

**BEFORE HEARINGS COMMISSIONERS
IN HURUNUI**

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

Notified resource consent applications **RC220060** and **RC220072** for subdivision and land use consent for Stages 3-6 of a multi-staged residential development known as "The Clearing" located at 64 Amberley Beach Road and 187 Carters Road, Amberley

BETWEEN

UWC LIMITED

Applicant

AND

HURUNUI DISTRICT COUNCIL

Consent authority

STATEMENT OF EVIDENCE OF DAMIENNE DONALDSON

Commissioner: Dean Chrystal (Chairperson)

Commissioner: Dave Smith

INTRODUCTION

1. My full name is Damienne Marie Donaldson. I am the Principal Planner at Davis Ogilvie and Partners Limited, a Christchurch based survey, engineering, and planning consulting company.
2. I hold a Bachelor of Science Degree from the University of Canterbury and a Post Graduate Diploma in Resource Studies from Lincoln University. I am an Associate Member of the New Zealand Planning Institute.
3. I have 15 years' experience in resource consenting and planning processes from a private consultancy perspective. Experience of particular relevance to this application includes preparation of resource consent applications including assessments of environmental effects for large multi-staged subdivisions, and residential and rural land uses.
4. I have been involved with The Clearing development since August 2021. I attended a meeting (via teams) with Council planning staff to discuss the application. I prepared the assessment of environmental effects (AEE) report that accompanied the resource consent application lodged in May 2022.
5. I have visited and I am familiar with the Application Site.

SCOPE OF EVIDENCE

6. My evidence relates to the resource management issues that arise from the proposal of UWC Limited ("the applicant") and addresses them in the context of the relevant statutory considerations.
7. I have read the submissions lodged, (including the late submission) as well as s42A Officers Report prepared by Ms Bennett on behalf of the Hurunui District Council ('the Council').
8. The structure of my evidence is set out as follows:
 - The application site and its surrounding context;
 - The proposal;
 - Post-notification changes to the Application;
 - Relevant Planning framework;
 - Matters raised by submissions;

- Matters raised in the s42A Report;
- Effects on the environment; (AEE)
- Objectives and Policies;
- Assessment of other relevant matters;
- Part 2 of the RMA;
- Conclusions.

9. My conclusions have been informed by the opinion of the following experts who are also presenting for the applicant:

- Mr Wayne Gallot, Senior Transportation Engineer
- Mr Dave Compton-Moen, Urban Designer and Landscape Architect.
- Ms Anne Wilkins – Landscape Architect and Urban Designer
- Mr Gary Stevenson – Principal Civil Engineer

CODE OF CONDUCT FOR EXPERT WITNESSES

10. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court’s 2023 Practice Note. While this is not an Environment Court hearing, I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SUMMARY OF EVIDENCE

11. The subdivision application relates to a 201-lot subdivision at 64 Amberley Beach Road and 187 Carters Road, Amberley. This application forms Stages 3 to 6 of the overall development known as “The Clearing.”

12. The proposal requires consent as a non-complying activity under the District Plan. These matters have been addressed in the application and my supporting planning evidence.

13. The application is not supported by the Council's planner, who has recommended declining the application. In particular in relation to Amberley's country town character, residential character, and amenity. Whilst considering effects on and arising from traffic/transportation, earthworks and construction, heritage values, cultural values, potential soil contamination, and servicing (water and wastewater), and capacity for smaller allotments (in part), can be managed through conditions of consent.
14. Potential adverse effects of the development can be adequately avoided, remedied, or mitigated.
15. Twenty submissions have been received. One in support, seventeen in opposition and two neutral. These matters have been discussed in the Council report and in this brief of evidence.
16. When considered, as a whole, the proposal is not contrary to the relevant objectives and policies of the Hurunui District Plan (District Plan).
17. The proposal meets the purpose and principles of the Resource Management Act 1991 (the Act) and can be approved subject to appropriate conditions.

THE APPLICATION SITE AND ITS CONTEXT

18. The application site and surrounding environment are detailed within the application document¹, with further additional points included within Ms Bennett's report². For this reason, I will not provide a detailed description of the site or surrounding environment here.
19. I highlight key matters in relation to the site and the surrounding environment.

¹ Davis Ogilvie Application Document Section 2

² Officer's s42A Report, Para's 15-20

20. The application site is located at 64 Amberley Beach Road, and 187 Carters Road, comprises two allotments, legally described as Lots 2 and 3 DP 559093. The application site is comprised of approximately 32.7344 ha of which 19.8801 ha will be developed as part of this application.
21. 4.8635 ha of the site at 64 Amberley Beach Road forms Stages 1 and 2 of the development, consented under RC210185. 187 Carters Road is currently used for pastoral farming.
22. The site is a large greenfield area zoned by the Hurunui District Plan identified for future residential development as part of Plan Change 13.
23. The site is zoned Residential 1 (Amberley) within the defined urban boundary of Amberley Township. The proposed development promotes the pattern of land subdivision which meets the anticipated needs of future generations. The 2021-2031 LTP predicts the population growth of the Hurunui District to increase by 4970 in the next 20 years. This results in a forecasted average of 47 units required per year in Amberley Township as per the LTP. As such, the proposal provides for sustainable management of the urban form and growth within the defined settlement boundary.
24. A number of key outcomes anticipated within the Residential 1 (Amberley) zone relate to maintenance of amenity values, provision of open spaces and retention of character.
25. The application site is flat lying pastoral farmland. The site features an abandoned river meander referred to as Dry Gully which forms incised channels through the southern half of the site. A man-made drainage channel (Teviots Drain) passes through the centre of the site.
26. Amenity values are enhanced by the extensive greenspaces, that respond to the natural topography of the site. The retention and incorporation of these features within the subdivision design respects the character, values, and natural and physical resources.

27. The site is on the southern extent of the Amberley township. The site is bounded to the west by State Highway 1 (SH1), to south by farmland, to the north is currently being developed as a comprehensive retirement village, to the east is Stages 1-2 of The Clearing, currently under construction.
28. The section of SH 1 adjacent the application site is a gazetted limited access road (LAR).

BACKGROUND

29. The subdivision application was lodged with the Hurunui District Council (HDC) 16th May 2022 ³ and Consent under the NESCS on the 1 June 2022.
30. The first request for further information was received from Ms Bennett on the 16 June 2022 and a subsequent request 23 June 2022.⁴
31. A response to the RFI was provided on the 3 August 2022 with a request for the application to be publicly notified.
32. The proposal was publicly notified on 18 August 2022, with the submission period closing 16 September 2022.
33. On the 20th of October 2022 email correspondence was received from Ms Bennett advising pursuant to s91 of the RMA the processing of the application has been put on hold pending site specific surface water discharge consent being made to Canterbury Regional Council.
34. On 16 March 2023 Ms Bennett was advised that all relevant applications had been made to the Regional Council. The applicant requested processing of the consent recommence.
35. On the 3rd of April 2023 Ms Bennett confirmed that having reviewed the consents⁵ lodged with the Regional Council processing of the application would recommence.

³ Submitted application, Davis Ogilvie

⁴ Email Correspondence, Helga Bennett

⁵ Email Correspondence, Helga Bennett

THE PROPOSAL

36. The proposal is set out in detail in the application document⁶, the evidence of Mr Gallot, Mr Compton-Moen, Ms Wilkins, and Mr Stevenson and summarised again in Ms Bennett's Officer's report⁷. I rely on these descriptions, evaluations, and evidence.
37. The application site area is 32.7344 ha, of which 19.8801 ha is the development area of Stages 3 to 6.
38. In summary, the proposal seeks to subdivide 19.8789 ha and undertake a multi-staged development. The proposal forms Stages 3 to 6 of the development known as "The Clearing."
39. The Clearing is a master planned community within the Amberley Settlement. The concept behind the subdivision is to create a range of allotment sizes within a sustainable development in order to provide housing choice in proximity to the existing and future amenities of Amberley. The layout is based on a modular form of design which maximises exposure to the north, generally eliminates cul-de-sacs and irregular shaped sections. An extensive green network with dual functions provides amenity for future residents. Resulting in a high-quality residential environment.
40. The subdivision seeks to create:
 - 201 fee simple allotments (Lots 124 to 324) over four stages ranging in areas from 400m² to 1028m².
 - One balance lot (Lot 5000).
 - Two local purpose (utility) reserves to vest (Lot 3004 and 3005).
 - Three local purpose (stormwater) reserves to vest (Lots 3006 to 3008); and
 - One access lot to vest (Lot 602).
 - Six roads to vest (Lots 1002 to 1007).

⁶ Davis Ogilvie Application Document Section 3

⁷ Officer's s42A Report, Para's 9-14

41. Bulk earthworks are required to facilitate the development of the site. Earthworks will be undertaken in accordance with NZS 4431:1989 2022 – New Zealand Standard for earthworks.
42. The development will connect to Councils reticulated wastewater and water supply reticulation. Two stormwater management areas, for the treatment and attenuation of stormwater will be provided in the south, south-western portion of the site.
43. The proposal incorporates a proposed internal roading network that will connect to Carters Road (SH1) via a planned new road and intersection, and to Amberley Beach Road via the consented Stage 1-2 road network.
44. A concept landscape design has been prepared by Novo Group. The concept plan forms part of the master plan and urban design. A 3 m high acoustic barrier is proposed along the Carters Road (SH1) frontage.
45. The urban design assessment and masterplan application are detailed within the application document⁸. For this reason, I will not provide a detailed description here.
46. Consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) is required.

POST NOTIFICATION CHANGES TO THE APPLICATION

47. Since notification of the Application, a number of design amendments have been made in response to HDC officer requests and through further detailed engineering design.
48. The following changes have been incorporated:
 - The proposal no longer discharges roof water to ground via individual soak pits. Stormwater will be drained via a traditional system of pipes and inlets to a stormwater management area.

⁸ Davis Ogilvie Application Document Section 3 and Appendix 8

- Regional Council consents have been sought for construction related activities and post construction stormwater discharge. (CRC233912-CRC233917).

49. Further changes have been made following receipt of Ms Bennett's s42A report. These are set out below.

- Updated scheme plan, Dwg 301-304 Issue D (Appendix 1):
 - Removal of 2 lots (Lots 257 and 258); reducing the residential allotments for the development from 201 to 199
 - Lot 253 increased in area from 678 m² to 860 m²
 - Lot 254 increased in area from 771 m² to 796 m²
 - Lot 255 increased in area from 580 m² to 700 m²
 - Lot 256 reduced in area from 720 m² to 700 m²
 - The extension of the stormwater reserve adjacent Lots 253 to 256. Allowing for a 11 m wide secondary flow path from Carters Road.
- Updated Masterplan
 - Provision of post and rail fencing along the rural boundary
 - Provision of post and rail fencing along reserves
 - Allowance for dwellings up to 8 m in height and two storeys, (excluding sites within the noise restriction areas).

50. Ms Wilkins, Mr Compton-Moen, and Mr Stevenson discuss these design amendments (as relevant to their areas of expertise) in more detail in their respective statements, and revised drawings are attached to Ms Wilkins, and Mr Stevenson's statements. My evidence is based on the Application as amended by these changes.

51. In addition, the applicant received a number of requests (informally) for further information or clarification post lodgement. These requests sought clarification on various minor matters in order to better understand the proposal. The requests provided to Council did not alter

the substance of the proposal. It simply provided greater detail that was sought by Council. These are as follows:

52. In accordance with the requirements of the NESCS a Remedial Action Plan (RAP) was requested. Davis Ogilvie's Technical Director / Environmental Scientist prepared the RAP which detailed proposed remedial works and set out management and monitoring requirements to be implemented during disturbance of soils.
53. On behalf of Council Engineers' Ms Bennett requested engineering detail in relation to earthworks and wastewater plans and longitudinal sections.
54. The evidence demonstrates that the design amendments have had a positive impact on the overall design and outcome of the Application. The design amendments serve to minimise potential adverse effects on the existing and receiving environment.
55. In my opinion the above alteration and additions to the proposal are within the scope of that which was publicly notified. The changes serve to reduce the effects of the Application and respond directly to concerns expressed by HDC experts, officer's report, and submitters. No new non-compliances arise. The activity status remains the same as the notified Application being non-complying.
56. In my opinion the changes do not disadvantage any person currently, or who may have otherwise chosen to be, a party to these proceedings. Accordingly, I believe the Commissioner(s) has the authority to consider the amendments within the scope of the Application.
57. All other aspects remain unchanged from that contained in the Application as notified and as assessed by the s42A Report.

CONSULTATION

58. As stated in Mr Hope-Pearson's evidence, Mr Hope-Pearson has not undertaken consultation with other parties. No affected party approvals have been sought.

59. Mr Gallot undertook consultation with Waka Kotahi NZ Transport in relation to the planned connection to the State Highway and estimated traffic generation and operation of the planned new link road connection to the state highway as well as the existing Carters Road (SH1) – Amberley Beach Road intersection. Waka Kotahi advised in correspondence dated 2nd May 2022 to Mr Gallot they agree in principle to the proposed development.

PLANNING CONTEXT AND ACTIVITY STATUS

60. The site is zoned Residential 1A within the Amberley Settlement under the Hurunui District Plan. It is noted that all rules applicable to this application are operative.
61. The AEE⁹ contains a comprehensive assessment of the application against the relevant rules of the District Plan, as does the section 42A report¹⁰.
62. Ms Bennett addresses the relevant Hurunui District Plan rule non-compliances in Paragraph 21 to 35 of her report. I generally concur with the listed non-compliances, including the status of the activity being non-complying pursuant to the following District Plan rule breaches:
- Rule 5.5.9 (1) Lots Sizes – 12 lots adjoining the Rural zone are less than the minimum lot area. The subdivision average lot area is not met.
 - Rule 5.5.9 (1)(a) – The percentage minimum area threshold of 20 % of lots less than 700 m² is exceeded.
 - Rule 5.5.9 (2) – 19 Lots do not provide a minimum shape factor of 15 m x 15 m.
 - Rule 5.5.11.1(a)(ii) - Three of the four stages exceed the 40 lot per stage quantum threshold.
 - Rule 5.5.12(b) – The site is identified as contaminated.

⁹ Davis Ogilvie Application Document Section 4

¹⁰ Officer's s42A Report, Para 21 to 35

63. Pursuant to Rule 5.5.13.2 the proposal is a non-complying activity in terms of rule 5.5.13(a), (c), and (d).
64. There are also a number of discretionary and restricted discretionary non-compliances that are detailed in both the application document and summarised in Ms Bennett's report.
65. There are two non-compliances identified in Ms Bennett's¹¹ report that were not identified in the applicant's original application. This relates to yard setbacks and temporary activities. I note that whilst not identified, Ms Bennett has assessed the effects in her report.
- Rule 4.6.3(e) specifies where any building or structure is required to be set back from a boundary of other specified feature, the following controls apply: (i) No building shall be erected in any yard or setback area.
 - Rule 4.6.8 states temporary activities ancillary or incidental to building and construction work are limited either to the duration of the project or for a period not exceeding 24 months, ...
66. Ms Bennett's report refers to a 7.5 m building restriction line adjacent the south-eastern boundary. It is agreed that this line is shown on the planning maps. However, there is no rule or plan notation within the Operative District Plan specifying the 7.5m setback.
67. I differ from Ms Bennett's view that this is relevant as a non-compliance as there is no associated rule. In response to implications of providing this setback this would require Lots 175 and 176 to be reorientated in a north south direction.
68. The application states construction of each stage would not exceed more than 24 months and therefore permitted, it has been subsequently confirmed that the rule refers to overall duration.
69. The application sets out a detailed assessment of the proposal against The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS).

¹¹ Officer's s42A Report, Para 24 and 25

70. I concur with Ms Bennett that pursuant to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) (Regulation 10(3)) consent under the NESCS is sought as a **restricted discretionary** activity.
71. Overall, despite the minor differences in identified non-compliances, I concur with Ms Bennett, the proposal is required to be assessed as a **non-complying** activity under the Hurunui District Plan.

SUBMISSIONS

72. As stated in the officer's report¹², the proposal was publicly notified on 18 August 2022 with the submission period closing 16 September 2022. Nineteen original submissions were received, 17 in opposition, one was neutral and one in support, in part. Of the submissions received, a further one, (neutral) was received late which the applicant has agreed to accept. Given that this submission was received in time to be considered within the s42A officer's report, I consider that no other party is prejudiced by its inclusion.
73. I have read the submissions and generally agree with Ms Bennett's synopsis of the submissions¹³.
74. Ms Bennett has summarised concerns by submitters which fall outside the scope of the application. I agree with her synopsis that the following matters do not require further consideration.
- Social unrest/ antisocial behaviour
 - Lack of social interaction
 - Personal and family social activity
 - Increased demand on existing community services (e.g., Schools, medical centre)
75. Submissions in relation to character and amenity (including urban design and landscaping), traffic, density, infrastructure, servicing, contamination, natural hazards have been comprehensively addressed

¹² Officer's s42A Report, Para 46

¹³ Officer's s42A Report, Para's 51 - 53

in my evidence and that of the Applicant's other experts and their HDC counterparts.

76. Further to the assessment already provided by Ms Bennett in her s42A report, I address these matters in turn below or I will comment on issues raised by submitters where relevant in my evidence.
77. It is my view that the comprehensive assessment provided in the application, the review of this assessment by Council staff and the subsequent evidence presented today have determined that the issues raised by submitters have been addressed, and associated effects can be adequately avoided, remedied, or mitigated.

THE OFFICER'S REPORT

78. As previously noted, I have reviewed Ms Bennett's s42A recommendation report. Ms Bennett concludes the following:
 - Review of the application by Council officers confirms agreement that effects on and arising from traffic/transportation, earthworks and construction, heritage values, cultural values, potential soil contamination, and servicing (water and wastewater) can be managed through conditions of consent.
 - The subdivision has greater capacity for a percentage of smaller allotments particularly around reserve areas.
 - Increase density along the urban-rural interface and boundary of SH1 results in adverse effects on amenity and rural character.
 - The acoustic barrier would not maintain rural character and amenity and may result in maintenance issues.
 - Specific fencing treatments and a 5 m landscape strip would maintain an appropriate rural/urban interface.
 - Amenity concerns in relation to shape factor and lots adjoining the State Highway.
 - To further inform an opinion of effects related to stormwater, access to SH1 and geotechnical matters Ms Bennett requires further information.

- In an overall sense, the proposal is inconsistent with some objectives and policies of the District Plan. Further information is required to confirm accordance or otherwise of objectives and policies relating to stormwater, geotechnical and roading.
- Ms Bennett cannot conclude whether the proposal demonstrates inconsistency with Part II of the RMA.
- Ms Bennett recommends that the proposal be declined.

79. Ms Bennett does not provide any conditions, should the commissioner be minded approving the consent an initial set will be circulated prior to the hearing.

80. I do not agree with Ms Bennett's interpretation of the objectives and policies.

81. I comment on other aspects of Ms Bennett's report throughout my evidence and state where I concur or not with the conclusions she has reached.

82. As such, I disagree with Ms Bennett's recommendation to decline the application.

ASSESSMENT OF ENVIRONMENTAL EFFECTS (Section 104(1)(a))

83. The application document contains an assessment of the actual and potential effects resulting from the proposal¹⁴. The application assessment concluded *that "on balance, the proposal will have no more than minor adverse effects on the environment."* Ms Bennett's conclusion was that the actual and potential adverse effects will be more than minor.

84. I generally concur with Ms Bennett's broad summary of the relevant issues¹⁵, and comment on these below.

¹⁴ Davis Ogilvie Application Document Section 6

¹⁵ Officer's s42A Report, Para 55

85. In terms of s104(1)(a), the relevant effects on the environment to consider in relation to the proposal are those associated with traffic, urban design/visual/landscape, rural character and amenity and servicing.
86. I concur with Ms Bennett that the actual and potential effects of the proposal can be categorised into the following issues:
- Landscape Character and Visual Effects
 - Amenity Values
 - Reverse Sensitivity
 - Traffic and Road design
 - Infrastructure
 - Contamination
 - Natural hazards risk
 - Positive effects
87. Without repeating those assessments in full, I have focused on key areas where Ms Bennett's opinion differs to my own.

Urban Design/ Visual /Landscape Character Effects

88. Urban design/visual and landscape character effects have been bundled together as I considered there are correlations between them in this proposal.
89. Ms Bennett has detailed the landscape character of the application site, receiving environment and relevant zoning. Concluding the application site is located on the southern outskirts of edge of the Amberley township¹⁶.
90. The application site is located within the Residential 1A zone, forming part of a larger greenfield development which anticipates the site is used for residential purposes.

¹⁶ Officer's s42A Report, Para 58

91. The existing environment is not simply a static view as it currently physically appears but must also be taken to include its future development potential as provided by the relevant planning document.
92. The District Plan sets out allotment areas and dimensions; minimum area (400 m²) and average area (700 m²), 1,100 m² minimum area adjacent rural zone; 15 m x 15 m shape factor and a quantum threshold of number of lots less than the average.
93. The proposed development creates an overall average area of 542 m². Twelve allotments do not meet the minimum 1,100m² for lots adjoining the Rural zone. The 20% threshold of lots less than 700 m² is exceeded. Nineteen lots do not meet shape factor requirements.
94. Ms Bennett has relied on the landscape assessment of Ms Smetham in regard to landscape character and visual effects. These are summarised as increased density; the urban/rural interface, retention of country character of Amberley and rural amenity and open vistas.
95. I, in turn have relied upon the evidence of Ms Wilkins (landscape) and Mr Compton-Moen (urban design) where relevant. Ms Wilkins and Mr Compton-Moen have addressed in their evidence relevant aspects of Amberley's urban growth and form, internal amenity and density, open vistas and entrance to Amberley, State Highway landscape treatment and the rural / urban interface.
96. With regards to density, it is accepted that the proposal results in a higher density than what is currently provided for by the District Plan. Key matters relating to density have been addressed in the application and the evidence of Ms Wilkins and Mr Compton-Moen and as outlined below.
97. Ms Smetham recognises that the whilst the subdivision does not meet the average lot area it has capacity to provide a greater percentage of smaller lots (including those not meeting shape factor) without adverse effects on amenity.¹⁷

¹⁷ Officer's s42A Report, Para 63-64

98. I concur with Ms Smetham's conclusion that the density can generally be absorbed within the site without compromising the amenity. There are several mitigating factors as outlined as follows.
99. The subdivision design ensures a variety of section sizes and shapes are provided, which in turn can result in a variability of design in dwellings. It is considered that the variation in allotment areas is in fact beneficial. By spreading of the smaller lots throughout the development reduces the ability to notice the overall density and reduces effects on lot sizes, avoiding pockets of dense development.
100. The retention of the sites expansive natural landforms incorporating these into dual purpose reserve areas, for stormwater, recreation, and amenity purposes results in generous areas of open space. This integration ensures unnecessary changes to the landform and protects and enhances the natural resources.
101. Locating smaller allotments adjacent these greenspaces not only provide an informal extension to the site, but buildings can also be designed to complement the interface with the recreation reserve. Aiding the appearance of open space, enhancing amenity and reduce any perceived visual effects.

Visual Effects

102. Ms Smetham's greatest concern appears to lie with the visual effects and amenity effects arising from the acoustic barrier. Ms Bennett agrees with these concerns.
103. Commensurately a number of submitters raised concerns around loss of rural character associated with proposed acoustic bund.
104. I agree with Ms Smetham that visual change will occur with the removal of the cypress hedge and in filling of the dry gully. However, change alone does not constitute an adverse effect. The removal of the hedge or infilling of the dry gully could occur as of right.
105. I have relied upon the evidence of Ms Wilkins (landscape) and Mr Compton-Moen (urban design) where relevant. Ms Wilkins and Mr Compton-Moen have addressed in their evidence Ms Smetham concerns.

106. Ms Wilkins in her evidence discusses the design intent, softening and planting around of the acoustic fence and visual amenity. Ms Wilkins provides a cross section of State Highway to lot interface which demonstrates the intended offset of the properties bordering Carters Road, with the bund and acoustic fence, a standard house and outdoor living area.
107. Having considered the relevant matters, Ms Wilkins concludes; proposed bund planting sufficiently screens dwellings when viewed from the State Highway; and dwellings adjacent the State Highway provide a reasonable standard of amenity through design controls and screening and proximity to open spaces.
108. Mr Compton-Moen considers the master plan responds appropriately to the State Highway corridor; the acoustic treatment is not an uncommon feature adjoining a high-volume road and planting can provide effective screening. He further considers the intention should not be on maintaining rural character, given the sites residential zoning rather internalise the development away from the State Highway to provide a high level of amenity for residents.
109. In my opinion it is pertinent to consider the consequences of not providing acoustic treatment.
110. In this regard, AES used guidance from NZTA Waka Kotahi Guide to the management of effects on noise sensitive land use near the state highway network (2015). This provides a way of calculating setback distances for dwellings where additional controls are required. For the site a buffer area (setback at 40 m) where buildings should not occur if there are no controls or mitigation and an effects area (40m -100m) where controls are required have been identified.
111. Based on the AES modelling with no acoustic treatment (including acoustic barrier to the State Highway) the consequences would be that no residential lots could be included within the buffer and effects area. This equates to a total of 49 lots over an area of 3.52 ha. This equates to 17% of the site area.

112. The acoustic report as an alternative considered a lower 1.8 m acoustic barrier. The majority of sites within 40 metres of the nearest marked traffic lane (buffer zone) of Carters Road (SH1) being some 22 lots, equating to an area of .94 ha would exceed 64 dB LAeq by some margin, and would not be suitable for development.
113. If development cannot occur or is severely restricted due to impacts of noise and no measures are taken to mitigate these impacts, it is considered this it is not an efficient use of the natural and physical resource nor is it economic.
114. Further, without proper mitigation measures, the land may be less desirable for future residents. Noise pollution can be a major deterrent which can adversely affect not only amenity but also the health and well-being of individuals.
115. It is considered that the proposed acoustic barrier is appropriate to mitigate noise impacts and ensures noise effects do not adversely affect the health or well-being of individuals; and maintains a sound level appropriate to the quality of the environment and amenity values of the receiving environment.

Amenity Values

116. Amenity values were addressed within the application. Subsequent to this Ms Bennett's evidence has addressed matters relating to minimum lot sizes, shape factor requirements, setback, and site coverage provisions.
117. Ms Bennett accepts Ms Smetham's opinion that the proposed shape factor can accommodate a dwelling albeit with a bespoke design and for these lots are able to be surrounded by planting. Ms Smetham also is of the opinion that this would result in diversity of typologies avoiding monotony.
118. I agree with Ms Smetham, that the combination of a slightly narrower frontage, will produce a variance in dwelling design within a streetscape, but, at the density and scattered design proposed, will not produce a street appearance that is contrary to the zone outcomes.

119. Ms Bennett goes on to state that the “proliferation” of undersized lots and lots that do not comply with shape factor will result in a series of land use consents.
120. Ms Bennett in her report uses the term undersized lots. Whilst the proposal does not meet the average lot area requirement, and shape factor reduction is a nominal 0.2m all allotments comply with the minimum lot areas set out in the District Plan.
121. Ms Bennett has specifically identified Lot 290. Figure 1 below demonstrates this allotment can readily accommodate a complying future residential dwelling with provisions for outdoor living space, landscaping, and garaging.

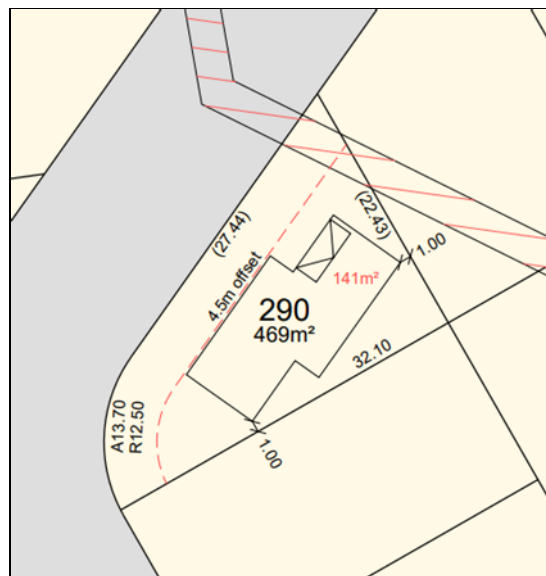


Figure 1: Indicative Site Layout with Dwelling (Lot 290)

122. Given the District Plan sets a minimum allotment area, it is considered dwellings can be appropriately designed to accord with the provisions. The sites are all bound by the same District Plan built form standards. The proposal does not seek to alter the District Plan provisions.
123. It is up to the individual landowner to comply with the provisions or otherwise, the proposal provides a site area that can be developed in accordance with the District Plan.
124. I agree with Ms Bennett that the reserve areas and proposed treatment maintain the amenity values of the site.

125. Within the site itself the proposed reserve areas will provide opportunities for additional plantings (consistent with the function of the proposed reserve area). The stormwater management areas will be designed primarily to fulfil the primary function of the management and treatment of stormwater. However, design consideration will be given to the potential to enhance amenity and recreational value. The reserves, playground, together with the stormwater reserve, will primarily provide opportunities for passive recreation.
126. For these reasons, I consider that any adverse effects on amenity values will be less than minor.

Reverse Sensitivity

127. In terms of reverse sensitivity owing to the site's proximity to SH1 an acoustic assessment was prepared by Acoustic Engineering Services.
128. The AES report sets out the New Zealand Transport Agency's reverse sensitivity guidance. The AES report identifies the potential for the site to be developed in accordance with its Residential zoning, The acoustic report recommends a 3 m high acoustic barrier to be constructed along the site's boundary with the State Highway. The AES report confirms that a 3 m high acoustic barrier and appropriate dwelling construction will be appropriate mitigation for potential reverse sensitivity noise and vibration effects.
129. Based on the specialist acoustic evidence, and subject to the proposed mitigation, I consider noise effects will be no more than minor and appropriate in the context of the receiving environment.
130. I agree with Ms Bennett that reverse sensitivity can be appropriately mitigated through conditions of consent.

Geotechnical

131. A Geotechnical Report prepared by Ms Charlotte Stephen-Browne Senior Engineering Geologist; Davis Ogilvie was supplied by the applicant as part of the application.
132. The Geotechnical report concludes the site is suitable for subdivision subject to a number of recommendations.

133. I rely on the Geotechnical report in relation to the site's suitability for the proposed development.
134. Ms Bennett has reviewed the Geotechnical Report. In relation to the recommendation for further lot specific geotechnical investigations Ms Bennett requested an overlay of the reports Figure 9 "*Geotechnical ultimate bearing capacities in accordance with NZS3604:2011 definition for "Good Ground"*" to the scheme. This is provided in Appendix 2.
135. Ms Bennett has concerns as to whether the site will meet the required FFL and the standard of mitigation required by CRPS and how these are to be "captured." Mr Stevenson has addressed this in his evidence.

Construction and Earthworks

136. A number of submitters have raised issues with construction effects, such as earthworks, vibration, and noise.
137. Earthworks are required to facilitate the development of site in accordance with the residential zoning and are a temporary and necessary component of residential development.
138. The proposed excavation is to allow material to be removed, roads to be cut to sub-grade levels, construction of stormwater management area, civil infrastructure constructed, raising the existing ground levels through the placement of fill and surface regraded to ensure stormwater is appropriately managed.
139. Once the bulk earthworks are completed, the proposed allotments will be at the finished section level and roads at or close to sub-grade depth.
140. The earthworks methodology follows the same staged pattern used in Stages 1-2 and will follow a typical construction program for a greenfield development.
141. The District Plan controls construction effects and requires compliance with relevant New Zealand Standards. Earthworks will be undertaken in accordance with NZS 4431:2022 – New Zealand Standard for earthworks and NZ6803:1999 Acoustics – Construction Noise.

142. Ms Bennett's s42A report states should consent be granted conditions would be imposed around earthworks, including the implementation of a construction management plan and compliance with the relevant New Zealand Standards that construction practices shall adhere to.
143. It is my opinion that the appropriate conditions will ensure that any potential adverse effects from construction-related activities are appropriately mitigated.

Contamination

144. A submitter has raised concern regarding contamination affecting a number of lots.
145. The Detailed Site Investigation¹⁸ (DSI) and Remedial Action Plan states contaminated material identified in the western portion of the site will be disposed off-site to an appropriate facility as this is the most appropriate remediation method for the intended residential use. Remediation will be undertaken by a suitably qualified person.
146. Following the excavation works, the entire excavated area will be tested and validated to confirm remediation has been successful. Following remediation and site validation the area will be filled with clean fill materials. Therefore, that it is highly unlikely that there will be a risk to human health and any adverse effects associated with contaminated land will be less than minor.
147. Ms Bennett considers actual or potential effects on human health can be mitigated through conditions of consent.
148. I concur with Ms Bennett that with conditions in place any adverse effects associated with contamination will be insignificant.

¹⁸ Davis Ogilvie Application Document, Appendix 2

Infrastructure Effects

149. Ms Bennett has reviewed the Preliminary Services Report prepared by Mr Ross Jennings, Senior Civil Engineer, Davis Ogilvie supplied by the applicant as part of the application and additional information as requested. Ms Bennett has reviewed the report and further sought review from Mr Kent, Council's Consents Engineer¹⁹.
150. Ms Bennett has concluded based on advice from Mr Kent the proposal development can be adequately serviced with the exception of stormwater and that the servicing effects on the environment are acceptable.
151. Mr Stevenson has further addressed the infrastructure effects associated with the proposal including provision of stormwater and submitters concerns in his Statement of Evidence. Mr Stevenson in his evidence addresses the following preliminary engineering concepts: potable water, wastewater, stormwater, power, and telecommunications.
152. Mr Stevenson further addresses Flood Hazards and Finished Floor Levels (FFL) in direct response to Ms Bennett's concerns.
153. I consider the infrastructure-related effects of the Application have been well canvassed and demonstrated to be acceptable, subject to proposed conditions of consent. I rely on his expert opinion in this regard and agree with the opinion of Mr Stevenson that any concerns can be mitigated subject to appropriate conditions of consent and Engineering Approval.

Traffic Effects

154. Ms Bennett has reviewed the Integrated Transport Assessment prepared by Mr Wayne Gallot, Senior Transport Engineer, Novo Group supplied by the applicant as part of the application. Ms Bennett has relied upon this information in her assessment and further sought review from Mr Kent, Council's Consents Engineer. I do not contend the conclusions reached by Ms Bennett's assessment of traffic related effects.

¹⁹ Officer's s42A Report, Para 120 to 131

155. Mr Kent and Mr Gallot are in general alignment on the transport-related aspects of the Application, with one residual area of disagreement relating to the timing of the link road and connection to Carters Road and Mr Kent's recommendation to restrict development until the road has been constructed and vested. Mr Gallot's evidence addresses this matter in turn (which I do not repeat here).
156. Mr Gallot has further addressed the traffic effects associated with the proposal and submitters concerns in his Statement of Evidence. Mr Gallot in his evidence addresses; the existing road network and planned improvements, proposed road widths and overall layout, traffic generation and network effects and further addresses submitters concerns to the above.
157. Mr Gallot concludes that proposal can be supported from a transportation perspective.
158. I rely on the Novo Group Integrated Traffic Assessment and Mr Gallot's statement of evidence in relation to the transport effects of the proposal.
159. I consider the transport-related effects of the Application have been well canvassed and demonstrated to be acceptable.

Cultural

160. The application site is not a heritage or archaeological site or contain wahi tapu or wahi taonga.
161. Ms Bennett considers it appropriate to include an accidental discovery condition if consent is granted.
162. The applicant is willing to accept an accidental discovery protocol condition be included should any koiwi (human skeletal remains), taonga or artefact material be uncovered during the excavation activities.

163. Ms Bennett stated where the proposal cannot comply with the Council's Global Amberley Stormwater Consent, resource consent is to be sought from the Regional Council²⁰. A stormwater discharge consent is being sought from Environment Canterbury and therefore any potential cultural effects will be addressed or mitigated.

Positive Effects

164. The positive effects are detailed within the application document²¹.

165. The proposed development will enable the delivery of high quality, affordable homes which ensure the on-going affordability of the surrounding area. The ability to access affordable housing will have positive effects on social wellbeing of purchasers and their families.

166. A range of section sizes results in greater diversity across the development. The variety of housing that will be delivered will reach a demographic that extends from first home buyers through to retirees. It is expected that this design approach will then support the creation of a diverse community, which can in turn positively affect social wellbeing.

167. For the reasons detailed, it is considered the proposal has positive effects on the site, surrounds and the wider North Canterbury community.

Conclusions

168. I acknowledge the Application will introduce change to the Site and its setting. However, change alone does not constitute an adverse effect, the extent of change is considered appropriate in the context of the existing and future receiving environment. Any adverse effects will, on the whole, be no more than minor, and will not be inconsistent with the objectives and policies of the Hurunui District Plan.

169. Appropriate and enforceable conditions of consent are recommended to mitigate adverse effects.

²⁰ Officer's s42A Report, Para 27

²¹ Davis Ogilvie Application Document Section 6

170. In my view, the evidence presented today has determined that the issues raised by the submitter's have been addressed, and can be adequately avoided, remedied, or mitigated.
171. Based on the above assessment, it is my opinion that the proposal will have no more than minor effects on the environment.

ASSESSMENT OF RELEVANT OBJECTIVES AND POLICIES

172. The application sets out an assessment of the proposal against the relevant objectives and policies of the Hurunui District Plan²², pursuant to s104(1)(b) of the RMA.
173. I have read Ms Bennett's comprehensive assessment against the relevant District Plan objectives and policies. I disagree with Ms Bennett's interpretation and conclusions reached.
174. I consider the most relevant objective and policies to the proposal to be Objective 4 - Settlements and its associated policies 4.7 to 4.9, 4.11 and 4.12, Open Space Policies 4.19 and 4.20, Objective 4.2 – Amberley Policies and supporting policies 4.34, 4.37 to 4.39, Objective 5 – Subdivision Policies 5.1 to 5.6 and Objective 8 – Transportation and supporting policies 8.1 to 8.6 is also addressed.
175. Objective 4 is the objective that sets the outcome for settlements. It seeks adaptive, vibrant, and healthy settlements that meet the economic, social, and cultural needs of the district and North Canterbury; while retaining their own character, environmental quality, and sense of community.
176. A number of submitters raised concerns regarding the density and urban form. I am of the opinion the scale of change in density proposed does not equate to an adverse effect on amenity values.
177. When looking at the general policies applying to settlement areas, character and amenity values and consolidation of form are key themes.

²² Davis Ogilvie Application Document Section 7

178. The amenity values associated with this proposal are enhanced through retention of existing natural landforms and extensive area of open space. No changes are proposed to the District Plan built form provisions with house sizes directly corresponding to lot size. Restrictions on front fences, ensure open space and create a perceived 'wider' street corridor providing passive surveillance. Further, a range of allotment sizes is considered a more efficient use of land.
179. The proposal is of a character that fits within Amberley and seeks to contribute to an adaptive, vibrant, and healthy settlement. The Clearing is a master planned community within the Amberley Settlement. The subdivision provides a range of allotment sizes enabling varying typologies to meet the needs of a diverse community.
180. Amenity values and characters are protected by provision of open space, boundary plantings and high-quality streetscape.
181. The effects assessment included in the application and the evidence I rely upon identifies that the proposed density can be accommodated. Ms Bennett agrees in part but has reservations with regards to sites located adjacent the rural boundary and the State Highway and would not meet the intent of policies 4.11 and 4.12.
182. The amenity and rural character have been carefully considered in the development of the master plan and landscape provisions as discussed in the evidence of Ms Wilkins and Mr Compton-Moen.
183. I consider that the proposal and the effects that will occur are consistent with the objective and relevant policies.
184. The suite of provisions addressing Amberley Settlement are relevant. This is objective 4.2 and policies 4.34, 4.37, 4.38 and 4.39 and 4.24.
185. Objective 4.2 specifically relates to the Amberley Settlement which is described as "... a vibrant, rural township providing residential and business facilities and associated infrastructure and support services, to meet the economic, social and cultural needs of the Hurunui District and North Canterbury; while retaining its country town character, sense of community and connectivity with its rural surroundings."

186. The above recognises that Amberley township needs to provide opportunities for residential development. The proposed subdivision seeks to facilitate the sustainable management of Amberley through the establishment of a high-quality residential development in accordance with the requirements of its zoning. Providing appropriate infrastructure, connectivity, roading networks and mitigating potential reverse sensitivity effects associated with the ongoing operation of the State Highway.
187. The supporting policies seek to ensure that the development can be adequately serviced and provides roading and linkages to ensure connectivity within the Township whilst mitigating reverse selectivity associated with the State Highway.
188. No servicing constraints (water and wastewater) have been identified for the proposal, with the allotments able to be provided with connections to all the service reticulations in accordance with the Amberley Infrastructure Strategy apart from the discharge of stormwater. A discharge consent has been submitted to the Regional Council and is currently being considered.
189. Whilst there is some contention between Mr Kent and Mr Stevenson as to the applicability, size, and maintenance of the Filterra Bioscape. It is considered pragmatic that resolution of the stormwater treatment process be subject to agreement with Council at time of engineering approval.
190. An acoustic assessment confirmed appropriate mitigation for the potential for reverse sensitivity associated with the State Highway. Waka Kotahi did not identify reverse sensitivity concerns in their submission.
191. The access and roading provisions provided for the site including that with SH1 are appropriate, well connected and follow a logical layout including the provision for linkage to the adjoining land.
192. The appropriateness of the road layout and connectivity is further addressed under the relevant transportation objectives and policies.

193. Ms Bennett concludes the proposal does not meet objective 4.2 as the proposal would not retain the country town character and its connectivity with its rural surroundings.
194. The proposed development is considered to be consistent with the above policy direction providing allotments of varying areas enabling detached dwellings and provision for outdoor living areas and private landscaping. Expanses of opens space and green networks contribute to a sense of spaciousness, consistent with the character of Amberley.
195. The effects on character and amenity have been canvassed within the application and the evidence which I rely upon considers adverse effects are mitigated.
196. Accordingly, I consider that the proposal and the effects are consistent with the above objectives and policies.
197. The key policies relating to the Open Space are Policy 4.19 and 4.20. The policy approach to Open Space Zones is to provide for greenways and open spaces throughout settlements and to provide for open space zones to meet recreational requirements within settlements. The importance of open space meeting recreational requirements which maintain and enhance amenity values and provide connectivity and public access are also recognised in Policy 4.20.
198. The retention of the sites expansive natural landforms incorporating these into dual purpose reserve areas, for stormwater, recreation, and amenity purposes results in generous areas of open space accords with the above policies.
199. The proposed subdivision design ensures adverse effects on the environment are minimised and the character of the area is maintained in accordance with Subdivision Objective 5. The key policies relating to the Subdivision are Policy 5.1 to 5.6.
200. The proposal accords with policies 5.1 to 5.3 with allotments able to be adequately serviced. While there is contention around stormwater design this can be resolved through the engineering design process. Regional consents have been sought.

201. The applicant will be required to pay development contributions if consent were to be granted. This contribution contributes to growth related costs of the district's infrastructure.
202. With regards to Policy 5.6 reverse sensitivity effects have been well canvassed throughout the application and in the evidence presented.
203. Ms Bennett concludes the proposal is contrary to policies 5.2 to 5.5 on the basis the proposal does not maintain the country town character and amenity values of the township.
204. In my opinion there is sufficient support in the District Plan's policy framework for a subdivision development of this nature being a residential activity within a residential zone. The design has been updated to incorporate a number of Ms Smetham's recommendations. The proposed subdivision avoids adverse effects on amenity values, character and amenity and maintains a spacious environment.
205. Lastly, I consider the relevant transport objectives and policies. These are Objective 8.1, Policy 8.1 to Policy 8.6. The overall transport objective seeks a safe and efficient transport network.
206. A number of submissions raised concerns regarding access to the State Highway, parking, traffic, generation, road layout and safety.
207. These matters have been addressed by Mr Gallot who considers that the proposal addresses transport matters appropriately. The traffic generated by the development can be accommodated on the adjacent roading network without capacity or efficiency issues arising.
208. Mr Gallot and Mr Kent have considered the transport matters and are in general agreement that the Application is designed to ensure the safe and efficient operation of the roading network. Mr Gallot has responded to the outstanding matter relating to timing of the roading linkage.
209. Consultation has been undertaken with Waka Kotahi in relation to the planned connection to the State Highway and estimated traffic generation with agreeance proposal can be accommodated.
210. I consider the relevant transport related objectives and policies are achieved.

Conclusion

211. For the reasons stated, I differ from Ms Bennett's position and consider that the proposal is consistent with the identified objectives and policies of the District Plan.

STATUTORY CONTEXT

212. Being a non-complying activity, and pursuant to Section 104D of the Resource Management Act (RMA), the gateway test relating to whether or not the proposal may be approved are;

(a) *The adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*

(b) *The application is for an activity that will not be contrary to the objectives and policies of:*

(i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*

(ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*

(iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

213. The site is zoned Residential 1A, within the Amberley Settlement. A subdivision where the minimum average net area is less than 700 m², the minimum site area adjacent the rural zone is less than 1,100 m², a reduced 15m x 15 m shape factor, a greater than 20% threshold for lots less than 700 m² and a staged subdivision exceeding 40 lots, multi-stage subdivision is a non-complying activity and is subject to the gateway test of s104D of the RMA. Should it pass those tests, the requirements of Section 104(1) where subject to Part 2, regard is to be had to:

(a) *Any actual and potential effects I the environment of allowing the activity; and*

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) Any relevant provision of –

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.

214. The key matters to consider in relation to this application and the submissions are:

46.1 any relevant provisions of the Hurunui District Plan and

46.2 the actual and potential effects on the environment of allowing the activity.

ASSESSMENT OF OTHER RELEVANT STATUTORY DOCUMENTS

215. The application sets out a detailed assessment of the proposal against other relevant statutory documents²³, pursuant to s104(1)(b), including: The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS); The National Policy Statement on Urban Development 2020 and the Canterbury Regional Policy Statement.

²³ Davis Ogilvie Application Document Sections 2 and 8

216. I have considered the Canterbury Regional Policy Statement (CRPS). I have not identified any deficiencies or uncertainties in the District Plan that mean the provisions of the CRPS cannot be considered to have already been given effect to in the District Plan. On this basis I have not addressed the Canterbury Regional Policy Statement further in my evidence.
217. I have also considered whether there are any provisions in any National Policy Statement that require particular consideration be given to these higher order documents as matters have not been given effect to through the Hurunui District Plan.
218. The National Policy Statement-Urban Development and National Policy Statement – Highly Productive Land which both post-date the Hurunui District Plan becoming operative.
219. Although Ms Bennett does not consider the National Policy Statement on Urban Development 2020 (NPS-UD) relevant I believe it requires a broader perspective.
220. The NPS-UD came into effect from 20 August 2020 and is part of a suite of measures by the Government aimed at making housing more affordable and providing a more enabling planning framework. The NPS-UD gives clear direction on improving housing affordability by supporting competitive land and development markets.
221. The NPS-UD also encourages residential development where one of the following applies; there are employment opportunities, where there is planned or public transport, or where there is high demand for housing.
222. Objective 4 of the NPS-UD confirms that New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

223. Policies 1, 2 and 3 of the NPS-UD discuss the need for Council's to provide well-functioning urban environments which have a variety of housing. As a minimum, housing must meet the needs in terms of type, price, location of different households which also support and limit as much as possible the adverse impacts on the competitive operation of land and development markets. Policy 2 requires sufficient development capacity to be supplied over the short, medium, and long term, and Policy 3 requires the density of the urban form to be relative to the demand of the area in which it is being placed.
224. The proposal sits comfortably with the NPS-UD, particularly in that it provides a variety of housing which is available within a serviced area, close to local amenities, and consistent with the urban form of the surrounding area. The proposal will contribute positively on the delivery of housing in Hurunui District.
225. Whilst the proposal does not seek to develop rural zoned land it is considered that the direction of the National Policy Statement – Highly Productive Land is of some relevance.
226. The NPS-HPL aims to protect and preserve highly productive land for primary production activities such as agriculture and horticulture. It is considered providing a density that is greater than anticipated by the Plan, on a site which has capacity to provide a greater percentage of smaller lots without adverse effects on amenity is a more efficient use of residential zoned land and satisfies concerns regarding urban sprawl.
227. Urban sprawl can lead to the loss of productive land on the urban fringe. This can conflict with the NPS-HPL objective to manage the use of highly productive land in a way that supports sustainable development.
228. Ms Bennett has identified the existence of a draft National Policy Statement for Indigenous Biodiversity. This is a draft document and currently has no statutory basis.
229. I consider that no other current National Environmental Standards apply to this proposal. I have therefore not addressed these further.

230. I concur with Ms Bennett's conclusion²⁴ that the proposal does not trigger the requirements for assessment under any of the other National Environmental Standards, NPS or the Regional Policy Statement

ASSESSMENT OF OTHER RELEVANT MATTERS

231. The s42A Officers report identified the Amberley Town Centre Concept Plan, pursuant to s104(1)(c). Whilst this is not a statutory document and thus holds no weight, matters where relevant were addressed in the application and in evidence, specifically the urban design assessment and Ms Wilkins evidence. These matters were also addressed in the Section 42A report by Ms Bennett.

232. The matters of Precedent and District Plan integrity was raised in a submission.

233. Non-compliance with a District Plan does not itself create a precedent effect. Precedent only arises for consideration if a proposal is not in accordance with the objectives and policies of the District Plan.

234. It is considered that the proposal has less than minor adverse effects on the environment and is not contrary to objectives and policies of the District Plan. Therefore, the granting of the consent will not create an undesirable precedent as the proposal will not detract from the character, quality of the environment and amenity of both the site and surrounding zone.

235. Even if there is an element of precedent, it does not automatically follow that the grant of consent will threaten the integrity of the plan or confidence in its administration.

236. With regards to integrity of the Plan, I do not consider that the granting of consent to this proposal would set a precedent for future applications. In my opinion, the site is unique in that it is the only large undeveloped greenfield area identified for future development within the Amberley

²⁴ Officer's s42A Report, Para's 188,193 and 194

Settlement. It is unlikely that these factors will be common in other areas of the district and therefore not create any precedent effects.

237. On the basis of the above, it is considered that the proposal will not create precedent or adversely impact on the integrity of the Hurunui District Plan.

PART 2 OF THE RMA

238. Neither the s42A report, nor the Applicant's evidence has identified any invalidity, ambiguity, or incomplete coverage in the relevant planning documents. Accordingly, it is my view that it is not necessary to revert to Part 2 of the RMA.

239. Nevertheless, for completeness, I have undertaken an assessment against Part 2. I am of the view that the proposed development upholds the purpose of the RMA as set out in Section 5 by

- enabling people and communities to provide for their social and economic wellbeing by providing a range of housing options to meet the varying needs of the community; and
- appropriately avoiding, remedying, or mitigating any potential adverse effects.

240. I also consider the proposal to be consistent with the following Section 7 matters:

- The efficient use and development of natural and physical resources (s7(b));
- The maintenance and enhancement of amenity values (s7(c)); and
- Maintenance and enhancement of the quality of the environment (s7(f)).

241. I also consider that there are no Section 6 matters of national importance relevant to the Application, and no matters of the Treaty of Waitangi from Section 8 that require consideration.

242. I differ from Ms Bennett in her conclusion. I have considered these matters in light of the Section 42A report, the submissions and the evidence and consider that on balance the proposal is able to satisfy the purpose and principles of the Act.

243. Overall, I consider the proposal achieves Part 2 of the RMA.

CONCLUSIONS

244. The application requires resource consent for a non-complying activity and as such a decision on whether to grant or refuse the application is made pursuant to Section 104 and 104B of the RMA.

245. It is my opinion, having considered the proposal against the relevant assessment matters under Section 104(1) of the RMA, that the development will not give rise to any adverse effects on the environment that are more than minor. Further, I consider the proposal to be consistent with the relevant objectives and policies of the Hurunui District Plan.

246. On this basis it is my view that the application can be granted resource consent subject to appropriate conditions.



DAMIENNE DONALDSON

12 May 2023



/ issue	/ date	/ reason	/ approved
D	05/23	Stage 4 Boundary Adjustments	RB

Lot 2 DP 559093
 RT: 983583
 Owner(s): Hurunui Developments Limited
 Area: 15.0166ha more or less
 Lot 3 DP 559093 (Lot 4000 Stage 2 RC.210185)
 RT: 983584
 Owner(s): UWC Limited
 Area: 17.7178ha more or less (4.8635 ha subject to survey)

Areas and dimensions are subject to survey. For residential lots with access legs, the area shown is the net site area. A full assessment of easements will be undertaken upon completion of the survey and engineering design. This may result in additional easements to those already shown.

Lot 2 DP 559093, RT 983583 is subject to Land Covenant in Covenant Instrument **11761659.6**, Easement Instrument **10309925.5** (affects part formerly Lot 2 DP 491923); **946298** Notice declaring No.1 State Highway adjoining the land to be a Limited Access Road; Consent Notice pursuant to Section 221 Resource Management Act 1991 in **6330155.3** (affects part formerly Lot 1 DP 382581) and Variation of Consent Notice 6330155.3 in **7378702.2**; Compensation Certificate **5245051.1**; Subject to a right to drain sewage over 'ZD' on DP 559093 in E.I.1030925.4 and right (in gross) to drain sewage over 'B' on DP 559093 in E.I.1030925.3.

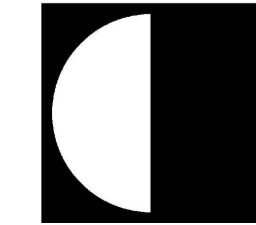
Lot 3 DP 559093, RT 983584 is subject to Land Covenant in Easement Instrument **10311979.3**

Easements to be surrendered shown:
 B, C and ZD on DP 559093; created by Transfer **386795.1** and Easement Instruments **10309925.3** & **10311979.2**.

Lots 124-324 - Residential Lots (201)
 Lot 602 - Legal Access Lot
 Lots 1002-1007 - Roads to Vest in Hurunui District Council
 Lots 3004 - 3008 - Local Purpose Reserves to Vest in Hurunui District Council
 Lot 5000 - Balance Land Parcel

Residential Lot Counts Per Stage	
Stage 3 (Lots 124-186)	63
Stage 4 (Lots 187-273)	87
Stage 5 (Lots 274-284, & 287-322)	49
Stage 6 (Lots 285 & 286)	2
Total	201

Acoustic bund/fence area



/ issue	/ date	/ reason	/ approved
D	05/23	Stage 4 Boundary Adjustments	RB

Lot 2 DP 559093
 RT: 983583
 Owner(s): Hurunui Developments Limited
 Area: 15.0166ha more or less
 Lot 3 DP 559093 (Lot 4000 Stage 2 RC210185)
 RT: 983584
 Owner(s): UWC Limited
 Area: 17.7178ha more or less (4.8635 ha subject to survey)

Areas and dimensions are subject to survey. For residential lots with access legs, the area shown is the net site area.
 A full assessment of easements will be undertaken upon completion of the survey and engineering design. This may result in additional easements to those already shown.

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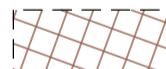
Lot 3 DP 559093, RT 983584 is subject to Land Covenant in Easement Instrument **10311979.3**

Easements to be surrendered shown:

B, C and ZD on DP 559093; created by Transfer **386795.1** and Easement Instruments **10309925.3** & **10311979.2**.

Lots 124-324 - Residential Lots (201)
 Lot 602 - Legal Access Lot
 Lots 1002-1007 - Roads to Vest in Hurunui District Council
 Lots 3004 - 3008 - Local Purpose Reserves to Vest in Hurunui District Council
 Lot 5000 - Balance Land Parcel

MEMORANDUM OF EASEMENTS		
NATURE	BURDENED LAND LOT NO / SHOWN	BENEFITED LAND / GRANTEE
RIGHT OF WAY, RIGHT TO DRAIN SEWAGE & WATER, RIGHT TO CONVEY WATER, ELECTRICITY & TELECOMMUNICATIONS	126	N Lot 127
	127	O Lot 126
	132	P Lot 133
	133	Q Lot 132
	138	R Lot 139
	139	S Lot 138
	144	T Lot 145
	145	U Lot 144
	167	V Lot 168
	168	W Lot 167
RIGHT TO CONVEY TELECOMMUNICATIONS IN GROSS	126	N
	127	O
	132	P
	133	Q
	138	R
	139	S
	144	T
	145	U
	167	V
	168	W
175	X	CHORUS NEW ZEALAND LIMITED

 Acoustic bund/fence area



CAD ref: 42542 - Scheme Plan (301D) - Stages 3-5.dwg





/ issue	/ date	/ reason	/ approved
D	05/23	Stage 4 Boundary Adjustments	RB

Lot 2 DP 559093
 RT: 983583
 Owner(s): Hurunui Developments Limited
 Area: 15.0166ha more or less
 Lot 3 DP 559093 (Lot 4000 Stage 2 RC210185)
 RT: 983584
 Owner(s): UWC Limited
 Area: 17.17178ha more or less (4.8635 ha subject to survey)

Areas and dimensions are subject to survey. For residential lots with access legs, the area shown is the net site area. A full assessment of easements will be undertaken upon completion of the survey and engineering design. This may result in additional easements to those already shown.

Lot 2 DP 559093, RT 983583 is subject to Land Covenant in Covenant Instrument **11761659.6**, Easement Instrument **10309925.5** (affects part formerly Lot 2 DP 491923); **946298** Notice declaring No.1 State Highway adjoining the land to be a Limited Access Road; Consent Notice pursuant to Section 221 Resource Management Act 1991 in **6330155.3** (affects part formerly Lot 1 DP 382581) and Variation of Consent Notice 6330155.3 in **7378702.2**; Compensation Certificate **5245051.1**; Subject to a right to drain sewage over 'ZD' on DP 559093 in E.I.1030925.4 and right (in gross) to drain sewage over 'B' on DP 559093 in E.I.1030925.5.

Lot 3 DP 559093, RT 983584 is subject to Land Covenant in Easement Instrument **10311979.3**

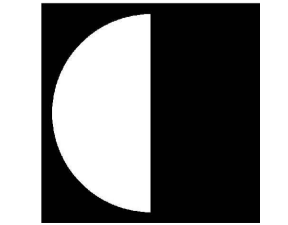
Easements to be surrendered shown:
 B, C and ZD on DP 559093; created by Transfer **386795.1** and Easement Instruments **10309925.3** & **10311979.2**.

Lots 124-324 - Residential Lots (201)
 Lot 602 - Legal Access Lot
 Lots 1002-1007 - Roads to Vest in Hurunui District Council
 Lots 3004 - 3008 - Local Purpose Reserves to Vest in Hurunui District Council
 Lot 5000 - Balance Land Parcel

MEMORANDUM OF EASEMENTS			
NATURE	BURDENED LAND LOT NO	SHOWN	BENEFITED LAND / GRANTEE
RIGHT OF WAY, RIGHT TO DRAIN SEWAGE & WATER, RIGHT TO CONVEY WATER ELECTRICITY & TELECOMMUNICATIONS	231	Y	Lot 232
	232	Z	Lot 231
	602	AA	Lots 244-246
	256	AB	Lot 257
RIGHT TO DRAIN SEWAGE IN GROSS	273	AD	HURUNUI DISTRICT COUNCIL
	231	Y	CHORUS NEW ZEALAND LIMITED
232	Z		
602	AA		
RIGHT TO CONVEY TELECOMMUNICATIONS IN GROSS	256	AB	CHORUS NEW ZEALAND LIMITED
	257	AC	

AMALGAMATION CONDITIONS
 - That Lot **602** (Legal Access) hereon be held as to three undivided one-third shares by the owners of **Lots 244, 245, and 246** hereon as tenants in common in the said shares and that individual Records of Title issued in accordance therewith.

Acoustic bund/fence area



/ issue	/ date	/ reason	/ approved
D	05/23	Stage 4 Boundary Adjustments	RB

Lot 2 DP 559093
 RT: 983583
 Owner(s): Hurunui Developments Limited
 Area: 15.0166ha more or less
 Lot 3 DP 559093 (Lot 4000 Stage 2 RC210185)
 RT: 983584
 Owner(s): UWC Limited
 Area: 17.7178ha more or less (4.8635 ha subject to survey)

Areas and dimensions are subject to survey. For residential lots with access legs, the area shown is the net site area.
 A full assessment of easements will be undertaken upon completion of the survey and engineering design. This may result in additional easements to those already shown.

Lot 2 DP 559093, RT 983583 is subject to Land Covenant in Covenant Instrument **11761659.6**, Easement Instrument **10309925.5** (affects part formerly Lot 2 DP 491923); **946298** Notice declaring No.1 State Highway adjoining the land to be a Limited Access Road; Consent Notice pursuant to Section 221 Resource Management Act 1991 in **6330155.3** (affects part formerly Lot 1 DP 382581) and Variation of Consent Notice 6330155.3 in **7378702.2**; Compensation Certificate **5245051.1**; Subject to a right to drain sewage over 'ZD' on DP 559093 in E.I.10309925.4 and right (in gross) to drain sewage over 'B' on DP 559093 in E.I.10309925.3.

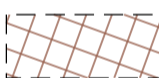
Lot 3 DP 559093, RT 983584 is subject to Land Covenant in Easement Instrument **10311979.3**

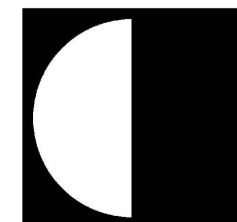
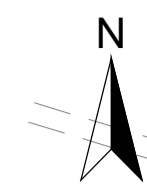
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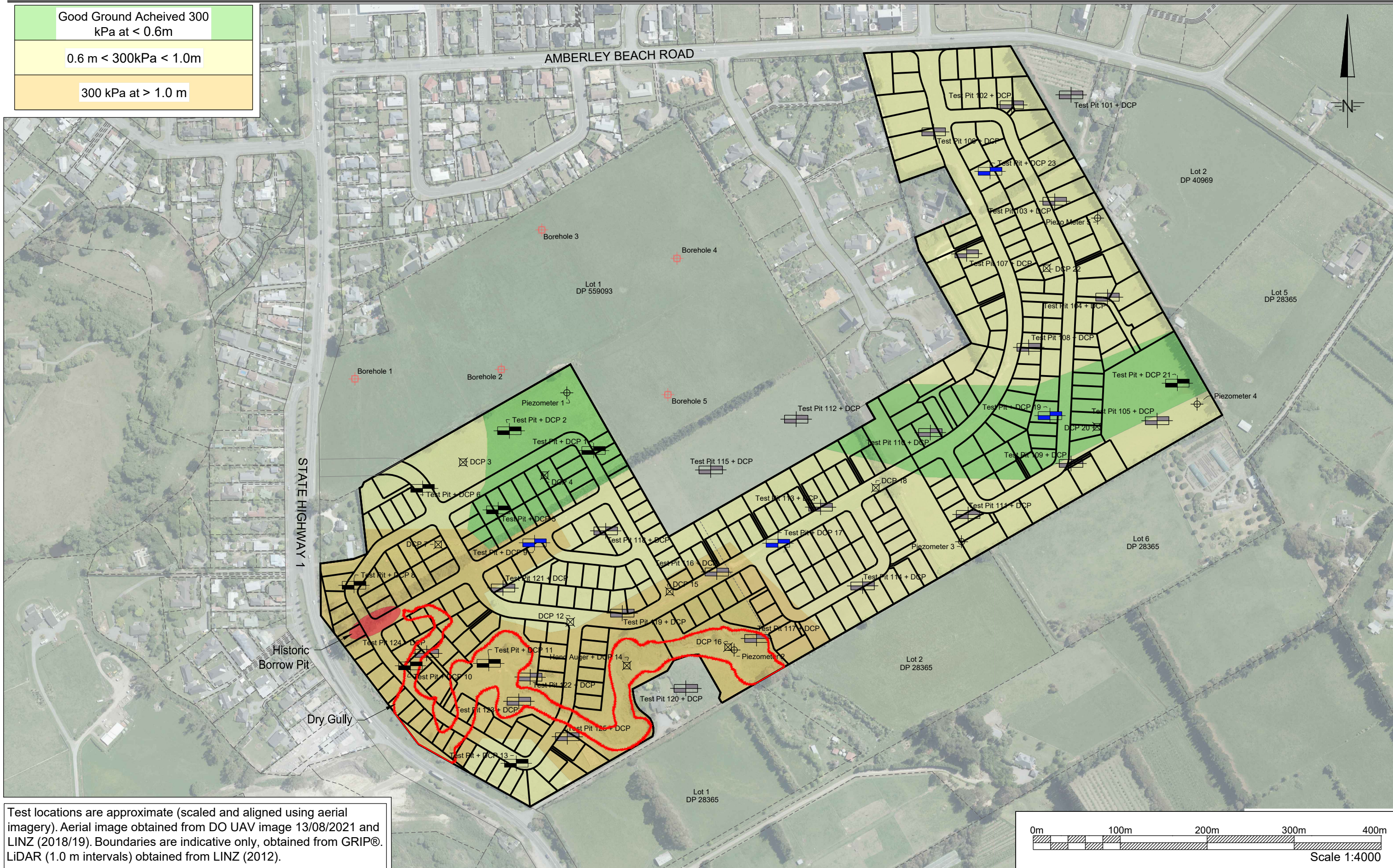
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MEMORANDUM OF EASEMENTS			
NATURE	BURDENED LAND LOT NO	SHOWN	BENEFITED LAND/GRANTEE
RIGHT OF WAY, RIGHT TO DRAIN SEWAGE & WATER, RIGHT TO CONVEY WATER ELECTRICITY & TELECOMMUNICATIONS	5000	AF	Lot 324
RIGHT TO DRAIN SEWAGE IN GROSS	273	AD	HURUNUI DISTRICT COUNCIL
	279	AE	

 Acoustic bund/fence area



Good Ground Acheived 300 kPa at < 0.6m
0.6 m < 300kPa < 1.0m
300 kPa at > 1.0 m



Test locations are approximate (scaled and aligned using aerial imagery). Aerial image obtained from DO UAV image 13/08/2021 and LINZ (2018/19). Boundaries are indicative only, obtained from GRIP®. LiDAR (1.0 m intervals) obtained from LINZ (2012).

CAD ref: 41793.PreliminaryGeotechnicalSiteplan.dwg

Geotechnical Site Plan

52 Amberley Beach Road and 193 Carters Road Lot 2 and 3 DP 55903

/ design CSB	/ drawn SM	/ QA check SM	/ dwg G01
/ scale @ A3 1:4000	/ date 05/23	/ file 41793	/ issue A