
Submission on Napier City Proposed District Plan

Form 5 Submission on publically notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Napier City Council - Planning Unit

Date received: 14/12/2023

Submission Reference Number #:131

This is a submission on the following proposed plan (the **proposal**): Napier City Proposed District Plan

Submitter:

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Attachments:

Re-zoning areas.pdf

Re-zoning areas.pdf

Re-zoning areas.pdf

I wish to be heard: Yes

I am willing to present a joint case: Yes

Could you gain an advantage in trade competition in making this submission?

- **Yes**

Are you directly affected by an effect of the subject matter of the submission that

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition

- **N/A**

Submission points

Point 131.1

Section: SUB - Subdivision

Sub-section: SUB - Subdivision - Standards Table

Provision:

SUB-S1: Minimum allotment sizes - residential

General Residential Zone, Medium Density Residential Zone, High Density Residential Zone, precincts or overlays not otherwise provided for elsewhere.	<ol style="list-style-type: none">1. There is no minimum allotment size for the following:<ol style="list-style-type: none">a. any allotment with an existing residential unit, if:<ol style="list-style-type: none">i. either the subdivision does not increase the degree of any non-compliance with the District Plan or land use consent has been granted, andii. no vacant allotments are created.b. any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that:<ol style="list-style-type: none">i. it is practicable to construct on every allotment within the proposed subdivision a residential unit that complies with the standards of the relevant zone, or land use consent is concurrently sought for the infringement to the relevant standard(s), andii. no vacant allotments are created.2. A minimum allotment size of 350 m² applies to any subdivision that creates new vacant allotments.	Activity Status where standards are not met: Non-complying
Large Lot Residential	1,000 m ² minimum allotment size with a minimum average allotment size of 3,000 m ² .	Activity Status where standards are not met: Non-complying
Napier Hill/Mataruahou Amenity Precinct, Marewa Post-War Historic Heritage Overlay, Marewa State Housing Historic Heritage Overlay, Te	500 m ²	Activity Status where standards are not met: Discretionary

Awa Bungalow Historic
Heritage Overlay, Napier
South Historic Heritage
Overlay

Harbour Reserve 150 m²
Historic Heritage
Overlay, Tram Shelter
Historic Heritage Overlay

Activity Status where standards are not met:
Non-complying

Coronation Street 300 m²
Historic Heritage Overlay

Activity Status where standards are not met:
Non-complying

Sentiment: Amend

Submission:

Large Lot Residential: 1,000 m² minimum [allotment](#) size with a minimum average [allotment](#) size of 3,000 m².

The Surveying Company opposes the of provisions in the Proposed District Plan relating to calculation of the average allotment size when subdividing in the Large Lot residential zone. It is our position that the provision of a minimum lot size in a "residential area" is the most appropriate mechanism to balance the provision of housing in these areas with the retention of the character and the protection of the environment is to set a minimum Lot size. Currently only a 4000m² property can be subdivided as a controlled activity.

Relief sought

That the performance standard relating to Large Lot residential be amended to include a minimum lot size only.

Large Lot Residential: 1,000 m² minimum net [allotment](#) size

Point 131.2

Section: SUB - Subdivision

Sub-section: SUB - Subdivision - Standards Table

Provision:

SUB-S3: Minimum allotment sizes - rural

Rural Lifestyle Zone, Mission Rural Residential Precinct	5,000 m ² minimum allotment size with a minimum average allotment size of 1.5 ha. The minimum average allotment size must be calculated using the parent allotment in existence as at 11 November 2000. This parent allotment will be the base for any further proposed subdivision.	Activity Status where standards are not met: Non-complying
Productive Rural Zone, Mission Productive Rural Precinct	4 ha	Activity Status where standards are not met: Non-complying
Rural Special Control Area	50 ha	Activity Status where standards are not met: Non-complying
Settlement Zone	800 m ² fully serviced sites 1500 m ² unserviced sites	Activity Status where standards are not met: Non-complying
Open Space Zones	No minimum	Activity Status where standards are not met: NA

Sentiment: Amend

Submission:

SUB-S3: Minimum Allotment Sizes – rural

Rural lifestyle Zone: 5,000 m² minimum allotment size with a minimum average allotment size of 1.5 ha. The minimum average allotment size must be calculated using the parent allotment in existence as at 11 November 2000. This parent allotment will be the base for any further proposed subdivision.

The Surveying Company opposes the retention of provisions in the Proposed District Plan relating to calculation of the average allotment size of the parent lot as at 11 November 2000 in the Rural Lifestyle Zones. Where this standard cannot be met in the Rural Lifestyle Zone SUB-S1 and SUB-S3 deem subdivision to be a non-complying activity.

Opposition to the parent lot allocation rule is based on the relevance of this provision to subdivision proposals in the Rural Lifestyle Zones. Given that the parent lot allocation rule is linked to site size as at 11 November 2000 the relevance of this provision is unclear particularly when the Rural Lifestyle Zones have very clearly expressed and defined minimum lot sizes.

It is not understood why the Council is requiring the calculation of the minimum average allotment size using the parent allotment in existence over 20 years ago. The significance of this is considered to be important as SUB-S3 provide for subdivision to be considered as a non-complying activity if the subdivision proposal is unable to comply with the parent lot allocation standard. The subsequent preparation of a non-complying subdivision application as opposed to a controlled activity application is significant for landowners, particularly if subdivision applications comply with minimum lot standards in the zone.

It is noted that the Section 32 Report on Subdivision does not include any specific reference to the validity and purpose of retaining the parent lot allocation provisions. It appears that the inclusion of these provisions in SUB-S3 may simply be a roll-over of the provisions from the Operative District Plan.

Relief sought

The relief sought is for the parent lot allocation standards in SUB-S3 to be removed from the Proposed District Plan in recognition of the lack of relevance of these provisions and that standards for minimum lot sizes will achieve the required density standards in the Rural Lifestyle Zone.

SUB-S3: Minimum Allotment Sizes – rural

Rural lifestyle Zone: 5,000 m² minimum net allotment size.

Point 131.3

Section: SUB - Subdivision

Sub-section: SUB - Subdivision - Rules Table

Provision:

SUB-R12: Subdivision on highly productive land

Activity Status: Non-complying

NA

Sentiment: Amend

Submission:

SUB-R12 recognises the importance and significance of the National Policy Statement – Highly Productive Land by providing that subdivision on highly productive land has an activity status of non-complying. While the approach to subdivision on highly productive land in SUB-R12 is understood and supported by The Surveying Company it is questioned if the District Plan could provide some capacity, either as a rule or standard, to enable the Council to consider expert assessment of the existing Land Use Capability mapping on the Hawkes Bay Regional Council Land Use Capability Mapping Portal as

accurate or not.

Given the course scale of the existing Land Use Capability mapping on the Hawkes Bay Regional Council Land Use Capability Mapping Portal and the length of time provided in the National Policy Statement for respective Regional Authorities to map the Land Use Capability land classes in the Regional Policy Statement, there appears to be strong merit in enabling the Council to receive and consider an alternative assessment of the Land Use Capability classes by relevant experts in circumstances where the soils have been either inaccurately mapped as being Land Use Capability 1 – 3 and are in fact not or the scale of the existing mapping is not appropriate on a property by property basis.

While not supporting subdivision of highly productive soils there may be situations in the Napier City Rural environments where land is not able to be subdivided because the land is believed in error to be Land Use Capability Classes 1 – 3. As a result, potentially valuable development opportunities may not be realised.

Relief sought

The submission of The Surveying Company is that the SUB-R12 and related provisions in the District Plan are amended to provide for applicants for subdivisions to provide an independent and expert assessment of mapped highly productive land to ascertain and confirm if the existing Hawkes Bay Regional Council mapping of Land Use Capability Classes is accurate and exact enough to either approve or decline a subdivision application.

The Surveying Company submits that if the Council includes provisions in the District Plan which enable it to consider expert opinion on highly productive land that both the Council and landowners will have confidence that any decisions made on subdivision on these sites will be determined accurately thereby potentially reducing appeals against decisions made by the Council.

It is anticipated that once the Hawkes Bay Regional Council has undertaken the mapping of highly productive land and included these maps in the Regional Policy Statement there may be no need for these suggested provisions to remain in the District Plan.

This submission is supported by Guidance provided by the Ministry for the Environment in March 2023 which states that subdivision of highly productive land must be avoided unless the criteria in Part 3 of the National Policy Statement are met. Approval to subdivision consents can only be granted if the criteria in clause 3.8(1) and (2) or clause 3.10 are met. The key measure of productive capacity depends on the potential capacity of the land to support land based primary production viewed over a 30-year timeframe.

The Ministry for the Environment March 2023 Guidance continues to state that:

'The assessment of productive capacity should be a sufficient level of detail appropriate to the proposal to ensure an informed decision on the application to be reached and needs to be considered over at least a 30-year period. Where the information necessary an assessment is not readily available for the applicant from existing or previous landowners, or where inadequate or contradictory information has been provided, then further specialist input may be requested from suitably qualified and experienced professionals. The experience and qualifications needed will depend on the particular aspect of the proposal the further information relates to. This may for example include economists with expertise in agricultural, agricultural consultants, valuers, soil scientists or other land and water scientists. Territorial authorities may wish to have information that is submitted as part of an application peer reviewed...'

Point 131.4

Section: SUB - Subdivision

Sub-section: SUB - Subdivision - Rules Table

Provision:

SUB-R4: Subdivision to create conservation lots for the protection of scheduled heritage items, archaeological sites, and/or sites of significance to Māori

SUB-R4A

SUB-R4B

Activity Status: Controlled

Activity Status where activity conditions are not met: Non-complying

Where:

1. The subdivision creates a separate record of title exclusively for protection of scheduled heritage items, archaeological sites, and/or sites of significance to Māori;

2. The item or area is protected in perpetuity by way of a legal mechanism registered on the record of title;
3. Compliance with SUB-S1 - SUB-S17 does not apply for the record of title created;
4. The subdivision does not prevent any existing allotment's legal and physical access to a road or limit or interfere with any servicing requirements of the parent record of title, and
5. The record of title created includes a legal and physical means of access for ongoing maintenance of the item and, where appropriate, includes enabling public access.

Matters of control are:

1. Heritage values;
2. Cultural values;
3. Safe, connected, and efficient transport network;
4. Infrastructure servicing and access, and
5. Vesting of the reserve.

Sentiment: Amend

Submission:

It is noted that SUB-R4 provides for subdivision to create conservation lots for the protection of scheduled heritage items, archaeological sites, and/or sites of significance to Māori as a controlled activity.

There is no Rule in the Proposed District Plan providing for subdivision to create a conservation lot in association with the protection of an area of significant indigenous and/or significant habitats of indigenous fauna.

The Surveying Company fully supports the intent of SUB-R4 to provide for subdivision to create a conservation lot in association with protection of historic heritage, wāhi tapu, wāhi taonga or sites of significance to Māori and questions why there is no similar rule in the Proposed District Plan to provide creation of a conservation lot in association with the protection of an area of significant indigenous and/or significant habitats of indigenous fauna.

It is not clear if the omission of a rule to this effect in the Proposed District Plan is because the assessment of indigenous areas and habitats of indigenous fauna and flora has been delayed as Stage II of the review process, as stated in SUB-R6, or if other matters are relevant in this case.

Relief sought

The submission of The Surveying Company is that either as part of Stage II or as part of the current submission process, that a rule providing for subdivision to create a conservation lot in association with the protection of an area of significant indigenous and/or significant habitats of indigenous fauna is introduced into the District Plan. It is noted that the introduction of the National Policy Statement – Indigenous Biodiversity provisions in the District Plan as part of Stage II will be treated as a Plan Change and that there will be an opportunity for public consultation at this time.

Point 131.5

Section: SUB - Subdivision

Sub-section: SUB - Subdivision - Standards Table

Provision:

SUB-S2: Minimum allotment sizes - commercial and industrial

All commercial zones and industrial zones, precincts, and overlays not otherwise provided for elsewhere	No minimum	Activity Status where standards are not met: NA
Large Format Retail Zone	2,500 m ²	Activity Status where standards are not met: Discretionary
Pandora Specific Control Area	Front and corner sites: 1,000 m ² Rear sites: 2,000 m ²	Activity Status where standards are not met: Non-complying

Sentiment: Amend

Submission:

The Proposed District Plan provides for a new minimum site size of 2,500 m². If this standard cannot be achieved the activity status for subdivision falls to discretionary. The current standard in the Operative District Plan is for a minimum Gross Floor Area of 1,000 m² in the Large Format Retail Zone.

The Section 32 Report on Commercial and Industrial Activity does not clearly explain why the Proposed District Plan has adopted a minimum site size approach in preference to the current gross floor area requirements or the reason for setting the allotment size at 2,5000 m².

Relief sought

It is submitted that the change in compliance from a minimum gross floor area to a minimum allotment size and the scale of the areas involved is a significant shift for owners and operators in the Large Format Retail Zone. The relief sought is that the District Plan include transitional provisions to enable a period of adjustment to the new minimum allotment sizes to avoid subdivision being a discretionary activity during the transition period.

Point 131.6

Section: RLZ - Rural Lifestyle Zone

Sub-section: RLZ - Rural Lifestyle Zone - Standards Table

Provision:

RLZ-S2: Yards

Rural Lifestyle Zone

Matters of discretion are:

Purpose: to protect rural character and amenity; to manage effects on water; to manage bank stability and public safety.

1. Front yards:
 - a. no part of a building (including eaves and guttering) is erected closer than 7.5 m from the road boundary.
2. Side and rear yards:
 - a. no part of a building is erected closer than 6 m from any side or rear site boundary.

1. Scale, height, bulk, setbacks and built form;
2. Rural characteristics and economic values;
3. Amenity values;
4. Spaces between structures and buildings;
5. Rural characteristics of the zone;
6. Risk to public health and safety and the environment, and
7. The effects on the quality, maintenance, use, and protection of a watercourse or open drain.

Sentiment: Support

Submission:

The proposed front, side and rear boundary yard setbacks are supported by The Surveying Company. The setback distances as stated provide for a minimal area, particularly in the rural zones on HPL, to be lost to production while still maintaining an adequate setback to provide for reverse sensitivity effects on neighbouring properties.

It is noted that the yard setbacks are a role over from the Operative District Plan which suggests that the setbacks standards have achieved the objectives and policies of the District Plan. Retention of these standards is therefore supported as both a way of minimising the area of potentially productive land to curtilage development and protecting a limited land resource particularly in the Rural Lifestyle Zone.

Relief sought

N/A

Point 131.7

Section: RPROZ - Rural Production Zone

Sub-section: RPROZ - Rural Production Zone - Standards Table

Provision:

RPROZ-S1: Yards

Rural Production Zone

Matters of discretion are:

***Purpose:** to protect rural character and amenity; to manage effects on water; to manage bank stability and public safety.*

1. Front yard:
 - a. no part of a building (including eaves and guttering) is erected closer than 7.5 m to the road boundary.
2. Side and rear yards:
 - a. no part of a building is erected closer than 6 m from any side or rear boundary.

1. Scale and intensity of land use;
2. Scale, height, bulk, setbacks, and built form;
3. Risk to public health and safety and the environment;
4. Cumulative effect;
5. The effects on rural character;
6. The effects on public health and safety;
7. The effects on amenity values, and
8. The effects on matters of reverse sensitivity.

Sentiment: Support

Submission:

The proposed front, side and rear boundary yard setbacks are supported by The Surveying Company. The setback distances as stated provide for a minimal area, particularly in the rural zones on HPL, to be lost to production while still maintaining an adequate setback to provide for reverse sensitivity effects on neighbouring properties.

It is noted that the yard setbacks are a role over from the Operative District Plan which suggests that the setbacks standards have achieved the objectives and policies of the District Plan. Retention of these standards is therefore supported as both a way of minimising the area of potentially productive land to curtilage development and protecting a limited land resource particularly in the Rural Lifestyle Zone.

Relief sought

N/A

Point 131.8

Section: Planning Maps

Sentiment: Amend

Submission:

Re Zone - GRZ-General Residential Zone and MRZ-Medium Density Residential Zone - Napier South Area

The areas outlined in on page 1 should be re-zoned as Medium Density Residential and not as General Residential. We believe that Medium Density Residential is an appropriate zone for these areas which includes the southern section of Marine Parade and Waren Street/Hastings Street as both areas are located immediately adjacent to Medium Density Residential Zones and appear of similar character and nature.

In addition, these areas are located in close proximity to Open Space Zones, providing public green spaces for people living in medium density development and being relatively close to the Napier CBD have accessible and efficient connections to local amenities and facilities.

Relief sought

The relief sought is for the areas identified in Figures 1 and 2 to be re-zoned from General Residential to Medium Density Residential.

Point 131.9

Section: Planning Maps

Sentiment: Amend

Submission:

Rural Zones – SETZ-Settlement Zone and RPRZ-Rural Production Zone

Figure 3 shows the proposed re-zoning of land in the general Willowbank Avenue/Meeanee Road/Gavin Black Street as Rural Production Zone. While the significance of highly productive land is understood and appreciated through the NPS-HPL it is questioned why the Proposed District Plan maps three quite small and isolated areas of land in this part of the district as Rural Production.

Given the adjacent land uses and the actual land uses within the areas identified in Figure 3, which includes the Meeanee Hotel and carpark, the Meeanee School and Meeanee Playgroup the zoning of this land as Rural Production seems questionable and may not provide for the best or ideal planning outcomes. Although there are limited areas of open land which may be productive the proximity of these areas of potential productive land in close proximity to the school, playgroup and hotel may effectively limit its productive capacity.

In addition, the surrounding land which is zoned as Settlement is quite highly developed for residential land use which may inevitably result in reverse sensitivity issues when the highly productive land, as identified in Figure 3, is used for highly productive land purposes

Figure 4 shows the location of land on Riverbend Road which is also zoned Rural Production in the Proposed District Plan. Much of this land has been used for residential development and has been historically since the 1931 Earthquake. The land in this area is physically separated from the surrounding Rural Production Zone by the Riverbend Road, Willowbank Avenue and the cross-country drain making its integration into rural production questionable.

The same effects of reverse sensitivity as discussed above in relation to the Meeanee Road Settlement Zone are also relevant in

this situation.

Relief sought

The relief sought is for the land identified in Figure 3 to be re-zoned from Rural Production to Settlement Zone.

The relief sought is to re-zone the land identified in Figure 4 as Settlement Zone.

Point 131.10

Section: Planning Maps

Sentiment: Amend

Submission:

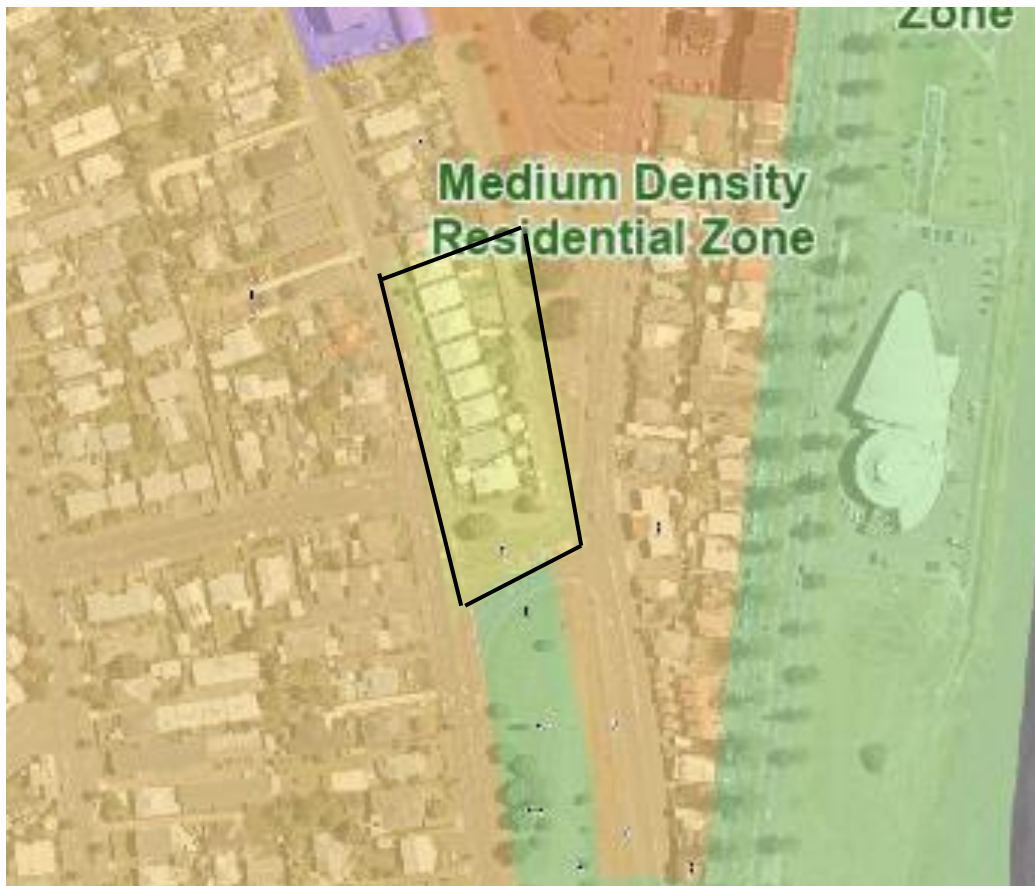
Rural Lifestyle – Settlement Zone in Bay View

Figure 5 shows three separate plans of the proposed zoning of several areas in the Bay View community as Rural Lifestyle. Our submission is that these areas of Bay View are not considered to be lifestyle in either character or size. The density of existing residential development is not representative of a lifestyle zone and the amenity is that of a residential area.

Relief sought

The relief sought is that the areas marked be re-zoned as Settlement Zone.

Areas current zone General Residential that should be re-zoned Medium Density Residential

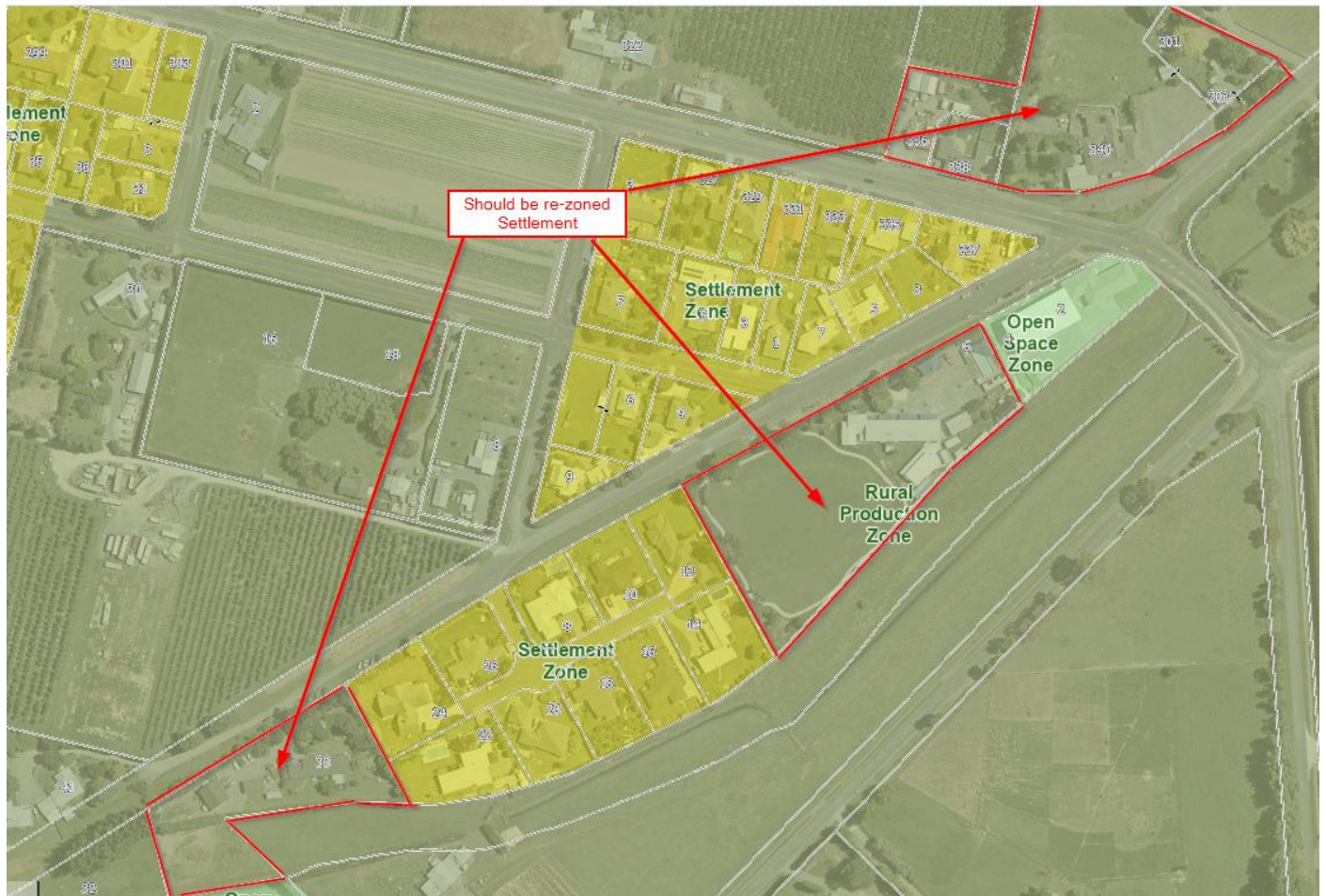


Reasons

1. They are located adjacent to existing medium density zones.
2. They are located adjacent to Open Space zones.
3. They are close to the CBD and have good connections to the local amenities.
4. The character of these areas is already medium density.
5. The proposed zoning is out of context with the current character of the area.

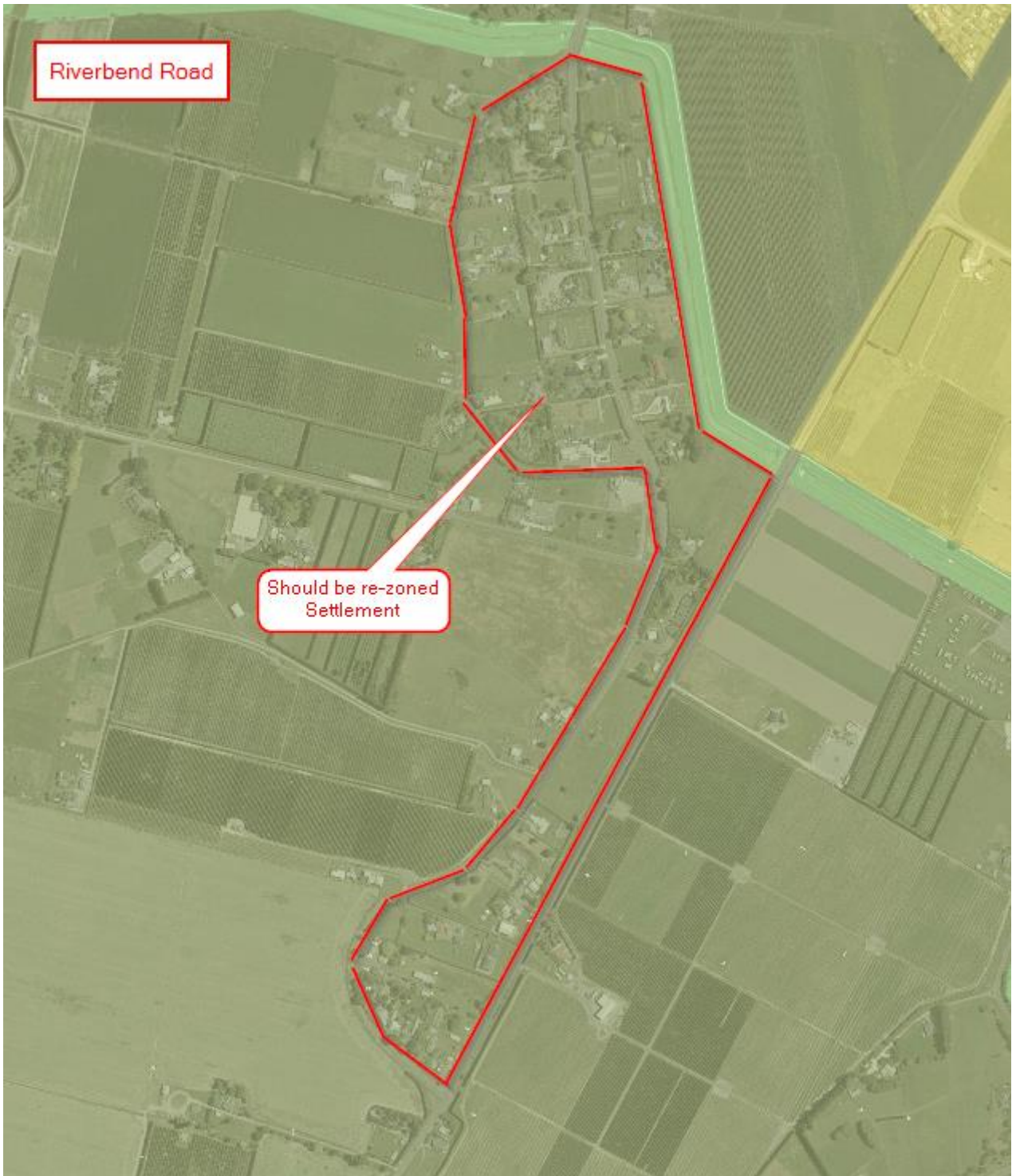
Areas to be re-zoned Settlement

Search for an address...



Reasons

1. They include land that is current used in a settlement context.
2. Includes a school, which is highly unlikely to be used for rural production.
3. Includes a local pub (who's activity is more appropriately address by the settlement zoning).



Reasons

1. The land is current used in a settlement context and has been since before the earthquake in 1931.
2. The location of Riverbend Road, Willowbank Avenue and the cross-county drain, make integrating this land back into rural production near on impossible.





Reasons

1. The historic use of this area is not rural lifestyle and has none of the characteristics of rural lifestyle. Therefore, it is an inappropriate zoning.