

**SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR  
POLICY STATEMENT OR PLAN, CHANGE OR VARIATION**

*Clause 6 of First Schedule, Resource Management Act 1991*

**To:** Timaru District Council  
2 King George Place  
**TIMARU**

**Name of submitter:** Port Bryson Property Limited and Hilton Trust Limited

1. This is a joint submission on proposed Plan Change 21 to the Timaru District Plan (Broughs Gully Outline Development Plan) (**Proposal**).
2. Port Bryson Property Limited owns the property described as Lot 1 Deposited Plan 77099 and Hilton Trust Limited owns the adjacent property described as Lot 1 Deposited Plan 23147. The land owned by Hilton Trust Limited is within the Outline Development Plan area affected by the Proposal.
3. Port Bryson Property Limited and Hilton Trust Limited (**Submitters**) are not trade competitors of Timaru District Council (**Council**) and could not gain an advantage in trade competition from this submission.
4. This submission relates to the Proposal in its entirety.
5. The Submitters do not support the Proposal in its current form, for the reasons set out in this submission.
6. In summary, the Submitters:
  - a. oppose the Stormwater Retention Ponds and Swales area (identified in green on the proposed Outline Development Plan) to the extent that it covers the land owned by the Submitters;
  - b. oppose the Sewer (identified in red on the proposed Outline Development Plan) to the extent that it covers the land owned by the Submitters;
  - c. oppose the use of the "rounded" cul-de-sac (identified as Road 3 on the proposed Outline Development Plan); and
  - d. oppose Rule 5.B.1 (impervious/hardstand surfacing);
  - e. oppose Rule 6.3.8(19) (vesting of infrastructure);
  - f. oppose Rule 6.6.5(2) (cost share agreement); and
  - g. oppose all other provisions that refer to Appendix C of Part D2 as currently proposed.
7. The background to and reasons for this submission are set out below.

**Introduction**

8. Situated on the land owned by Port Bryson Property Limited is a commercial development comprising commercial shops and a self-storage facility known as Timaru Storage.

9. In July 2007 the land to the west of the Port Bryson property was offered for sale, and was purchased by Hilton Trust Limited. The purpose was strategically important as it provided land on which Timaru Storage might be able to expand its operations on in the future. It also provided a buffer around and future development area for the storage activity.
10. Hilton Trust Limited lodged a resource consent application with the Timaru District Council (**Council**) for subdivision in February 2016. Consent was sought for a controlled activity. Attached and marked "A" is a copy of the Subdivision Plan.
11. Proposed Lot 7, as shown on the Subdivision Plan, is the likely area on which the storage facility will expand in the future. A resource consent application to enable the expansion of the storage area was lodged with Council on 17 February 2017.
12. Since the subdivision application was lodged with Council, Hilton Trust Limited has been working with the Council to provide all required information in the expectation that consent would be granted and the Submitters could develop the land owned by the Trust in accordance with the subdivision plan.
13. Hilton Trust Limited has expended significant funds attending to the Council's requests for further information in relation to the subdivision consent, and lodged its final response with Council on 17 February 2017.
14. As a controlled activity, Council must approve the application for resource consent for subdivision. In those circumstances, the resulting subdivided land will form a part of the environment against which the Proposal falls to be considered.
15. The Proposal, if accepted in its current form, will preclude expansion of the storage area, and residential development on proposed Lot 8.

### **Submission**

16. The reasons for this submission are as follows:
  - a. The Submitters consider that the Proposal:
    - i. Does not represent an efficient and effective use of land;
    - ii. Is not equitable as between land owners affected because some properties contain no Stormwater Retention Ponds and Swales areas, but still retain the ability to derive a benefit from the use of the services these areas may provide; and
    - iii. Restricts the landowner from undertaking otherwise permitted land use following the approval of the subdivision consent.
  - b. Overall, the Plan Change:
    - i. Will not meet the reasonably foreseeable needs of future generations;
    - ii. Will not enable social, economic and cultural wellbeing;
    - iii. Is not, having regard to efficiency and effectiveness, the most appropriate way of achieving the objectives under section 32 of the Resource Management Act 1991 ("RMA");
    - iv. Does not represent an efficient use (and development) of natural and physical resources; and
    - v. Will not achieve the purpose and principles of the RMA and will be contrary to Part 2 and other provisions of the RMA.

17. In particular, without limiting the generality of the above:
  - a. The location of both the Stormwater Retention Ponds and Swales area and Sewer should be distributed in a more equitable manner so that the burdens and benefits of the infrastructure are more equitably distributed throughout all of the land affected by the Proposal.
  - b. In addition, any vesting of private land for a wider community benefit is an inappropriate and inequitable burden on the Submitters given the Submitters already have significant existing infrastructure in place. For example, they already have a pumping station located on their land to pump sewer to the Council sewer main.
  - c. As currently proposed, the location of the sewer line would inappropriately interfere with the Submitters' proposed subdivision, expansion and development plans.
  - d. The proposed cost share agreement in Rule 6.6.5(2) is incomprehensible, does not account for existing infrastructure already in place and is uncertain.
  - e. The Submitters' alternative proposal (as illustrated on the preliminary subdivision plans attached as Appendix A) to replace the "rounded" cul-de-sac design with a "hammerhead" design is more appropriate for the limited number of lots the cul-de-sac services, and represents a more efficient use of land.
  - f. The Section 32 Evaluation is inadequate, including that it:
    - (i) Fails to identify other reasonably practicable options of achieving the objectives of the Proposal. In particular, other options for locating stormwater infrastructure have not been appropriately considered in light of the state of the existing environment and the imminent granting of the subdivision consent;
    - (ii) Fails to assess the efficiency and effectiveness of the provisions in achieving the objectives of the Proposal; and
    - (iii) Fails to identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions. In particular, the costs of locating stormwater and sewer infrastructure on the Submitters' land.
18. The Submitters oppose the Outline Development Plan and provisions of the Proposal that require future land use development and subdivision to be in accordance with the Outline Development Plan in the form it was notified.
19. The Proposal fails to implement the objectives and policies in the Timaru District Plan.
20. The Proposal is contrary to the purpose and principles of the Resource Management Act 1991.

## **Relief**

21. The Submitters seek the following relief:
  - a. That the Proposal is rejected in its entirety.
22. Alternatively, the Submitters seek:

- a. that the Stormwater Retention Ponds and Swales areas identified in the Outline Development Plan insofar as they are located on the Submitters' land be deleted and be accommodated on other land affected by the Proposal;
  - b. that the location of the Sewer on the Outline Development Plan insofar as it is shown on land owned by the Submitters be deleted, or in the alternative, that the Sewer be re-routed so that it does not interfere with the proposed future development of the Submitters' property;
  - c. that the "rounded" cul-de-sac design be replaced with the Submitters' proposed "hammerhead" design (as illustrated on the preliminary subdivision plans attached as Appendix A);
  - d. that Rule 5.B.1 (impervious/hardstand surfacing) be deleted;
  - e. that Rule 6.3.8(19) (vesting of infrastructure) be deleted;
  - f. that Rule 6.6.5(2) (cost share agreement) be deleted; and
  - g. any other or consequential relief necessary to address the Submitters' concerns.
23. With respect to all of the specific items of relief set out in the paragraphs above, the Submitters' seek any consequential amendments necessary to the objectives, policies, methods or other provisions in order to give full effect to the relief sought.
24. The Submitters wish to be heard in support of this submission.
25. If others make a similar submission, the Submitters would consider presenting a joint case with them at any hearing.

Signed for and on behalf of the Submitters by:



.....  
P A C Maw

Solicitor for Submitter

**Date:** 17 February 2017

**Address for service:** Wynn Williams  
Level 5, Wynn Williams House, 47 Hereford Street, Christchurch  
8013  
P O Box 4341  
**CHRISTCHURCH 8140**

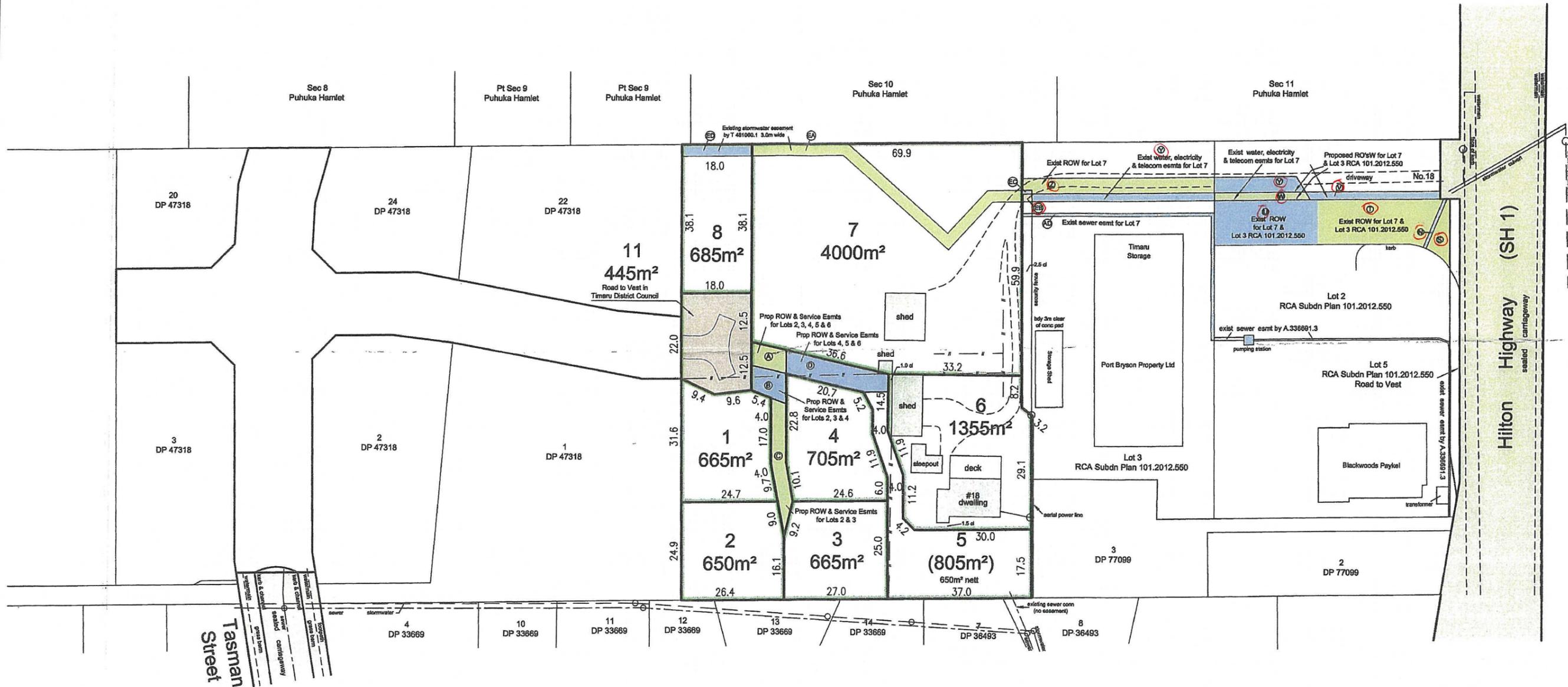
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Contact person: Philip Maw

## Appendix A

| PROPOSED EASEMENTS  |       |                   |                   |
|---|-------|-------------------|-------------------|
| Purpose   | Shown | Servient Tenement | Dominant Tenement |
| Right of Way  | A     | Lot               | Lots 2,3,4,5 & 6  |
| Right to convey water, electricity, telecommunications & computer media | B     | Lot               | Lots 2,3 & 4      |
| Right to drain sewage and water   | C     | Lot               | Lots 2 & 3        |
|   | D     | Lot               | Lots 4,5 & 6      |



- NOTES:**
- Refer to RCA Subdivision Plan 101.2012.550 for existing easement schedules.
  - Existing Easements N, S, T, U, V, W, X, Y, Z, EB & EF are to be cancelled in respect of Lots 1-6, 8 & 11 on this plan.
  - Full Engineering Plans and design for the Tasman Street Extension and the servicing of Lots 1-8 to be submitted by Milward Finlay Lobb Ltd



**PRELIMINARY PLAN ONLY**

Area and Dimensions Approximate  
and subject to final survey

VALUATION REF: 24930/110.00

**TIMARU DISTRICT**

Z:\\_2013 Drawings\Hilton Development Trust 168911\_1\Hilton Development Trust RCA.dwg

This plan has been prepared for the sole purposes of obtaining subdivisional consent pursuant to Section 88 of the Resource Management Act 1991. Use of this plan for other purposes or its reproduction in part or in full is not permitted without the prior consent of Milward Finlay Lobb Ltd.

|                                  |  |                   |  |  |  |  |  |                |  |
|----------------------------------|--|-------------------|--|--|--|--|--|----------------|--|
| SCALE : 1:750 @ A2               |  | Date : March 2013 |  | Resource Consent Application<br>Proposed Subdivision of Lot 1 DP 23147 & Lot 1 DP 77099<br>(Lot 4 RCA Subdn Plan No. 101.2012.550) |  | <b>MILWARD FINLAY LOBB LTD</b><br>Consulting Civil & Structural Engineers,<br>Registered Professional Surveyors & Land Development Consultants<br>P O Box 434, No.6 The Terrace, Timaru<br>p: (03) 684 7688 e: admin@mflnz.co.nz www.mflnz.co.nz |  | Client/Job No. |  |
| Applicants: Hilton Trust Limited |  | Surveyed RGF      |  |  |  |  |  | 168911/1       |  |
| C/- Bruce Pipe                   |  | Drawn CJB         |  |  |  |  |  |                |  |
| P O Box 737 Timaru 7940          |  | Amended           |  |  |  |  |  |                |  |
|                                  |  | Amended           |  |  |  |  |  | Sheet 1 of 1   |  |