Evidence A.

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF Plan Change 26 to the Waimakariri District Plan

Applicant Westpark Rangiora Limited

SYNOPISIS OF SUBMISSIONS ON BEHALF OF WESTPARK RANGIORA LIMITED

Dated 29 July 2015

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1 INTRODUCTION

1.1 Westpark Rangiora Limited (Westpark) is a joint venture between Paul & Chris McGowan and Mike Greer Homes North Canterbury Limited. Between the joint venture partners, there is a significant body of experience and a proven track record in successful residential and rural-residential development in the Waimakariri District.

1.2 In very simple terms, the Plan Change request seeks to rezone 15 hectares of land on the corner of Lehmans Road and Oxford Road, Rangiora (the Site) from Rural to Residential 2. The expected residential yield is in the order of 150 residential sites, which will incorporate a mixture of "standard" allotments of 600m^2, together with higher density allotments to be established via the Comprehensive Residential Development provisions of the Waimakariri District Plan.

1.3 Rezoning of the Site is directly consistent with a range of higher order documents, including the Land Use Recovery Plan and the Canterbury Regional Policy Statement both of which contemplate residential development of the Site.

1.4 The request largely seeks to adopt the current, and well settled, Residential 2 framework of the Waimakariri District Plan. While discreet amendments are sought, these are essentially matters of detail, including:

(a) Identification in Policy 17.1.1.4 that development within the *"Lehmans Road, West Rangiora Outline Development Plan area"* shall achieve a minimum net density of 10 households per hectare;

(b) Inclusion of a specific Outline Development Plan;

(c) Clarification as to the range of existing rules that apply to development of the Site; and

(d) Introduction of new rules in respect of the rural-urban interface at Lehmans Road.

2 STATUTORY FRAMEWORK

2.1 The Panel will be very familiar with the *Long Bay* framework for making decisions on plan change applications. This framework has been refined in a range of subsequent Environment Court decisions to reflect changes to the RMA.[1]

2.2 In the present case, this framework can essentially be reduced to the following questions:

(a) Does Plan Change 26 accord with and assist the Council to carry out its functions[2] so as to achieve the purpose of the Act?

(b) Does the Plan Change give effect to the Canterbury Regional Policy Statement?

(c) Is the Plan Change consistent with documents prepared under the Canterbury Earthquake Recovery Act 2011, in particular the Land Use Recovery Plan (LURP)?

(d) Does the Plan Change have regard to any relevant management plans or strategies prepared under other Acts?

(e) Having regard to matters such as efficiency and effectiveness, is the rezoning the most appropriate method for achieving the objectives of the District Plan, taking into account:

(i) The benefits and costs;

(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 methods.

2.3 All of the above matters have either been addressed in the Plan Change request, or will be the subject of further evidence from the various witnesses to be called by Westpark.

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[1] See *Colonial Vineyards Limited v Marlborough District Council* [2014] NZ EnvC 55 at para [17]
[2] As described in S 31 of the Act

3 COUNCIL FUNCTIONS –CONTROL OF ACTUAL AND POTENTIAL EFFECTS

3.1 While there are a wide range of effects associated with the proposed rezoning, judging by both the submissions received and the s 42A Officer's Report your evaluation is likely to focus on the following potential effects:

(a) Reverse sensitivity impacts on Rangiora Aerodrome;

(b) Impacts on amenity and rural character; and

(c) Flooding risk.

Reverse Sensitivity

3.2 The issue of potential reverse sensitivity effects on Rangiora Aerodrome will be addressed by Mr. Camp. His opinion is that the level of activity at the Aerodrome is such that noise levels experienced by future residents of the Site will be well below the level where reverse sensitivity is likely to become a potential issue.

Impacts On Amenity and Rural Character.

3.3 The request acknowledges that the Plan Change will result in substantial changes to the landscape character of the Site, an outcome considered inevitable given the change from rural to urban. Given its location adjacent to land already zoned for residential development (Arlington, Farmlands Park Trust and Plan Change 018 land), the Site is nevertheless considered entirely suitable for rezoning. It will be compatible with these existing zones and provide an appropriate level of amenity for their residents.

3.4 In terms of the urban/rural interface, the Plan Change contemplates (via the ODP) a reserve along the entire Lehmans Road frontage. This will include appropriate provision for a cycle/walking path and landscaping, the extent of which will be determined at the time of subdivision. By such means, the amenity associated with this interface can be appropriately maintained.

3.5 As noted above, and as will be discussed in more detail below, the Site is identified as a Greenfield Priority Area in the LURP and RPS. It is also identified as future residential in the West Rangiora Structure Plan (WRSP). Accordingly, it should be readily accepted that a certain degree of landscape or amenity impacts associated with the development of the Site for urban purposes has already been contemplated by these documents.

Flooding

3.6 Flooding has been identified as a particular issue in the evidence of Mr. Simpson for the Council, in particular he refers to the potential increase in off-site flood levels at specified locations on Lehmans and Oxford Road.

3.7 This is a matter which will be addressed in the engineering evidence of Mr. Smith, who will refer to further modelling work having been undertaken in response to concerns expressed by Mr. Simpson.

3.8 Mr. Smith's analysis firstly confirms that the Site can be appropriately developed while managing the potential increase in on-site flood levels resulting from, amongst others, ground re-contouring.

3.9 The further modelling also confirms that the development of the Site will:

(a) Benefit existing properties to the east and southeast of the site by eliminating run-off for all events up to the 2% AEP Level.

(b) Have a positive effect on potential future flooding for a significant existing area of urban Rangiora in a 0.5% AEP (1 in 200 year) flooding event.

3.10 Mr. Smith will demonstrate that in a 0.5% AEP flood event, the modelling undertaken identifies some potential minor localised increases in flooding, however these increases will not exacerbate what is a low level flooding hazard on affected properties the majority of which are either Rurally zoned. In one instance, the land affected is Council owned reserve to the south of Oxford Road.

3.11 Where the modelled increase relates to properties identified for future urban development, Mr. Smith will say that development for such purposes will provide an opportunity to

readily address any potential minor increase in flood level. This is in much the same way as Westpark is addressing increased flood levels from development that has occurred in the vicinity of the Site.

4 DOES THE PLAN CHANGE GIVE EFFECT TO THE REGIONAL POLICY STATEMENT? IS REZONING CONSISTENT WITH DOCUMENTS PREPARED UNDER THE CANTERBURY EARTHQUAKE RECOVERY ACT 2011?

4.1 As you will be aware, the Minister for Canterbury Earthquake Recovery adopted the LURP on 06 December 2013.

4.2 Amongst other matters, Action 44 of the LURP directed the inclusion of a new Chapter 6: *Recovery and Rebuilding of Greater Christchurch* into the Canterbury Regional Policy Statement.

4.3 Map A to Chapter 6 identifies the Site as a residential Greenfield Priority Area, the development of which is to be enabled, so that resources can be focused on rebuilding, and delivering growth and recovery. [3] These areas are identified as being required to provide sufficient land zoned for urban purposes to enable recovery and rebuilding through to 2028.[4] Territorial authorities will provide for the rebuilding and recovery of Greater Christchurch in accordance with the LURP, Policy 6.3.1 and Map A.

4.4 Taken together therefore, the objectives and policies of Chapter 6 provide an unequivocal mandate for the rezoning of all land identified as a Greenfield Priority Areas, the Site included.

4.5 The statutory test for district plans (including changes) is that they must "*give effect to*" the relevant regional policy statement. This is a very strong directive, one that requires positive implementation of the superior document[5]. Accordingly, in my submission it is difficult to see how any decision other than to approve the proposed rezoning of the Site could be seen as giving effect to Chapter 6 of the CRPS.

Natural Hazards – Policy Approach in RPS

4.6 In reliance on Mr. Simpson, Mr. Blay has questioned whether or not the proposed rezoning gives effect to the RPS's objectives and policies in respect of natural hazards. This concern relates to off-site flooding impacts.

4.7 Chapter 6 of the RPS expresses as an objective the enabling of recovery, rebuilding and development within greater Christchurch through a land use and infrastructure framework that "*protects people from unacceptable risk from natural hazards...*[6]

4.8 Under Policy 6.3.3 (11), outline development plans and associated rules must show how the adverse effects associated with natural hazards are to be avoided, remedied or mitigated in accordance with Chapter 11 of the RPS.

4.9 The explanation for Issue 11.1.1 in Chapter 11 provides[7] that the outcome of effects from natural hazards on (amongst others) people and property *"may range in scale from a nuisance to a catastrophe"*.

4.10 The primary objective in Chapter 11 includes avoiding new subdivision, use and development of land that increases risk associated with natural hazards, or where avoidance is not possible, mitigation measures minimise such risks. Appropriate mitigation works: ".. *should result in the avoidance of* ***significant adverse effects*** *of natural hazards whilst themselves having* ***minimal adverse effects on the surrounding environment***"[8][My emphasis]

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[3] Explanation to Objective 6.2.1 of RPS.
[4] Explanation to Policy 6.3.1 of RPS
[5] *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* [2014] NZSC 38 at [80].
[6] Objective 6.2.1(8)
[7] P.127 of RPS
[8] Objective 11.2.1 on p.129 of RPS

4.11 Policies require (in synopsis) –

- The avoidance of new subdivision, use and development in high hazard areas unless (amongst other things) the development: *"is not likely to result in loss of life or serious injuries in the event of a natural hazard occurrence"*; or the development is proposed to be located in an area zoned or identified in a district plan or Chapter 6 for urban residential, in which case the effects of the natural hazard must be mitigated.[9]
- The avoidance of new subdivision, use and development in areas subject to inundation by a 0.5% AEP flood event unless there is no increased risk for life, and the subdivision, use or development meets relevant criteria including the requirement that new buildings have an appropriate floor level above the 0.5% design flood level.[10]
- Any adverse effects of physical works to mitigate natural hazards on the natural and built environment are to be avoided, remedied or mitigated.[11]

4.12 In my submission, the rezoning of the Site to Residential 2 is directly consistent with the higher order RPS objectives and policies in respect of natural hazards.

4.13 More particularly, the development is not in a high hazard area, rather it is in an area subject to potential inundation in a 0.5% AEP flood. There will be no increased risk for life resulting from the development, and new buildings will be required to have an appropriate floor level above the 0.5% design floor level.

4.14 While the works associated with development will have some localised off site increases in the modelled 0.5% AEP event, it is important to note that the higher order objectives and policies do not seek complete avoidance of such effects. Rather, mitigation is considered appropriate where minimal adverse effects arise. It is submitted that you are entitled to find on the evidence that any off-site increases will have minimal adverse effects. Such a finding can be reached havng regard to, in particular, the probability of occurrence of the event modelled, the minor increase in depth of floodwaters and the limited and predominantly rural locations where such increases are predicted.

4.15 Accepting that Mr. Blay is yet to hear Mr. Smith's evidence, it is submitted that he has focused unduly on avoidance of effects which is not mandated by the higher order objectives and policies. By failing to address the mitigation aspects of the objectives and policies, he has not provided a properly balanced opinion which would take into account factors such as the largely positive impacts development of the Site will have on predicted off-site flood levels.

Natural Hazards Policies – District Plan

4.16 As is to be expected, the natural hazard policy framework of the subordinate District Plan largely reflects that of the RPS. For example, development proposals should show how and the extent to which they will avoid or mitigate natural hazards including flooding as defined in the District Plan maps.[12] The regulatory framework in the Plan, including controls on subdivision and land use have been included to ensure that the adverse effects of flooding on people and property are avoided, remedied or mitigated.[13]

4.17 As with the higher order objectives and policies, the analysis provided on behalf of the applicant will demonstrate that flooding issues can be appropriately resolved at the time of subdivision and that there is a high level of consistency with the policies of the District Plan.

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[9] Policy 11.3.1 on P.130 RPS
[10] Policy 11.3.2 on P.131 RPS
[11] Policy 11.3.7 on P.135 RPS
[12] Policy 18.1.1.
[13] Explanation to Policy 8.2.1.5

S.23 of the Canterbury Earthquake Recovery Act

4.18 S. 23 (1) of the Canterbury Earthquake Recovery Act imposes a duty on decision-makers not to act inconsistently with a recovery plan:

> ***23 Councils not to act inconsistently with Recovery Plan on and from its notification***
>
> *(1) On and from the notification of a Recovery Plan in the Gazette, any person exercising functions or powers under the Resource Management Act 1991 must not make a decision or recommendation that is inconsistent with the Recovery Plan on any of the following matters under the Resource Management Act 1991:*
>
> .....
>
> ***(f) the preparation, change, variation, or review of an RMA document under Schedule 1.***

4.19 Whether a decision is inconsistent with a recovery plan (such as the LURP) is a question of scale and degree and is to be judged in the particular circumstances of the case.

4.20 In this particular case, and given the Sites confirmed status as a Greenfield Priority Area in the LURP, it is submitted that a decision that it remain Rural would raise a direct inconsistency with s 23 (1)(f). That is not to say however that your hands are completely tied, rather in my submission scope remains (where appropriate) to amend the details of the P06 Zone provisions to address particular matters of concern.

5 DOES THE PLAN CHANGE HAVE REGARD TO ANY MANAGEMENT PLANS OR STRATEGIES PREPARED UNDER OTHER ACTS?

5.1 In this context, the document of most relevance is the West Rangiora Structure Plan.

5.2 Mr. Blay assesses this matter, and concludes the intent of the WRSP is met and the proposed rezoning is consistent with the outcomes sought in that particular document.[14] Mr. Allan will outline his agreement with this conclusion.

6 IS REZONING THE MOST APPROPRIATE MEANS OF ACHIEVING THE OBJECTIVES OF THE DISTRICT PLAN?

6.1 Matters relating to s 32 of the Act are fully assessed in the Plan Change application, and will also be addressed by Mr. Allan in his evidence.

6.2 There will be significant benefits associated with the proposed rezoning, including:

(a) The Plan Change will assist in meeting the demand for residential development within Rangiora in a manner directly contemplated by the RPS and LURP.

(b) The Plan Change will enable a range of living environments, including standard residential allotments and comprehensive residential development;

(c) An increased local population base to support the existing Rangiora community;

(d) Opportunities for increased green space, pedestrian and cycle links.

6.3 In quantitative terms, Mr. Freeman will say that, when fully developed, the value of the rezoning is in excess of $90m, a figure that does not include positive "trickle down" effects that will result to the economy of Rangiora.

6.4 When balanced against the potential costs of approving the Plan Change, including potential impacts on amenity and rural outlook, increased traffic and minor localised off-site increases in a 0.5% AEP, it is submitted that the scales weigh heavily in favour of approving the Plan Change.

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[14] S42A Report at paragraph 10.3.4

7 CONCLUSION

7.1 The overall issue to be determined is whether or not the Site should be rezoned from Rural to Residential 2?

7.2 In my submission, rezoning is an inevitable consequence of the Site'sGreenfield Priority Area status within the LURP and the RPS. A decision not to rezone would therefore fail to give effect to the RPS and would be inconsistent with the LURP.

7.3 The rezoning proposed adheres to the settled policy and regulatory framework of the District Plan. The significant benefits of rezoning outweigh any potential costs in terms of adverse effects and, accordingly, approval of the Plan Change is the most appropriate means of achieving the settled objectives of the District Plan and, by necessary implication, the purpose of the Act itself.

8 WITNESSES

8.1 The following witnesses will be called on behalf of Westpark

(a) Peter Freeman, representative of Westpark;

(b) Stuart Camp, an acoustic consultant who will address potential reverse sensitivity issues in respect of the operations of Rangiora Aerodrome;

(c) Ann Fosberry, traffic consultant who will address the impact of development on the surrounding road network and matters relating to the requested link to Brick Kiln Lane;

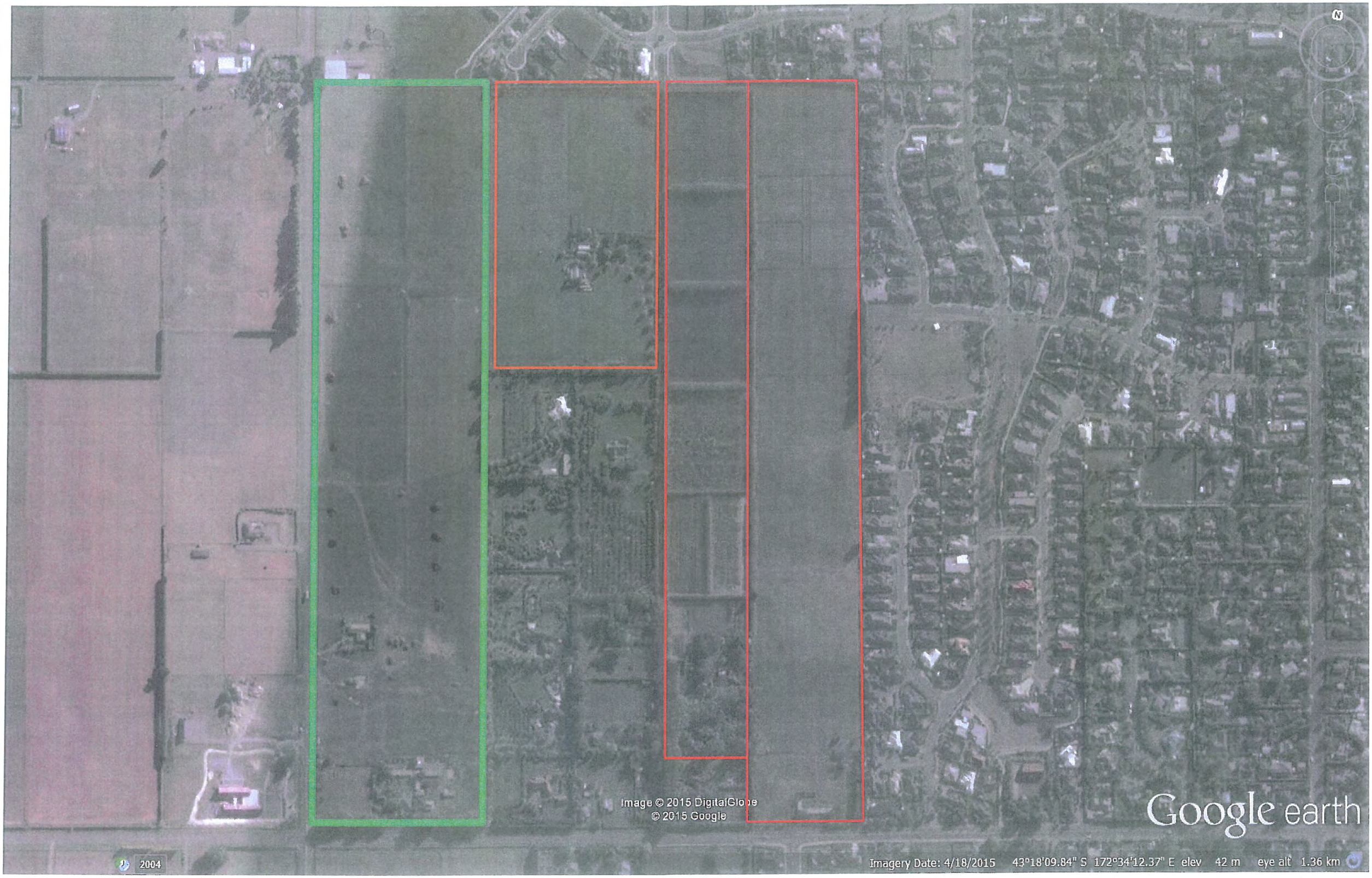
(d) Regan Smith, a civil engineer who will address infrastructure and flooding issues associated with the proposed development of the Site for residential purposes; and

(e) Mark Allan, a planning consultant who addresses the consistency of the rezoning with the objectives and policies of the Waimakariri District Plan, matters relating to s 32 of the Act and how the rezoning achieves the purpose of the Act.

G J Cleary

Counsel for Westpark Rangiora Limited

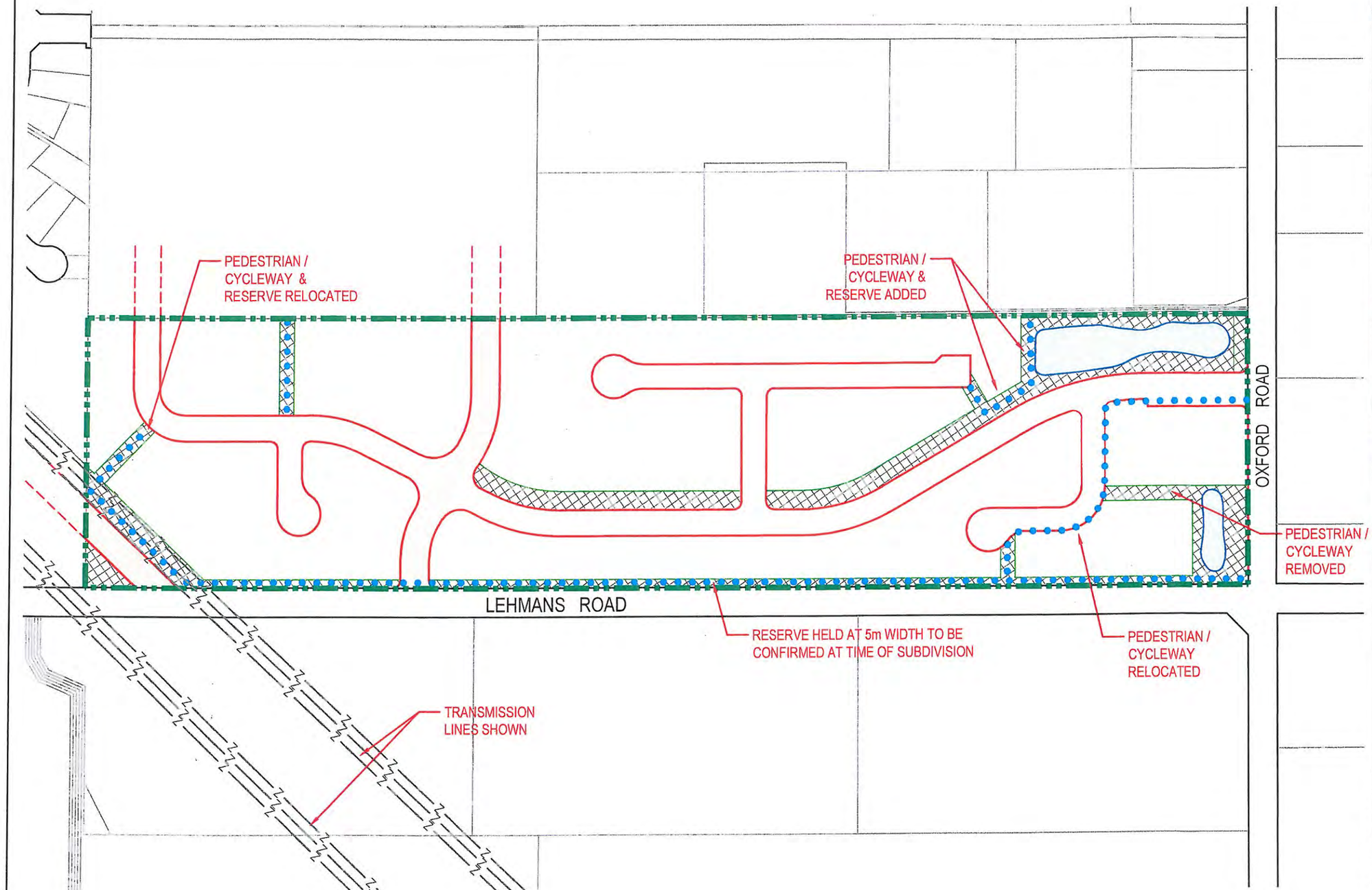
29 July 2015



WESTPARK P026 Land

FARMLANDS Park Trust Land

RYMAN Land



WAIMAKARIRI DISTRICT COUNCIL

- Area of development
- existing road
- existing transmission lines
- local road
- urban collector road
- proposed road design
- pedestrian cycleway access
- local purpose reserve
- stormwater management area

0 80 160m

SCALE 1:4000 (A4)

Lehmans Road West Rangiora Outline Development Plan

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* to be confirmed