

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHĪ**

**Decision No. [2023] NZEnvC 172**

IN THE MATTER of the Resource Management Act 1991

AND an appeal under Clause 14 of the First  
Schedule to the Act

BETWEEN G M & J DRINNAN

(ENV-2022-CHC-25)

Appellant

AND SELWYN DISTRICT COUNCIL

Respondent

Court: Environment Judge J E Borthwick

Hearing: Christchurch on 19 June 2023

Last case event: 23 June 2023

Date of Decision: 14 August 2023

Date of Issue: 14 August 2023

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**DETERMINATION OF THE ENVIRONMENT COURT**

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A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed in part to the extent that the Prebbleton Outline Development Plan – Area 5 of Private Plan Change 72 to the Selwyn District Plan, is amended in accordance with Appendix A attached to



this determination.

B: Under s 285 of the Resource Management Act 1991, there is no order as to costs in relation to this determination.

C: A decision on the remainder of the appeal will be issued in due course.

## **REASONS**

### **Introduction**

[1] This proceeding concerns an appeal against a decision of the Selwyn District Council on Private Plan Change 72 ('PC72') to the Selwyn District Plan.

[2] PC72 concerns an area of 28.7 hectares of residential development located on the southern boundary of Prebbleton township. The land is bounded by Trices Road, Birches Road and Hamptons Road. PC72 sought changes to the zoning of the land and the insertion of the Prebbleton Outline Development Plan – Area 5 ('ODP') into the District Plan. The ODP includes a section on how stormwater is to be managed.

[3] In their appeal the Drinnans sought that the ODP Map be amended to include part of their property, and that stormwater runoff onto their property be addressed.

[4] On 23 November 2022 the parties filed a memorandum and draft consent order setting out an agreement reached between the parties to resolve this appeal as it relates to the stormwater issue. This part of the appeal was placed on hold pending the hearing of the remainder of the appeal.

[5] The remainder of the appeal was set down for hearing and heard on 19 June 2023. Following that hearing the court has determined to decline the appeal except as it relates to the stormwater issue which has remained on hold. Reasons for the

court's decision are to follow.

### **Resolution of the stormwater issue by consent**

[6] Now that the hearing has concluded, the stormwater aspect of this appeal can be determined. In doing so, the court has considered the consent memorandum and accompanying affidavits of Murray Russell England and Jonathan Guy Clease dated 23 November 2022.

[7] In addition, the court notes that:

- (a) Trices Road Rezoning Group gave notice of an intention to become a party under s 274 of the Resource Management Act 1991 ('RMA' or 'the Act') and have signed the memorandum setting out the relief sought;
- (b) no other person has given notice of an intention to become a party under s 274 of the Act;
- (c) the parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2;<sup>1</sup>
- (d) all parties to the proceeding have executed the memorandum supporting the agreement reached;
- (e) on the information provided to the court, I am satisfied that the orders will promote the purpose of the Act.

### **Outcome**

[8] The appeal is allowed in part to the extent that the Prebbleton Outline Development Plan – Area 5 of Private Plan Change 72 to the Selwyn District Plan,

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<sup>1</sup> See email of A Schulte dated 18 April 2023.

is amended in accordance with Appendix A attached to this determination.

[9] A decision on the remainder of the appeal will be issued in due course.

Jane S.



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**J E Borthwick**  
**Environment Judge**

## **APPENDIX A**

### **Commissioner's Recommended Outline Development Plan Narrative and Plan.**

#### **Prebbleton Outline Development Plan – Area 5.**

##### **Context**

This Outline Development Plan (ODP) covers an area of 28.7ha bounded by Trices Road to the north, Birchs Road to the west and Hamptons Road to the south (the Site). The Site is contained by residential land to the north, rural land to the east, large lot residential to the west, and the Birchs Road Park to the south of Hamptons Road.

##### **Land Use and Density**

A minimum net density of 12 households per hectare (approximately 320hh) shall be achieved, averaged over the Site.

The Living Z (LZ) zone allows for a range of lot sizes, which responds to the context of the surrounding area and supports variety in dwelling styles and diversity in housing typologies including medium density developments.

The ODP provides suitable locations for medium density housing. These will be appropriately located within the Site and adjacent to:

- high amenity open green space that assists in providing a sense of scale, connectivity, and accessibility
- low traffic, high amenity street environments
- primary road corridors with high amenity cycling, pedestrian and /or public transport facilities
- stormwater management areas (SMAs)/ utility reserves

Medium density areas are not specifically shown on the ODP and are to be identified as part of detailed design at subdivision stage. This is to allow for sufficient flexibility and the ability to respond to technical roading and services related matters.

The ODP allows for existing dwellings and related curtilage /garden areas integrated in the final layout if this is required. Larger lots, within the scope of the LZ zone, may be required adjacent to areas where existing trees and or dwellings are retained to allow for slightly larger setbacks avoiding shading. Any reduction in density resulting from this integration can be offset by an increase in medium density areas, or by identifying larger sites retaining existing dwellings and related garden areas as future development areas, provided at subdivision stage, it can be illustrated how these sites can be further subdivided to achieve an average density of 12 hh/ha. Consent notices on these larger site titles may be imposed to require future potential subdivision at this ultimate required density.

At the time of subdivision, consultation with Ministry of Education will consider whether it is appropriate and necessary for any land to be provided for education purposes within the Site, and the appropriateness of any amendments to the ODP to accommodate this.

### **Open Space, Recreation, and Community Facilities**

Two public open spaces are included within the site to add amenity to the neighbourhood, give relief for more compact residential clusters, and provide residents with the opportunity for recreation.

A small neighbourhood reserve is located on the north south primary road just south of Trices Road. This will provide long-term protection for a group of established, specimen trees and will function as the 'green gateway' into the Site. It will also offer a 'spatial break' and casual meeting place for the community.

The SMAs in the south-east of the Site create similar focal points, albeit much larger in scale. The SMAs main purpose will be a utility reserve however the ephemeral nature of these means that they are dry for most of the year and will double as temporary recreational space.

### **Access and Transport**

The arrangement of movement corridors will ensure the proposed future development is:

- integrated with the surrounding context
- anticipates future connection as required
- provides appropriate internal connectivity within the Site.

The roading network is focused around a direct north-south and a direct east-west primary road to facilitate access to the Site and connections to the neighbourhood.

The main north-south route connects Trices Road with Hamptons Road creating a link for vehicles, pedestrians and cyclists between the township and Birchs Road Park. It includes a separate shared pedestrian cycle way to facilitate a separation of these traffic modes and a safe environment for all users.

The second major connection runs east-west through the Site directly linking Birchs Road to future possible residential development to the east of the Site. This route also includes a separate shared pedestrian cycle way.

Birchs Road provides alternative walking and cycling options (including the Rail Trail) to the town centre and the local primary school and will give easy access to the existing public transport route between Lincoln and Christchurch City providing a good alternative to commuting by car.

Further connectivity within the Site and to immediate neighbours is provided through additional local roads (to be confirmed at detail subdivision stage) to all desirable destinations such as the neighbourhood reserve and the SMAs. These roads will provide safe on road cycling options and footpaths to complete the pedestrian and cycle friendly environment. A finer grained connectivity to the surrounding areas is provided via local roads and pedestrian and cycle paths:

- two additional potential road connections to Trices Road
- one additional potential road connection to the east
- one additional shared pedestrian / cycle path (off road) connection to Hamptons Road
- one additional shared pedestrian / cycle path (off road) connection to Birchs Road.

The overarching road layout creates the key connectivity through the Site and integrates new residential development into the existing neighbourhood and wider Prebbleton development pattern along established movement corridors. It provides a variety of different access points into the Site and delivers a well laid out distribution network for the Site with a clear road hierarchy and logical movement patterns. It avoids the creation of vehicular shortcuts through the Site whilst focusing on a high amenity, permeability, and safety for non-vehicular users.

### **Pedestrian and Cycling Network**

Cycling and walking are provided for by a mix of separate dedicated shared cycle and pedestrian paths within the road reserve, and off-road cycle and pedestrian paths through reserve and SMAs. Within the local street network cyclists can safely share the road with vehicles due to the lower traffic movements and introduction of traffic calming measures.

The combination of the pedestrian and cycle provisions allow a safe and enjoyable journey through the residential areas to the sporting and recreational facilities in Birchs Road Park, the neighbourhood reserve, SMAs, neighbouring residential areas, and links to existing pedestrian and cycle paths, including the Rail Trail and cycleway to Prebbleton Domain via Stonebridge Way. The main north-south road connection may present an opportunity to re-route the Rail Trail through the Site subject to consultation with relevant parties and appropriate design at subdivision stage.

A shared pedestrian / cycle path will be provided on Hamptons Road along the Birchs Road Park frontage between the Birchs Road intersection and the main north-south road connection.

A shared pedestrian / cycle path will be provided on Trices Road along the entire frontage that abuts the Site. A safe crossing is to be provided on Trices Road near Stonebridge Way.

Any shared pedestrian / cycle path between private properties is to be of a minimum 10m width with provision for amenity landscaping planting and controls on fencing height and permeability.



### **Road frontage upgrades**

The Trices Road, Birchs Road and Hamptons Road frontages are to be upgraded to an urban standard in accordance with the Council's Engineering Code of Practice. All frontage upgrades are to be developed in consultation with SDC and where suitable provide direct access to properties.

At the time of subdivision, the need for and nature of minor safety improvements at the Trices Road / Birchs Road intersection will be considered in consultation with Selwyn District Council.

### **Edge treatment – Rural**

Edge treatment of rural style fencing and additional landscaping to the eastern boundary will provide an appropriate visual screen and rural character. This is to be addressed via developer covenants at subdivision stage.

### **Edge treatment - Rail Trail**

Where properties have a direct interface with the rail trail and /or a shared pedestrian / cycle way passive surveillance and sightline are to be considered for safety reasons. This is to be addressed via developer covenants at subdivision stage.

### **Edge treatment – Reserves**

The current fencing rules as contained in the Council Fencing Guide will provide appropriate levels of passive surveillance where properties share a boundary with a reserve.

### **Servicing**

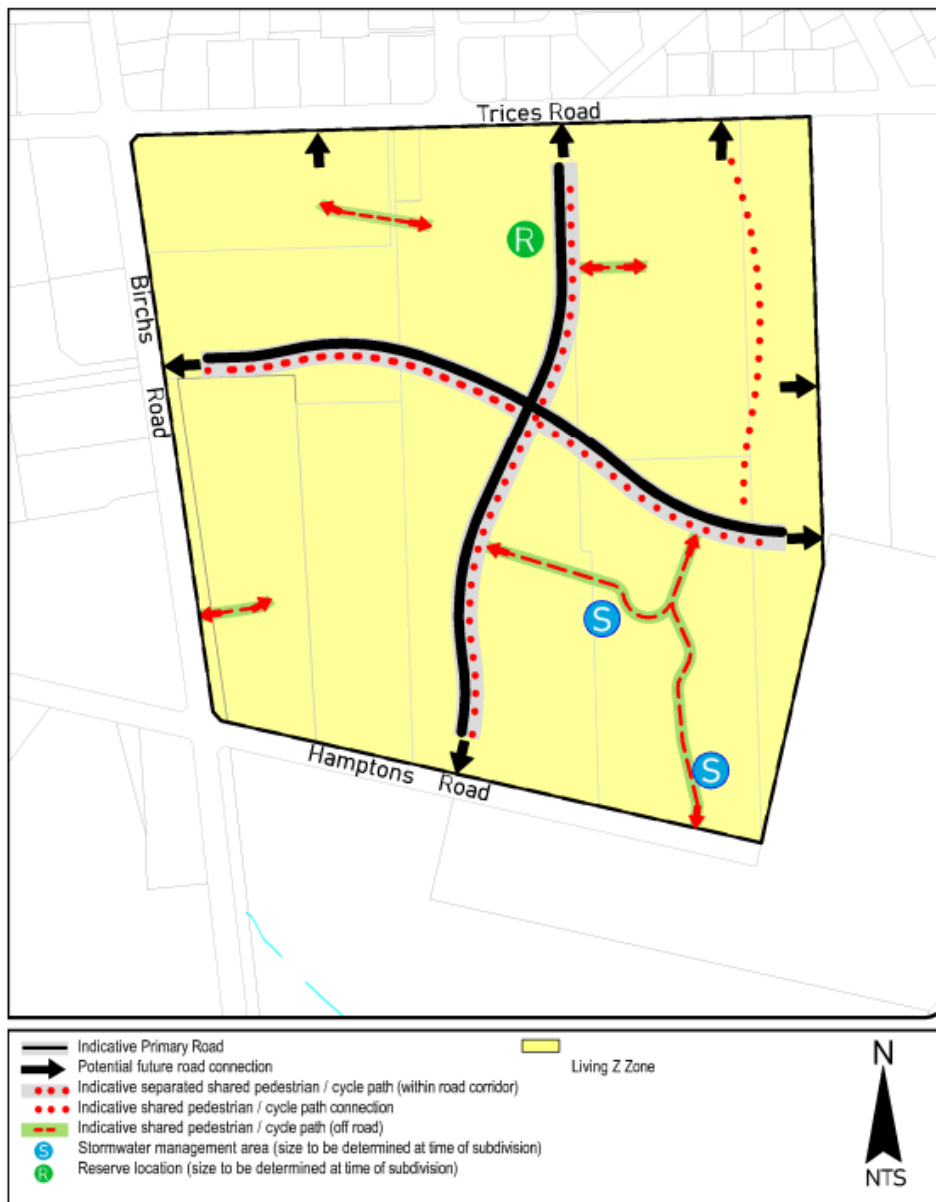
The Site can be serviced by connections into the existing Council services for water and sewer. Allotments will be serviced by a gravity network which in turn will require a new pumpstation.

The stormwater management system is designed to achieve hydrologic neutrality, i.e. peak flows post development match pre-development peak flows. The use of SMAs best achieves that; it has the added advantage of being designed to provide an open recreation space with walkways and appropriate plantings to add to the amenity and quality of the environment within the development. The stormwater

system design takes into account the nature of flooding through the Site.

At subdivision stage providing for Council consent detailed stormwater solutions including (if required) obtaining the legal right, and Canterbury Regional Council resource consents, to locate a stormwater outfall and discharge stormwater onto, or under adjacent landowners land.

## Prebbleton Outline Development Area 5 Operative District Plan - Living Z



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