

Before the Hearings Panel and Independent Hearings Panel

At Waimakariri District Council

Under Schedule 1 of the Resource Management Act

In the matter of the Proposed Waimakariri District Plan and
Variation 1 to the Proposed Waimakariri District Plan

Between Various submitters

And **Waimakariri District Council**
Respondent

**Council Officer's Right of Reply to written questions on Wāhanga Waihanga - Future Urban
Development Areas, and the Variation 1 component of Airport Noise**

INTRODUCTION

1. My full name is Peter Gordon Wilson. I am employed as a Principal Policy Planner for the Waimakariri District Council.
2. The purpose of this document is to response to the list of questions published from the Hearings Panel and Independent Hearings Panel following hearing stream 10A.
3. I have had the benefit of hearing evidence presented at hearing stream 10A. Where I have relied on or referred to this evidence in my response to questions, I have recorded this in my response.
4. Following the conclusion of conferencing on Stream 10A, I will produce a final right of reply document outlining any changes to my recommendations as a result of evidence presented at the hearing in light of the conferencing JWS, and also updating and correcting an errors. This will include an updated s42A, Appendix A and Appendix B.
5. The format of these responses in the table below follows the format of the questions from the Panel.
6. I am authorised to provide this evidence on behalf of the District Council.

Date:

04/03/2024

A handwritten signature in blue ink, appearing to read 'Peter Wilson', is written on the page.

Please provide the legal advice that supported the redrafted certification consent process as set out in the s42A report.

Legal advice received, via email, on Wednesday November 8, prior to drafting of my s42A on development areas. I have redacted some sentences of the legal advice as they do not relate to the certification vires question.

Hi Peter and Matt

Further to our email this morning, we write to provide some more detail around our advice on the current certification process for Future Urban Development Areas (**FUDA**) in the Proposed Waimakariri District Plan (**Proposed Plan**). Given our conclusion, we have kept our advice relatively high level and in email form at this stage. However, we are happy to formalise our advice in a letter or memo and/or expand on any of the matters addressed below.

In providing our advice, we have considered relevant caselaw as well as the Christchurch District Plan (which has certification processes for urban design and servicing) and Dunedin City Council's Second-Generation District Plan (which has a certification process for the release of land in the residential transition overlay zone respectively). The relevant DCDP rule can be found here [DCC 2GP \(dunedin.govt.nz\)](http://DCC2GP.dunedin.govt.nz).

In summary, certification processes can be a valid legal mechanism in a District Plan including for the purpose of re-zoning / releasing land.

For a certification process to be lawful it must not:

- (a) involve an unlawful delegation of Council's decision-making powers;
- (b) be unclear or ambiguous (i.e., the process and its criteria must be clearly defined, measurable and capable of objective assessment); and
- (c) incorporate subjective judgement-calls that cannot be objectively justified.

As we highlighted in our email earlier today, we have reservations as to whether the Proposed Plan's current drafting is lawful. After reviewing the provisions, submissions [REDACTED], we have formed the view that the certification criteria in the Proposed Plan is amenable to successful challenge. In particular, a number of the criteria lack clarity, objectivity and measurability and potentially give rise to unlawful delegation of powers to the CE.

For example, while geotechnical, flood, stormwater and traffic assessments could be subject to a certification process, the criteria in the Proposed Plan are drafted in a way that gives the CE too broad a discretion to decide whether these assessments, and any recommendations, are capable of being certified. With respect to DEV-WR-S1(d) there is no criteria by which to assess "sufficient capacity". Other criteria refer to actions being "agreed by Council" without providing an objective basis or process by which that agreement will be reached. Some of the criteria only require assessments to be undertaken, which might expose Council to some risk too – eg DEV-WR-S1(c). There is no requirement for the assessment to be prepared by a suitably qualified and experienced expert or address specified matters. Playing devil's advocate, Council might receive a 2 page assessment and then be subject to challenge if it was not accepted for certification. [REDACTED]

[REDACTED] and there is no objective basis on which that can be tested based on the current drafting of DEV-WR-S1(a). While certification will involve an element of judgement, it needs to be clear on what basis that judgement is exercised so the exercise of that judgement can be tested.

There are also a large number of matters that are subject to certification. While this would not be an issue in and of itself, if the provisions meet the legal requirements for certification criteria, it creates the impression that there is a lot of work required. It raises a broader question about the suitability of certification as a mechanism for rezoning land in circumstances where the need for, and appropriateness of, the development has not been tested through a plan change or resource consent process.

As you anticipated, there is some further work for Council to do regarding the FUDA and associated provisions. That may be working with the certification criteria or suggesting an alternative approach, such as deferred zoning. We understand that the majority of land that has been identified as a FUDA is the subject of rezoning requests, and [REDACTED]

[REDACTED]. The evidence received may reduce and/or remove the need for some or all of the certification criteria. [REDACTED]

As noted above, we trust the above is of assistance at this time. However, please let us know if you would like further detail on certification generally, amendments to the PDP provisions, and/or alternatives to certification. As always, we are happy to discuss any of the above and look forward to assisting with next steps as required.

Kind regards
Jenna

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What was the extent of analysis that supported the inclusion of the Outline Development Plans for the four Development Areas, as notified in the PDP?

To answer this question, I have begun to review the volume of Council documents that deal with future growth areas. As the panel will appreciate, there are a number of interrelated statutory processes that have occurred post and pre-earthquakes that have considered future growth areas. The documents generally fall within the following broad frameworks:

1. Technical documents that informed the identification of the areas as within the 'projected infrastructure boundary' as part of the original Plan Change 1 to the RPS (2008) and the identification of areas within Map A.¹
2. Technical documents that informed the identification of the areas within Map A, included those amended as part of the second Plan Change 1 to the RPS to align with *Our Space* (2018).

I have focused the panels specific question as to the notification within the PDP as part of this preliminary answer. In my preliminary review of these documents, I consider that the extent of the analysis is best illustrated in the attached presentation presented to the Council District Plan and Regulation Committee in May 2020.

As illustrated by this example (**Appendix A**), background analysis included:

- 3 Waters servicing layouts, including potential requirements for upgrades outside of the DEV areas. My understanding is that these were informed by analysis by the council's project delivery unit, based on modelling work undertaken as part of asset management planning.
- Roading layout planning including assessment of 'main' and 'secondary' road networks and connections to adjoining and adjacent areas.

¹ Including amendments made to the CRPS through the Land Use Recovery Plan.

- Areas that could be identified for ‘higher density residential’² including urban design illustrations.
- Identification of overland flow paths and flood hazard
- Initial high-level engagement with Mahaanui Kurataiao Ltd.
- A programme of engagement with relevant parties, including affected landowners.

I note that while I consider that this analysis does appear to be detailed and specific, with over 200 individual reports, I have not had the benefit of reviewing all of these background technical reports and documentation. I also note that I have not yet reviewed these reports to ascertain whether the level of information would support the identification and rezoning of these areas.³

If it would assist the panel further, my intention through my final right of reply could provide a timeline and further summary of the background information for these areas, although I note that in some respects the more relevant assessment for the panel is the degree of information that was considered as part of the notification of the PDP.

In determining this course of action my initial review of these documents have indicated that several documents that may be of relevance to this question will likely require consideration of the degree to which these documents contain information that may be appropriate to withhold under s7(2)(a) of the Local Government and Official Information Act 1987, as some of this information does include cost information provided by external parties and identification of personal detail

Please respond to the evidence of Mr Thompson in support of submissions of Hale and Spark that seeks that development can be non-contiguous in certain circumstances

Mr Thomson, on behalf of his client Miranda Hales has sought the following changes to the DEV-WR narrative wording (para 45 of his stream 10A evidence for Miranda Hales [PDP 246, V1 55]:

Development within the West Rangiora Development Area is generally to be contiguous. The Outline Development Plan does not generally anticipate physically separated or ad-hoc development except for non contiguous development which can be efficiently serviced and is in accordance with the integrative intent of the Development Plan.

Mr Thomson has also sought something similar for his client Richard and Geoff Sparks [PDP 183, V1 61], in the south-east Rangiora development area (para 53 of the Richard and Geoff Spark evidence):

Development can be non-contiguous if it can be efficiently serviced and integrated with the remainder of the development area.

I agree with both suggestions, and recommend that the narrative text for the WR and SER development areas is amended accordingly – for development in these areas to be “generally non-contiguous”.

² Noting that this nomenclature was used prior to the RMA Enabling Housing Supply and Other Matters Amendment Act 2021

³ And in reference to my comments on Council’s approach to rezoning as part of the preliminary answers to questions prior to the hearing.

Appendix A – Outline of Background to Development Areas

District Plan Review / District Development Update

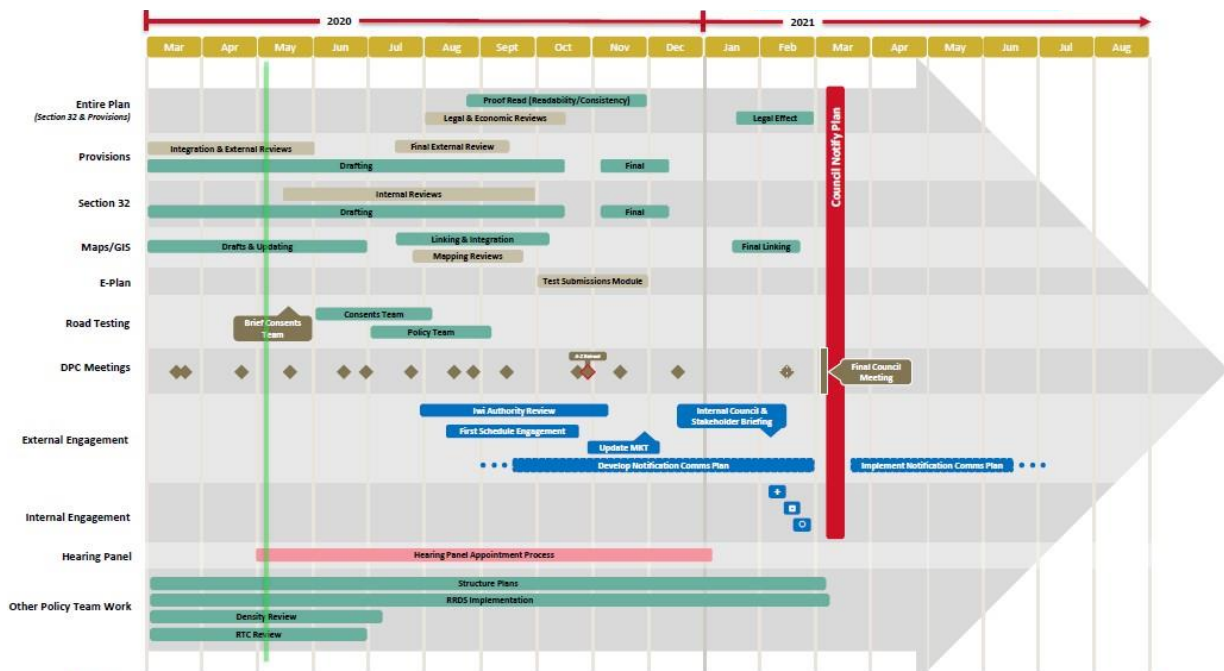


District Planning and Regulation Committee (DPRC)
19 May 2020

Outline

1. Overall programme update for District Plan Review & District Development workstream
- Package to deliver new greenfield for residential development:
2. Changes to Canterbury Regional Policy Statement (RPS)
3. Progress Residential Structure Plans
4. Update Future Development Areas

1. DPR / DDS Programme Update



2. Changes to Canterbury Regional Policy Statement (RPS)

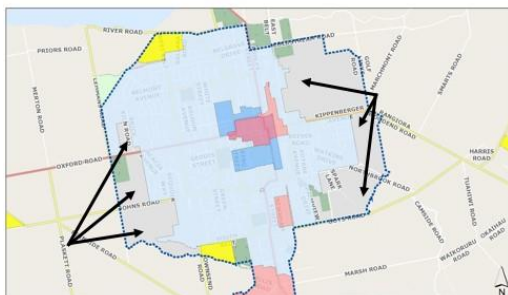
- the Proposed RPS Change was first identified as Action 9 in Our Space (Future Development Strategy)
- the purpose of the Change is to:
 - identify new urban housing development areas in Rolleston, Rangiora and Kaiapoi
 - enable Selwyn and Waimakariri District Councils to rezone land within these areas through their district planning processes to meet shortfalls in capacity for housing

2. Changes to Canterbury Regional Policy Statement (RPS)

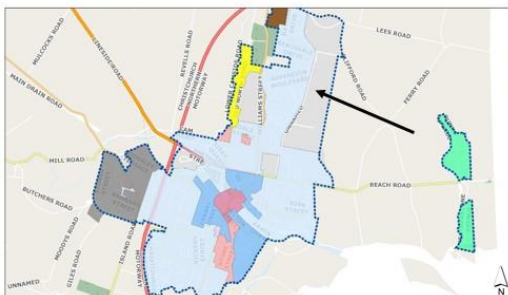
- Streamlined RMA planning process is being used (was approved by the Minister 29 April)
- ECan has 85 working days to complete this process and provide a report to Minister for approval
- Steps:
 - Further consultation with Ngai Tahu / Ngāi Tūāhuriri
 - Public notification with opportunity to provide written submissions
 - ECan will prepare a report for the Minister for the Environment showing how submissions have been considered and any recommended changes
 - The report must be peer-reviewed by an independent commissioner
 - Minister to make final decision on the Change and there are no legal appeal rights

3. Progress Residential Structure Plans

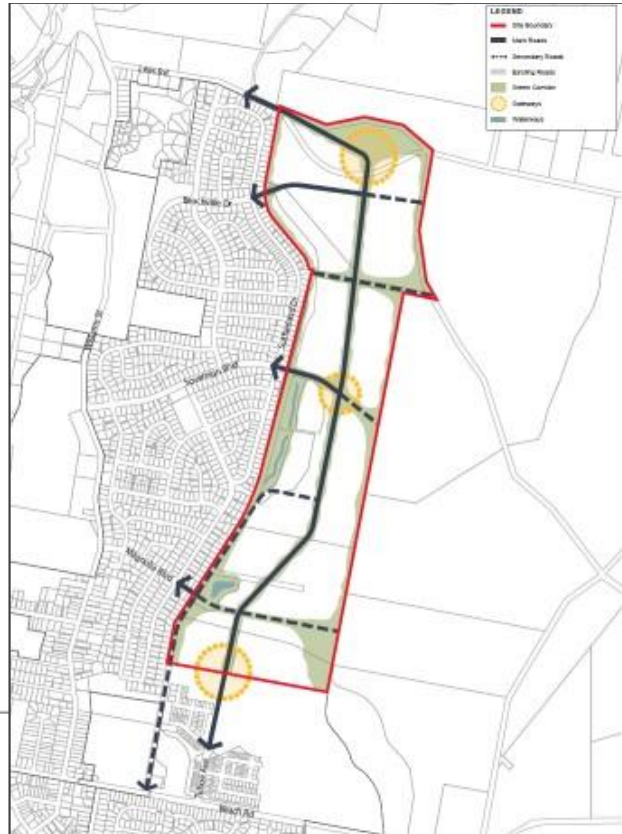
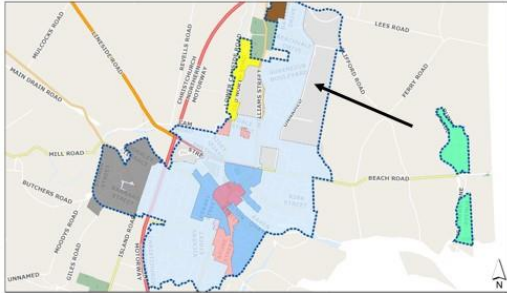
1. Rangiora Infrastructure Supported Boundary and Study Area shown with arrows (area in grey colour):



2. Kaiapoi Infrastructure Supported Boundary and Study Area shown with arrow (area in grey colour):



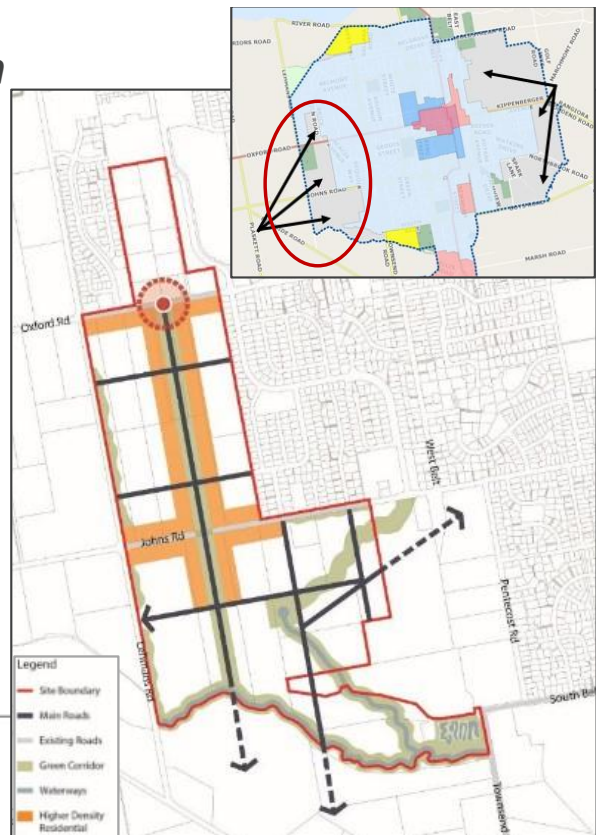
Kaiapoi northeast Structure Plan draft early concept



Rangiora west Structure Plan draft early concept

Key moves

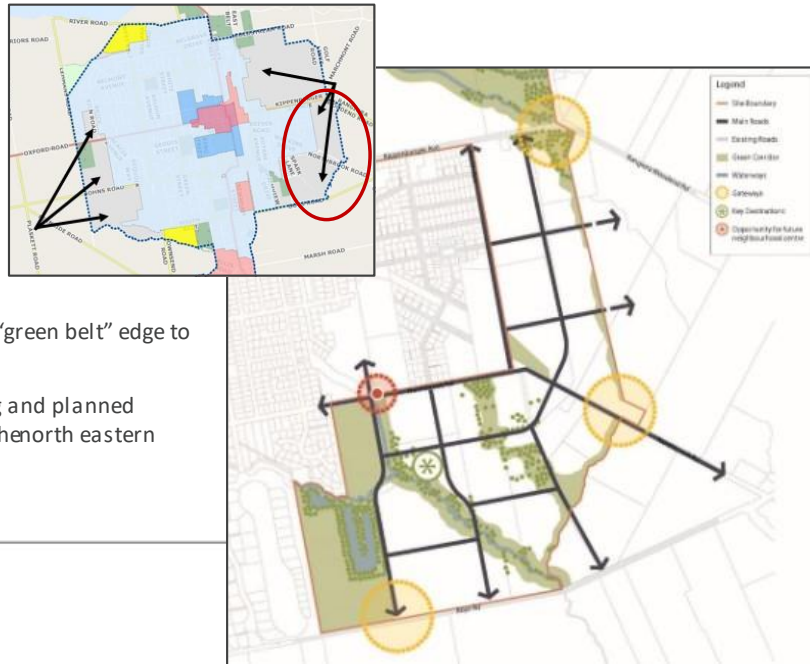
- North/ south boulevard to provide structure, connectivity and a high amenity corridor
- Soft rural boundary to provide “green belt” edge to settlement
- Connectivity towards the town centre and community focal points such as the school
- Integrated into surrounding residential areas
- Neighbourhood blocks shaped by rural character and the water ways
- More intense residential development along key corridors that have public transport links and associated with higher amenity areas



Rangiora southeast Structure Plan draft early concept

Key moves

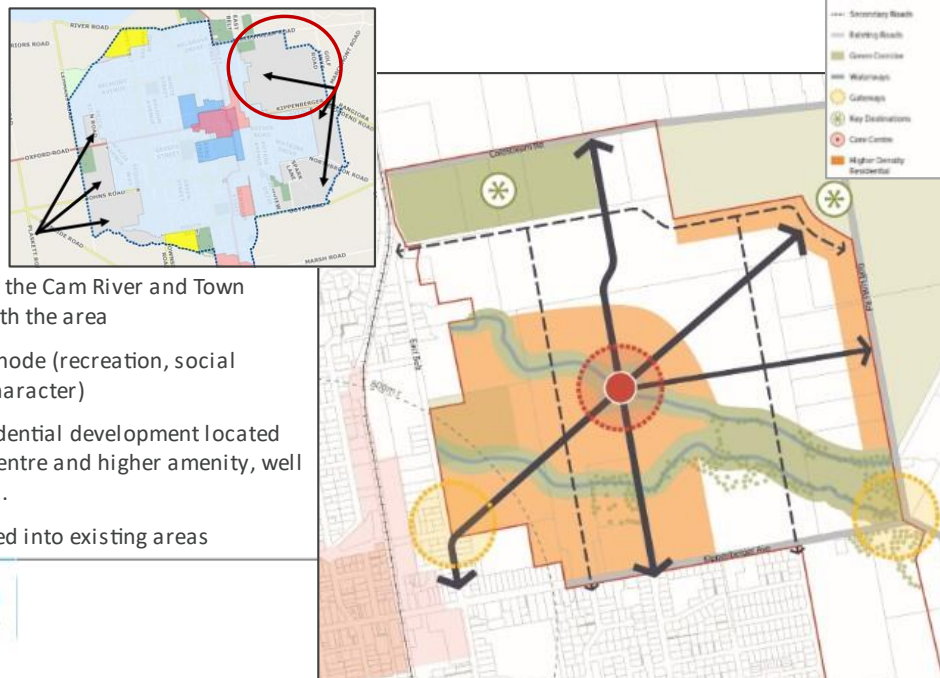
- Wetland expansion to provide high amenity areas for development
- Neighbourhood blocks shaped by rural and natural character
- Potential neighbourhood focal point (Northbrook/ Spark Lane)
- Soft rural boundary to provide "green belt" edge to settlement
- Connected into the surrounding and planned residential areas and towards the north eastern structure plan area



Rangiora northeast Structure Plan draft early concept

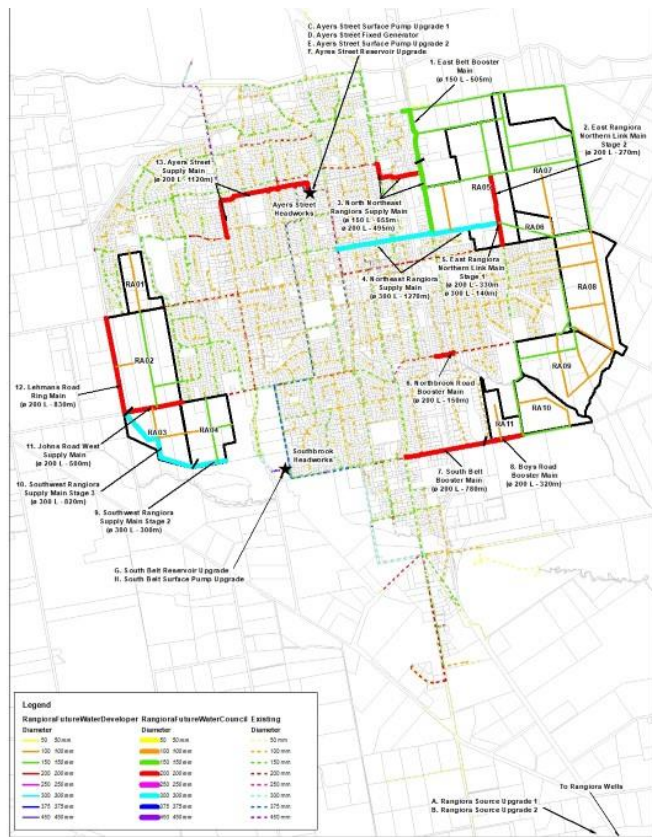
Key moves

- Green corridor stormwater/ amenity area
- Diagonal north/ south connectivity between key destinations
- Gateway features at the Cam River and Town Centre interfaces with the area
- Central community node (recreation, social activity and rural character)
- More intensive residential development located closer to the town centre and higher amenity, well connected locations.
- Connectivity provided into existing areas



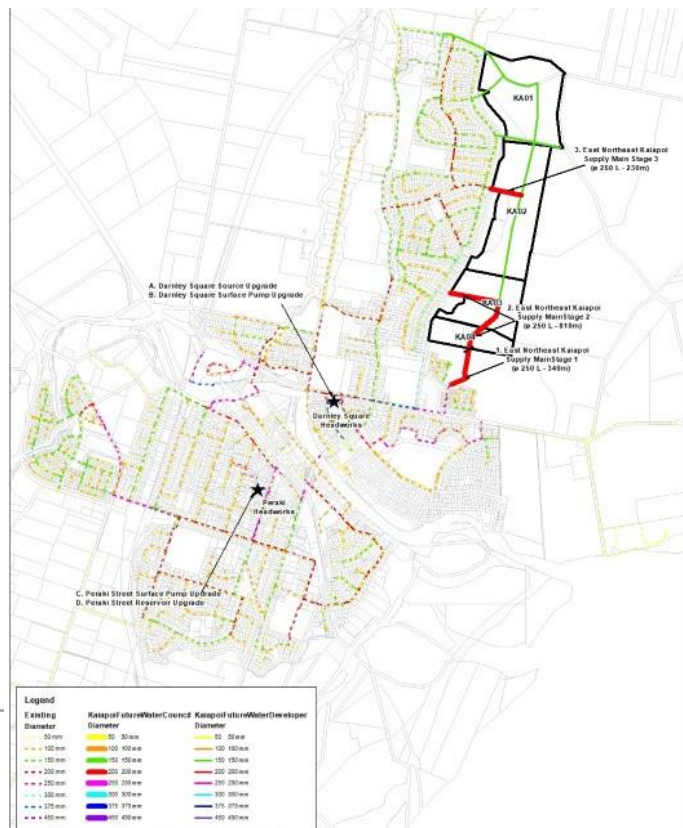
3 Waters Servicing

Water Supply



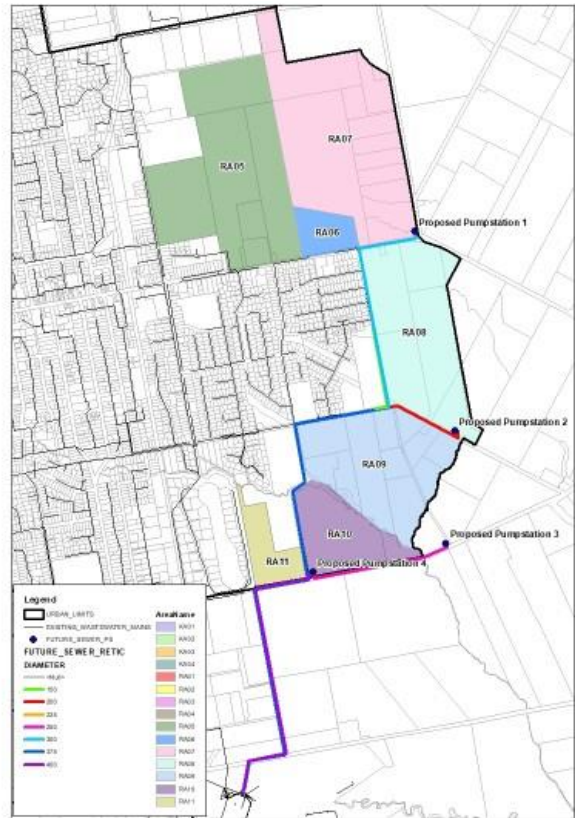
3 Waters Servicing

Water Supply



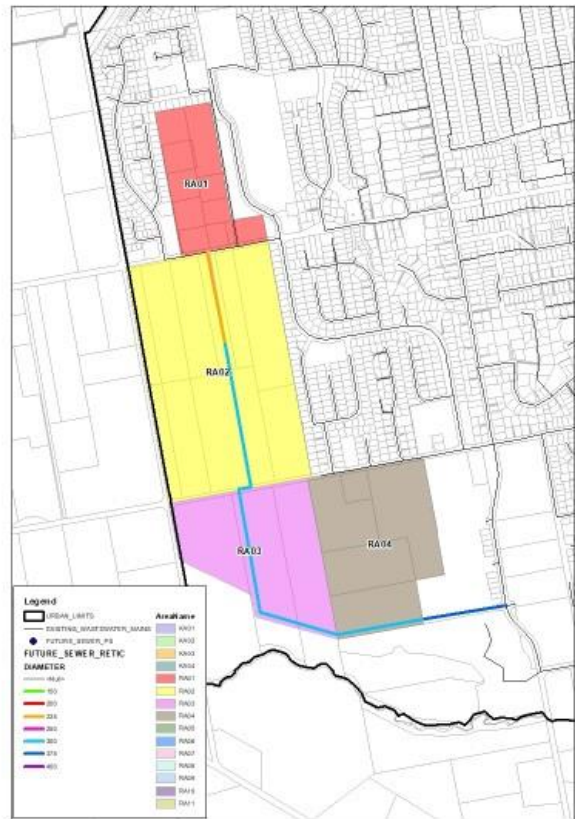
3 Waters Servicing

Sewer



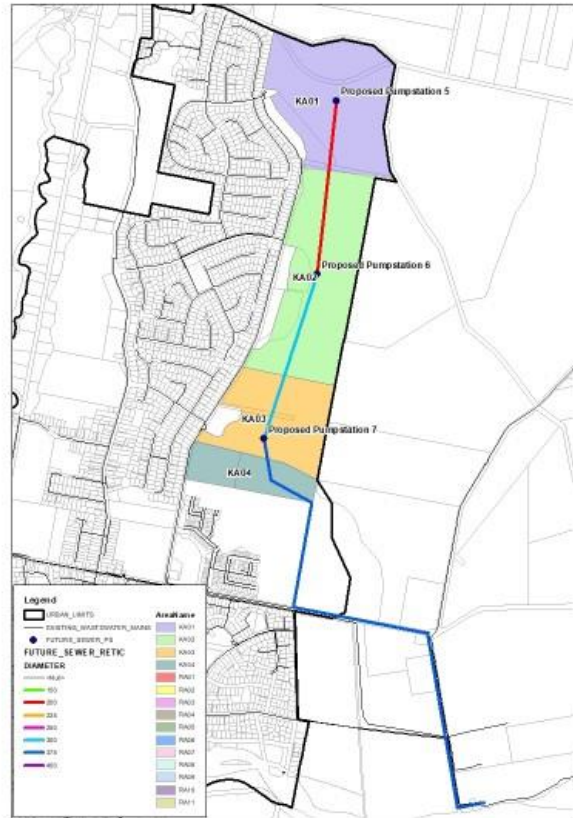
3 Waters Servicing

Sewer



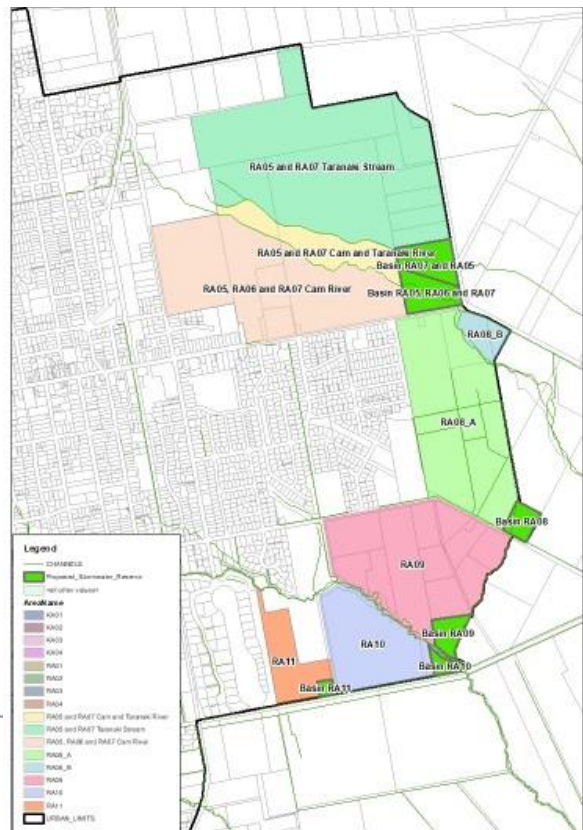
3 Waters Servicing

Sewer



3 Waters Servicing

Stormwater



3 Waters Servicing

Stormwater



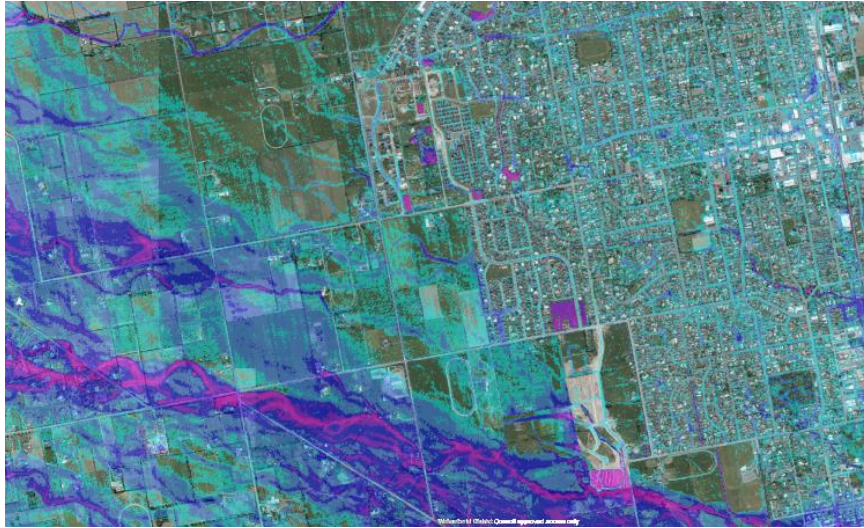
3 Waters Servicing

Stormwater



Natural Hazards Update

West Rangiora: 200 year localised flooding+ breakout



Natural Hazards Update

East Rangiora: 200 year localised flooding + breakout



Natural Hazards Update

Northeast Kaiapoi: 200 year localised flooding+ breakout



Natural Hazards Update

Coastal Hazards for Northeast Kaiapoi (ie Storm Surge) for a 200 year event



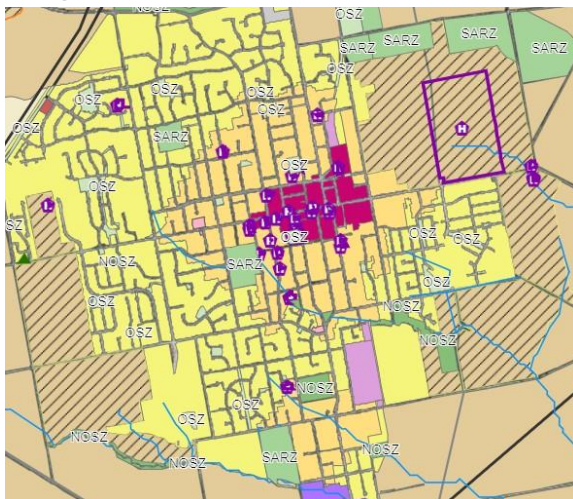
Updated Structure Plans Programme

- Greenspace input progressing now
- Monthly project meetings landowners
- Rangiora High School / Ministry of Education - June
- Community Boards update - June
- Comms and event with smaller landowners - July
- Prepare updated plans / layers / sketches – August
- Brief / comments from TAG, DPRC, stakeholders – September
- Community Boards update – October
- Finalise content, DPRC & PCG endorse – January / Feb
- Council approves Proposed DP to notify - March



4. Update Future Development Areas

Rangiora



Kaiapoi

