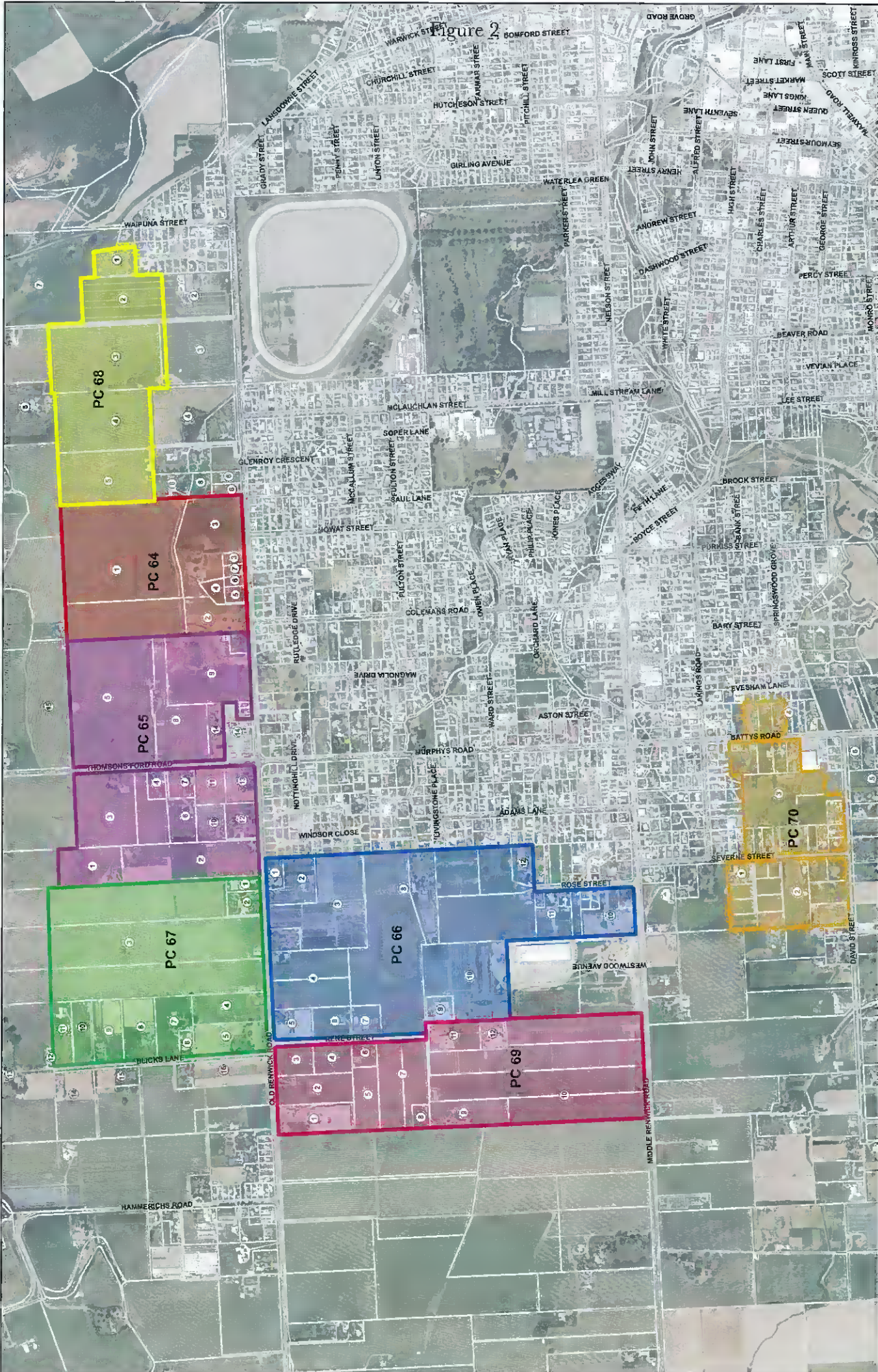


Figure 2

Urban Growth Plan Change Submitter Overview

- Legend**
- Plan Change 64
 - Plan Change 65
 - Plan Change 66
 - Plan Change 67
 - Plan Change 68
 - Plan Change 69
 - Plan Change 70

White Circles with number denotes the location of a submitter

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Figure 3

Plan Change 68

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	Phillips	No			
2	Herkt	Yes	For	No	Propose that land outside of proposed zone be included
3	James	Yes	For	Yes	Propose that land outside of proposed zone be included
4	Locke	Yes	For	Yes	Propose that land outside of proposed zone be included
5	Thompson	No			
Outside of proposed zone					
6	Gibson	Yes	For	No	Propose that land be included - Represents four properties
7	Morgan	Yes	Against	Yes	Owens the access road that passes through the plan change area
8	Stanton	Yes	Against	No	



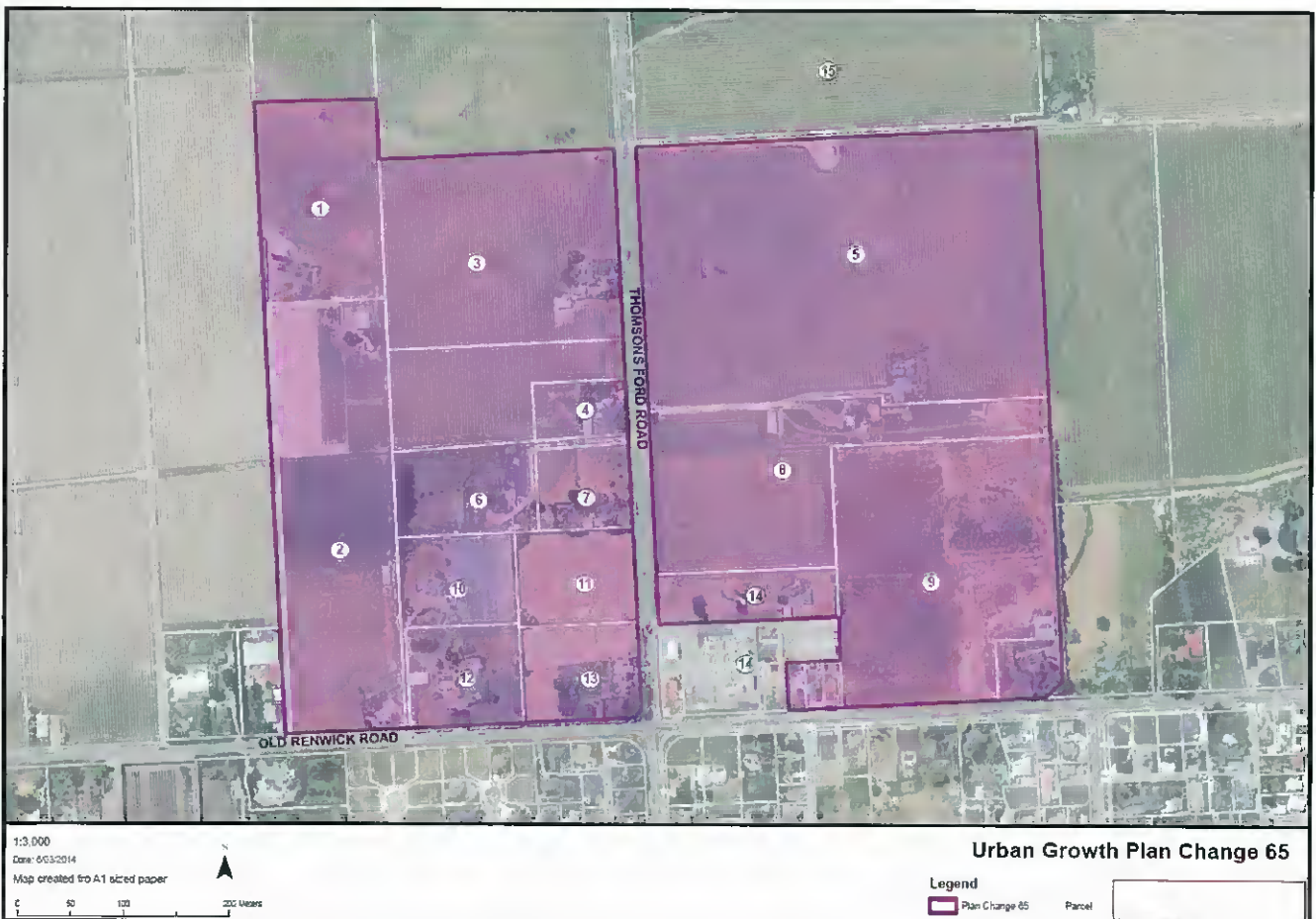
Plan Change 64

Within proposed zone		Name	Submitter	For/Against	Appeared	Considerations
1	Cobbett-Tribe	No				
2	Nardella	No				
3	Deluxe/Smith	Yes	For	Yes		
4 & 5	Bridgen	No				
6	Fischer	No				
7	Harper	No				



Plan Change 65

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	Scott, P	No			
2	Scott, A	No			
3	Bird	No			
4	Preston	No			
5	Jensen	No			
6	Hawke	Yes	For	Yes	Road alignment required
7	Wilkes	Yes	For	Yes	Would like half of property included
8	Butler	No			
9	Griffin	No			
10	Duffield	No			
11	Pilcher	No			
12	Yockney	No			
13	Bertogg	No			
14	Transpower	Yes	Neutral	Yes	Controls
15	Woodbury	Yes	Against	Yes	



Plan Change 67

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	Bush	Yes	Against	Yes	Honey Bee occupation
2	W & S Holdings	No			
3	Pecchenino	No			
4	Saul	No			
5	Cresswell	Yes	Against	No	
6	Mannington	No			
7	Stark	Yes	For	No	
8	Abernethy	No			
9	Armstrong	No			
10	Barnett	Yes	For	No	
11	Griffiths	No			
Outside of proposed zone					
12	Ballagh	Yes	Against	Yes	
13	Gifford x 2	Yes	Against	Yes	
14	Hale	Yes	Against	Yes	
15	Sowman	Yes	Against	Yes	
16	Sandal	Yes	Against	No	



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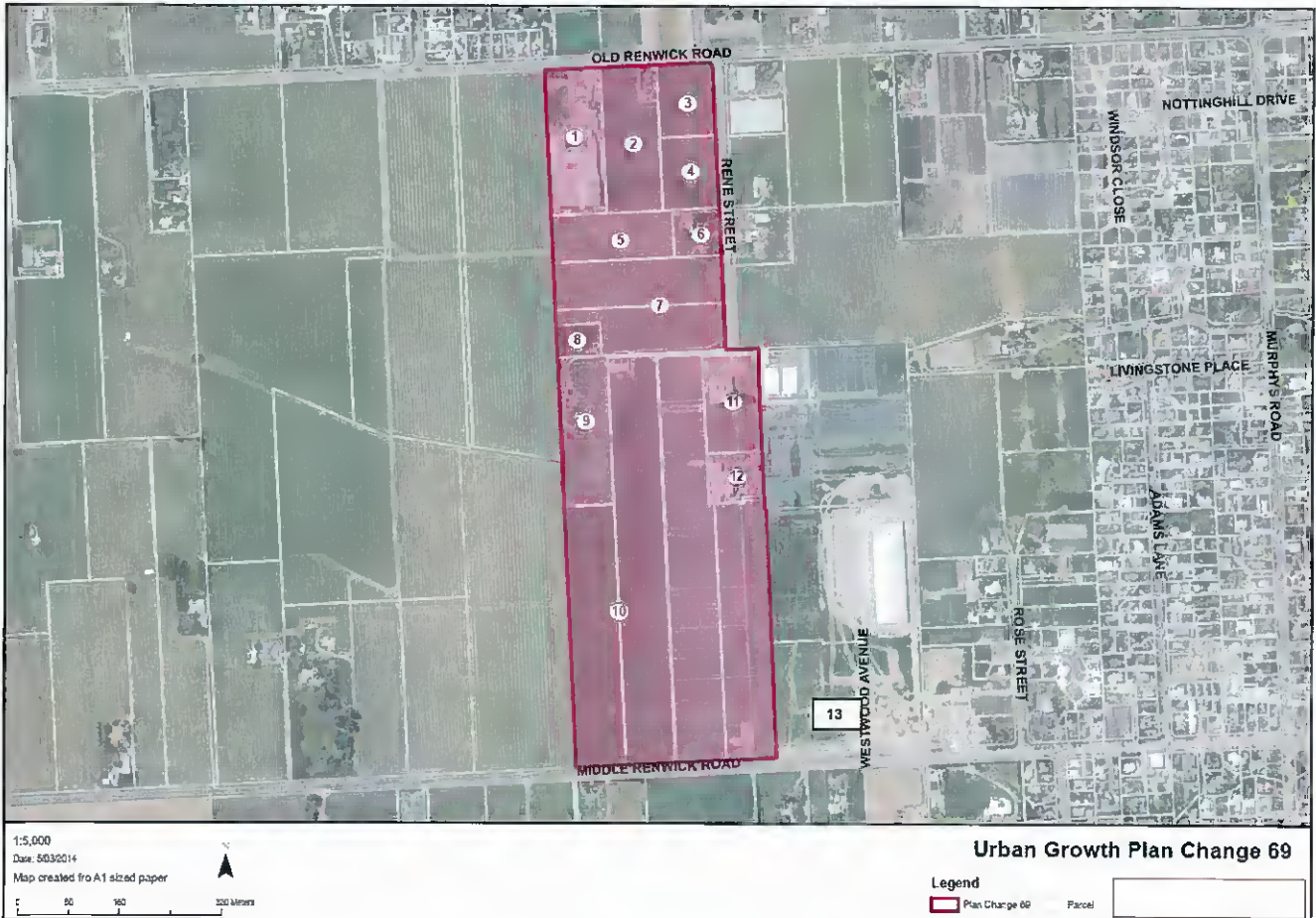
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Urban Growth Plan Change 67

Legend
 Plan Change 67
 Parcel

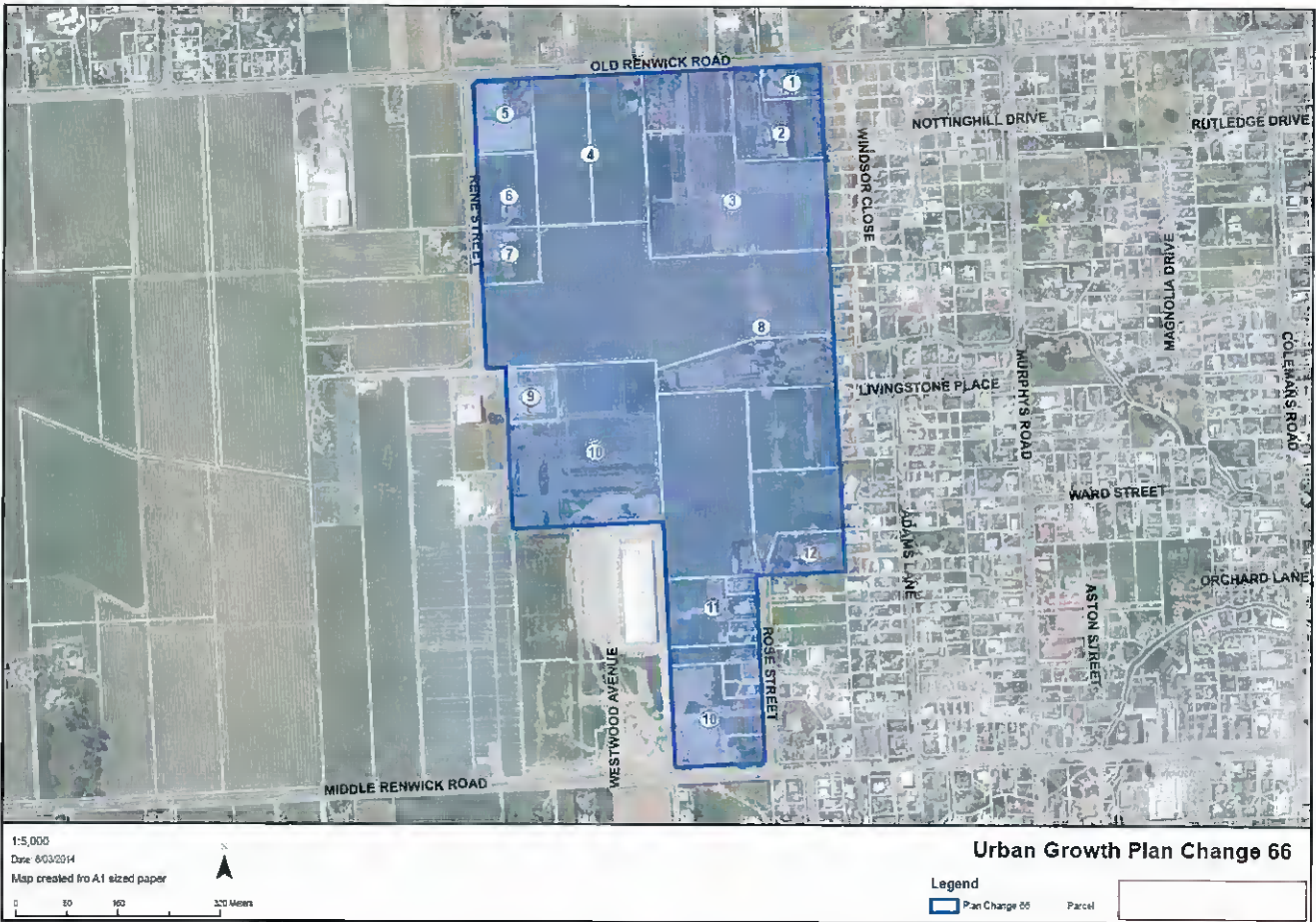
Plan Change 69

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	PCL	Yes	Against	No	
2, 3 & 4	Boon	No			
5	Mt Riley	No			
6	Gillespie	No			
7	Mt Riley	No			
8	Read	No			
9	Scalloway	No			
10	Kinzett	No			
11	Talleys	Yes	Against	Yes	
12	Richards	No			
13	Foodstuffs	Yes	Neutral	No	



Plan Change 66

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	Bogle	No			
2	Harvey	No			
3	Jones	Yes	For	No	Rating controls
4	Ruesink	No			
5	Foster	No			
6	Binnie	No			
7	Price	Yes	Against	Yes	
8	Hedley	No			
9	Sandal	No			
10	Outer Limits	Yes	For	Yes	
11	Ridgeway	No			
12	Lucas	No			

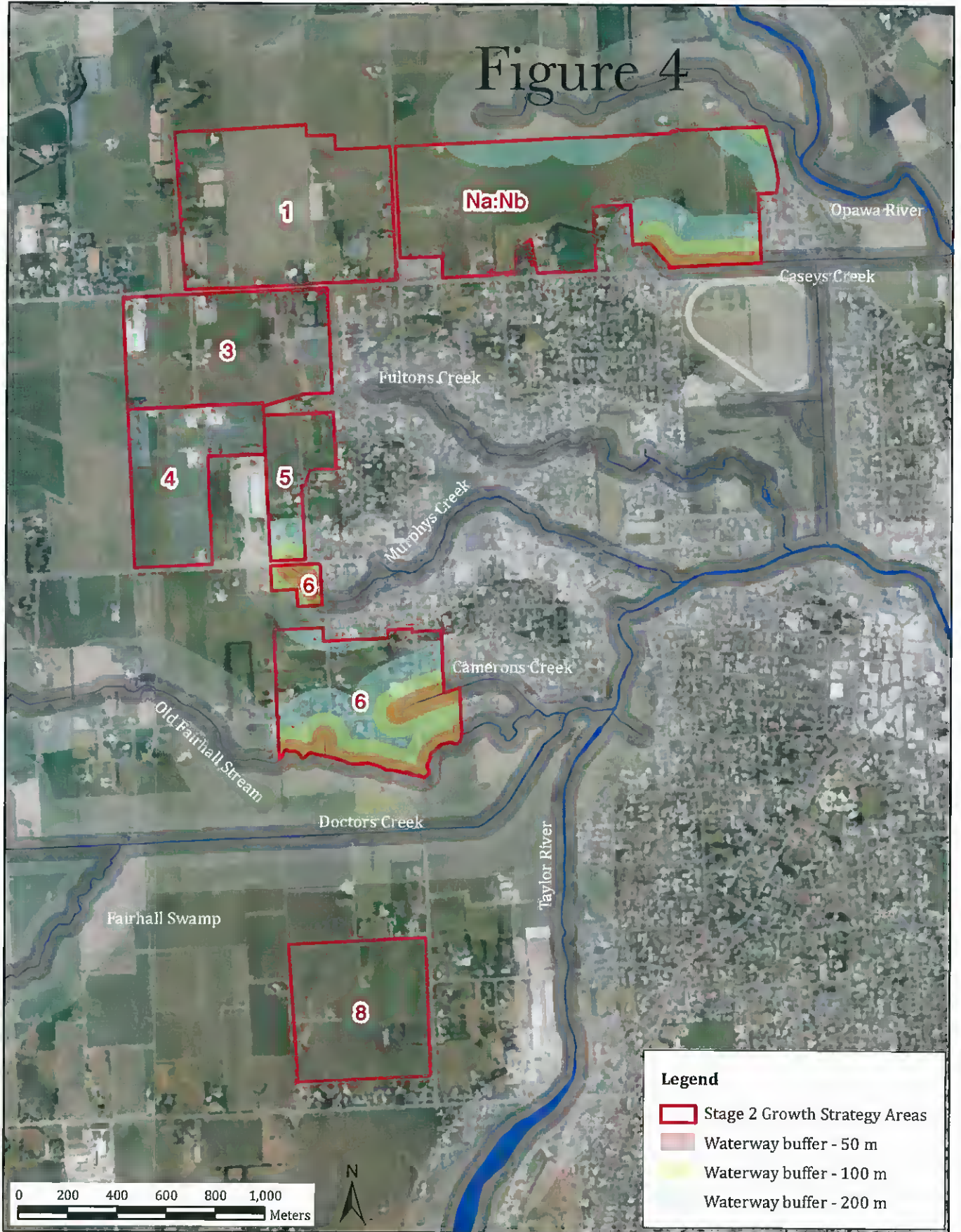


Plan Change 70

	Name	Submitter	For/Against	Appeared	Considerations
Within proposed zone					
1	Gissing and Bunting	Yes	For	No	
2	Ramsay	Yes	Against	No	
3	Brooks, I	Yes	Against	D Price appeared on behalf of Brooks	
Outside of proposed zone					
4	Lindstrom	Yes	For	No	Should include Battys Road
5	Roughan	Yes	For	No	Should include south of David Street
6	Brooks, P	Yes	Against	No	



Figure 4



Legend

- Stage 2 Growth Strategy Areas
- Waterway buffer - 50 m
- Waterway buffer - 100 m
- Waterway buffer - 200 m



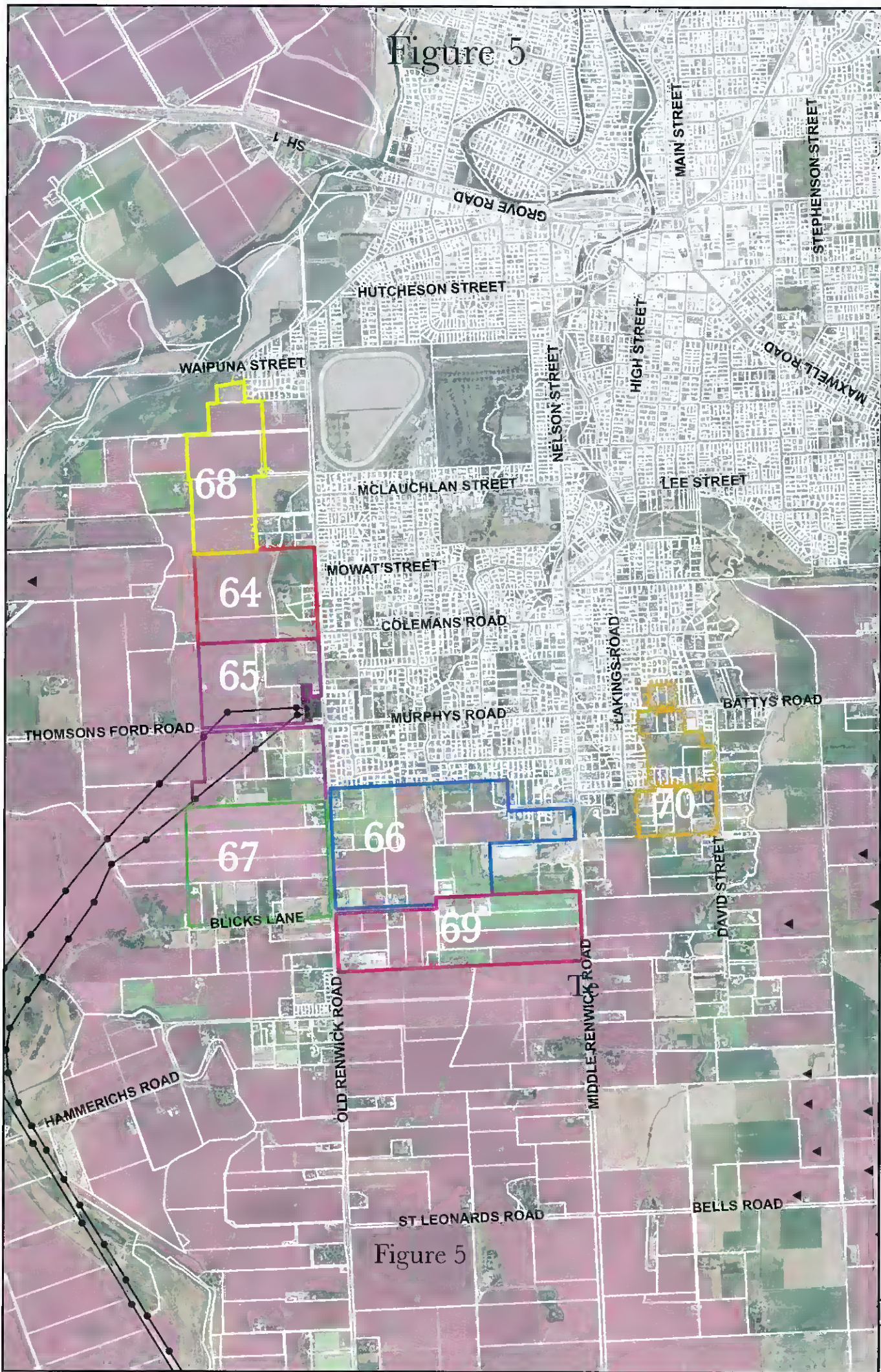
<p>Prepared For:</p> 	<p>Prepared By:</p> 	<p>Title:</p> <p style="text-align: center;">Site areas and proximity of waterways</p> <hr/> <p>Project:</p> <p style="text-align: center;">Blenheim Urban Growth Study Stage 2</p>
<p>Scale:</p> <p>1:20,000</p>	<p>Date:</p> <p>Feb 2013</p>	<p>Project No:</p> <p>5C2128.01</p>
		<p>Figure: 114</p> <p style="text-align: right; font-weight: bold;">3</p>

Figure 5



Legend

- ▲ Frost Fan Location
- Transpower Structure
- Transpower Line
- Transpower Substation

Rural Landuse Type

- Plan Change 65 (Red)
- Plan Change 66 (Purple)
- Plan Change 67 (Green)
- Plan Change 68 (Yellow)
- Plan Change 69 (Red)
- Plan Change 70 (Orange)
- Horticulture (Light Green)
- Vineyard (Pink)

Urban Growth Plan Change Overview

1 Kilometers

0 0.25 0.5 1

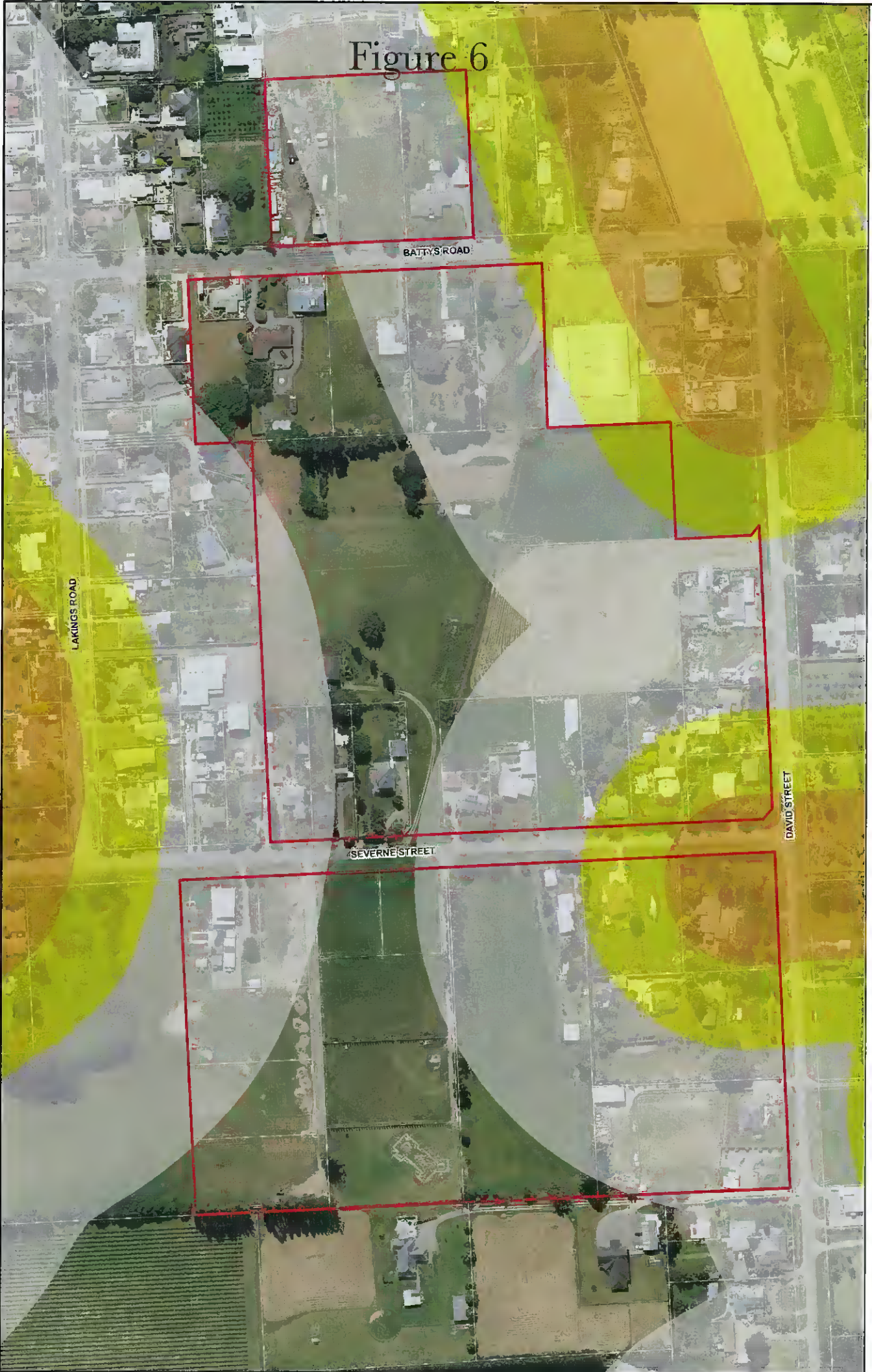
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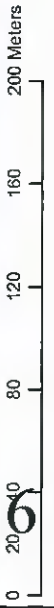
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Figure 5

Figure 6



Urban Growth Plan Change 70

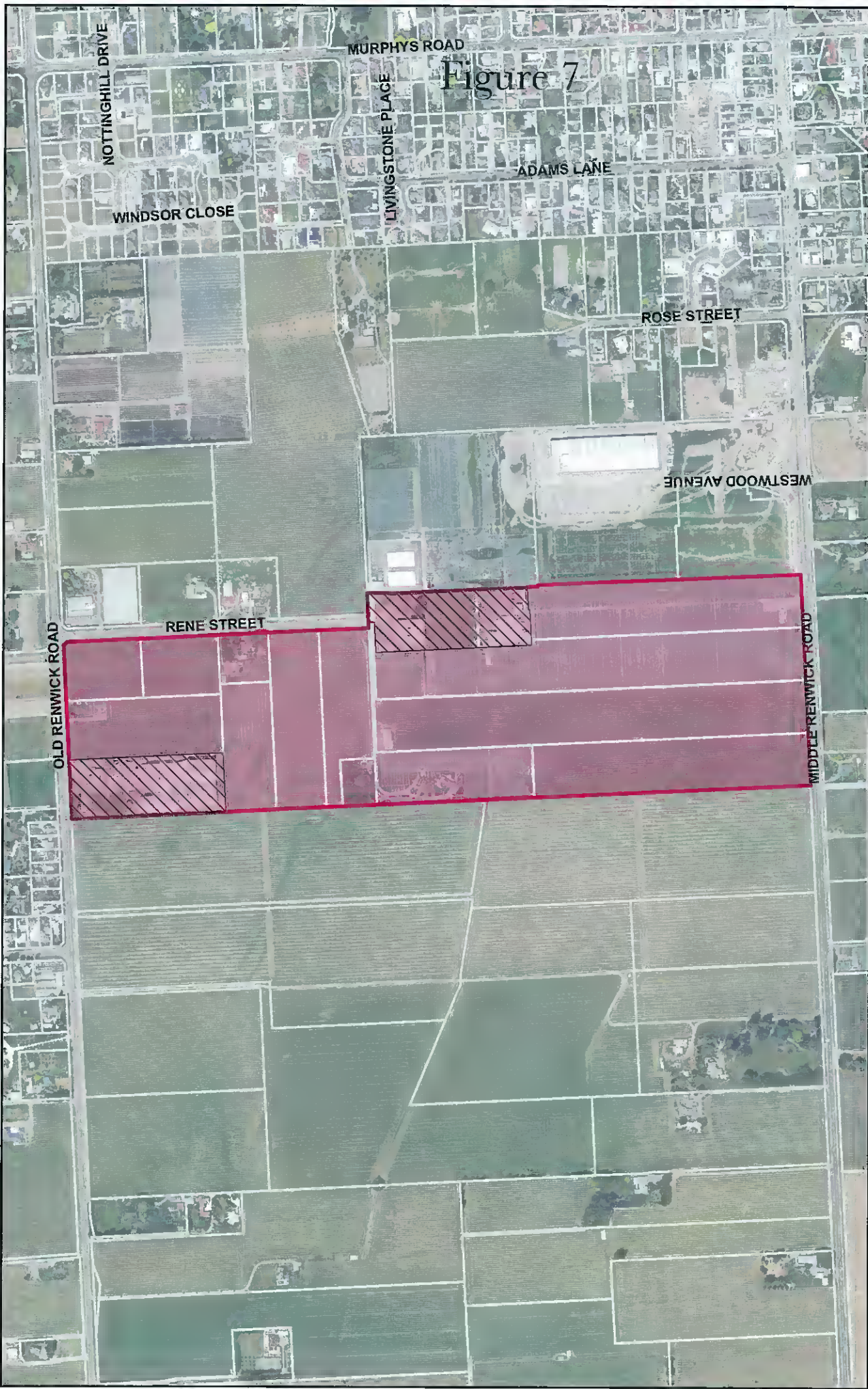


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Legend

- Plan Change 70 Waterway Buffer
- Land Parcel
- 50m
- 100m
- 200m

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Date: 10/04/2014



Proposed Exclusion Urban Growth Plan Change 69

Legend

- Plan Change 69
- Proposed Exclusion Area
- Parcel

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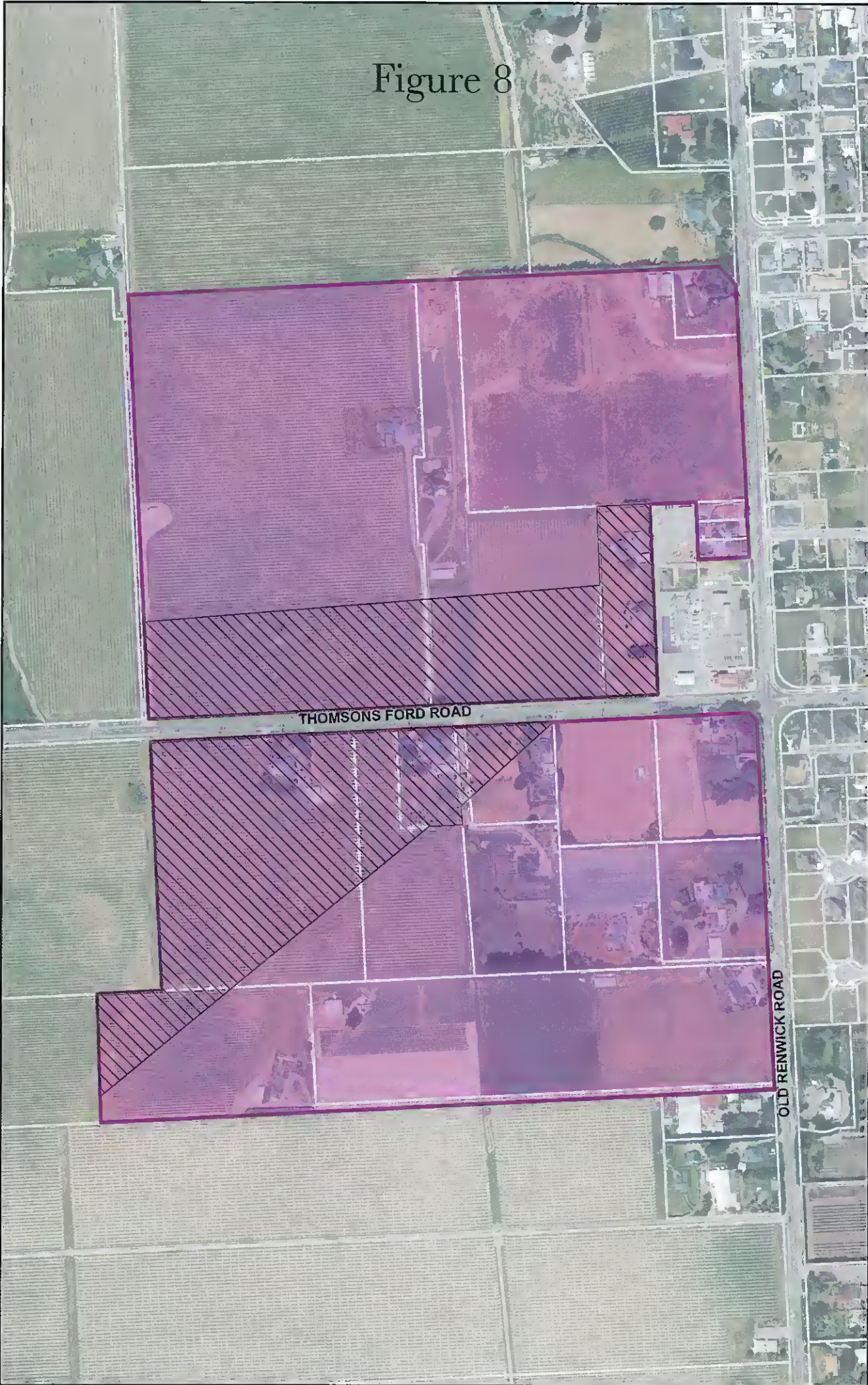
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Figure 8



Proposed Exclusion Urban Growth Plan Change 65

Legend

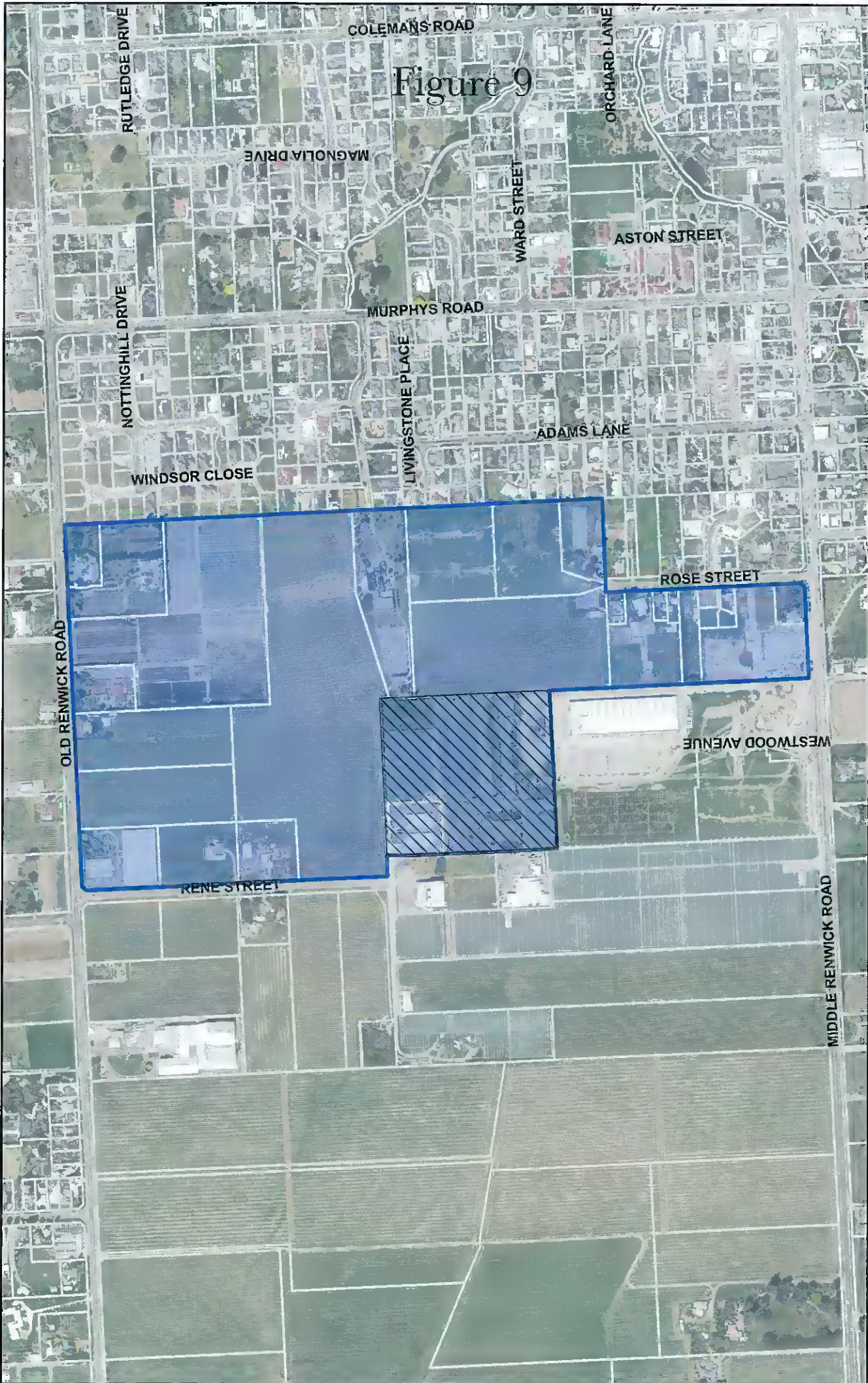
- Plan Change 65
- Proposed Exclusion Area
- Parcel



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Date: 13/04/2014




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Proposed Exclusion Urban Growth Plan Change 66

Legend

-  Plan Change 66
-  Proposed Exclusion Area
-  Parcel

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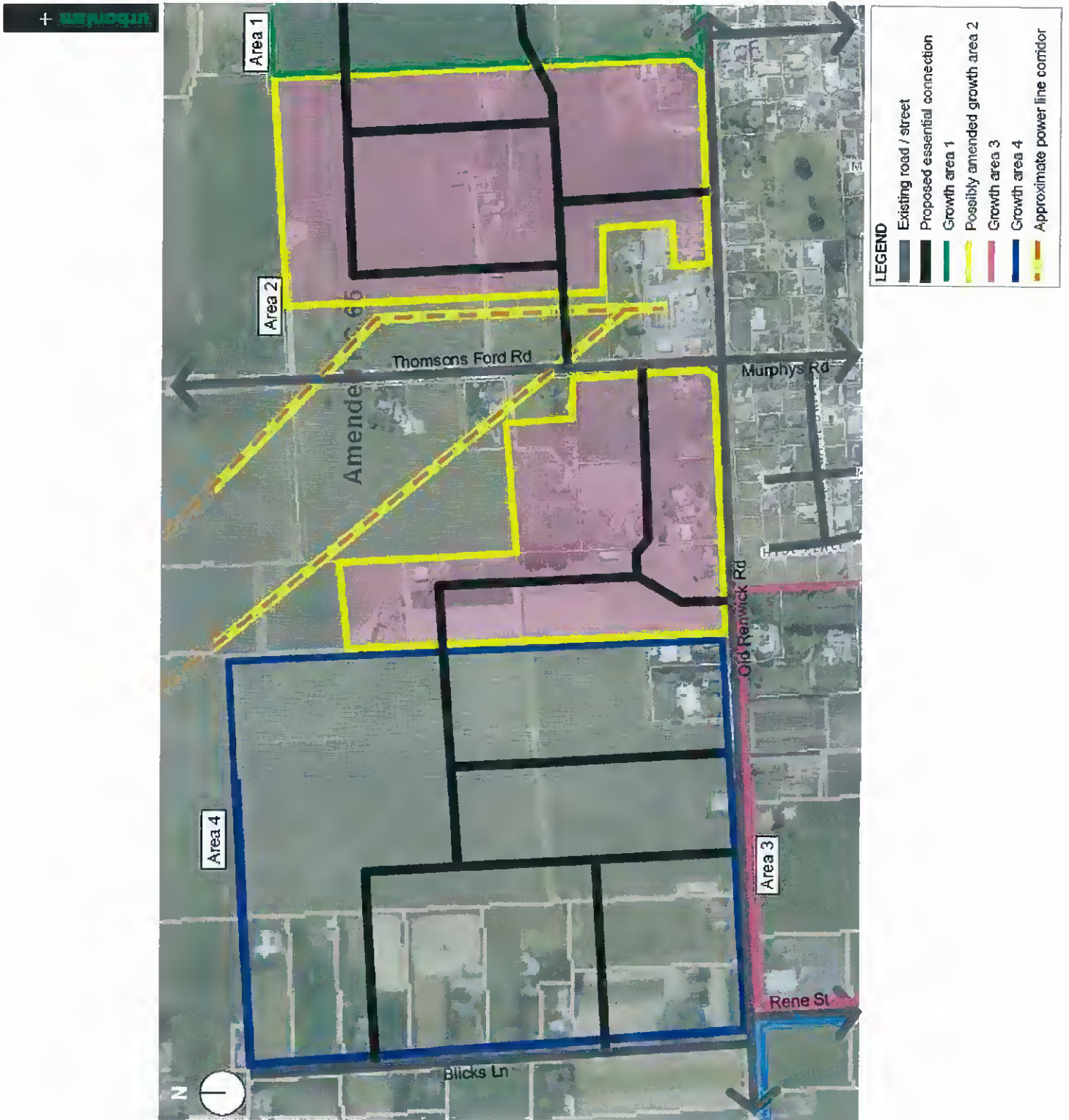
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Figure 10



Appendix 2

Plan Change 64-71 Amendments

Amendments shown by underlining and ~~strikethrough~~.

Footnotes refers to a submission received in respect of proposed amendments.

The provisions of plan Change 71 are incorporated into the amendments below.

CHAPTER 23.0 SUBDIVISION AND DEVELOPMENT

1. Insert new Issue, Objective and Policies as follows (and renumber subsequent provisions):

23.6 Issue:¹

A shortage of sustainably managed greenfield residentially zoned land in Blenheim can inhibit growth and reduce the choice of housing.

Blenheim is Marlborough's centre and the social and economic needs of the people of Marlborough require that in Blenheim there must always be sufficient land available for new housing. Planning for new housing needs to be long term and the growth areas chosen must be suitable for their purpose and must be able to be serviced within the economic capacity of the ongoing community. At the same time development in those areas should have regard to potential adverse effects including reverse sensitivity, geotechnical, and environmental matters and provide for rational and integrated roading and open space layouts.

23.6.1 Objectives and Policies

Objective 1 To enable high quality residential development in greenfield areas (Areas 1-7) in a sustainable manner in order to provide for the future growth of Blenheim

General Policies applicable to Areas 1-7

Policy 1.1 Farming activities are permitted to continue until residential development of the land occurs

.2 Subdivision shall be for low to medium residential development (generally 400m²-1,000m²) except that larger allotments (generally up to 4,000m²) may be considered appropriate only where the allotments:

- (i) manage reverse sensitivity effects and
- (ii) are on boundaries adjoining non residential activities and
- (iii) are part of a residential development.

Policy 1.3 Subdivision design shall have regard to reverse sensitivity effects in respect of existing lawfully established rural and non-residential activities.²

¹ D L Price (including issue, objective , policies and rules and definition)

²C and L Sowman, M and M Woodbury and AL and VM Gifford

Policy 1.4 Subsoil conditions of sites shall be investigated to establish if appropriate foundation designs of buildings are required to mitigate the effects of liquefaction.

Policy 1.5 Where indicative roading layouts are shown on the planning maps the roading network proposed at the time of subdivision and development shall be in general accordance with the layout.

Policy 1.6 Following consultation with Council reserve areas, open spaces and community facilities shall be identified on subdivision plans.

Policy 1.7 Prior to development proceeding services shall be in place and/or financial provision made for them.³

Policy 1.8 Those areas that are able to be serviced by a sequential and orderly extension of existing infrastructure services shall be given priority by Council⁴.

Specific Policies applicable to Area 3

Policy 1.9 Activities in proximity to the Transpower Blenheim Sub station shall not compromise the operation and function of the substation.

Specific Policies applicable to Areas 2 and 5

Policy 1.10 The indicative roading layout in these areas will be dependent on and enhanced by connections to existing roads over land that is outside of the areas ie connections to Westwood Avenue for Area 2 and connections to Old Renwick Road and Waipuna Street in respect of Area 5. In the event these external connections cannot be achieved there will be a need to review the roading layout.⁵

Specific Policies applicable to Areas 2 and 6

Policy 1.11 Subdivision design shall have particular regard to the Westwood Retail Centre as it relates to reverse sensitivity effects relating to noise, truck movements and light spill.⁶

Specific Policies applicable to Areas 1, 3, 4 and 5

Policy 1.12 Subdivision design shall have particular regard to farming activities on the northern boundary of the areas and the western boundary of Area 4 as it relates to spray drift, noise and traffic movements.⁷

Following extensive growth strategy investigations Council Council has identified seven growth areas generally to the north and west of Blenheim in an Urban Residential 2 Greenfield Zone. The growth areas are identified and numbered in the Zone as 1-7. The areas should provide sufficient

³ Nelson – Marlborough Branch of New Zealand Institute of Surveyors

⁴ Nelson – Marlborough Branch of New Zealand Institute of Surveyors

⁵ K and L Morgan, Foodstuffs Ltd and Outer Limits Ltd

⁶ Foodstuffs Ltd and Outer Limits Ltd

⁷ C and L Sowman, M and M Woodbury and AL and VM Gifford

housing for the next 20 years or so. There are a number of more general policies applying to all of the areas and a number of more specific policies applying to the different areas.

In general existing farming activities are able to continue in the zone until they are developed for residential use. An efficient pattern of subdivision for medium density housing is encouraged in the zone although in order to mitigate the effects of reverse sensitivity at the rural/urban interface larger lots up to 4,000m² are allowed for in certain circumstances. Subdivision for residential purposes should have regard to such matters as reverse sensitivity, sub soil conditions, an efficient roading layout (which is indicatively shown in Areas 1-7 on the planning maps) and the location and provision of open space and other community facilities. Rezoning does not imply the presence of Council infrastructure. Preference will be given to an orderly and sequential provision of services in order Council spending is undertaken in a prudent manner.

There are a number of specific issues in some areas relating to reverse sensitivity effects and roading connections. Specific recognition of the Blenheim Substation in Area 3 is made in order to give effect to the National Policy Statement on Electricity Transmission (NPSET).⁸

2. Amend Provision 23.6 Methods of Implementation by the following:

23.6 Methods of Implementation

Rules - Rules will be used to establish minimum allotment areas and dimensions and minimum site areas and dimensions. Subdivision will be used as a land management method. Rules will provide for the preservation of natural character, vegetation and landscape values. Rules will set performance standards to be met in respect of the provision of services, roading and amenities.

Rules will reflect the availability, receiving/supply capacity and affordability of urban servicing infrastructure and will take account of the finite capability of the existing facilities.

Plan Provisions - Planning maps will indicate zoning patterns. Plan rules outline standards for esplanade strips and access strips; and for the preservation of vegetation, landscape and land set aside for conservation purposes.

Financial Contributions and Development Contributions - The Council will require financial and development contributions to avoid, remedy or mitigate any adverse off-site and downstream effects of subdivision/development in accordance with the Plan rules. Contributions mitigate any adverse off-site and downstream effects of subdivision/development in accordance with the Plan rules.

Code of Practice - The Council has developed a Code of Practice for subdivision and land development. This Code of Practice sets out specific methods by which the subdivision requirements of this Plan can be met.

Reserves Strategy - The Council, as part of its integrated management practice has prepared a Reserves Strategy. The contribution levels have been designed to integrate with this strategy.

Annual Plan and Long Term Plan- The Council's Annual Plan and Long Term Plan sets out priorities for funding of specific land purchases and also provides the current financial information to enable the services contribution formula to be applied.

Education - The Council will provide guidelines, information and advice relating to subdivision and design.

⁸ Transpower NZ Ltd

Identification of the values of water bodies - The natural and human use values supported by surface water bodies - The values of within the Plan area are identified in Appendix A of Volume One of water bodies the Plan. These values include ecological, habitat, recreational and natural character values. Regard can be had to these values when considering resource consent applications required as a result of rules in this Plan.

As more is learnt about the values supported by water bodies in South Marlborough, it is possible to add to Appendix A by way of plan change.

Indicative Services Plan – For Areas 1-7 of the Urban Residential 2 Zone initial concept designs for infrastructure will be developed by Council into Indicative Services Plans involving detailed survey and engineering design and will include road network and widths, routes for reticulation, reticulation capacity requirements and land and easements to be acquired.⁹

CHAPTER 23.0 DEFINITIONS

3. Add the following definitions to Chapter 26 Definitions

Urban Residential 2 Greenfield Zone means the zone as shown on the Planning Maps and in which the provisions of the Urban Residential 2 Zone apply unless stated otherwise.

Sensitive Activities¹⁰ Sensitive activities in respect of National Grid infrastructure means those activities that are particularly sensitive to the National Grid infrastructure. Such activities include residential activities, day care centres, papakainga, schools, and hospitals.

CHAPTER 28 SUBDIVISION

4. Amend Rule 28.2.1 by the following:

28.2 Controlled Subdivision Activities

28.2.1 Available in the -

a) Urban Residential Zones (excluding Urban Residential 2 Greenfield Zone)

5. Amend Rule 28.2.3 by the following:

28.2.3 Standards for Access to Rear Lots (Controlled Subdivision Activities and Limited Discretionary Subdivision Activities)

6. Introduce the following new rule:

28.2A Limited Discretionary Activities

28.2A.1 Subdivision in the Urban Residential 2 Greenfield Zones is a Limited Discretionary Activity provided the following Allotment Standards are met:

⁹ D. Wilson

¹⁰ Transpower NZ Ltd

Allotment standards

<u>Zone</u>	<u>Allotment Type</u> W = with Sewerage Reticulation WO = Without	<u>Environmental Assessment Threshold Lot Area m²</u> ¹ see note below	<u>Environmental Assessment Threshold Building Platform Shape Factor</u> ² see note below	<u>Environmental Assessment Threshold Frontage Metres</u> ^{3,4} see note below	<u>Qualification</u>
<u>Urban Residential 2 Green-field Zone</u>	<u>Front W</u>	(i) <u>Minimum 400m²</u> (ii) <u>Maximum 4,000m²</u>	<u>15m diameter circle</u>	<u>15</u>	
	<u>Rear W</u>	(i) <u>Minimum 400m²</u> (ii) <u>Maximum 4,000m²</u>	<u>15m diameter circle</u>	<u>NA</u>	<u>Access requirements apply, refer 28.2.3</u>

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.

³ Where no frontage is available the Council must be able to issue a certificate under Section 321 of the Local Government Act 1974, to confirm that legal physical access is available.

⁴ Frontage below 15 metres is permitted where a front lot with side boundaries diverging or opening out from the street has a minimum frontage of 6.0 metres and the site width, at a distance of 12.0 metres from the street, is not less than 17 metres.

Council's discretion is restricted to the following matters:

- a) The use of the site.
- b) The shape and position of any lot.
- c) Potable water supply, water storage and water treatment.
- d) Effluent disposal systems and maintenance requirements.
- e) Storm water quantity and quality
- f) Service easements.
- g) Roading, access, parking and manoeuvring standards including any necessary easements.
- h) Financial, development¹¹ and land contributions in accordance with the requirements of this Plan.

¹¹ Nelson – Marlborough Branch of New Zealand Institute of Surveyors

6.

i) Provision of open spaces, community facilities, and reserves, including esplanade reserves and esplanade strips around the coastline and margins of lakes and rivers.

j) Protection of existing vegetation and revegetation.

k) The securing of any necessary covenants or other instruments to protect any significant environmental features or other special feature(s) on any lot.

l) Fencing responsibilities

m) Conditions relating to stage developments or the timing of any works by any conditions.

n) Controls to mitigate the adverse effects of subdivision construction.

o) Flood hazard.

p) Council access to rivers and drainage channels.

r) The location of dwellings on a site.

s) The proximity of existing lawfully established rural and non-residential activities and appropriate measures to avoid, remedy or mitigate reverse sensitivity effects on these activities including consideration of the following measures:

-insulation of dwellings for noise purposes

-setbacks of dwellings from boundaries including Zone boundaries

-no complaints covenants

-imposition of consent notices in respect of the above matters

-location of larger lots (between 1,000m² and 4,000m²) adjoining non residential activities to provide a buffer¹²

NB Refer to Rules 28.3.4.3, 32.1.9.3 and 32.3.1A in respect of setbacks from the Blenheim Substation site (Section 1 SO 4246 Lot 1 DP 8572 and Part Section 1 SO 6959)¹³

s) Foundation Design ¹⁴

All applications for subdivision consent for land shall be accompanied by a report, from an expert acceptable to Council, detailing the investigations and showing that the performance standards set out below have been met.

Performance Standards

(i) For allotments within 200 metres of a waterway measured from the top of the closest bank cone penetrometer testing (CPT) will be required for the purpose of evaluating the potential for lateral spread.

The testing frequency will be in accordance with the following table:

¹² Marlborough Province Of Federated Farmers

¹³ Transpower NZ Ltd and MI and CM Locke

¹⁴ Nelson – Marlborough Branch of New Zealand Institute of Surveyors and MI and CM Locke

<u>Equal to or greater than 1 hectare</u>	<u>Equal to or greater than 0.25 hectare and less than 1 hectare</u>	<u>Less than 0.25 hectare</u>
<u>0.25 per lot (minimum of 5)</u>	<u>5</u>	<u>1 per lot</u>

At each CPT location the following shall be undertaken:

- a continuous profile of the subsoil to firm basement, and
- measurement of depth to water table, and
- in-situ testing of all susceptible strata.

All susceptible strata shall be sampled and the construction of grading curves and atterberg limit tests determined.

The Performance Standards set out below in (ii) shall be met for vertical loading.

(ii) For allotments located more than 200 metres of a waterway measured from the top of the closest bank

Each allotment shall have at least four scala penetrometer tests for each allotment. Each sample point is to have a field value recorded, obtained in accordance with NZS4402:1996, and is to be geo-referenced to survey marks. The field values of the penetrometer test shall be interpreted in terms of kilo Pascals (kPa) and the basis for such interpretation defined.

Not less than one Inspection pit shall be made and thereafter inspection pits shall be constructed for every 3 proposed allotments to confirm subsoil properties. The inspection pit shall be geo-referenced and shall include the logged soil profile.

Unless the recorded field soil strength from the scala penetrometer tests for an allotment is at least 300 kPa at a depth of at least 0.3 metres, below the soffit of the proposed foundations, then a consent notice will be imposed on the allotment requiring specific foundation design for any dwelling house at the time of building consent

provided that

Where the field results are less than 300 kPa and scala penetrometer driving refusal occurs at 2 metres or more in depth, then the performance requirements shall be –

Performance Standards

- An Ultimate Limit State Settlement to be not greater than 100 millimetres, and
- A Service Limit State settlement not greater than 50 millimetres and

Where a Standard Penetrometer Test (SPT) count result is less than 12 (corrected in accordance with best practice), and depth to sediments achieving an SPT > 12 is greater than 2 metres, then the performance requirements are –

- An Ultimate Limit State Settlement to be not greater than 100 millimetres, and
- A Service Limit State settlement to be not greater than 50 millimetres.

7. Amend Rule 28.3.1 by the following:

28.3 Discretionary Subdivision Activities

28.3.1 Available in the -

b) Urban Residential 1 and 2 Zones and the Urban Residential 2 Greenfield Zones

8. Amend Rule 28.3.2 Allotment Standards (Discretionary Activities) by the insertion of the following:

Zone	Allotment Type W = with Sewerage Reticulation WO = Without	Environmental Assessment Threshold Lot Area m ² ¹ see note below	Environmental Assessment Threshold Building Platform Shape Factor ² see note below	Environmental Assessment Threshold Frontage Metres ³ see note below	Qualification
<u>Urban Residential 2 Greenfield Zone</u>	<u>Front W</u>	<u>Minimum 350</u>	<u>14m diameter circle</u>	<u>15</u>	
⁴	<u>Rear W</u>	<u>Minimum 350</u>	<u>14m diameter circle</u>	<u>NA</u>	<u>Access requirements apply, refer 28.3.3</u>

⁴ If allotments (except for allotments less than than the minimum 400m²) do not comply with the Environmental Assessment Threshold Lot Area standards specified in Rule 28.3A.1 they are non-complying activities under Rule 28.4.1.

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.

³ Where no frontage is available the Council must be able to issue a certificate under Section 321 of the Local Government Act 1974, to confirm that legal physical access is available.

⁴ Frontage below 15 metres is permitted where a front lot with side boundaries diverging or opening out from the street has a minimum frontage of 6.0 metres and the site width, at a distance of 12.0 metres from the street, is not less than 17 metres.

9. Amend Rule 28.4.1 Non-Complying Subdivision Activities by the following:

28.4.1 Subdivision is a Non-Complying Activity where, the subdivision does not comply with one or more of the Permitted, Controlled or Discretionary Activity requirements for the:

- a) Rural 3 and 4 Zones;
- b) Rural Residential Zone;
- c) Urban Residential 1 and 2 Zones and Urban Residential 2 Greenfield Zone

10. Add the following new Rule

28.3.4.4 Blenheim Substation¹⁵

¹⁵ Transpower NZ Ltd

A subdivision proposal which is located on the northern side of Old Renwick Road or on Thomsons Ford Road within a distance measured 150 metres of the Blenheim Substation site (Sec 1 SO 4246 Lot 1 DP 8572 & Pt Sec 1 SO 6959) shall be considered a Limited Discretionary Activity, with the limitation being that the Council will restrict the exercise of its discretion to

- (i) those matters in 28.2A.1 and;
- (ii) the extent to which the subdivision may adversely affect the efficient operation, maintenance, upgrading and development of the Blenheim Substation;
- (iii) the extent to which the proposed subdivision design and layout enables appropriate separation distances between future sensitive activities and transmission lines, including safe separation distances in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP:34 2001);
- (iv) the results of any detailed investigations to determine appropriate separation distances between potential future sensitive activities and the Blenheim Substation; and
- (v) any other measures proposed to avoid or mitigate potential adverse effects, including reverse sensitivity effects, on the Blenheim Substation;

Transpower New Zealand Limited is the sole potentially affected party in the context of the Act in terms of (ii)-(v) above.

CHAPTER 32.0 URBAN RESIDENTIAL 1 AND 2

11. Amend Rule 32.1.1 by adding the following activity:

32.1 Permitted Activities

32.1.1 Unless expressly limited elsewhere and subject to compliance with the conditions applying to Permitted Activities the activities listed below shall be permitted without a resource consent.

- Farming in the Urban Residential 2 Greenfields Zone subject to compliance with the conditions of the Rural 3 Zone.

12. Amend Rule 32.1.3.1 Residential Site Density - Residential Activity by the following:

32.1.3 Amenities

32.1.3.1 Residential Site Density - Residential Activity

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

- a) Not less than 290m2 within the Urban Residential 1 Zone;
- b) Not less than 400m2 within the Urban Residential 2 Zone except for those properties listed in Appendix H1 where the minimum net site area for each residential unit shall be 3,000 m2, and for the properties listed in Appendix H2 the minimum net site area for each residential unit shall be 1200m2; provided that in the Urban Residential 2 Greenfield Zone the maximum number of residential units per Certificate of Title shall be 1.

13. Add the following Rules to Chapter 32.0 Urban Residential 1 and 2 Zones

32.1.9 Buffer Corridor Provisions Around National Grid Infrastructure¹⁶

32.1.9.3 Permitted Activity Standards for activities, buildings and structures near the Blenheim Substation

a) No building, or addition to any building, for a sensitive activity shall be permitted on the northern side of Old Renwick Road or on Thomsons Ford Road within a distance measured 150 metres of the Blenheim Substation site (Sec 1 SO 4246 Lot 1 DP 8572 & Pt Sec 1 SO 6959); and

b) No change of use to a sensitive activity or the establishment of a new sensitive activity shall be permitted on the northern side of Old Renwick Road or on Thomsons Ford Road within a distance measured 150 metres of the Blenheim Substation site (Sec 1 SO 4246 Lot 1 DP 8572 & Pt Sec 1 SO 6959).

32.3.1A On the northern side of Old Renwick Road or on Thomsons Ford Road, within a distance measured 150 metres of the Blenheim Substation site (Sec 1 SO 4246 Lot 1 DP 8572 & Pt Sec 1 SO 6959), the following shall be a limited discretionary activity, with Transpower New Zealand Limited being the sole affected party in the context of the Act:

a) any building, or addition to any building, for a sensitive activity; and

b) any change of use to a sensitive activity or the establishment of a new sensitive activity.

The Council's discretion shall be limited to a consideration of the following matters:

the extent to which any sensitive activity, including any building containing a sensitive activity, may adversely affect the efficient operation, maintenance, upgrading and development of the Blenheim Substation;

the results of any detailed investigations to determine appropriate separation distances between sensitive activities and the Blenheim Substation; and

any other measures proposed to avoid or mitigate potential adverse effects, including reverse sensitivity effects, on the Blenheim Substation;

APPENDIX 6

14. Add the following to Appendix G

11.0 Beekeeping Operation (on land described as 168 Old Renwick Road and legally described as Lot 1 DP 2064).¹⁷ The following activities shall be permitted, provided they comply with the standards for Permitted Activities in the Rural Zone.

- Beekeeping and honey making

PLANNING MAPS

15. Amend Planning maps in accordance with closing submissions

¹⁶ Transpower NZ Ltd

¹⁷ J. Bush & Sons Ltd