

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision [2021] NZEnvC 133

IN THE MATTER of the Resource Management Act 1991
(RMA)

AND an application under s87G of the RMA

BETWEEN WOOLWORTHS NEW ZEALAND
LIMITED

(ENV-2020-CHC-001)

Applicant

AND CHRISTCHURCH CITY COUNCIL

Consent Authority

Court: Environment Judge P A Steven
Alternate Environment Judge L J Newhook
Environment Commissioner C J Wilkinson
Deputy Environment Commissioner G Paine

Hearing: at Christchurch on 15-17 February 2021, and on 17 June 2021
at Auckland

Appearances: A A Arthur-Young and L J Eaton for the Applicant
B Pizzey for the Consent Authority
L J Semple and H G Marks for Spreydon Lodge Limited
A J Schulte for Halswell Timber Limited

Last case event: 17 June 2021

Date of Decision: 7 September 2021

Date of Issue: 7 September 2021

DECISION OF THE ENVIRONMENT COURT



A: Consent granted on latest conditions proposed by the Applicant on 26 March 2021.

B: Costs reserved.

REASONS

Introduction

[1] An application for resource consents was lodged with Christchurch City Council (**the Council**) by Woolworths New Zealand Limited (**Woolworths**) on 16 January 2018.

[2] The application sought land use and subdivision consents for a residential and commercial mixed-use development of land at 201 Halswell Road in North Halswell, Christchurch (**the Proposal**).

[3] It came before the Court in a Direct Referral process described below.

The Proposal

[4] Key elements of the Proposal entail:

- (a) ten large development lots for comprehensive residential development that are proposed to be further subdivided for residential development for over 250 dwellings, by way of a later application;
- (b) the creation of two development lots for mixed use and commercial development in the northwest corner of the site;
- (c) the enhancement and naturalisation of Days Drain extending along most of the northern boundary for a length of approximately 680 m;
- (d) commercial and community activities with a gross floor area (**GFA**) of 8,087 m² comprising:
 - (i) a retail floor space of 5,155 m² inclusive of a supermarket of 3,490 m² on Lot 1 with the remaining 1,665 m² as retail – food and

- beverage;
- (ii) community activities of 1,570 m² GFA comprising a medical centre and childcare centre;
 - (iii) a swimming pool, cinema and gymnasium;
 - (iv) a cinema of 641.7 m² GFA on Lot 12.
- (e) a two-storey apartment building comprising 32 residential units on Lot 1.

[5] The combined GFA of floorspace for the retailing is 5,623 m².

Direct referral process

[6] Following public notification, 11 submissions were lodged by the closing date of 29 October 2018; six of which were in opposition, including the submission from Spreydon Lodge Limited (**Spreydon Lodge**).

[7] The Council lodged a report under s87F RMA dated 27 November 2019¹ containing a comprehensive statutory assessment of the Proposal, with contributions from a number of experts on environmental health, water and wastewater; stormwater engineering; aquatic ecology; general subdivision engineering; parks and public open space planning; transport planning; landscape; economics and urban design.

[8] Woolworths made a request to Council under s87D(1) RMA that the Council allow the application to be decided by the Environment Court by way of direct referral on 5 December 2018, and the Council granted that request pursuant to s87E on 16 January 2019.

[9] Initially, five parties joined the proceedings under s274 RMA, although concerns were raised that some of them might be trade competitors. Legal advice was obtained on this issue, which led to the withdrawal of three of the s274 parties.

¹ Report of Paul Harrison Lowe, Christchurch City Council, dated 27 November 2019.

[10] Two submitters remained as parties:

- (a) Halswell Timber Ltd (**Halswell Timber**), the owner and occupier of land on Halswell Road adjacent to the northern boundary of the Woolworths site. Halswell Timber operates a timber yard that was first established in the 1960s and which has been in continuous operation since then. Through its submission, and involvement at the hearing, Halswell Timber sought recognition of its desire to continue in operation without exposure to reverse sensitivity effects. In the lead-up to the hearing, the company had come to a satisfactory resolution of its issues with Woolworths, although throughout the hearing, its counsel, Mr Schulte, maintained a watching brief.
- (b) Spreydon Lodge, the owner and developer of land adjoining the Woolworths Site to the north. Its submission in opposition to the application raised wide-ranging grounds concerning the “scale, scope, composition, location, and orientation of the development”. Its submission contended that it would “seriously undermine the timely and orderly development of the KAC²”, and that it would result in “significant adverse economic effects” to the Halswell community.

[11] Spreydon Lodge called evidence on urban design (Mr Riley), transport (Mr Penny), planning (Mr Roberts) and economics (Mr Thompson).

[12] From the outset, Woolworths submitted that Spreydon Lodge was a trade competitor and raised concerns with aspects of its evidential case, particularly that of economist, Mr Thompson. We address that issue later in this decision.

[13] Before the hearing had commenced, a range of issues were resolved between the Council and Woolworths, being issues of no particular interest to the s274 parties.

[14] As the Court had no questions for some witnesses, the evidence on the

² Key Activity Centre, a term in the district plan.

following matters was admitted by consent:

- (a) subdivision, water, wastewater and stormwater engineering;
- (b) geotechnical;
- (c) ecology;
- (d) landscaping;
- (e) noise;
- (f) ground contamination;
- (g) urban design – residential;
- (h) parks, open spaces and reserves.³

[15] Various refinements had also been made to the Proposal following discussions with Council officers and submitters, and these entailed:⁴

- (a) shifting the supermarket approximately 17 m to the east in order to refine the alignment of the “Green Corridor” to the Spreydon Lodge site;
- (b) relocation of the gym to the west of the Green Corridor to form a strong edge to Days Drain and to soften the outlook to the carparking when viewed from Road A;
- (c) the addition of two sleeved retail tenancies on the western edge of the supermarket building fronting the Green Corridor to further activate this area;
- (d) relocation of the supermarket office to the northern side of the supermarket (at grade) with glazing to further activate the northern façade;
- (e) the incorporation of a series of vertical structures along the western edge of the Green Corridor to further delineate it and reinforce its visual connection from Road A to the north.

³ Joint memorandum of all counsel dated 29 January 2021.

⁴ The suite of changes was explained in the urban design evidence-in-chief of Mr John Sofo (for Woolworths).

Issues to be resolved

[16] The Council raised four issues of placement and design which we describe below. Initially it offered them simply for consideration by the Court, but under questioning, its counsel recorded that if they could not satisfactorily be met, it sought refusal of the consents.

[17] Spreydon Lodge raised four fundamental issues and submitted that consent should be refused. We describe those issues below.

[18] For the Council, unresolved issues related to:

- (a) the alignment and design of the Green Corridor;
- (b) the extent and design of the car parking and lack of buildings along the frontage with the main road (named Road A at the hearing);
- (c) the location of the supermarket, and fine-grained retail on the Halswell Road frontage; and
- (d) minor issues associated with the design of the apartments.

[19] Although somewhat supportive of the Proposal, without amendments to certain elements of the Proposal, the Council's position was that the consents sought by Woolworths should be declined.

[20] Spreydon Lodge was also opposed to a grant of consents, although it proposed no amendments to overcome its concerns. It opposed the following elements of the Proposal:

- (a) the location of the fine-grained retail cluster (comprising specialty food and beverage and entertainment) proposed adjacent to Halswell Road,
- (b) the lack of integration and connection between the supermarket, Green Corridor and the Main Street;
- (c) transport related effects in relation to the Road A formation and intersections; and
- (d) the expansion of the commercial activities into the RNNZ.

Application site

[21] The site is situated at 201 Halswell Road (State Highway 75), on its eastern side. It is mostly covered in pasture and has a 350 m frontage along Halswell Road. Days Drain is located on the northern boundary of the site and is a timber-lined channel for approximately 200 m.

[22] Days Drain demarcates the northern boundary of the Woolworths site between it and the land to the north, owned by Halswell Timber and Spreydon Lodge. Two smaller land holdings front onto Halswell Road, and one of these is owned by Foodstuffs (South Island) Properties Ltd.

[23] Part of the site (near Halswell Road) contain redundant buildings which are to be removed.

[24] Spreydon Lodge holds existing resource consents for the development of 'Halswell Commons Stage 1' (**the Halswell Commons**) to the north of the Woolworths site. They were granted in December 2019, although they have not been implemented yet.

[25] The Halswell Commons consents authorise retailing centred around a proposed main street and town square. Consented retailing includes over 40 fine-grained tenancies, with 13 of these being for food and beverage along the Main Street, with an anchor tenant proposed to the south of the Main Street.

[26] A 50 m strip of land owned by Spreydon Lodge, separates the Halswell Commons Land from that owned by Woolworths. This strip was excluded from the Halswell Commons consents.

[27] A developed residential suburb (**Aidanfield**) exists to the west of the site and further residential development is underway on land to the south, which is also authorised under the consents held by Spreydon Lodge.

[28] The Central City is directly 5.5 km to the north-east along Halswell

Road/Lincoln Road.

Statutory instruments

District Plan zoning – overview

[29] A joint witness statement (**JWS**) was prepared by the planners for Woolworths and the Council.⁵ This sets out their agreed position as to the relevant district plan provisions, and (where agreed) a joint statutory assessment of the Proposal. Planning matters in issue are also identified.

[30] The site is within a North Halswell greenfield development area identified in the Christchurch District Plan (**the district plan**). This greenfield land is bounded by Halswell Road to the west, Hendersons Road and adjoining residential properties to the north, Sparks Road to the east and Milns Road to the south.

[31] This greenfield land has a split zoning; most of it being within the Residential New Neighbourhood zone (**RNNZ**). Approximately 16.6 ha of the greenfield area has a Commercial Core zoning (**CCZ**). CCZ extends north from the northwest corner of the site into the properties adjoining the site to the north.

[32] Approximately 2.3 ha of the application site sits within this CCZ.

[33] The CCZ land is identified as a District Centre – key activity centre (**KAC**), the stated purpose of such being to operate as a major retail destination that provides for comparison and convenience shopping, and a focal point for employment, to be anchored by large retailers including department stores and supermarkets, and with provision for offices, a range of entertainment, community activities and facilities.⁶

[34] KACs are at the apex of the commercial centres hierarchy in Christchurch, below the Central City. The North Halswell KAC is intended to be developed over a

⁵ M Bonis and P Lowe respectively, dated 6 November 2020.

⁶ Summarised in Woolworths submissions, 20 January 2021.

longer-term horizon, supporting the growing residential base in the southwest of Christchurch.

[35] Growth is likely to occur in a piecemeal manner, as the CCZ is in several titles and existing land uses; with the owners having differing timelines for their development aspirations.

[36] Of relevance to the issues:

- a total of 25,000 m² GFA of retail, as defined in the plan, is provided for, and any exceedance of that is a discretionary activity;
- there are no other staging or allocation provisions pertaining to retailing within this KAC.

[37] Development of the North Halswell greenfield land is subject to two outline development plans (ODPs):

- (a) the North Halswell ODP for residential development, and
- (b) the Commercial ODP for development within the CCZ.

[38] In the North Halswell ODP, by rules 8.6.11 and 14.12.2.16, subdivision and land use activities on the RNNZ land are to be undertaken “in accordance with” the development requirements specified in the ODP. These are referred to in Appendix 8.10.4.D.

[39] Policy 15.2.2.2(a)(i) applies to the land use Proposal in the CCZ. This requires development within the KAC to be ‘planned and co-ordinated in accordance with the ODP’, being the Commercial ODP.

[40] The key on the Commercial ODP identifies ‘fixed features and proposals’, comprising (relevantly):

- (a) the commercial core zone,
- (b) the adjoining new neighbourhood zone;

- (c) fixed road access point to include pedestrian/cycle access (around the perimeter of the zone).

[41] 'Indicative features and proposals' are identified as including: (relevantly):

- (a) the collector road (around the perimeter of the zone);
- (b) a "main street";
- (c) two internal streets connecting to the collector road;
- (d) a "green corridor" (connecting to an internal street at the junction with the main street, and the collector road).

[42] Notably, there are no rules that require any staging in the construction of any of the features on the ODP.

District Plan non-compliances

[43] Non-compliances arise with a number of rules associated with the subdivision and land use activities within each of the zones. These were listed in an appendix to the JWS and need not be set out in full. We note the more relevant of these which relate to:

- (a) the extension of the retail activity (the supermarket), cinema and gym including associated parking and landscaping into the RNNZ;
- (b) non-compliance with RNNZ noise limits, triggering non-complying activity status;⁷
- (c) breach of the RNNZ scale of activity thresholds for the childcare and health care facilities triggering restricted discretionary activity status;
- (d) exceedance of the scale of the supermarket building and attached tenancies (4,000 m²) which triggers restricted discretionary activity status; and
- (e) all activities within the CCZ trigger restricted discretionary activity

⁷ In Rule 6.1.5.1.1.

status.

[44] Agreed (relevant) areas of departure from the ODPs relate to:

- (a) North Halswell ODP – Appendix 8.10.4:
 - (i) the encroachment of commercial activity into the RNNZ, which by rule 14.12.2.16 triggers restricted discretionary activity status (RD2);
- (b) Commercial ODP – Appendix 15.15.3:
 - (i) the encroachment of retail activities, cinema, gym and associated car parking and landscaping into the RNNZ.

[45] The planners disagreed on whether two further areas of departure from the ODP triggered the need for consent, in relation to:

- (a) the realignment of the indicative collector road around the periphery of the application site; and
- (b) the location of the proposed ‘Green Corridor’.

[46] Resolution of that dispute turns on the interpretation of the Commercial ODP notations that identify features as either ‘fixed’ or ‘indicative’. Woolworths contends that the Proposal is sufficiently in accordance with the ODP although a contrary position was taken by Spreydon Lodge and (on narrower grounds) by the Council.

Overall activity status

[47] Non-complying status for the land use activities is triggered because of a technical non-compliance with the night-time noise limits for the RNNZ. These limits apply where delivery or service vehicles associated with the supermarket cross the zone boundary between the CCZ and RNNZ where residential apartments are to be located.

[48] For the purposes of our statutory assessment, the applications are to be bundled and considered as a non-complying activity overall. As such, we are required

to consider whether either of the gateway tests in s104D can be met; that is, whether:

- (a) the adverse effects of the activity on the environment will be minor or less than minor; or
- (b) the activity is not contrary to the objectives and policies of the relevant plan or proposed plan.

[49] If one is met, we are required to consider the Proposal, having regard to the various matters identified in s104(1), and decide whether to grant or decline consent in the exercise of our discretion under s104B.

Trade competition

[50] Woolworths contends that Spreydon Lodge, as owner and developer of the adjoining land) is a trade competitor, as the retailing activities that Spreydon Lodge holds consent for are similar to those that Woolworth proposes for its land; each are intending to provide a cluster of fine-grained retail, food and beverage outlets, while Spreydon Lodge also holds consents for a number of (as yet untenanted) large format retail stores that could potentially accommodate a supermarket.

[51] Accordingly, Woolworths contends that the potential exists for Spreydon Lodge to be in competition with Woolworths for tenants of its retail supply within the KAC, such that the statutory limits on the involvement of a trade competitor apply.

[52] That being so, Ms Arthur-Young submitted that some of the matters raised in the Spreydon Lodge evidence are effects that relate to trade competition and must be ignored. The following statements, which were recurring themes in the evidence of this party, were relied upon to support that:

- (a) the planning evidence of Mr Roberts for Spreydon that the fine-grained retail proposed by Woolworths would be “pulling the economically viable amount of food and beverage” away from the main street under the Halswell Commons consents; and

- (b) the economic evidence of Mr Thompson for Spreydon that the fine-grained retail would “displace” the fine-grained retail that was consented and planned under the Halswell Commons consents.

[53] Ms Arthur-Young submitted that the retail component of the Woolworth’s Proposal would not result in any legitimate adverse effect in economic, planning or urban design terms. In her submission, the opposition raised by Spreydon Lodge to the retail proposed by Woolworths was motivated on trade competition grounds, albeit put to the Court in the guise of adverse effects on the form, function and vitality of the centre.

[54] We address the relevant factual matrix in some detail later in this decision, although we record here that we agree with Woolworth’s submissions on this issue.

[55] The following is our discussion of the applicable law, the cases being cited both by Ms Arthur-Young and Ms Semple, in respect of which again we hold largely for Woolworths.

[56] There is no definition of “trade competition” in the RMA, but we find we can rely on a key finding of the High Court in *Montessori Pre-School Charitable Trust v Waikato District Council*⁸:

In characterising the respondent’s activities as of trade competition or not, I have concluded that what matters is there be a competitive activity having a commercial element ...

[57] The Environment Court has held that commercial property owners can be trade competitors.⁹ However, not all property owners will necessarily be held to be trade competitors. An assessment must be made of the facts of each case.¹⁰ In the *Kapiti* case just noted, both main parties were found to be in the business of commercial owners, developers and lessors, competing for lessees. The Court also

⁸ [2007] NZRMA 55 at [19].

⁹ *Queenstown Property Holdings Limited v Queenstown-Lakes District Council* [1998] NZRMA 145 at p46.

¹⁰ *Kapiti Coast Holdings Limited v Alpha Corporation Limited* [2016] NZEnvC 137 at [12].

there held that the High Court decision *Queenstown Central Limited v Queenstown-Lakes District Council*¹¹ was not a decision holding that commercial lessors cannot ever be trade competitors with other commercial lessors, but instead that competition for scarce land resource was different and didn't trigger the statutory bar. This case, as we shall discuss later, has more to do with the former and nothing to do with the latter.

[58] The following are the primary statutory provisions that are raised by the involvement of Spreydon Lodge:

- (a) by s104(3)(a), when considering a proposal, we must not have regard to trade competition or the effects of trade competition; and
- (b) by s308B, a trade competitor may only make a submission on a competitor's application if it is directly affected by an effect of that activity (that is an environmental effect) and the effect does not relate to trade competition or the effects of trade competition.

Section 104(1)(a) – actual and potential effects

The environment

[59] In undertaking our effects assessment, the environment must be treated as incorporating the Halswell Commons development, as on the evidence before the Court we find that those consents are likely to be implemented by Spreydon Lodge in the future.

Positive effects

[60] There are a number of positive effects that are agreed to arise from the Proposal, including:

- (a) an increase in housing supply and choice for Christchurch;¹²

¹¹ [2013] NZRMA 239.

¹² Bonis, EIC at [6.7].

- (b) the introduction of commercial activities to meet the proximate residential catchments to North Halswell, and provide associated positive economic effects in terms of the social and economic wellbeing of the south west-catchment;¹³
- (c) the introduction of community activities, such as the medical facility, childcare centre, and public open spaces;¹⁴ and
- (d) the internalisation of Days Drain on the Site and naturalisation of a significant section of the network,¹⁵ which from an ecological perspective, will result in positive ecological effect that “clearly offsets any adverse effects of the proposed piping of 120m”.¹⁶

Adverse effects

[61] Many of the actual or potential adverse effects of the Proposal are agreed to be no more than minor, at least as between Woolworths and the Council.

[62] Potential adverse effects on Halswell Timber (associated with reverse sensitivity and stormwater discharges) were also agreed to be appropriately managed through the conditions proposed by Woolworths.

[63] Outstanding ‘effects-based’ issues as between the Council and Woolworths related to:

- (a) the effects associated with the alignment of, and method of providing for the Green Corridor, and whether it provides a strong connection to the main street in the Spreydon Lodge development;
- (b) the amenity and activation impact of the absence of buildings facing Road A which would moderate the effects of the car park; consideration of which influenced the planners’ consideration of whether the Proposal

¹³ Bonis, EIC at [6.116].

¹⁴ Bonis, EIC at [6.36] and [7.100].

¹⁵ Bonis, EIC at [5.38] and [7.39(c)].

¹⁶ Joint Ecology Evidence of Tanya Blakely and Gregory Burrell at [4.8].

further relevant objectives and policies of the plan in terms of s104(1)(b)(vi).

[64] The Council's planning evidence raised opposition to the intrusion of the supermarket development (mainly the car parking) into the RNNZ on policy grounds. The evidence of Mr J Lonink (urban design) and Mr Lowe (planning) was that the intrusion is inconsistent with a key policy in relation to non-residential activities with the RNNZ. In opening submissions for the Council, Mr Pizzey recommended that the following amendments to the Proposal would be needed:

- (a) movement of the green corridor further to the east by 7 m to achieve a better connection with the main street in the consented Halswell Commons;
- (b) public access to the corridor should be secured by way of a registered easement in addition to a consent condition;
- (c) buildings should be located between Road F and the Green Corridor along Road A to provide "activation".

[65] Mr Pizzey explained that with these amendments, unconditional support would be given by the Council for grant of consents. Without them, Mr Pizzey submitted that consent for the Proposal should be declined due to inconsistency with relevant objectives and policies of its district plan, stopping short of contending that the second s104D gateway test would not be met.

[66] Spreydon Lodge did not suggest any solution to any of its issues; maintaining its stance that the consents be declined. The amendments sought by the Council were submitted insufficient to meet Spreydon's overall concerns.

[67] The planner called for Spreydon Lodge, Mr N Roberts, considered that the adverse effects of the Green Corridor alignment on the amenity and vibrancy of the centre would be significant, such that consents should be declined.¹⁷

¹⁷ Roberts, EIC at [11] and [17].

[68] Similarly, other witnesses called by Spreydon Lodge claimed that location of the supermarket, and the fine-grained retail fronting Halswell Road and the separation of these from their Main Street would result in significant adverse effects on the viability and vitality of the retail in the Halswell Commons consents, to a degree that would be contrary to objectives and policies of the district plan.

[69] Spreydon Lodge contended that neither of the s104D gateways tests would be met.

[70] We consider the issues raised by the parties in turn, commencing with the Green Corridor issue.

Alignment and design of the Green Corridor

[71] Woolworths' Proposal for the Green Corridor comprises:

- (a) a 17 m wide corridor that comprises a 7.5 m shared path, a 9.5 m pedestrian/cyclist path in front of the supermarket building which is differentiated through its paving and planting along its western edge; and
- (b) a 46 m wide paved open space at the northern extent of the supermarket which connects to the 12 m wide Days Drain corridor and provides a connection point to the remainder of the North Halswell KAC.

[72] This is a refinement of the original alignment, and results from a number of amendments made through engagement among the parties involved. Specifically, the changes (to both location and treatment) entail:

- (a) the repositioning of the supermarket building east by 17m;
- (b) the addition of the gym building to the west of the supermarket;
- (c) the removal of parking outside the supermarket frontage;
- (d) provision of an additional landscaped area, including a widening of the paved link across Days Drain, planting and street furniture.

[73] The alignment is approximately 10 m west of the indicative location on the

Commercial ODP and is offset by some 30 m from the eastern side of the main street on the adjoining Spreydon Lodge land with the supermarket proposed to be located where the Green Corridor is indicated on the Commercial ODP.

[74] The Green Corridor is also separated from the Spreydon Lodge consented development by a 50 m strip of Spreydon Lodge land, which does not form part of the consented Halswell Commons. This means that the Woolworths development cannot be physically connected to, and integrated with the Halswell Commons, until Spreydon Lodge develops that land in the future.

[75] Woolworth's case was that the alignment achieves "very good integration and connection" with the development on Spreydon Lodge's land. We were told that Woolworths had "pushed and pulled and tested every aspect of the Proposal numerous times",¹⁸ with no scope for any further refinement, at least without jeopardising other components of the Proposal.¹⁹

[76] The dispute with the Council and Spreydon Lodge focused (in part) on application of the Commercial ODP and its depiction of a Green Corridor as an 'indicative' feature.

[77] The district plan does not elaborate any further on the form or function of this feature, and nor does it explicitly require a direct or visual connection through to the Main Street. Nor is it stated that this feature is to carry vehicle traffic, as the evidence for the Council purports.²⁰

[78] However, we accept that its notation on the ODP implies a 'movement function' or 'directional connection'²¹ with, at the very least, a landscape visual amenity function.²²

¹⁸ Woolworths' reply submissions 26 March 2021 at [2.5].

¹⁹ Woolworths' reply submissions 26 March 2021 at [2.6].

²⁰ Heath, EIC.

²¹ Riley, EIC at [7.3].

²² M Riley (urban design) called by Spreydon, EIC at [7.3].

[79] In resolving this issue, we find some guidance in relevant objectives, policies and assessment matters of the district plan. Accordingly, before considering the competing cases, we refer to the more relevant of these, primarily the site-specific policy for the North Halswell and Belfast/Northwood KACs, Policy 15.2.2.2. This is to:

- a. Require development within the Belfast/Northwood and North Halswell Key Activity Centre to:
 - i. be planned and co-ordinated in accordance with an outline development plan;
 - ii. provide for a high quality, safe commercial centre which is easily accessible by a range of transport modes and is well connected to the surrounding area; and
 - iii. be integrated with the transport network and developed in a manner aligned with improvements to the transport network in order to avoid adverse effects on the safe, efficient and effective functioning of the road network.
- b. Require development within the North Halswell Key Activity Centre to:
 - i. be developed to a scale that:
 - A. protects the Central City's role as the region's primary commercial areas; and
 - B. ensures the role of District Centres and Neighbourhood Centres within the city and commercial centres in Selwyn District is maintained.
 - ii. provide high quality public open spaces, a strong main street with a concentration of finer grain retailing, and strong linkages between key anchor stores;
 - iii. achieve a supply of both large and finer grain retail activity that provides for the long term needs of the population in the south west.

...

[80] Policy 15.2.2.3 is of lesser relevance, although it is worthy of reference to:

- a. In new residential greenfield areas, land identified through zoning and/or on an outline development plan for a commercial centre shall be developed and primarily used for commercial activities and community activities including health care facilities, to serve the needs of existing and future

residents.

- b. The development of new commercial centres in residential greenfield areas shall recognise and provide for Ngāi Tahu/mana whenua values while not impacting on the character, coherence or amenity of the adjoining residential area.

[81] The overarching objective for the ‘scale, form and design of development’ within a commercial zone is Objective 15.2.4, and is:

- a. A scale, form and design of development that is consistent with the role of a centre, and which:
 - i. recognises the Central City and District Centres as strategically important focal points for community and commercial investment;
 - ii. contributes to an urban environment that is visually attractive, safe, easy to orientate, conveniently accessible, and responds positively to local character and context;
 - iii. recognises the functional and operational requirements of activities and the existing built form;
 - iv. manages adverse effects on the surrounding environment; and
 - v. recognises Ngāi Tahu/mana whenua values through landscaping and the use of low impact urban design, where appropriate.

[82] The relevant implementation comes in Policy 15.2.4.2 which is to:

- a. Require new development to be well-designed and laid out by:
 - i. encouraging pedestrian activity and amenity along streets and in adjoining public spaces, to a degree that is appropriate to the location and function of the road;
 - ii. providing a principal street facing façade of visual interest that contributes to the character and coherence of a centre;
 - iii. facilitating movement within a site and with the surrounding area for people of all mobilities and ages, by a range of modes of transport through well-defined, convenient and safe routes;
 - iv. enabling visitors to a centre to orientate themselves and find their way with strong visual and physical connections with the surrounding area;
 - v. promoting a safe environment for people and reflecting principles of

- Crime Prevention through Environmental Design (CPTED);
- vi. enabling the re-use of buildings and sites while recognising the use for which the building is designed;
 - vii. incorporating principles of low impact design including energy efficiency, water conservation, the reuse of stormwater, on-site treatment of stormwater and/or integration with the wider catchment-based approach to stormwater management, where practicable;
 - viii. achieving a visually attractive setting when viewed from the street and other public spaces, while managing effects on adjoining environments; and
 - ix. providing adequate and convenient space for storage while ensuring it is screened to not detract from the site's visual amenity values.
- b. Recognise the scale, form and design of the existing built form within a site and the immediately surrounding area and the functional and operational requirements of activities.
 - c. Require residential development to be well-designed and laid out by ensuring a high quality healthy living environment through:
 - i. the provision of sufficient and conveniently located internal and outdoor living spaces;
 - ii. good accessibility within a development and with adjoining areas; and
 - iii. minimising disturbance from noise and activity in a centre (and the potential for reverse sensitivity issues to arise).

[83] Clause 15.13.4.3 sets out the matters of discretion for a breach of the 'area specific' rules for this KAC that we are required to consider, the more relevant of these being:

15.13.4.3.1 General

- a. The extent to which development:
 - i. supports the role of the North Halswell Key Activity Centre as a high intensity area of commercial activity and community activity; and
 - ii. enables people to orientate themselves and find their way with strong visual and physical connections with the surrounding neighbourhoods and wider area.

15.13.4.3.3 Design and amenity

- a. The extent to which development:

- i. provides a strong visual relationship and high quality urban interface with State Highway 75;
- ii. provides primary active ground floor frontages on all sites intended for commercial and community focussed activity where they face an accessible public open space;
- iii. enables a continuous frontage of retailing on the main street in order to ensure a high intensity of commercial activity;
- ...

Competing evidential cases

[84] The landscape architects for Woolworths and the Council²³ agree that the refinements improve the visual and physical connection of the development to the north (on the Spreydon Lodge land) and to Days Drain, such that no amendment to its alignment or treatment is required.

[85] The architectural, urban design and planning experts for Woolworths (but not for the Council) also support the current Green Corridor alignment, and agree that the Green Corridor alignment and treatment is such that:

- (a) it would be visually legible and understandable to the public from Road A, as the supermarket edge and paving treatment clearly and strongly signal its beginning;
- (b) it is well defined in three dimensions by the planting, surface treatment, lighting and activated building edges, including the supermarket, adjacent retail and canopies;
- (c) effective planting and landscaping will assist with legibility, amenity and screening from the bulk of adjacent commercial buildings;
- (d) the strength of the connection is enhanced by its interaction with other connections through the site, including the Days Drain corridor; and
- (e) it appropriately contributes to a “highly permeable, accessible and well-connected KAC”.

²³ D Kamo and J Dray.

[86] However, witnesses for the Council and Spreydon Lodge disagreed. Experts for these parties focussed on the connection from the Green Corridor to Halswell Commons's Main Street, (wholly contained within the Spreydon Lodge land), both in its depiction on the Commercial ODP and under the Halswell Commons consents.

[87] The Council's urban design expert, Mr Lonink, considers that the alignment fails to achieve an effective, strong physical and visual connection between the commercial areas on the Woolworths and Spreydon Lodge sites.²⁴

[88] In his opinion, there is a need for a continual visual connection between the corridor and the Main Street such that a person standing in front of the supermarket should be able to see the Main Street through the Green Corridor.

[89] He criticised the lack of strong linkages between the anchor stores consented on the Spreydon Lodge land, although in cross-examination, he accepted that none of these stores have frontage on to the Main Street.

[90] Mr Lonink further considers that the corridor area would also appear as a private space in front of the supermarket, although he accepted that this would be overcome if access to it is legally secured by way of a registered easement for the benefit of the public.²⁵

[91] Mr Lonink supported a further relocation of the supermarket and corridor alignment another 7 m to the east of its proposed location, which in his opinion, would reduce the offset with the Main Street to a sufficient extent. He produced a drawing²⁶ that illustrated his suggested amended position for the supermarket, although he was tested on that in cross-examination by Ms Arthur-Young.

[92] In his answers, he acknowledged that he had not considered the consequential impact on other aspects of the development Proposal and he accepted that there

²⁴ Lonink, EIC at [6.8].

²⁵ Lonink, EIC at [6.51(d)].

²⁶ Exhibit 1.

would be a need to alter the car parking layout so that efficient vehicle access to the loading dock used by the supermarket could be retained.

[93] Nor had he considered the impact on the childcare and medical facility, although he acknowledged that these may need to be relocated or withdrawn. He also accepted that in moving the supermarket 7 m to the east, there would be a greater intrusion into the RNNZ, which the Council was also opposed to on policy grounds.

[94] The Council's planner Mr Lowe did not consider whether the corridor alignment would result in adverse effects that were more than minor, for the purpose of the s104D test, although he viewed the alignment as "not sufficiently direct", and that the presence of the timber yard on the adjoining land would unduly compromise its amenity while it remains operational.

[95] For Spreydon Lodge, Mr Riley gave evidence that the width of the Green Corridor area at the northern boundary with the Spreydon Lodge land is "extremely weak" and insufficiently framed on all sides. In his opinion, this would impede its function as an effective link to the central part of the KAC.²⁷

[96] In answers to questions in cross-examination, Mr Riley agreed that being an indicative feature on the ODP, the green corridor did not have to directly align with the location depicted on the ODP.²⁸ In his opinion it is a "question of assessment" against the objectives and policies of the district plan. He considered it to be "a matter of good urban design thinking and robust planning", as to where a good alignment may be.²⁹

[97] He acknowledged that the location of the main street under the Halswell Commons consents do not align with the indicative location depicted on the ODP and similarly, the collector road.

²⁷ NOE, 226.

²⁸ NOE, 211.

²⁹ NOE, 212.

[98] Mr Riley considered there is a need for buildings along the edge to provide vertical definition, although in cross-examination he accepted that the supermarket provided a built edge to the eastern side while the gym provides a built edge to part of the western side of the corridor. Although he acknowledged that landscaping was proposed along the eastern edge as well, he considered that it was not enough.³⁰

[99] Mr Riley was also pressed on whether a visitor would be able to find a way through to the Main Street from the supermarket once they had visited the centre for the first time. Although he acknowledged that a visitor would not necessarily find it challenging, he stated that the Proposal was “not good urban form”.

[100] For Woolworths, Ms Hampson (economist) had considered that shoppers would likely establish a “mental map” of the centre through repeat shopping trips and would become familiar with the connection to and through the entire centre.³¹

[101] Mr Roberts assessed the effects of the alignment of the Green Corridor with reference to the relevant objectives and policies of the district plan.³² He referred to the district plan’s outcomes for the KAC as including (relevantly):

- (a) high quality public open spaces and a strong main street with strong linkages between anchor stores;
- (b) the requirement for integration (visual and physical); and
- (c) being easy to orientate, and conveniently accessible.

[102] While accepting that aspects of the Proposal would contribute to these outcomes, Mr Roberts criticised the development for being “largely inward focused”, relatively isolated from other activities within the centre and not sufficiently integrated and connected with the development consented for the Spreydon Lodge land.

[103] Relying on the evidence of Mr Riley, Mr Roberts referred to the lack of

³⁰ NOE, 223.

³¹ Hampson, rebuttal at [3.18].

³² Roberts, EIC at [9.40].

legibility between the supermarket and the rest of the centre via the Green Corridor link as a “fundamental flaw” in the Proposal.³³

[104] His evidence was that the Proposal is not sufficiently in accordance with the ODP, such that there would be more than minor adverse effects on the form and function of the centre.

[105] Mr R Knott, Woolworths’ architect, agreed that the corridor is important and, in his opinion, the district plan “clearly expects very clear and understandable linkages throughout the KAC, the green corridor being one of these”.³⁴

[106] While he considered it to be important in connecting the supermarket to stage 1 of the Spreydon Lodge development, in the long term he did not consider the corridor connection to be any more significant than any of the other linkages provided for on the ODP. In his opinion, they were all important to make the area function as linkages north, south, east and west.

[107] Mr Knott had no concern with the original offset connection, although he considered that the realignment, which reduced the offset with the Main Street, provided a “very strong linkage”.

[108] Mr Knott struggled with the visual linkage issue as, in his opinion, a strong linkage could be achieved by a number of means, and in the context of the Policy 15.2.4.2 requirements. He disagreed with Mr Lonink that the corridor had to be “perfectly straight” in order to be an effective visual linkage through to the Main Street.

[109] In his opinion, the policy requirement for “strong visual and physical connection” is directed at the connections with the surrounding area around the KAC, as opposed to within the KAC itself.

³³ Roberts, EIC at [11.6].

³⁴ NOE, 69.

[110] He also referred to three (of the many) available design options described in his evidence to achieve full integration with the Main Street, although he emphasised that the strength of the linkage ultimately depends upon the detailed design from Spreydon Lodge as owner of the intervening strip of land.³⁵

[111] Lastly, we refer to the planning evidence of Woolworths' Mr Bonis who was also questioned about the alignment of the corridor in the context of the requirement for "strong visual and physical connections with the surrounding area" in the context of Policy 15.2.4.2.a.iv.

[112] When questioned on this, Mr Bonis referred to the 'KAC specific' assessment matters that address this feature of the ODP, particularly clause 15.13.4.3.1.ii., which requires consideration of the extent to which development "enables people to orientate themselves and find their way with strong visual and physical connections with the surrounding neighbourhoods and wider area".

[113] However, like Mr Knott, Mr Bonis construed that as addressing connections with the surrounding neighbourhoods and wider area, not those that are internalised within the KAC itself.³⁶

[114] He also observed that the KAC specific policy (Policy 15.2.2.2.b.ii.) refers to strong linkages between key anchor stores, although it is not explicit in relation to the alignment of the Green Corridor and the Main Street.

[115] Mr Bonis also referred to the assessment matter in clause 15.13.4.3.5, which "talks about the extent to which development connects the civic square and the main street, both visually and physically".³⁷

[116] He observed the "very specific and explicit reference to how those two particular elements of the ODP should connect to each other both visually and

³⁵ NOE, 76, 77.

³⁶ NOE, 108.

³⁷ NOE, 109.

physically”, although he was not able to find any similar provision as to the connection and relationship between the Main Street and the Green Corridor.³⁸

[117] Unlike Mr Lowe, Mr Bonis considered that the Green Corridor alignment is sufficiently “in accordance” with the “indicative” position depicted on the Commercial ODP. He also considered that it achieves consistency with Policy 15.2.2.2.

[118] In response to Mr Lowe’s concerns about the proximity of the corridor to the Halswell Timber operations, which he disagreed with, Mr Bonis referred to the assessment matter in clause 15.13.4.3.3.viii on ‘design and amenity’, which requires consideration of the extent to which development “recognises and enables existing land use activities to continue while managing effects on those activities”.

[119] In his opinion, the substance of this assessment matter is addressed appropriately in the conditions proffered by Woolworths, particularly in relation to any noise and dust from the Halswell Timber operations.

[120] He acknowledged that Mr Lowe’s suggestion for buildings along the corridor on the eastern end of the Halswell Timber site would be one way of addressing these interface issues, although he considered that the district plan requirement for connectivity is that it be a “strong connection”, not necessarily “optimal” or even “stronger” than what is proposed.³⁹

Our findings on the Green Corridor alignment issue

[121] We prefer the evidence for Woolworths on this issue, in preference to the evidence of Spreydon Lodge and the Council. We find that the evidence of Mr Bonis, Mr Sofo and Mr Knott was duly informed by the district plan provisions and their professional opinions were not significantly challenged in cross examination.

³⁸ NOE, 109.

³⁹ NOE, 111.

[122] We agree that the Green Corridor is an indicative feature on the Commercial ODP which means there is a degree of flexibility (within reason) as to its alignment with the Main Street.

[123] We find that there is no requirement in the district plan for this feature to function as a road and nor is there a requirement for a linkage that provides visibility through to the Main Street, or that it be a straight alignment providing a direction connection to the Main Street in the location depicted on the ODP.

[124] The policy direction in the district plan is for strong linkages between anchor stores, not to the Main Street.⁴⁰ We accept the evidence for Woolworths that the Proposal achieves that, and particularly the evidence of Mr Sofo and Mr Knott that the location and design of the Green Corridor will provide for a sufficiently strong linkage between the Woolworths' supermarket and the Main Street.

[125] As a pedestrian and cycle linkage, we also accept the evidence for Woolworths that the alignment, paving treatment, landscaping, including vertical elements along the western edge, in combination with its proximity to the gym will provide the corridor with adequate definition such that it will incentivise movement towards the north and into the central part of the KAC.

[126] We reject the evidence of Mr Riley and Mr Roberts for Spreydon Lodge that the design of the corridor is "extremely weak" and "fundamentally flawed" and find that these assertions were made without rational explanation, therefore having the appearance of advocacy which of course is unacceptable from expert witnesses. Indeed, we regret that much of the evidence in chief of Mr Riley (and under cross examination), was not supported by principled reasons and was often subjective personal preferences, and what he unhelpfully called "matters of assessment", again with no rational explanation. We also regrettably found similar shortcomings in the urban design evidence of Mr Lonink called by the council.

⁴⁰ Policy 15.2.2.2.b.ii.

[127] We accept the evidence of Mr Knott that there are many available design options available to Spreydon Lodge to achieve a strong connection to the Main Street; and that the strength of the final connection lies in the selected design over the 50m strip on that company's land.

[128] We find no justification for relocation of the supermarket to reduce the offset of the Green Corridor with the Main Street. Indeed, we agree with the submissions for Woolworths that the relocation proposed by the Council was ill-thought out.

[129] Moving the supermarket would have flow-on effects for the design and operation of the supermarket loading bay and could also lead to the relocation (or deletion) of the child-care and health care facilities proposed in this location as well. In any event, the Council's solution was not sufficient to overcome the criticisms of Spreydon Lodge.

[130] We find that any adverse effects of the Green Corridor alignment in the location proposed by Woolworths, when considered within the context of relevant district plan provisions identified by Mr Bonis, are no more than minor for the purpose of the first s104D gateway test.

Is an easement required to secure access?

[131] The Council contended that public access is better protected by way of a registered easement as that secures public access in perpetuity, rather than by way of the conditions proposed by Woolworths. Mr Pizzey confirmed that this was an issue for Mr Lowe in particular and arose from his experience in dealing with subdivisions and following consultation with the Council's in-house property lawyer.

[132] In response to the Council's evidence, Woolworths initially agreed to propose a condition on the land use consent requiring an easement to be registered in favour of the Council although it was opposed to unreasonable constraint on the occupation of the easement area for certain outdoor activities, such as seating.

[133] The Court questioned Mr Lowe as to whether the easement is necessary to

secure public access or whether it could be handled adequately by conditions of consent, particularly in the context of the s108AA requirements for consent conditions.⁴¹

[134] Mr Lowe considered that the easement is a tool for integration, this being a sufficient effects-based justification for this condition, because “it helps link up two or three landownerships into a cohesive whole”.⁴²

[135] Mr Lowe considered that an easement would also give greater certainty to the public and to the development community that the corridor will be secured in perpetuity, free of any built development. He opposed reliance on conditions, as these could be amended.

[136] When asked what sets this situation apart from others that are equally as important in achieving mitigation or enhancement, such that it requires a legal instrument to secure that in favour of well-crafted conditions, he answered:⁴³

I have a concern that conditions can be amended or consents can be surrendered and if I was a neighbouring landowner, who was relying on that consent, I might not be confident, you know, that that would be secured, whereas an easement that’s controlled by Council, in my view, provides a very high level of security that that connection is protected.

[137] Mr Lowe confirmed that securitisation conditions of this kind are regularly imposed on subdivision consents. He drew support from provisions in the subdivision chapter, notably controlled activity rule 8.5.1.2, clause 5b.ii. This requires subdivision to be undertaken in accordance with the key structuring elements of an ODP contained in Chapter 15.⁴⁴

⁴¹ NOE, 190.

⁴² NOE, 191.

⁴³ NOE, 192.

⁴⁴ NOE, 193.

[138] He then referred to the matters of control for a subdivision, and stated that:

As a subdivision, unless, to provide that piece of infrastructure, you're not providing it, in my view, unless its legally secured because otherwise there's nothing to approve in the subdivision.⁴⁵

Our findings on the easement question

[139] We commence by referring to s108AA of the RMA, which provides:

Requirements for conditions of resource consent

- (1) A consent authority must not include a condition in a resource consent for an activity unless —
 - (a) the applicant for the resource consent agrees to the condition; or
 - (b) the condition is directly connected to 1 or both of the following:
 - (i) an adverse effect of the activity on the environment;
 - (ii) an applicable district or regional rule, or a national environmental standard; or
 - (c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.
- (2) Subsection (1) does not limit this Act or regulations made under it.
- (3) This section does not limit section 77A (power to make rules to apply to classes of activities and specify conditions), 106 (consent authority may refuse subdivision consent in certain circumstances), or 220 (condition of subdivision consents).
- (4) For the purposes of this section, a district or regional rule or a national environmental standard, is applicable if the application of that rule or standard to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.
- (5) Nothing in this section affects section 108(2)(a) (which enables a resource consent to include a condition requiring a financial contribution).

[140] Although the easement was initially agreed to by Woolworths, that was

⁴⁵ NOE, 193.

conditional support.

[141] We accept that the need to secure the corridor is to ensure integration with development on the adjoining land, although we consider that this is adequately provided for by conditions of consent.

[142] Conditions proposed for the land use consent contain the usual requirement that the development proceed in general accordance with plans lodged with the application, and in proposed Condition 1, a series of plans are identified, including:

- (a) Set D – Landscape Green Corridor Connection: Approved Plans 19 and 21 (Kamo Marsh plans labelled Days Drain Green Corridor Linkage Ref 4742 pages 1-3).

[143] Any proposal to amend this plan in relation to the corridor alignment would have to be duly considered in terms of s127 RMA, where all relevant plan provisions would have to be considered, including those relating to the Commercial ODP.

[144] We disagree with Mr Lowe that an easement is justified by the plan provisions he referred us to. Further, we heard no evidence that the council wants any kind of responsibility for maintenance of this corridor. The issue is purely maintenance of public access, and we find that a condition supporting implementation of relevant plan provisions is perfectly adequate.

Road “A” frontage

[145] The next issue relates to the design of the car parking area along Road A; whether it is visually dominant; and whether this frontage ought to contain buildings along the length of the car parking areas to achieve “activation”.

[146] The supermarket car parking would be visible from Road A, and we accept that visible car parking is a functional and operational requirement of a supermarket, as contended by Woolworths.

[147] Mr Sofo considered that the proposed design achieves an appropriate balance of the functional needs of the supermarket with the appropriate softening through the landscaping. He disagreed with the Council witnesses that the car parking areas are visually dominant. Mr Sofo's evidence was that visible car parking is also promoted in the principles of crime prevention through environmental design ("CPTED").

[148] The landscape architects for Woolworths and the Council were also agreed that the landscape treatment proposed along the road frontage would soften and help to mitigate the appearance of the car park areas.

[149] Mr Knott did not support the Council's request for buildings along this frontage either, in fact, he was critical of the Council experts in not having given adequate consideration to the implications of that. In his experience, it is "incredibly difficult" to obtain a successful result with buildings that have a double frontage on to a street and on to a carpark.

[150] He considered that the "Click and Collect" area on the southern frontage of the supermarket building would bring additional and sufficient movement and interest to the Road A frontage and would benefit the character and amenity of the area.

[151] Mr Bonis considered that the scale and extent of the carparking is commensurate with the role of the North Halswell KAC. His evidence was that with the landscaping proposed, the car parking areas would not be visually dominant and that the effects of the carparking areas fronting on to Road A would be no more than minor in the context of s104D.

[152] For the Council, Mr Lowe considered that the effects would be more than minor as the carparking areas would be a dominant feature that is inconsistent with policies that seek to have more buildings along the road frontage.⁴⁶ Provisions of the policy relied upon by Mr Lowe require that new development to be:

⁴⁶ Lowe, EIC at [6.1].

... well-designed and laid out by

- i. encouraging pedestrian activity and amenity along streets and in adjoining public spaces, to a degree that is appropriate to the location and function of the road; and
- ii. providing a principal street facing façade of visual interest that contributes to the character and coherence of a centre.⁴⁷

Our findings on this issue

[153] Having considered the competing evidence on this issue, we find that there would be no adverse effects of any consequence associated with the car parking along the Road A frontage. Indeed, the Council's suggestion could result in adverse effects that are not a feature of the current Proposal.

[154] We accept the evidence of the witnesses for Woolworths that buildings along the frontage of the carpark areas would reduce the visibility of the supermarket to the detriment of the viability of supermarket and wider KAC, and CEPTD-based security

[155] We also accept Mr Knott's evidence that the considerable landscaping will provide an attractive frontage and that it is significantly more than would typically be seen in a supermarket car park.

[156] We disagree with the Council's submission that there is policy support (in Policy 15.2.4.2) for buildings along the entire road frontage.

[157] We agree with Woolworths in its criticism of the Council's case in this regard. It is not helpful to speculate on the nature and scale of hypothetical buildings in this location, as it is not part of the Proposal we are required to assess and decide on.⁴⁸

Retail issues

[158] Spreydon Lodge opposes the Proposal to locate the cluster of specialty food

⁴⁷ Policy 15.2.4.2.a.i. and a.ii, Bundle p 1423.

⁴⁸ Woolworths reply submissions, at [2.4].

and beverage, and entertainment (the cinema) adjacent to Halswell Road, near the entrance to the Woolworth's site. Its experts allege that:

- (a) this would result in a lack of integration and connection between the supermarket, Green Corridor and the Main Street, such that it would lead to the creation of two centres rather than an integrated whole; and
- (b) there would be significant adverse economic effects on the balance of the centre as the 'cluster' of retail proposed for the Halswell Road frontage would displace the majority of all of the food and beverage stores, and cinema, consented under the Halswell Commons consents on the Main Road.

[159] Woolworths disputes those claims. Its evidence is that the retail activities proposed on Halswell Road provide a strong entrance to the KAC; is of an appropriate scale, form and range of activities associated with a major entrance to the KAC; and provide an appropriate design interface and buffer between Halswell Timber's site and the more sensitive residential development.

[160] The Council has no issue with this aspect of the Proposal and agrees that the commercial activity proposed at this location is an important gateway feature and does not foreclose the establishment of a Main Street as the centre of the KAC.

[161] It is useful to commence with a reference to the evidence of the economists for the Council and Woolworths who produced a joint statement on the economic effects (**JWE**). The JWE contains a summary of the potential economic effects on the future urban form, amenity and viability of the centre, particularly from the retail proposed at this Halswell Road entrance.

[162] These witnesses, Heath and Hampson, agreed that:

- (a) the district plan rules manage retail distributional effects over the life of the plan and sets a cap of 25,000 m² GFA of retail activity within the CCZ. This enables a functional mix of retail and other activity to establish in the short to medium term, while avoiding adverse effects on

- other centres;
- (b) the GFA of the Proposal (9,581 m²) does not exceed the 25,000 m² retail when considered in conjunction with the retail consented for the Main Street under the Halswell Commons stage 1 consent;
 - (c) the potential exists for the retail scale to be extended by the 1,343 m² intrusion into the adjacent RNNZ associated with the supermarket car park, however, this would be minor in the context of the anticipated at scale of the KAC over the long term;
 - (d) no significant adverse economic effects are anticipated to arise from that encroachment, or from the Proposal overall, either within the KAC, the adjacent RNNZ or on any other centre in the city centre network.

[163] Reference was made to the decision of the Independent Hearings Panel (IHP) during the replacement district plan process in 2016, in which it was acknowledged that the KAC could sustain 50,000 m² GFA of retail floor space (that is, in 20-30 years), once catchment growth was realised. The IHP decision confirmed the overall size of the CCZ of 17.3 ha to ensure that the centre was of sufficient scale in the long term so as to:

- (a) provide for the retail and commercial service requirements of the catchment community if developed efficiently;
- (b) provide social amenity (ie is a vibrant place with opportunities for social interactions); and
- (c) complement the wider centre network (including the role of the CBD) without generating significant adverse effects in the context of the RMA.

[164] While the extent of the CCZ is slightly less than that recommended by the IHP (being 16.57 ha), in the opinion of Mr Heath (Council's witness) and Ms Hampson (called by Woolworths) there is potential to expand the physical size of the centre by 0.73 ha when accounting for existing demand.

[165] They agree there is an existing under-supply of small format retail in the southwest catchment, particularly for food and beverage floor space. Accordingly,

they agree that there is an existing functional (economic) need for food and beverage floor space in this centre that is currently not being met.

[166] A portion of that demand will be met by the Proposal, which in their opinion is to be located in an accessible and visible location by the entrance off Halswell Road.

[167] They further agree that this will activate one of the two main entrances for the centre off Halswell Road, which is considered important for the ongoing economic success of the centre.

[168] We consider the issues pertaining to the supermarket and fine-grained retailing in turn.

Supermarket location

[169] The Countdown supermarket is to be located in a fringe location, although not wholly contained within the CCZ. Approximately 1,300 m² of the carparking and loading bay areas associated with the supermarket encroach into the adjoining RNNZ. Two grounds of opposition are raised by Spreydon Lodge to this location:

- (a) the first relates to its distance from and disconnect to their main street;
- (b) the second associated with the RNNZ encroachment, where opposition is raised on policy grounds.

[170] There was broad agreement between Woolworths and the Council that an edge-of-centre location is an appropriate location for an anchor store (such as a supermarket), as shoppers will be attracted to the centre, promoting cross-shopping opportunities, and without bringing the associated vehicle movements (including service/delivery vehicles) into the heart of the centre.

[171] The economic experts for these parties further agreed that for this to occur, there needs to be strong vehicle connectivity and integration with the balance of the centre. They acknowledged that full integration will not occur until the Halswell Timber site is developed, at which time, vehicular access will be available to central

areas of the CCZ, including onto the main street. Until then, there will be no direct road access from the supermarket to the Main Street.

[172] While supporting the location of the supermarket, Mr Heath gave evidence that the *optimal* economic outcome would be a main street through the entire North Halswell KAC, including the Woolworth's site. In his opinion, this would be achieved if the Green Corridor were to function as a road, instead of a walkway, although he acknowledges that this is not a requirement of the ODP.

[173] Disagreeing with that contention, Ms Hampson considered that the lack of a direct road connection would not have an adverse economic impact on the viability of the centre. In response to questions on the policy implications of the RNNZ encroachment, Ms Hampson gave evidence that a supermarket has a number of needs that are met in the location proposed:

- (a) visibility for passing vehicles primarily;
- (b) a large site with good access;
- (c) visible parking areas;
- (d) loading zone beside the supermarket that is separated from the public spaces and pedestrian areas, has clear and free entrance, and appropriately dimensioned so as to enable them to function and operate effectively.

[174] Ms Hampson acknowledged that there might be other locations within the KAC that could meet those needs, although in her opinion, the loss of this supermarket would be a significant opportunity cost for the development of the KAC in the short to medium term. She considered that this would be detrimental to the economic success of the centre overall.

[175] Her evidence was that there is a shortage of supermarket floor space in the locality and that the community is generally under-served in the south-west. She was not aware of any other plans by any other supermarket operator to meet that shortfall.

[176] She noted that counsel for Spreydon Lodge had stated that it is not intending

to include a supermarket on its site, which meant that the site selected by Woolworths would be the only supermarket site available to cater for the existing demand. Ms Hampson considered that in the short to medium term needs of the catchment are likely to be met by the Woolworths proposal in combination with the Halswell Commons Stage 1 consent.

The encroachment issue – Policy 14.2.6.4

[177] Policy 14.2.6.4 and its parent objective are triggered because of this encroachment. The policy is to:

Restrict the establishment of other non-residential activities, especially those of a commercial or industrial nature, unless the activity has a strategic or operational need to locate within the residential zone, and the effects of such activities on the character and amenity of residential zones are insignificant.

[178] This policy implements Objective 14.2.6(ii) which is expressed in similar terms.

[179] Mr Lowe’s evidence for the Council was that the supermarket encroachment is inconsistent with this objective and policy as there is not an operational or strategic need for the activity to establish in the Residential zone.

[180] Mr Lowe took guidance from decisions of the Environment Court (*Fright v Christchurch City Council*⁴⁹ and *Rogers v Christchurch City Council*)⁵⁰ where the Court had considered similarly worded policies. He approached the meaning of “restrict” as “to limit” as opposed to a more preventative definition (such as avoid).

[181] Mr Lowe observed that there is no clear guidance in the plan on how to restrict or limit activities that offend against this policy. However, he considered that if there are “resource management issues of consequence that arise”, there is a need to restrict that is “commensurate to the facts and circumstances of the proposal and the nature of the activity”. Conversely, if no such resource management issues arise that are of

⁴⁹ *Fright v Christchurch City Council* [2018] NZEnvC 111.

⁵⁰ *Rogers v Christchurch City Council* [2019] NZEnvC 119.

consequence, the Proposal may be consented without restriction.

[182] In his opinion, there are “resource management issues of consequence” with the Woolworths Proposal; the Green Corridor alignment, and the lack of buildings and activation along the frontage of Road A, although as we have earlier recorded, if these two issues were addressed as required by the Council, it would view the Proposal as being consistent with this policy, and would support a grant of consents.

[183] We were puzzled by the Council’s approach, particularly as there would be an increase in the extent of the intrusion into the Residential zone if the supermarket is relocated in this manner, and similarly if commercial buildings were to be constructed along the Road A frontage.

[184] Mr Bonis (Woolworths) refuted the opinion of Mr Roberts (Spreydon) that the residential zone intrusion is “contrary” to the relevant objective and policy, as in his opinion:

- (a) there is a strategic or operational need for the residential intrusion; and
- (b) the effects of the activities on the character and amenity of the residential zone and would be insignificant.

[185] Mr Bonis opined that in considering whether an activity ought to be restricted, it is more relevant to consider the underlying basis for the policy, being to ensure that commercial activity enhances the role and functions of the commercial centres. In terms of Policy 14.2.6.4, Mr Bonis disputes that there are grounds to restrict the intrusion into the RNNZ.

Our findings on this issue

[186] On matters of policy meaning we agree that “restrict” is to be treated as “to limit” as opposed to a more preventative definition (such as “avoid”).⁵¹

⁵¹ As the Court had held in *Fright v Christchurch City Council* [2018] NZEnvC 111 and *Rogers v*

[187] We take further guidance from the *Fright* decision where “unless”, was treated as meaning “except if”. (We note the Court in *Fright* did not have to consider the meanings of “strategic” or “operational” need).

[188] We note that neither of these terms are defined in the plan. While there is limited guidance from the caselaw, we find that the definition in the National Planning Standards (NPS) offers guidance on the meaning of “operational need”. In the NPS it is defined as “the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints”.

[189] There is no guidance on the meaning of “strategic need” in the NPS, although in *Rogers*, recourse was had to the Cambridge dictionary definition in a business setting which “relates to the way in which an organisation decides what it wants to achieve and plans actions and use of resources over time to do this”.⁵²

[190] We accept that every endeavour has been made by Woolworths to limit the size of the supermarket, including the extent of the RNNZ, while also ensuring that the overall design is safe, accessible, functional and fit for purpose in terms of its operational requirements.

[191] We agree that there is a strategic need to place supermarkets on the fringe of a centre where they are visible and easily accessible. We also accept that there is a need to ensure that the day-to-day operations are not unreasonably constrained by unsuitable design choices.

[192] In considering this policy, it is relevant that the majority of the built development is contained within the CCZ such that the policy does not apply. There is an obvious operational need for the car parking area and loading bay areas to co-locate with the rest of the supermarket development, and to that extent we agree with the submissions of Woolworths that the RNNZ intrusion is consistent with Policy

Christchurch City Council [2019] NZEnvC 119.

⁵² *Rogers v Christchurch City Council* at [69].

14.2.6.3.

[193] We accept the agreed evidence of Mr Heath and Ms Hampson that there are no significant adverse economic effects anticipated to arise from the encroachment or the Proposal overall, for that matter, either within the KAC itself, in the adjacent RNNZ, or on any other centre in the city' centre network.

[194] We also accept the evidence of Mr Bonis that the effects of this intrusion on the character and amenity of the residential zone would be insignificant.

[195] We agree that is irrelevant that there is space for a supermarket elsewhere in the commercial zone. Woolworths is entitled to a consideration of the Proposal on its merits. Accordingly, we place no weight on the evidence of Mr Roberts that “there is extensive vacant CCCZ in close proximity”⁵³ to the location proposed by Woolworths, such as the Spreydon Lodge land.

[196] We find no reason to require the supermarket to move further to the east in order to reduce the offset with the Main Street. More relevantly, we have difficulty with the Council's position that this offset reduction would overcome what it views as an inconsistency with Policy 14.2.6.3, for the reasons that:

- (a) shifting the supermarket further to the east would result in a greater intrusion of a non-residential activity into the RNNZ, being the target of the 'restrict' directive in the policy; and
- (b) the issues associated with the Green Corridor alignment, (which in broad terms are to address connectivity within the centre), have no relationship to the subject matter of Policy 14.2.6.3.

[197] Even if we are wrong about that, the intrusion creates a mild tension with the policy – at worst. However, this would not militate against a grant of consent.

⁵³ Roberts, EIC at [11.8].

Location of fine-grained retail and the supermarket in economic terms

[198] Mr Thompson's evidence (economic, Spreydon) was that the proposed food and beverage cluster at the Halswell Road entrance will displace the food and beverage retail activity consented on the Spreydon Lodge land, thus undermining the commercial viability of the Main Street.⁵⁴

[199] He based his opinion on his estimates of the "market potential for retail floorspace in the North Halswell KAC".⁵⁵ His evidence was that there is a market potential for approximately 25,000 m² of retail floorspace as at 2020, although by 2030 Mr Thompson estimates 25,000 m² of 'sustainable' retail GFA and by 2040, 45,000 m² of retail GFA in the KAC.

[200] The JWE (Heath/Hampson) considered that there is enough catchment demand today to sustain the first two stages of development and more. The Halswell Commons Stage 1 and the Proposal will provide a supply of 15,204 m² GFA of retail, leaving approximately 10,000 m² GFA of retail demand unmet. That is on the basis of Mr Thompson's estimate of existing demand.⁵⁶

[201] In her rebuttal to Mr Thompson's evidence, Ms Hampson was critical of his attempt to establish a statistical relationship between centre size and the number of food and beverage outlets, opining that there are multiple factors at play, not least the role of the centre and land area.⁵⁷ She was also critical that he had focussed almost solely on what can be sustained now rather than over time.

[202] Ms Hampson's rebuttal of Mr Thompson was not the subject of any cross-examination by counsel for Spreydon Lodge.

[203] We find that this aspect of Spreydon Lodge's opposition to the Proposal transgresses s308B. Retail distribution effects are generated by, and are a consequence

⁵⁴ Thompson, EIC at [4.1].

⁵⁵ at [4.6].

⁵⁶ JWE, at [4.3].

⁵⁷ Hampson, rebuttal at [15].

of, the effects of trade competition, although to qualify as such the effects must be significant and transcend those ordinarily associated with trade competition.

[204] We prefer the evidence of Ms Hampson and Mr Heath to that of Mr Thompson. We find that there is no merit (on economic grounds) to any of the contentions raised in opposition, least of all that:

- (a) the fine-grained retail, (particularly the food and beverage) should be located on or around the main street (on Spreydon Lodge's land); and
- (b) there is no capacity (in the short term) for the supply of more food and beverage within the KAC beyond the supply that Spreydon Lodge has been granted consents for.

[205] The CCZ provisions provide for retailing anywhere within the zone; there is no allocation of, or priority afforded to retailing on the Spreydon Lodge land beyond the policy requirement for a "concentration of finer grain retailing"⁵⁸ along the Main Street.

[206] Spreydon Lodge holds a consent for a concentration of retailing along the main street; it is freely able to implement that consent now.

[207] The CCZ provisions require that the centre provide for the long term needs of the population in the south west and we accept the evidence of Mr Heath and Ms Hampson that those needs exist now and are presently unmet.⁵⁹ There is no rationing of that retail supply; a decision on this is to be market-led.

[208] As we have said earlier, the question of whether or not there is trade competition underpinning opposition to a proposal, is a question of fact for analysis in each case. No two cases will ever be the same, but there appears to be some similarity of the facts in this case with those in *Kapiti Holdings* previously cited, at least

⁵⁸ Policy 15.2.2.2.b.ii., Bundle p 1421.

⁵⁹ Policy 15.2.2.2.b.iii., Bundle p 1421.

so far as the fine-grained retail Spreydon objects to is concerned.

[209] We find that each of Spreydon and Woolworths are in the business (adjoining each other), of being commercial owners, developers and lessors, potentially competing for lessees. Indeed, the evidence of their own two witnesses Riley and Thompson confirms this. We are required to ignore their evidence about effects of Woolworths' proposed fine grain retail on Halswell Road.

[210] The situation with the supermarket is a finer call. Woolworths submitted it was similar to the fine grain retail, but that is not so clear at first blush. Were it not for the fact that the evidence seems to be Spreydon does not propose a supermarket, it might have been similar. Nevertheless, Spreydon does propose anchor tenancies, and supermarkets come into that category.

[211] We hold that if the alleged physical environmental effects identified by Mr Riley and Mr Roberts had been proven, they could transcend those ordinarily associated with trade competition. But the physical effects have not been proven, so it is open to us to hold that Spreydon's opposition is ruled out as being trade competition. In case we are wrong about that, Mr Thompson's evidence was so unsatisfactory across the board, and Mr Roberts's was accordingly undermined, that we rule against Spreydon on this aspect as well.

Road formation and intersection

[212] The development on the Woolworths site is to be accessed via a new signalised intersection on Halswell Road where it meets Aidanfield Drive. From this access, an east-west "collector" type route (Road A) will run through the Site, connecting with two north-south collector routes (Roads B and C) that will provide connectivity to the future urban areas to the north and south.

[213] Three local streets (Roads D, E and F) will link these collector routes, although the Road F connection will not be constructed until the Halswell Timber site is ready to be redeveloped.

[214] For Spreydon Lodge, transport engineer Mr T Penny addressed concerns as to the operation of the Halswell Road intersection with Road A and, in particular, the potential for queueing on Road A to extend back past the intersection with Road F during the evening commuter peak.

[215] The Council traffic expert, Mr Calvert had no such concerns and agreed with Woolworths expert, Mr Jongeneel on that matter in their Joint Witness Statement Transport (JWT). They agreed that:

- (a) the Proposal will result in less than minor transportation effects on the function, capacity and safety of the transport network within the North Halswell ODP and the CCZ ODP, and less than minor effects on the function, capacity and safety of the adjoining state highway and surrounding local transport network;
- (b) the proposed new signalised intersection with Halswell Road and Aidanfield Drive will result in lesser traffic affects than other access arrangements proposed and assessed;
- (c) the Proposal is generally consistent with the transport requirements set out in the ODP, and
- (d) the conditions proposed by Woolworths are supported.

[216] Mr Jongeneel had no outstanding issues or concerns with the design of proposed Road A. Although he acknowledged that there was potential for queuing to occur, he disagreed that this would give rise to adverse road safety.⁶⁰ In his experience, it is commonplace for traffic queues to extend between and adjacent intersections during commuter peak periods, particularly within a busy urban centre, at which time he anticipated traffic speeds on each of the roads to be low.

[217] In the joint witness statement on transport matters, the experts refer to the independent road safety audit that had been carried out, in which none of the issues raised by Mr Penny were raised as matters of concern. Mr Penny confirmed that he

⁶⁰ Jongeneel, rebuttal at [2.2].

had read the joint witness statement. Having read that, he was aware that a road safety audit had been completed and that it had not raised any significant traffic concerns, although he had not seen a copy of the audit.

[218] Mr Jongeneel also disagreed with Mr Penny's safety concerns relating to the frequency of intersections on Road A, in particular, his contention that there would be at least eight or even nine intersections within 300 m between Road F and Road B. Mr Jongeneel stated that only three local street intersections are proposed on that 300 m stretch of road, as the remaining five or six intersections are private vehicle accesses, serving retail or residential areas.

[219] Accordingly, he disagreed with Mr Penny's contention that there would be pedestrian and cyclist safety issues associated with the number of intersections. He considered that footpath and road design would cause vehicles to slow down and give way to pedestrians and cyclists.

[220] We note that in his evidence-in-chief, Mr Penny offered opinion evidence on the visual dominance of the parking along the north side of Road A, while noting that this was not strictly a traffic issue. We decline to consider any part of his evidence in relation to that issue. Despite the statement in his evidence asserting compliance with the Code of Conduct, we find that his opinions on the visual effects of the parking along Road A could not comply with the Code and are inadmissible.

[221] We are satisfied that any issues that are raised in the road safety audit can be adequately dealt with in the detailed design stage of the development. We accept the evidence of the traffic experts for Woolworths and the Council in preference at to that of Mr Penny for detail of knowledge and reasoning and find no reason to require any amendments to the design of the roads and intersections. We are satisfied that the transport-related effects will be no more than minor.

Gateway Tests in s104D

[222] It follows from the findings that each of the gateway tests in s104D is met. Accordingly, we have a discretion to grant consent in terms of s104B, having

considered all relevant s104 matters, the majority of which have been addressed in the body of the decision.

Overall discretion under s104B

[223] We agree with the planners that:

- (a) the proposal is consistent with the National Policy Statement on Urban Development Capacity (2020);
- (b) all other higher order instruments are adequately reflected in the district plan;
- (c) there is no need for any separate analysis of the Proposal against Part 2 matters.

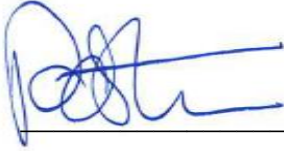
[224] Having arrived at this point, we are able to, and do account for the positive effects of the Proposal earlier identified.

[225] We were presented with a comprehensive set of proposed conditions and a set of updated plans included as an appendix to the closing submissions for Woolworths and have duly considered them.

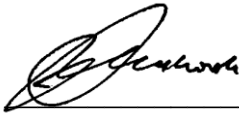
[226] Having considered all relevant matters, we find that the Proposal satisfies all relevant RMA requirements, and is granted resource consent subject to the conditions referred to above, attached as Appendix A.

[227] Costs are reserved, any application to be made within 15 working days of the date of issue of this decision.

For the Court:



P A Steven
Environment Judge



L J Newhook
Alternate Environment Judge



APPENDIX A

CONDITIONS: SUBDIVISION

1. Compliance with Application Information

- 1.1 The survey plan, when submitted to Council for certification, shall be in general accordance with the stamped Approved Plans 1 to 9 ([Set A – Subdivision / Scheme Plans] Eliot Sinclair, *Halswell Road Development 201 Halswell Road, Christchurch*, Project 426962 Set C1 Sheet 1 to 9 Rev M).

2. Staging

- 2.1 Any staging of the subdivision shall be in accordance with Approved Plans 1 to 9 [Set A – Subdivision / Scheme Plans].

3. Reserve to Vest

- 3.1 Lots 50, 51, 52 53, 55 and 56 shall be shown on the survey plan as Local Purpose (Utility) Reserve to vest.
- 3.2 Lot 54 shall be shown in the survey plan as Recreation Reserve to vest and shall be free of easements.

Advice Note: The agreed value of Lot 54 (to be vested as Recreation Reserve) and the accepted landscape improvements are to be credited against the Reserve Development Contributions.

4. New Road to Vest

- 4.1 The new roads (being Lots 101 to 106) are to be formed and vested with underground wiring for electricity supply and telecommunications.
- 4.2 Lot 11 shall vest as road.

5. Point Strip

- 5.1 Lot 107 shall be transferred to the ownership of Council. A solicitor's undertaking or other appropriate legal mechanism shall be provided at the time of the s224(c) certificate to ensure that the transfer of ownership is completed.

6. Engineering General

- 6.1 The design and construction of all assets shall be subject to a project quality system in accordance with Part 3: Quality Assurance of the Infrastructure Development Standard (IDS).
- 6.2 Prior to the commencement of physical works on site for the construction of the subdivision including infrastructure, the Consent Holder shall submit to the Planning Team – Subdivision Engineers a Design Report, Plans and Design Certificate complying with clause 3.3.2 of the IDS for review and acceptance under clause 2.10 of the IDS 2018. The Design Report and engineering plans shall provide sufficient detail to confirm compliance with the requirements of the IDS and this consent, including compliance with condition 12.2 and condition 12.3. This report can be submitted as two individual design reports addressing infrastructure as one part and the second part as a Geotechnical Report.
- 6.3 Prior to the commencement of physical works on site, the Consent Holder shall submit to the Council's Planning Team - Subdivision Engineers a Contract Quality Plan and supporting Engineer's Review Certificate, complying with clause 3.3.3 of the IDS, for review and acceptance by Council under Clause 2.11 of the IDS 2018.
- 6.4 Prior to the issue of certification pursuant to section 224(c) of the Resource Management Act, the Consent Holder shall submit to the Planning Team - Subdivision Engineers an Engineer's Report complying with clause 3.3.3 of the IDS and an Engineer's Completion Certificate complying with clause 3.3.4 of the IDS for review and acceptance under clause 2.12 of the IDS 2018. The Engineer's Report shall provide sufficient detail to confirm compliance with the requirements of the IDS and this consent, including compliance with consent conditions requiring mitigation measures with respect to any liquefaction and lateral spread hazards.

Advice Note: Part 3 of the IDS sets out the Council's requirements for Quality Assurance. It provides a quality framework within which all assets must be designed and constructed. It also sets out the process for reporting to Council how the works are to be controlled, tested and inspected in order to prove compliance with the relevant standards. It is a requirement of this part of the IDS that the Consent Holder provides certification for design and construction as a prerequisite for the release of the section 224(c) certificate.

Any reference to 'Engineering Acceptance' under further conditions of consent refers to the process set out in conditions 6.1 to 6.4 above.

7. Water Supply

- 7.1 The points of water supply for the subdivision shall be the existing DN200 uPVC water main in Halswell Road and the DN300 water main in the Milns Park subdivision extending to Lot 105 (road to vest).
- 7.2 If the consent holder provides a connection by extending the water main over 51 Milns Road (Lot 3 DP5206) and Milns Park prior to the subdivision of that land creating a legal road connection, it shall be held in an easement in gross located in the future road. Should the future DN300 water main from Milns Park not be connected to at the time of any subdivision stage, Council will allow an alternative connection established by the consent holder to Halswell Road via Road E (Lot 102) and through Lot 52 (Local Purpose Utility Reserve). Such a connection, if established, shall be supplied with a suitable isolation valve and be protected by a right to convey water in gross easement over Lot 52.

- 7.3 All water mains and submains shall be installed in road to be vested in Council except for the connection to Halswell Road through Lot 52.
- 7.4 Water mains shall be extended along the full length of roads to vest and be terminated with temporary hydrants as per the requirements of the Infrastructure Design Standard IDS 2018.
- 7.5 The water main along Road C (Lot 104 and Lot 105) shall be a minimum DN355 OD PE100 and shall cross Days Drain to link into the neighbouring subdivision.

Advice Note: For costs associated with any increase in diameter of the water main only, if over and above that required to service the subdivision, Council will enter into an Infrastructure Provider Agreement with the consent holder to recover actual and reasonable costs.

- 7.6 The water supply for the subdivision and for each stage of the development shall be designed by a suitably qualified person in accordance with the Infrastructure Design Standard IDS 2018 and in accordance with the NZ Fire Service Fire Fighting Water Supplies Code of Practice NZS 4509:2008 to the satisfaction of the Water & Wastewater Asset Planning Team. Engineering drawings supported by hydraulic model outputs shall be presented to the Subdivisions Engineer as part of the Design Report under condition 6 for Engineering Acceptance by the Three Water & Waste Asset Planning Team.
- 7.7 Except where otherwise stated in these conditions, all water mains within the development shall be a minimum DN180 OD PE100.
- 7.8 The works described in conditions 7.1 to 7.6 shall be carried out by a Council approved water supply installer.
- 7.9 Development Lots (Lots 1 to 10, 12 and 13) shall each be served with a water supply to their boundary. Submains shall be installed to 1 metre past each lot boundary.
- 7.10 The consent holder shall have registered against the records of title for Lots 1 to 10, 12 and 13 consent notices pursuant to Section 221 of the Resource Management Act 1991 recording the following conditions 7.10(a) – (b), which are to be complied with on a continuing basis:

- (a) Any residential unit or non-residential activity within a development lot without road frontage shall be serviced by its own lateral within a shared access. Laterals shall be installed by a Licensed Certified Plumber and shall not cross the boundary of the net site area of other sites.

Advice Note: This will require a Building Consent unless the consent holder obtains a Building Consent exemption for the installation of the private laterals.

- (b) Where the laterals are installed under a building consent exemption, construction shall be in accordance with the Construction Standard Specifications (CSS) and the Infrastructure Design Standard (IDS 2018). Dummy connection boxes shall be installed at the entrance of the shared access at the public road boundary.

8. Sewer

- 8.1 The sewer system for this subdivision shall be a Local Pressure Sewer System designed in accordance with Council's Infrastructure Design Standard IDS 2018 and Construction Standard Specifications. The Consent Holder shall provide engineering drawings supported by hydraulic calculations to the Subdivisions Engineer as part of the Design Report under

condition 6, for Engineering Acceptance by the Three Waters and Waste Planning Team prior to the commencement of any physical work.

- 8.2 The sanitary sewer outfall shall be the DN400 OD PE pressure sewer main within Monsaraz Boulevard except where condition 8.5 applies.
- 8.3 The connection to the sanitary sewer outfall shall be within Road B (Lot 101) or Road C (Lot 104) and shall follow the alignment of the future road network on the neighbouring land to the outfall in Monsaraz Boulevard.
- 8.4 The pressure main between this subdivision and the connection point must be protected by an easement in gross in favour of Christchurch City Council, until that property is vested as road.
- 8.5 If the consent holder is unable to obtain an easement for the pressure main connection on fair and reasonable terms over Lot 115 DP 537957 or Lot 120 DP 514570 over which the connection to the outfall lies (set out in condition 8.2), having used their best endeavours to obtain such easement, the consent holder may establish an interim connection via Halswell Road, connecting into the DN400 OD PE pressure sewer main at the intersection of Monsaraz Boulevard and the future Lisbon Road (Road F intersection with Monsaraz Boulevard) subject to the following:
 - (a) The connection through Road B or Road C shall also be established up to the common boundary with Lot 115 DP 537957 or Lot 120 DP 514570 (for future connection into Monsaraz Boulevard) and shall be sized for the full discharge from the subdivision; and
 - (b) Suitable isolation valves and flushing points shall be installed to allow Council to decommission the interim connection via Halswell Road once the connection through Road B or Road C has been constructed.
 - (c) The consent holder shall reimburse the Council for the additional cost to secure the upsize of the pressure sewer main as part of the future subdivision of Lot 114 DP 526950. The cost shall be accepted by the Subdivision Engineer based on a detailed engineering plan prepared in accordance with the IDS 2018 and shall be limited to the cost to upgrade and extend the subdivision pressure sewer main to make provision for the wastewater discharge from this subdivision.
- 8.6 The consent holder shall put in place measures to enable the initial operation of the local pressure sewer system within and from the subdivision during the build phase, including (but not limited to) ensuring self-cleansing flow and limiting sewage retention time within the system when the design number of pressure sewer tanks are not yet in operation. These measures shall be reported to the Subdivisions Engineer prior to seeking section 224(c) certification.
- 8.7 Installation of the pressure sewer mains shall be carried out by a Council-authorized Drainlayer (Pressure Sewer Reticulation).
- 8.8 Residential Activities (excluding apartments) on Lots 1 to 10, 12 and 13: The consent holder shall have registered against the records of title for Lots 1 to 10, 12 and 13 consent notices pursuant to Section 221 of the Resource Management Act 1991 recording the following conditions 8.8(a) – (g), which are to be complied with on a continuing basis:

- (a) Each residential unit (excluding apartment buildings) on Lots 1 to 10, 12 and 13 shall have its own boundary kit to connect to the pressure sewer system. The boundary kits and associated connection to the pressure sewer main shall be located within the legal road or shared access outside the net site area associated with each residential unit. The lateral from the boundary kit (for future connection of the pressure sewer unit) shall extend at least 600mm into the net site area of each residential unit. Any shared connection to the pressure sewer main shall be located in shared access areas outside the net site area associated with each residential unit and shall be protected by an easement in gross in favour of the Christchurch City Council. An isolation valve shall be installed on the pressure sewer main at the boundary of the development lot and the public road.
- (b) Engineering drawings in accordance with the system specified in (a), shall be sent to the Subdivisions Engineer for Engineering Acceptance by the Three Waters and Waste Planning Team prior to the commencement of any physical work.
- (c) Each residential unit (excluding apartment buildings) shall be served by a local pressure sewer unit comprising a pump and storage chamber, which can accommodate at least 24 hours average dry weather flow. This is to be supplied by either Aquatec or EcoFlow and installed by a Council-authorized Drainlayer (Pressure Sewer Tanks) at building consent stage. The pressure sewer unit shall be supplied complete with an IOTA OneBox Control Panel.
- (d) The local pressure pump, chamber and OneBox Control Panel shall be vested with Council. The property owner shall enter into a Deed with the Christchurch City Council, drafted in terms approved by the Christchurch City Council, vesting ownership in the system prior to Code Compliance Certificate being issued for a dwelling on the relevant site.
- (e) The Council and its agents or contractors shall have the right of access to the property for the purpose of maintenance, monitoring or renewal of any part of the local pressure sewer unit vested with Council.
- (f) The electricity supply for the local pressure sewer unit shall be from the residential unit and metered to the residential unit serviced by the system. The property owner shall be responsible for the power costs of operating the local pressure sewer unit.
- (g) The property owner shall ensure adherence with the operational requirements of the local pressure sewer unit and if in breach of this obligation, the property owner shall promptly at the property owner's expense properly and substantially repair and make good all injury or damage caused to the local pressure sewer unit. If the property owner fails to promptly comply with this obligation then the Council may perform the obligation and recover any costs incurred from the property owner.

8.9 Non-Residential Activities and Apartment Buildings on Lots 1 to 10, 12 and 13: The consent holder shall have registered against the records of title for Lots 1 to 10, 12 and 13 consent notices pursuant to Section 221 of the Resource Management Act 1991 recording the following conditions 8.9(a) – (e), which are to be complied with on a continuing basis:

- (a) Each non-residential activity and/or apartment building shall connect to the pressure sewer system via a boundary kit and associated connection to the pressure sewer main which will service not more than one local pressure sewer unit. The boundary kits shall be located within the legal road, shared access and car park areas and not located under buildings or other similar structures which prevent physical access to

the boundary kit and pipes. Any shared connection to the pressure sewer main within the lot shall be protected by an easement in gross in favour of the Christchurch City Council. An isolation valve shall be installed on the pressure sewer main at the boundary of the development lot and the public road. Installation of the boundary kits and connections to the pressure sewer main shall be carried out by a Council-authorized Drainlayer (Pressure Sewer Reticulation).

- (b) Engineering drawings in accordance with (a) shall be sent to the Subdivisions Engineer for Engineering Acceptance by the Three Waters and Waste Planning Team prior to the commencement of any physical work.
- (c) Each non-residential activity and/or apartment building shall be served by a local pressure sewer unit comprising a pump (or pumps) and storage chamber which can accommodate at least 24 hours average dry weather flow to be supplied by either Aquatec or EcoFlow and installed by a Council-authorized Drainlayer (Pressure Sewer Tanks) at building consent stage. The local pressure sewer unit will be supplied complete with an IOTA OneBox Control Panel per pump.
- (d) The property owner will retain ownership of the local pressure sewer unit complete with pump(s), chamber and OneBox Control Panel(s). The property owner will be responsible for the operations and maintenance of the complete unit.
- (e) Council shall have remote access to the IOTA OneBox Control via its IOTA OneBox portal to monitor and control (when required) the pump(s) as part of the local pressure sewer catchment.

9. Stormwater

- 9.1 The stormwater management and mitigation system shall be comprised of channels, sumps, pipes, swales, and a first flush sedimentation basin. In addition to the below conditions, the system shall meet the requirements of the CCC Waterways, Wetlands and Drainage Guide (WWDG 2003 including Chapters 6, 21 and Appendix 10 updated 2011/12), the Infrastructure Design Standard (IDS 2018), the Construction Standard Specifications (CSS 2018) and the South West Area Christchurch Stormwater Management Plan.
- 9.2 Prior to any construction or operational phase stormwater discharge, the consent holder shall provide to the Subdivision Engineer a copy of authorisation for construction and operational phase stormwater discharge into the Council stormwater network obtained from the Council as the operator of that network, or a copy of separate discharge consent from Environment Canterbury.
- 9.3 Stormwater generated from all roofs, roads and hard-standing areas within all allotments shall be collected via channels, sumps, pipes or swales and discharged into a first flush sedimentation basin to be constructed within an allotment to vest in the Council as Local Purpose (Utility) Reserve.
- 9.4 The first flush sedimentation basin shall:
 - (a) Be designed to hold the volume of stormwater runoff generated from the first 25mm of rain falling on impervious areas within the development site;
 - (b) Have average batter slopes of 1 vertical in 4 horizontal average, or flatter;

- (c) Be vegetated with an approved grass species mixture and/or landscape planting;
 - (d) Have an average stormwater storage depth not exceeding 1.0 metre; and
 - (e) Have an outfall via a choked outlet into Days Drain at discharge rates to be agreed by Council engineers at detailed design phase.
- 9.5 Stormwater in excess of the first flush basin capacity shall discharge to the Council stormwater network to be constructed as the offsite stormwater network and mitigation systems on adjacent land as referenced in condition 9.10.
- 9.6 If the offsite stormwater network and mitigation systems required to service this development have not been commissioned at the time of an application by the consent holder for certification under s224(c) of the RMA, the consent holder shall construct a temporary stormwater detention system within the site.
- 9.7 The temporary stormwater detention system, if used pursuant to condition 9.6, shall consist of a detention basin designed in accordance with Waterways Wetlands and Drainage Guide (2003) (WWDG) Chapter 6.
- 9.8 The temporary stormwater detention system, when calculated in conjunction with the first flush sedimentation basin, shall provide sufficient stormwater storage to control peak stormwater flows back to greenfield runoff rates for all storms up to and including a 2% annual exceedance probability return interval storm of 36 hours duration.
- 9.9 The consent holder shall identify the location and design of the connection point to the offsite stormwater network prior to the commencement of works.
- 9.10 The consent holder shall implement all permanent downstream network connection(s) within 6 months of being provided written notice by Council that its offsite stormwater network and mitigation systems have been commissioned.
- 9.11 The consent holder shall identify all offsite stormwater connections to Days Drain, including but not limited to those at Legal Description Pt RS310, and ensure that stormwater service for the offsite properties using those connections is maintained and/or re-established as required to avoid or mitigate nuisance or flooding.
- 9.12 Any temporary stormwater facilities not located within Council-owned land or Local Purpose (Utility) Reserve shall be protected by registration of easement in gross.
- 9.13 The consent holder shall provide a report summarising any effects of disruption of overland flow caused by development of the site, and identify all measures proposed to avoid, remedy or mitigate those effects, including ensuring that works shall not cause an adverse drainage or flooding effect on adjoining land. This report shall include all measures to reconnect all pre-existing discharges into the section of Days Drain that is to be replaced by a pipeline, including but not limited to those at Legal Description Pt RS310. The report shall form part of the Design Report submitted to the Subdivision Engineer under condition 6 for Engineering Acceptance by the Three Waters & Waste Asset Planning Team.
- 9.14 The consent holder shall provide a report summarising any effects on downstream surface water or groundwater networks resulting from groundwater management systems to be used within the development site. The report shall identify all measures proposed to avoid, remedy or mitigate those effects and shall form part of the Design Report submitted to the Subdivision

Engineer under condition 6 for Engineering Acceptance by the Three Waters & Waste Asset Planning Team.

- 9.15 The surface water management and mitigation system shall be designed to ensure complete capture and conveyance of all stormwater runoff from the site for all rainfall events up to and including the critical 2% annual exceedance probability storm. This will require internal reticulation and conveyance to meet Council's inundation standards as specified in the WWVG. The conveyance system shall be designed to ensure that even for events where the critical peak stormwater runoff flow rate occurs that all of the first flush stormwater shall reach the first flush sedimentation basin.

Advice note: A combination of primary and secondary conveyance systems may be used to ensure this level of service is achieved.

- 9.16 The primary stormwater reticulation network shall be designed to:
- (a) provide for downstream fish passage between any constructed stormwater wetlands and Days Drain, as advised by a suitably qualified and experienced freshwater ecologist; and
 - (b) convey (at minimum) the critical 20% annual exceedance probability storm event. The primary stormwater reticulation network shall be designed such that flooding of private property would be precluded during the critical 10% annual exceedance probability storm event and precluded within buildings during the critical 2% annual exceedance probability storm event.
- 9.17 The consent holder shall submit an Engineering Design Report (EDR) to the Subdivision Engineer for Engineering Acceptance by the Three Water & Waste Asset Planning Team. The EDR shall demonstrate how the design will meet all of the applicable stormwater consent conditions and shall contain all of the plans, specifications and calculations for the design and construction of all stormwater infrastructure and mitigation systems.
- 9.18 A buffer of at least 5 metres width shall be established between all stormwater basins and all residential, commercial or rural lot boundaries as mitigation for the utility works.
- 9.19 Stormwater laterals shall be laid to at least 600mm inside the boundary of all lots at the subdivision stage. Unless otherwise approved by Council Engineers, the laterals are to be laid at sufficient depth to ensure protection and adequate fall is available to serve the furthest part of the lot.
- 9.20 All secondary or emergency stormwater flow paths are to be identified during detailed design pursuant to condition 9.16, and protected by an easement in favour of Christchurch City Council if required. Prior to issuance of Section 224(c) certification the designer of the surface water management system shall provide to Council a report which identifies all secondary flow paths proposed for storm events that exceed the capacity of the stormwater management and mitigation system.
- 9.21 The net site area of all development lots within the Flood Management Area shall be at or above the 2% annual exceedance probability flood level.
- 9.22 The primary stormwater reticulation network designed pursuant to condition 9.16 shall incorporate safe and adequate access to stormwater mitigation facilities for maintenance and sediment removal as designed in accordance with the Waterways, Wetlands and Drainage

Guide (2003) Sections 6.8 & 6.9, and shall be identified in the EDR provided to the Subdivision Engineer, Three Water & Waste Asset Planning Team as pursuant to condition 9.17.

- 9.23 The consent holder shall provide easements in gross over all stormwater infrastructure located outside of legal road or utility reserve areas to be vested with Council.
- 9.24 The consent holder shall operate all stormwater infrastructure to vest in Council for 12 months following the issue of the Section 224(c) certificate, after such time the infrastructure shall vest in Council for operation and maintenance, provided the infrastructure is free of defects to the satisfaction of the Subdivisions Engineer.
- 9.25 Prior to issuance of Section 224(c) certification the consent holder shall submit to the Planning Team – Subdivision Engineers as-built data of the stormwater management systems and confirm that they have been constructed in accordance with the approved plans and comply with the IDS (2018), in particular Part 3: Quality Assurance and Part 12: As-Builts.
- 9.26 Prior to issuance of Section 224(c) certification the consent holder shall provide to Council a Maintenance and Operations manual for all stormwater management and mitigation facilities and it shall form part of the documentation provided in accordance with condition 6(a) of Design 3.3.2 IDS. This manual is to include a description of the activity, the design assumptions, maintenance schedule and monitoring requirements.
- 9.27 Prior to Section 224(c) certification, a report shall be submitted by a suitably qualified and experienced engineer to the Planning Team – Subdivision Engineers setting out the following:
- (a) for those parts of Lots 4, 5, 6, 7 and 8, where subject to the flood management area overlay in the Christchurch District Plan (as dated 24 August 2020), flooding predicted to occur:
- (i) in a 0.5% AEP (1 in 200--year) rainfall event concurrent with;
- (ii) a 5% AEP (1 in 20--year) tidal event, including 1 metre sea level rise, as predicted by the relevant Council model and version identified in Table 5.4.1.1a of the District Plan.

Advice Note: Condition 9.27 is an Augier condition, volunteered by the consent holder with the sole purpose of providing a report to the the Planning Team – Subdivision Engineers to determine minimum floor levels for buildings as subject to Rule 5.4.1.1(P3) in the Christchurch District Plan (as dated 24 August 2020).

10. Days Drain

- 10.1 The consent holder shall construct and design Days Drain in accordance with the principles contained in the 'Days Drain Concept Plan' as outlined in Approved Plans:
- (a) Set B – Landscape Days Drain: Commercial pages 1 to 6, Issue RC;
- (b) Set C – Landscape Days Drain Residential and Stormwater Basin pages 1 to 3, Issue RC; and
- (c) Subject to the matters identified in the Engineering and Ecological Management Plan (EEMP) required under condition 10.2.

- 10.2 Prior to any works being undertaken within 20.0m of Days Drain (including dewatering of any segment of Days Drain), the consent holder shall submit to the Subdivision Engineer Council for certification of the criteria set out in 10.2(a) – (c) below an EEMP. The EEMP shall be jointly prepared by a suitably qualified and experienced freshwater ecologist and a suitably qualified and experienced engineer, and shall include the following:
- (a) Measures to capture and relocate shortfin eels and other freshwater fish residing in the waterway to a suitable alternative.
 - (b) Details and methodology in relation to the following:
 - (i) the erosion and sediment control measures to be in place to avoid fine sediment entering waterways during construction.
 - (ii) maintenance of fish passage during construction, where any temporary interruption of fish passage to be authorised only if it has been assessed by a suitably qualified and experienced freshwater ecologist as having no adverse effects on fish. Documentation provided at the section 224(c) stage is to demonstrate compliance with this condition by that ecologist.
 - (iii) measures and techniques to undertake fish salvage that are to be undertaken prior to any works commencing that could result in fish becoming stranded on the bed or banks of the waterway. Fish salvage is to be overseen by a suitably qualified and experienced freshwater ecologist.
 - (iv) timing and planting of the edges of the low flow channel with fast-growing native grasses, to provide shade quickly and reduce the need for weed clearance in the waterway.
 - (v) contact details of a suitably qualified freshwater ecologist undertaking: the trap or transfer; or any alternative specified capture method to salvage shortfin eels and other freshwater fish as specified in this EEMP; and where different: the contact details of a suitably qualified freshwater ecologist to be present for the construction of any proposed crossing (culverts and other structures).
 - (c) The design report and plans submitted under condition 9 and the landscape plans submitted under condition 14.
- 10.3 A suitably qualified and experienced freshwater ecologist shall be engaged to advise the contractor on the implementation of the EEMP prepared pursuant to condition 10.2 and to be implemented pursuant to condition 10.1.

11. Earthworks

- 11.1 Earthworks shall be carried out in accordance with Approved Plans 22 to 26 (Set E – Earthworks) the Eliot Sinclair plans labelled *Halswell Road Development Project*, Project no 426962, Sets: M7 Rev A Sheet 1, M4 Rev B Sheet 1, M5 Rev B Sheet 1 M2 Rev D Sheets 1 and 2.

11.2 The earthworks and construction work shall be supervised by a nominated and suitably qualified geotechnical engineer. All loading and unloading of trucks with excavation or fill material shall be carried out within the subject site.

11.3 All work within the legal road cannot start until the consent holder has been issued with the following:

- (a) approved Works Access Permit (WAP); and
- (b) approved Traffic Management Plan (TMP).

Advice Note regarding the authorisation process associated with obtaining a TMP:

- (a) *A Corridor Access Request (CAR) application and TMP must be submitted to the Council through the following web portal <http://www.myworksites.co.nz>.*
- (b) *The TMP shall identify the nature and extent of temporary traffic management and how all road users will be managed by the use of temporary traffic management measures and comply with the NZTA Code of Practice for Temporary Traffic Management (CoPTTM). The TMP shall also identify the provision of on-site parking for construction staff.*
- (c) *Construction activities on any public road should be planned so as to cause as little disruption, peak traffic delay or inconvenience to road users as possible without compromising safety.*

TMPs will be required for activities outside the legal road that affect the normal operating conditions of the legal road.

11.4 All filling and excavation work shall be carried out in accordance with an Environmental Management Plan (EMP) which shall include the Eliot Sinclair Erosion, Sediment and Dust Management Plan and Report (ESDMP) dated 20 October 2017. Unless approved as part of a separate resource consent from Environment Canterbury for stormwater discharge and/or for excavation/filling, earthworks shall not occur until and unless the EMP has been reviewed and accepted by Christchurch City Council's Subdivision Engineer (email to: rcmon@ccc.govt.nz).

11.5 The EMP shall be prepared by a suitably qualified person and include a design certificate (on the Infrastructure Design Standard Part 3: Quality Assurance Appendix IV template 2018) for acceptance by the Council under clause 3.8.2 of the IDS 2018 at least 5 days prior to the works commencing. The performance criteria for erosion and sediment control in the EMP shall be based on ECan's Erosion and Sediment Control Toolbox for Canterbury <http://esc.canterbury.co.nz/>.

11.6 The EMP shall include (but is not limited to):

- (a) The identification of environmental risks including ecological effects and management, erosion, sediment and dust control, spills, wastewater overflows, dewatering, and excavation and disposal of material from contaminated sites;
- (b) A site description, including topography, vegetation, soils;
- (c) Details of proposed activities;

- (d) A locality map;
- (e) Drawings showing the site, type and location of sediment control measures, on-site catchment boundaries and off-site sources of runoff;
- (f) Drawings and specifications showing the positions of all proposed mitigation areas with supporting calculations if appropriate;
- (g) Drawings showing the natural assets and habitats;
- (h) A programme of works including a proposed timeframe and completion date;
- (i) Emergency response and contingency management;
- (j) Procedures for compliance with resource consents and permitted activity standards;
- (k) Environmental monitoring and auditing, including frequency;
- (l) Corrective action, reporting on solutions and updates to the EMP;
- (m) Procedures for training and supervising staff in relation to environmental issues;
- (n) Contact details of key personnel responsible for environmental management and compliance.

Advice Note: IDS (2018) clause 3.8.2 contains further detail on Environmental Management Plans. The Contamination Site Management Plan (CSMP) shall also be included in the EMP.

11.7 The accepted EMP shall be implemented on site over the construction phase. No earthworks shall commence on site until:

- (a) The consent holder has provided to the contractor a copy of all resource consents and relevant permitted activity rules controlling this work;
- (b) The works required by the EMP have been installed; and
- (c) An Engineering Completion Certificate (IDS – Part 3, Appendix VII 2018), signed by an appropriately qualified and experienced engineer, is completed and presented to Council. This is to certify that the erosion and sediment control measures have been properly installed in accordance with the certified EMP.

11.8 Any change in ground levels shall:

- (a) not affect the stability of the ground or fences on neighbouring properties;
- (b) not cause a ponding or drainage nuisance to neighbouring properties; and
- (c) maintain existing drainage paths for neighbouring properties.

11.9 The consent holder shall submit as part of the Design Report in condition 6.2, a report and calculations detailing any filling proposed against existing boundaries and the means by which to comply with condition 11.8 in respect to adjoining properties. Any retaining wall construction shall be included as part of the Earthfill Report in condition 11.11.

Advice Note: Any retaining wall that exceeds 6m² is regarded as a building and requires a separate resource consent if not specifically addressed within the application supporting this consent.

- 11.10 The fill sites shall be stripped of vegetation and any topsoil prior to filling.
- 11.11 All filling exceeding 300mm above excavation level shall be in accordance with the Code of Practice for Earthfill for Residential Purposes NZS 4431:1989. At the completion of the work, an Engineers Earthfill Report, including a duly completed certificate in the form of Appendix A of NZS 4431, shall be submitted to Council (at rcmon@ccc.govt.nz) for all lots, including utility reserves, within the subdivision that contain filled ground. This report shall detail depths, materials, compaction test results and include as-built plans showing the location and depth of fill and a finished level contour plan.
- 11.12 At the completion of the earthworks operations, the berm areas outside the line of the roadway construction shall be sown down with grass seed.
- 11.13 All bared surfaces shall be topsoiled and vegetated as soon as practicable to limit sediment mobilisation.
- 11.14 Should the Consent Holder cease or abandon work on site or be required to temporarily halt construction during earthworks for a period longer than 6 weeks, It shall first install preventative measures to prevent sediment discharge / run-off and dust emission, and shall thereafter maintain these measures for as long as necessary to prevent sediment discharge or dust emission from the site.
- 11.15 Minimum ground levels shall be based on a level of 100mm above the kerb at the street frontage, plus a grade of 1:500 to the rear boundary.
- 11.16 No construction work, other than dust and erosion and sediment control measures, pre-inspection of plant (but not the operation of plant) and staff briefings/meetings, shall be undertaken outside the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 5.00pm Saturday. No work, other than dust and erosion and sediment control measures shall be undertaken on Sundays or Public Holidays.
- 11.17 All construction work shall be designed, managed and conducted to ensure that construction noise complies with the requirements of NZS 6803:1999 Acoustics – Construction Noise (see Table 3, Page 11 of this standard).
- 11.18 Vibration from construction work shall not exceed the limits of, and shall be measured and assessed in accordance with, German Standard DIN 4150 1999-02 Structural Vibration – Effects of Vibration on Structures.

12. Geotechnical

- 12.1 Additional site investigations, including deep site tests at approximate locations as identified in Figure A1, appended to T&T's Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment dated December 2017 Job Number 1002584.v4b, shall be carried out by the consent holder and provided to Council to support the engineering design of assets under condition 12.2 and 12.3.
- 12.2 All infrastructure assets to be vested in the Council (which shall include but not be limited to gravity and pressure pipelines, manholes, chambers, valves, hydrants, stormwater treatment

devices, culverts or any other physical asset to be vested in Council including road pavements) shall be designed and constructed in accordance with the IDS 2018 and the Construction Standard Specifications (CSS) and the recommendations in section 5 of the Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment dated December 2017 Job Number 1002584.v4b.

- 12.3 All infrastructure extending more than 1.0m below the finished ground surface shall be designed to resist the effects associated with earthquake induced liquefiable soils and lateral spread from a seismic event as defined in condition 12.4 and 12.5.
- 12.4 To mitigate liquefaction (vertical settlement) hazards and lateral spread (horizontal displacement), any proposed asset structures shall be designed for a seismic event with a 25 year return period under the serviceability limit state (SLS) and with a 500 year return period for the ultimate limit state (ULS) as defined by NZS 1170.5:2004.
- 12.5 Bridges and pump stations shall be designed to importance level 3 (IL3) as defined in NZS 1170.

Advice Note: the Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment Section 5 elaborates on matters to be considered and mitigation to be provided when designing vested infrastructure. The following assets were particularly mentioned: pavement basecourses, pole foundations, tree pits, below ground structures and their connections, abrupt bends in pipes and free earth faces.

- 12.6 Site earthworks and remediation shall be carried out to improve the ground performance in terms of the MBIE guidelines 'Repairing and rebuilding houses affected by the Canterbury earthquakes' (3rd Edition 15 March 2017) or subsequent revisions. The liquefaction hazard and lateral spread mitigation on site shall be designed in accordance with the recommendations in the Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment dated December 2017 Job Number 1002584.v4b. The technical category for residential lots will be confirmed in the Geotechnical Completion Report prepared for the section 224(c) certificate under condition 12.7 below).

Advice Note: the Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment Section 5 elaborates on matters to be considered and mitigation to be provided when carrying out the earthworks for both residential and commercial structures: topsoil stripping, compaction in-situ, minimisation of cuts, location of imported fill, lateral spread mitigation.

- 12.7 Prior to the request for the section 224(c) certificate, the Consent Holder shall supply a Final Geotechnical Report on the mitigation measures put in place during the construction phase to minimise both the liquefaction and lateral spread potential of the land during the SLS and a ULS seismic event. The report shall recommend the Technical Category of the residential land in terms of the MBIE guidance document 'Repairing and Rebuilding Houses Affected by the Canterbury Earthquakes', comment on the performance of all utility lots and include a Statement of Professional Opinion on the Suitability of Land for Building Construction, using the template in IDS (2018) Part 4 Appendix II. All development lots shall achieve the equivalent of a technical category 2 status.
- 12.8 Foundation Design – Lots 1 to 10, 12 and 13: The consent holder shall have registered against the records of title for Lots 1 to 10, 12 and 13 consent notices pursuant to Section 221 of the Resource Management Act 1991 recording the following conditions 12.8(a) – (b), which are to be complied with on a continuing basis:

(a) Foundation Design – Commercial or Large Structures

Any structure requiring a Building Consent, in terms of Building Act 2004 provisions, shall have specific foundation design by a suitably experienced chartered engineer or by an appropriately qualified geotechnical engineer. The design shall take into consideration the potential for liquefaction and associated effects (vertical settlement and lateral spread).

Advice Note: the Tonkin and Taylor 201 Halswell Road Geotechnical Site Investigation and Assessment Section 5 elaborates on matters to be considered when designing foundations for commercial and large structures or relating to concrete floor slabs and liquefaction ejecta.

(b) Foundation Design – Residential

Any structure requiring a Building Consent, in terms of Building Act 2004 provisions, shall have specific foundation design by a suitably experienced chartered engineer or by an appropriately qualified geotechnical engineer. The foundation design shall be in accordance with the latest MBIE Technical Guidance for Repairing and Rebuilding Houses affected by the Canterbury Earthquakes for structures being constructed on land with a technical category 2 equivalent status.

13. Human Health

- 13.1 The consent holder shall notify the Environmental Compliance section of the Council, by email to rcmon@ccc.govt.nz, of works commencing and of the name of the Contaminated Land Specialist at least 5 working days in advance of the earthworks commencing in the 'Soil Contamination Management Area A', 'Soil Contamination Management Area 'B' or 'Soil Contamination Management Area C' as shown on page 6 of the Tonkin and Taylor 201 Halswell Road Development – Addendum Report dated 7 October 2019.
- 13.2 All aspects of the earthworks are to be conducted in accordance with the Contamination Site Management Plan (CSMP - Tonkin and Taylor Contamination Site Management Plan 201 Halswell Road Development dated 2018, or any subsequent version of the CSMP, updated in accordance with section 2.5 of the CSMP).
- 13.3 All contaminated soils removed from the site must be disposed of at a facility whose waste acceptance criteria permit the disposal of contaminated soils.
- 13.4 The consent holder shall provide to the Council evidence, which may include a waste manifest and/or weighbridge receipts, of the disposal of contaminated soils from the site to an authorised facility within 2 months of the excavation of any soils removed from the site. The evidence shall be provided to the Environmental Compliance Section of Council and may be by way of email to rcmon@ccc.govt.nz.
- 13.5 Additional soil contaminant sampling is to be undertaken in the locations specified in the CSMP. All sampling is to be conducted by a Suitably Qualified and Experienced Practitioner in accordance with the Ministry for the Environment, 2012, Users' Guide - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**), Ministry for the Environment, updated 2011, Contaminated land management guidelines No. 1: Reporting on Contaminated Sites in New Zealand, and Ministry for the Environment, updated 2011, Contaminated land management guidelines No. 5: Site Investigation and Analysis of Soils.

- 13.6 Soil excavated from Soil Contamination Management Area A shall, if reused onsite, only be used within land proposed for commercial land use.
- 13.7 Within three (3) months of the completion of the earthworks in Soil Contamination Management Area A, Soil Contamination Management Area B or Soil Contamination Management Area C as shown on page 6 of the Tonkin and Taylor *201 Halswell Road Development – Addendum Report dated 7 October 2019* results of the sampling undertaken pursuant to condition 13.5 are to be forwarded to rcmon@ccc.govt.nz and a Site Completion Report also prepared by Suitably Qualified and Experienced Practitioner shall be prepared and delivered to Council.
- 13.8 The Site Completion Report shall include:
- (a) Confirmation that the soil disturbance works are complete;
 - (b) Confirmation that all soil disturbance works were completed according to the CSMP and that there were no variations during the works, or if variations to the CSMP procedures did occur, a full description of the variation must be provided in addition to the reasons why such variation was necessary, the communication of these variations at the time and any associated adverse effects and mitigation methods;
 - (c) Confirmation that there were no environmental incidents during the works. If there was, an environmental incident report shall be provided which includes the details of the nature of the incident and the measures taken to mitigate effects;
 - (d) Where soil is removed from the Soil Contamination Management Areas as referenced as Area A, Area B or Area C as shown on page 6 of the Tonkin and Taylor *201 Halswell Road Development – Addendum Report dated 7 October 2019* and reused on site, a description of and plan showing the extent and depth of the location the reused soil was placed;
 - (e) Confirmation of the disposal destination of any soil from the Contaminated Soil Management Areas as referenced as Area A, Area B or Area C as shown on page 6 of the Tonkin and Taylor *201 Halswell Road Development – Addendum Report dated 7 October 2019* taken offsite and the verification test results (if any) undertaken for disposal/permitting;
 - (f) Evidence the objectives of the final site capping have been met with regard to the relevant commercial land use;
 - (g) The Site Completion Report shall be written in accordance with the Ministry for the Environment Guidelines for Reporting on Contaminated Sites in New Zealand (revised 2011). Delivery of the Site Completion Report may be by way of email to rcmon@ccc.govt.nz; and
 - (h) Confirmation of whether, following completion of the works, residual contamination of the kind referenced in condition 13.9 remains onsite that requires management.
- 13.9 Where residual arsenic contamination remains onsite above the NESCS commercial land use standard of 70 mg/kg in either the Soil Contamination Area A or as result of placement of soil excavated from Area A in accordance with condition 13.8(d), a Long Term Site Management Plan (LTSMP) shall be provided to the Council by way of email to rcmon@ccc.govt.nz, within 20 working days of the Site Completion Report being provided to Council.

- 13.10 If an LTSMP is required pursuant to condition 13.9:
- (a) The LTSMP shall be prepared by a suitably qualified and experienced practitioner, as defined in the User's Guide National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health; April 2012.
 - (b) The LTSMP shall include:
 - 1. Identification of the relevant hazards associated with residual arsenic contamination in soil;
 - 2. Requirements for maintenance of surface capping to prevent site users from exposure to contaminated soil; and
 - 3. Protection measures for maintenance/excavation workers undertaking subsurface works with the principal exposure pathways comprising direct contact and/or ingestion of contaminated soil.

- 13.11 Where condition 13.10 requires an LTSMP to be provided, the consent holder shall have registered against the record of title for the relevant lot consent notices recording the following condition which is to be complied with on a continuing basis:

All activities and works shall be undertaken in accordance with the LTSMP.

14. Public Open Space (Roads and Reserves)

- 14.1 Landscaping of roads and reserves shall comply with the requirements of the IDS (2018), the CSS: and the WWDG: 2003 and be in general accordance with Set F – Landscape Public Landscape Works pages 1 – 14 Issue RC and condition 10.1 except that:
- (a) All street trees to be planted along Road A to have a minimum height of 2.5m at time of planting, with a minimum calliper of 35 - 40mm. All other street trees shall have a minimum height of 2.0m at the time of planting, with a minimum calliper of 35 - 40mm.
 - (b) Street trees on the Road A boundary to the front of the Commercial/retail precinct are to be planted at maximum spacing of 12-15m. These trees may also be planted in staggered rows or groupings to provide further texture and depth to the tree planting.
 - (c) The road formations shall be controlled through conditions 6.1 and 15.
 - (d) Landscaping for Days Drain shall be undertaken pursuant to condition 10.
 - (e) The post and cable fence on Lot 54 shall be located on the west side of the trees adjacent to Road C.
 - (f) Only one seat shall be provided on the southern end of Lot 50.
 - (g) Two seats shall be provided on the northwest side of the recreation reserve (Lot 54).
- 14.2 A landscape design report and landscape plans for the Local Purpose (Utility) Reserves (Lots 50, 51, 52, 53, 55 and 56), Recreation Reserve (Lot 54), street trees and streetscapes are to be submitted to the Council Asset and Network Unit (Parks) for acceptance that they are in

general accordance with condition 14.1 and comply with the requirements of the IDS (2018), the CSS: and the WWDG: 2003. All landscaping is to be carried out in accordance with the acceptance report and plans.

14.3 Establishment Period (Defects Liability Period):

- (a) The Establishment Period (Defects Maintenance) for Lots 50, 51, 52, 53, 54, 55, and 56 may include an inspection by Parks Operations staff after the first 6 months from the time the trees are planted. Any diseased or dead plantings are to be replaced by the Consent Holder. The Consent Holder shall enter into a separate bond with Council Asset & Network Unit (Parks) Team to the value of 50% of the cost to replace and replant all trees and shrubs. The bond shall be held for the Establishment Period of a minimum of 12 months and may be extended by a further 12 months for the replacement planting(s), if required. The Consent Holder is to keep an accurate and up-to-date monthly report on plant and tree conditions during the Establishment Period (Defects Maintenance) of the works undertaken. The report shall be submitted, if requested, by the Engineer within 5 days of the end of each month during the Establishment Period (Refer sample report: Landscape Construction Monthly Establishment Report, CSS, Part 7 Appendix 1).
- (b) The Consent Holder shall maintain the street trees for 12 months Establishment Period (Defects Maintenance) from the time the trees have been planted up until the final inspection and acceptance of the trees by the Council Parks Operations staff. The Establishment Period and the term on the bond shall be extended by a further 12 months for the replacement planting(s), if required. The Consent Holder shall enter into a separate bond with Council Asset & Network Unit (Parks) Team to the value of 50% of the cost to replace and replant all dead, diseased or damaged street trees on roads to vest in council. The bond shall be held for the Establishment Period of a minimum of 12 months and may be extended by a further 12 months for the replacement planting(s), if required. The bond shall be released after the trees have been inspected and accepted by the Council Parks Operation staff.
- (c) The Consent Holder shall keep an accurate and up-to-date monthly report on tree conditions and establishment works undertaken. The report shall be submitted, if requested, by the Engineer within 5 days of the end of each month during the Establishment Period (Refer sample report: *Landscape Construction Monthly Establishment Report*, CSS, Part 7 Appendix 1).

Advice Note: Refer to IDS (2018) Part 10: Locations of trees in streets, and CSS Part 7: Supply of Tree and Plant Materials.

14.4 The Consent Holder shall submit, if requested, the required completion documentation in accordance with IDS (2018) Part 2:2.12 Completion of Land Development Works and the Quality Assurance System to provide evidence that the work is completed in accordance with the standards and conditions of this consent. This is to be submitted, if requested, on completion of the 12 month Establishment Period, prior to formal handover to Council and release of the Establishment Bond established pursuant to condition 14.3(a) and condition 14.3(b).

14.5 The Consent Holder shall submit As-Built plans for any landscape improvements on land to be vested as reserve and for any street trees in accordance with the IDS (2018), Part 12 As-Built Records.

15. Transport

- 15.1 The Halswell Road frontage of the site shall be upgraded to an urban standard with kerb and channel, and a 2.5 metre shared path along the frontage of site. Direct pedestrian access to Lot 12 shall be provided.
- 15.2 No subdivision of land shall occur until the consent holder has upgraded the intersection of Aidanfield Drive / Halswell Road to a signal controlled intersection and the signals are installed and operational.
- 15.3 Detailed engineering plans for the proposed changes to Halswell Road / Aidanfield Drive intersection (Intersection) shall be designed by an appropriately qualified professional, prepared in accordance with the NZ Transport Agency's Applicable design standards, and shall be submitted to and certified by both the Council's Transport Manager and NZ Transport Agency prior to any construction commencing on the site and shall include:
- (a) All necessary alterations to the Intersection required as consequence of the development;
 - (b) Full design details regarding the operation/phasing of the signalisation of the Intersection and site access; and
 - (c) A detailed design safety audit of the detailed engineering plans undertaken at the consent holder's cost by a suitable trained and experienced independent safety auditor.
- 15.4 The Intersection design, as required pursuant to condition 15.3 shall include:
- (a) the indenting of the bus stops on Aidanfield Drive; and
 - (b) infrastructure associated with the relocation of the bus stop on Halswell Road immediately adjoining the Halswell Road frontage to the site.
- 15.5 The cycle path on Road A is to be designed and constructed on the south side of the road in general accordance with the Christchurch Cycle Design Guidelines Part B.
- 15.6 The detailed design of the pedestrian crossing facilities along Road A are to be designed and constructed in general accordance with the NZTA Pedestrian Planning and Design Guide.
- 15.7 Road F (Lot 106) as shown on stamped Approved Plans 1 to 9 ([Set A – Subdivision / Scheme Plans] Eliot Sinclair, *Halswell Road Development 201 Halswell Road, Christchurch*, Project 426962 Set C1 Sheet 1 to 9 Rev L is to be constructed in asphaltic concrete with concrete pavers or similar to highlight the pedestrian crossing areas as shown on Set F – Landscape Public Landscape Works pages 1 – 14 Issue RC.
- 15.8 Any road carriageway shall have a minimum width of 7m. Road formation dimensions illustrated on the road cross section drawings on Plan Set F may be varied in accordance with the IDS 2018.
- 15.9 A shared path with a minimum width of 3.0 metres is to be included in the design and development of the stormwater management area (Lots 50, 51, 54) to provide an east-west pedestrian/cycle corridor from Road C to the east boundary of the application site as shown on Set C – Landscape Days Drain Residential and Stormwater Basin pages 1 and 2 Issue

RC. The path is to be constructed in asphalt, and not 'Grit Path' as shown on Set C – Landscape Days Drain Residential and Stormwater Basin pages 1 and 2 Issue RC.

- 15.10 A design road safety audit of the detailed engineering plans submitted under condition 6 and a post-construction road safety audit is to be undertaken of the transport network associated with the development at the consent holder's cost by a suitably trained and experienced independent safety auditor in accordance with the NZTA Road Safety Audit Procedure for Projects Guidelines.
- 15.11 Street lighting is to be installed in the new road(s) and Halswell Road frontage to vest in compliance with Part 11 (Lighting) of the Infrastructure Design Standard IDS (2018).

16. Telecommunications and Energy Supply

- 16.1 All lots shall be provided with the ability to connect to a telecommunications and electrical supply network at the boundary of the net area of each lot.

Advice Note: "Ability to connect" for the purpose of condition 16.1 means that ducts or cables must be laid to the boundary of the net area.

- 16.2 As evidence of the ability to connect, the consent holder is to provide a copy of the reticulation agreement letter from the telecommunications network operator and a letter from the electrical energy network operator, or their approved agent.

17. Service Easements

- 17.1 The service easements as set out on the application plan or required to protect services crossing other lots shall be duly granted or reserved.
- 17.2 Easements over adjoining land or in favour of adjoining land are to be shown in a schedule on the Land Transfer Plan. A solicitor's undertaking will be required to ensure that the easements are created on deposit of the plan.

18. Easements over Reserves

- 18.1 Easements over land that is to vest in the Council as reserve are to be shown on the survey plan in a Schedule of Easements. A solicitor's undertaking shall be provided to ensure that the easement is registered on the subject reserve at the time title is created.

Advice Note: A section 223 certificate will not issue until such time as a section 239 certificate is issued by Council.

19. Easements in Gross

- 19.1 The legal instruments for easements in gross in favour of the Council are to be prepared by Council's consultant solicitor at the consent holder's cost.

Advice Note: The consent holder's solicitor is to contact Council's lawyers requesting the preparation of the easement instruments.

19.2 The legal instruments for easements in gross in favour of the Council are to be prepared by Council's consultant solicitor at the consent holder's cost.

Advice Note: The consent holder's solicitor is to contact Council's Lawyers requesting the preparation of the easement instruments.

20. Road and/or Lane Names

20.1 The new roads are to be named in accordance with the following:

- (a) A selection of names in order of preference is to be submitted for each new road. For historical purposes a brief explanation of the background for each submitted name is preferred. The names are to be in accordance with the Council's Policy on Naming of Roads and Rights of Way dated 2 November 1993.
- (b) The allocated names when approved are to be shown on the survey plan submitted for certification.

Advice Note: Road names are required to be approved by the Community Board. Community Board meetings are only held approximately once a fortnight, however Council Reports need to be completed two weeks prior to the meeting date. To request a road name, find the form and more information at <https://ccc.govt.nz/consents-and-licences/resource-consents/subdivision-consents/road-and-right-of-way-naming/>.

20.2 The consent holder shall order and install the road's nameplates. The nameplates shall be designed and installed in accordance with the IDS (2018) and CSS.

20.3 The consent holder shall submit the location of the nameplates to Council's Subdivision Engineer for approval prior to their installation.

Advice Note: Nameplates usually take six weeks to manufacture. The location of the nameplates can be submitted in a plan which identifies the road's landscaping and location of street lighting as required by this application.

21. Public Utility Sites

21.1 The subdivision plan may include public utility site and associated rights of way easements and/or service easements required by a network operator provided that they are not within any reserves to vest in the Council.

22. Residential Development

22.1 The consent holder shall have registered against the records of title for Lots 1 to 10, 12 and 13 consent notices pursuant to Section 221 of the Resource Management Act 1991 recording the following conditions 22.1(a) – (c), which are to be complied with on a continuing basis:

- (a) Any residential development or subdivision of Lots 1 to 10 and 13 shall provide for a minimum of number of residential units or allotments as set out below:

Development Lot	Minimum Number of Residential Units of Allotments
Lot 1	32

Lot 2	50
Lot 3	49
Lot 4	34
Lot 5	51
Lot 6	22
Lot 7	6
Lot 8	11
Lot 9	9
Lot 10	13
Lot 13	5

- (b) Buildings for residential activity on Lots 1 and 12 shall be a minimum of two storeys high for the whole of the building and shall be restricted to terrace housing, which means a minimum of three adjoining units, or apartments.
- (c) Any residential development of Lot 5 shall include a playground located in the northwest corner that is to remain open to the public at all times. The area containing the playground shall abut legal road to the north and west and shall be fully visible from these abutting roads.

23. Archaeology

- 23.1 Should any archaeological material or sites be discovered during the course of work on the site, work in that area of the site shall stop immediately and the consent holder shall contact the appropriate agencies, including Heritage New Zealand Pouhere Taonga and the Mana Whenua, immediately, in accordance with the Accidental Discovery Protocol set out in Appendix 3 of the Mahaanui Iwi Management Plan: http://www.mkt.co.nz/wp-content/uploads/2016/05/Mahaanui-IMP-web_Part32.pdf”.

24. Plans for Geodata Plot

- 24.1 As soon as practical after the Section 223 certificate has been issued the consent holder is to advise the handling officer that the digital dataset for the subdivision is available in Land online and can be used for creation of the parcels in Council's digital database.

25. Goods and Services Taxation Information

- 25.1 The subdivision will result in non-monetary contributions to Council in the form of land and/or other infrastructure that will vest in Council. Council's GST assessment form is to be completed to enable Council to issue a Buyer Created Tax Invoice.

26. Lapsing of Consent

- 26.1 The period within which this consent may be given effect to shall be 5 years from the date on which consent was granted. The consent will be given effect to when the survey plan has been certified pursuant to Section 223 of the Resource Management Act 1991.

CONDITIONS: LANDUSE

1. Except as required by subsequent conditions, the development shall proceed in general accordance with the information and plans submitted with, and subsequent to the lodgement of the application. The Approved Consent Documentation has been entered into Council records as RMA/2017/3185 (149 pages) and stamped approved plans are set out below:
 - a. Set A – Subdivision / Scheme Plan: Approved Plans 1 to 9 (Eliot Sinclair plans labelled *Halswell Road Development 201 Halswell Road, Christchurch*, Project 426962 Set C1 Sheet 1 to 9 Rev M).
 - b. Set B - Landscape Days Drain Commercial: Approved Plans 10 to 15 (Kamo Marsh plans labelled *Indicative Design Concept – Days Drain*, Reference 4742 pages 1 to 6, Issue RC).
 - c. Set C – Landscape Days Drain Residential and Stormwater Basin Approved Plans 16 to 18 (Kamo Marsh plans labelled *Days Drain – Concept Design and Stormwater Reserve Concept* Ref 4742 pages 1 to 3).
 - d. Set D – Landscape Green Corridor Connection: Approved Plans 19 and 21 (Kamo Marsh plans labelled *Days Drain Green Corridor Linkage* Ref 4742 pages 1 to 3).
 - e. Set E – Earthworks Approved Plans 22 to 26 (Eliot Sinclair plans labelled *Halswell Road Development Project*, Project no 426962, Sets: M7 Rev A Sheet 1, M4 Rev B Sheet 1, M5 Rev B Sheet 1 M2 Rev D Sheets 1 and 2).
 - f. Set G – Landscape Private Landscape Works: Approved Plans 42 to 53 (Kamo Marsh plans labelled *Halswell Road Development* Ref No. 4742 pages 1 to 12).
 - g. Set H – Residential Design: Approved Plans 54 to 93 (the CMA+U *Residential Assessment Revision* Issue dated September 2020 pages 1 to 40).
 - h. Set I – Poolhouse: Approved Plans 94 to 98 (the CMA+U *Residential Assessment: Poolset Revision* Issue dated September 2020 pages 1 to 5).
 - i. Set J – Architectural Drawings: Approved Plans 99 to 151 (ASC Architects drawings labelled *Amended Resource Consent Application*, dated September 2020, project no: 17803, Sheets RC01 to RC51).

For legal road and reserves, where there is any inconsistency between the detail on the approved plans in condition 1 of this consent and that approved in subdivision consent RMA/2017/3185, the conditions of the subdivision consent shall instead be applied. The land use consent conditions do not apply to any road or reserve once vested in Council and after the section 224(c).

Occupation of Buildings

2. No building shall be constructed on a development lot until such time as:
 - a. the intersection on Halswell Road has been installed and is operational in accordance with condition 15.2 of RMA/2017/3185;
 - b. a section 224(c) certificate has been issued for that development lot; and
 - c. a floor level certificate associated with relevant development on that lot has been issued under rule 5.4.1.1(P3) of the Christchurch District Plan (as dated 24 August 2020).

3. No building shall be occupied on Lot 1 and 12 until:
 - a. the cyclone on adjoining land at Halswell Timber site is either removed or is acoustically treated so that it does not exceed a level of 65 dB L_{Aeq} (15min) on its nearest point to the north boundary of the application site. Prior to occupation on Lot 1 or 12, the consent holder shall submit a report from a suitably qualified and experienced acoustic engineer confirming (with evidence including noise measurements) that this condition has been achieved, for certification by the Environmental Compliance section of Council by way of email to rcmon@ccc.govt.nz; and
 - b. A 1.8m high solid timber paling fence, with additional 0.5m trellis (to provide a total height of 2.3m) as planted in either *C. montana*, or native jasmine (*Parsonsia*), or *Rubus schmidelioides* is erected along the eastern façade of Legal Description Pt RS310.

Advice Note: Condition 3(a) and (b) are Augier conditions volunteered by the consent holder to address landscape effects and operational noise from the existing adjacent Halswell Timber operation.

Earthworks and Construction within Development Lots at Building Phase

4. The net site area of all development lots within the Flood Management Area shall be at or above the 2% annual exceedance probability flood level.
5. For each individual site on Lots 2 to 6, minimum finished ground levels shall be based on a level of 100mm above the kerb at the street frontage or access, plus a grade of 1:500 to the rear boundary.
6. Any access route defined as a bridleway, square, lane or pocket park in Set H – Residential Design: Approved Plans 80-85 shall drain to a legal road.
7. The earthworks and construction work shall be under the control of a nominated and suitably qualified geotechnical engineer.
8. All loading and unloading of trucks with excavation or fill material shall be carried out within the subject site.
9. All work within the legal road cannot start until the consent holder has been issued with the following:
 - a. Approved Works Access Permit (WAP); and
 - b. Approved Traffic Management Plan (TMP).

Advice Note regarding the authorisation process associated with obtaining a TMP:

- a. A Corridor Access Request (CAR) application and TMP must be submitted to the Council through the following web portal <http://www.myworksites.co.nz>.
- b. The TMP shall identify the nature and extent of temporary traffic management and how all road users will be managed by the use of temporary traffic management measures and comply with the NZTA Code of Practice for Temporary Traffic Management (CoPTTM). The TMP shall also identify the provision of on-site parking for construction staff.

- c. *Construction activities on any public road should be planned so as to cause as little disruption, peak traffic delay or inconvenience to road users as possible without compromising safety.*
 - d. *TMPs will be required for activities outside the legal road that affect the normal operating conditions of the legal road.*
10. All filling and excavation work shall be carried out in accordance with an Environmental Management Plan (EMP). Unless approved as part of a separate ECan resource consent for stormwater discharge or ECan resource consent for excavation/filling, the consent holder shall provide the EMP to Christchurch City Council's Subdivision Engineer (email to rcmon@ccc.govt.nz) for acceptance prior to any work starting on site.
 11. The EMP shall be designed by a suitably qualified person, and a design certificate (on the Infrastructure Design Standard Part 3: Quality Assurance Appendix IV template 2018) shall be supplied with the EMP for acceptance by the Council under clause 3.8.2 of the IDS 2018 at least 5 days prior to the works commencing on site.
 12. The performance criteria for erosion and sediment control shall be based on ECan's Erosion and Sediment Control Toolbox for Canterbury <http://esc.canterbury.co.nz/>.
 13. The EMP shall include:
 - a. The identification of environmental risks including ecological effects and management, erosion, sediment and dust control, spills, wastewater overflows, dewatering, and excavation and disposal of material from contaminated sites;
 - b. A site description, including topography, vegetation, soils;
 - c. Details of proposed activities;
 - d. A locality map;
 - e. Drawings showing the site, type and location of sediment control measures, on-site catchment boundaries and off-site sources of runoff;
 - f. Drawings and specifications showing the positions of all proposed mitigation areas with supporting calculations if appropriate;
 - g. Drawings showing the natural assets and habitats;
 - h. A programme of works including a proposed timeframe and completion date;
 - i. Emergency response and contingency management;
 - j. Procedures for compliance with resource consents and permitted activity standards;
 - k. Environmental monitoring and auditing, including frequency;
 - l. Corrective action, reporting on solutions and updates to the EMP;
 - m. Procedures for training and supervising staff in relation to environmental issues; and
 - n. Contact details of key personnel responsible for environmental management and compliance.

Advice Note: IDS (2018) clause 3.8.2 contains further detail on Environmental Management Plans.

14. The accepted EMP shall be implemented on site over the construction phase. No earthworks shall commence on site until:
 - a. The contractor has received a copy of all resource consents and relevant permitted activity rules controlling this work.
 - b. The works required by the EMP have been installed.
 - c. An Engineering Completion Certificate (IDS (2018) – Part 3, Appendix VII), signed by an appropriately qualified and experienced engineer, is provided to Council to confirm that the erosion and sediment control measures have been properly installed in accordance with the accepted EMP.
15. The consent holder shall ensure that any change in ground levels on the site shall not affect the stability of the ground or fences on neighbouring properties.
16. The fill sites shall be stripped of vegetation and any topsoil prior to filling.
17. At the completion of the earthworks operations, the berm areas outside the line of the roadway construction shall be sown down with grass seed.
18. All bared surfaces shall be adequately topsoiled and vegetated within 20 working days of the completion of the relevant earthworks to limit sediment mobilisation.
19. Should the Consent Holder cease or abandon work on site or be required to temporarily halt construction during earthworks for a period longer than 6 weeks, it shall first install preventative measures to prevent sediment discharge / run-off and dust emission, and shall thereafter maintain these measures for as long as necessary to prevent sediment discharge or dust emission from the site.
20. No construction work, other than dust and erosion and sediment control measures, pre-inspection of plant (but not the operation of plant) and staff briefings/meetings, shall be undertaken outside the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 5.00pm Saturday. No work, other than dust and erosion and sediment control measures, shall be undertaken on Sundays or Public Holidays.
21. All construction work shall be designed, managed and conducted to ensure that construction noise complies with the requirements of NZS 6803:1999 Acoustics – Construction Noise (see Table 3, Page 11 of this Standard).
22. Vibration from construction work shall not exceed the limits of, and shall be measured and assessed in accordance with German Standard DIN 4150 1999-02 Structural Vibration – Effects of Vibration on Structures.
23. Should any archaeological material or sites be discovered during the course of work on the site, work in that area of the site shall stop immediately and the appropriate agencies, including Heritage New Zealand Pouhere Taonga and the Mana Whenua, shall be contacted immediately, in accordance with the Accidental Discovery Protocol set out in Appendix 3 of the Mahaanui Iwi Management Plan: http://www.mkt.co.nz/wp-content/uploads/2016/05/Mahaanui-IMP-web_Part32.pdf.

Land Contamination

24. The consent holder shall notify the Environmental Compliance section of the Council, by email to rcmon@ccc.govt.nz of works commencing and of the name of the Contaminated Land Specialist at least 5 working days in advance of the earthworks commencing in 'Soil Contamination Management Area A', 'Soil Contamination Management Area B' or Soil

Contamination Management Area C' shown on page 6 of the Tonkin and Taylor 201 Halswell Road Development – Addendum Report dated 7 October 2019.

25. All aspects of the earthworks are to be conducted in accordance with the Contamination Site Management Plan (CSMP - Tonkin and Taylor *Contamination Site Management Plan 201 Halswell Road Development dated August 2018, or any subsequent version of the CSMP, updated in accordance with section 2.5 of the CSMP*).
26. All contaminated soils removed from the site must be disposed of at a facility whose waste acceptance criteria permit the disposal of contaminated soils.
27. The consent holder shall provide to the Council evidence, which may include a waste manifest and/or weighbridge receipts, of the disposal of contaminated soils from the site to an authorised facility within 2 months of the excavation of any soils removed from the site. The evidence shall be provided to the Environmental Compliance section of Council and may be by way of email to rcmon@ccc.govt.nz.
28. Additional soil contaminant sampling is to be undertaken in the locations specified in the CSMP. All sampling shall be conducted by a Suitably Qualified and Experienced Practitioner in accordance with the Ministry for the Environment, 2012, Users' Guide - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**), Ministry for the Environment, updated 2011, Contaminated land management guidelines No. 1: Reporting on Contaminated Sites in New Zealand, and Ministry for the Environment, updated 2011, Contaminated land management guidelines No. 5: Site Investigation and Analysis of Soils.
29. Soil excavated from Soil Contamination Management Area A shall, if reused onsite, only be used within land proposed for commercial land use.
30. Within 3 months of the completion of the earthworks in Soil Contamination Management Area A, Soil Contamination Management Area B or Soil Contamination Management Area C as shown on page 6 of the Tonkin and Taylor 201 Halswell Road Development – Addendum Report dated 7 October 2019, results of the sampling undertaken pursuant to condition 28 are to be forwarded to rcmon@ccc.govt.nz and a Site Completion Report shall be prepared by a Suitably Qualified and Experienced Practitioner and delivered to Council.
31. The Site Completion Report shall be written in accordance with the Ministry for the Environment Guidelines for Reporting on Contaminated Sites in New Zealand (revised 2011). Delivery of the Site Completion Report may be by way of email to rcmon@ccc.govt.nz.
32. The Site Completion Report shall include:
 - a. Confirmation that the soil disturbance works are complete;
 - b. Confirmation that all soil disturbance works were completed according to the CSMP and that there were no variations during the works, or if variations to the CSMP procedures did occur a full description of the variation must be provided in addition to the reasons why such variation was necessary, the communication of these variations at the time and any associated adverse effects and mitigation methods;
 - c. Confirmation that there were no environmental incidents during the works. If there was, an environmental incident report shall be provided which includes the details of the nature of the incident and the measures taken to mitigate effects;
 - d. Where soil is removed from Soil Contamination Management Area A, Soil Contamination Management Area B or Soil Contamination Management Area C as shown on page 6 of the Tonkin and Taylor 201 Halswell Road Development –

Addendum Report dated 7 October 2019 and reused on site a description of and plan showing the extent and depth of the location the soil was placed;

- e. Confirmation of the disposal destination of any soil from the Contaminated Soil Management Areas as referenced as Soil Contamination Management Area A, Soil Contamination Management Area B or Soil Contamination Management Area C as shown on page 6 of the Tonkin and Taylor *201 Halswell Road Development – Addendum Report dated 7 October 2019* taken offsite and the verification test results (if any) undertaken for disposal/permitting;
 - f. Evidence the objectives of the final site capping have been met with regard to the relevant commercial land use; and
 - g. Confirmation of whether, following completion of the works, residual contamination of the kind referenced in condition 33 remains onsite that requires management.
33. Where residual arsenic contamination remains onsite above the NESCS commercial land use standard of 70 mg/kg in either the Soil Contamination Area A or as result of placement of soil excavated from Area A in accordance with condition 32(d), a Long Term Site Management Plan (LTSMP) shall be provided to the Council by way of email to rcmon@ccc.govt.nz, within 20 working days of the Site Completion Report being provided to Council.
34. If an LTSMP is required pursuant to condition 33:
- a. The LTSMP shall be prepared by a suitably qualified and experienced practitioner, as defined in the User's Guide National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health; April 2012.
 - b. The LTSMP shall include:
 - 1. Identification of the relevant hazards associated with residual arsenic contamination in soil;
 - 2. Requirements for maintenance of surface capping to prevent site users from exposure to contaminated soil; and
 - 3. Protection measures for maintenance/excavation workers undertaking subsurface works with the principal exposure pathways comprising direct contact and/or ingestion of contaminated soil.
 - c. All activities shall be in accordance with the LTSMP, where required, that applies to that Lot pursuant to this condition.

Residential Development on Lots 2 to 10 and 13

- 35. The site layout including pocket parks, access, net site area, building layout and housing type and design shall be in accordance with Set H – Residential Design Approved Plans 1- 5, 15 – 40.
- 36. The vehicle access layout shall be in accordance with the design shown in Set H – Residential Design Approved Plans 6, (visibility splay) and 17, 20, 23 and 26 (garage setback), and shall be designed and constructed in accordance with the Christchurch City Council's Infrastructure Design Standard (IDS 2018).
- 37. Lanes illustrated in grey within development lots on Set H – Residential Design Approved Plan 3 shall be constructed and maintained by the consent holder in accordance with the Christchurch City Council's Infrastructure Design Standard (IDS 2018) – with a surface treatment of 200 x 100mm precast or concrete cobbles on insitu metal course and a formed

width of any shared lane may be up to 7.0m in width and in accordance with Set H – Residential Design Approved Plan 9.

38. A 2.0m formed path on 'courtyard Aggrok' or similar shall be formed and maintained within each Bridleway and in accordance with Set H – Residential Design Approved Plans 10 and 11.
39. One way vehicle access shall be provided and maintained in accordance with Set H – Residential Design Approved Plan 3. Signs shall be erected at the entry and exit of points of one way access to direct the flow of traffic.
40. Pocket Parks shall have a minimum width not less than 9m, and shall be landscaped (with any specimen tree to be a minimum 2m in height at time of planting), formed and maintained as consistent with the Updated Proposal 'Landscape Assessment' Set G Private Landscape Works – Commercial and Residential Approved Plans 9, 10, 11 and 12.
41. The internal configuration, external windows and orientation of the proposed residential units shall be in accordance with Set H – Residential Design Approved Plans 6 to 8.
42. The material and colour palette of buildings shall accord with Set H – Residential Design Approved Plans 13 and 14.
43. The following additional standards shall apply:
 - a. Windows for any residential unit within 2.0m of any internal boundary shall not exceed a maximum transparency of 10%, with either translucent and / or solid panels.
 - b. The primary entrance door to each residential unit shall either:
 1. be located on the exterior facade orientated to front the street / lane; or
 2. be orientated no more than 90 degrees to the street / lane boundary as located on an adjacent wall to that fronting the street / lane, except for Unit C157 as shown on Set H – Residential Design Approved Plans 23 and 5.
 - c. Any windows for any residential unit (including the window pane to dormers) above ground level are setback a minimum of 4m from any internal boundary.
 - d. Residential units facing an internal boundary provide a minimum 8m distance between the living areas (being any space identified in detailed plans as 'Lounge', 'Dining' or 'Kitchen') of any adjacent residential unit.
 - e. Any fencing, hedge and shrubs within 4m of a lane, bridleway or road do not exceed 1.2m in height.
 - f. A pedestrian level light (2 lux) shall be installed wherever there is a bend in a bridle path.
 - g. At least one gateway for each bridle path to provide an alternative means of escape.
 - h. Landscaping planted and maintained so that the bridle path is kept clear of vegetation for the 2m wide width.
 - i. The formation of the access for each parking space can be accessed by a single movement and exit with one reverse movement in accordance with Chapter 7 of the District Plan (24 August 2020).

44. For each of Development Lots 2 to 10 and 13: At least 30 working days prior to the lodgement of any residential building consent within that development lot, the consent holder must submit to the Council via rcmon@ccc.govt.nz a Residential Management Plan (RMP) for the certification of the Head of the Resource Consents Unit or nominee.
45. The RMP shall include:
- a. detailed plans of the site (including net site area) and access arrangements, floor layout, elevations, a material and colours schedule for each dwelling within the Development Lot, either individually, as a sub-stage, or the entire Development Lot; and
 - b. Information to demonstrate compliance with:
 - i. Plan Set H including Residential Design Development Data Schedule in Approved Plans 4 and 5;
 - ii. conditions 41 to 43; and
 - iii. ground levels which comply with conditions 4 to 8 and building floor levels which comply with the Floor Level Certificate obtained pursuant to Condition 2 (where applicable).
46. Works shall not commence until the Head of Resource Consents or nominee certify that the RMP is in accordance with condition 45.
47. All works shall be carried out in accordance with the RMP.
48. For each dwelling within Lots 1 to 6 with a façade directly facing a vehicle access laneway or Road A, B or C, at least 30 working days prior to the lodgment of any residential building consent, the consent holder must submit via rcmon@ccc.govt.nz an acoustic report from a qualified acoustic engineer appointed by the consent holder identifying the construction measures required for that façade to achieve the acoustic insulation complying with $(30 \text{ dB } D_{tr2m,nTw} + C_{tr})$.
49. For each of the residential development lots contained within Lots 2 and 10, at least 30 working days prior to the lodgment of any residential building consent, the consent holder must submit via rcmon@ccc.govt.nz an acoustic report from a qualified acoustic engineer appointed by the consent holder. Any subsequent lodgement of residential building consent and acoustic report shall identify and implement façade sound insulation complying with Christchurch District Plan rule 6.1.7.2.1:
- a. For any residential dwelling (or other sensitive activity as defined by the District Plan) located within 80m of the nearest marked lane of Halswell Road where the adjoining speed limit on Halswell Road is 80km/hr; otherwise.
 - b. For any residential dwelling (or other sensitive activity as defined by the District Plan) located within 40m of the nearest marked lane of Halswell Road where the adjoining speed limit on Halswell Road is 60km/hr.

Landscaping on Lots 2 to 10 and 13

50. Landscaping shall be provided and maintained in accordance with Set G – Landscape Private Landscape Works: Approved Plans 42 to 53 (Kamo Marsh plans labelled *Halswell Road Development* Ref No. 4742, Issue RC sheets 1 to 12).
51. Any trees shall be a minimum height of 1.5m of at the time of planting and once established must be maintained at a height of at least 4m thereafter.
52. All landscaping on Lots 2 to 10 and 13 shall be maintained by the consent holder. Any dead, diseased, or damaged landscaping shall be replaced by the consent holder within the following planting season (extending from 1 April to 30 September) with trees/shrubs of similar species to the existing landscaping and capable of achieving a minimum height of 4m.
53. Landscaping shall be planted and maintained so that bridle paths are kept clear of vegetation for the 2m width.
54. Any hedge or shrub within 4m of a lane, bridle path or road shall be no higher than 1.2m.

Swimming Pool and the Common on Lot 5

55. The 'common' illustrated on Set I – Poolhouse: Approved Plans 94 to 98 (of the CMA+U Residential Assessment: Poolset Revision Issue dated September 2020 pages 1 to 5 shall include a playground that is available for the general public at all times.
56. The pool building shall be available for use only in association with residents and occupants of Lots 1 to 10, 12 and 13.
57. The pool building shall be constructed in accordance with Set I – Poolhouse: Approved Plans 94 to 98 (of the CMA+U Residential Assessment: Poolset Revision Issue dated September 2020 pages 1 to 5.

Commercial Development on Lot 1 and Lot 12

58. On Lot 1, 32 car parking spaces shall be designated and marked for residential use only.
59. A minimum of 39 car park spaces shall be provided and marked for staff car parking.
60. Bicycle and mobility parking shall be provided in accordance with standard 7.4.3.1 and 7.4.3.2 in the District Plan.
61. Buildings and signs shall be constructed and maintained in accordance with Set J – Architectural Drawings Approved Plan RC01 to RC51. The vertical structures demarcating the edges of the Green Corridor shall be constructed and maintained in accordance with Set J – Architectural – Mixed Use Lot 1 and Lot 12 Approved Plans RC50 and RC51, consisting of 22 vertical structures of a height of 4.3m, with 3.5m spaces between each generally and 9.5m spaces between each at vehicle entrances.
62. Landscaping shall be provided and maintained in accordance with Set G – Landscape Private Landscape Works: Approved Plans 42 to 53 (Kamo Marsh drawings labelled *Halswell Road Development* Ref No. 4742, Issue RC sheets 1 to 12) with all planting to comply with rules relating to visibility splays at vehicle entrances.
63. All landscaping on Lot 1 and 12 shall be established on site within the first planting season (extending from 1 April to 30 September) following the final, passed building inspection associated with building development on Lots 1 and 12 respectively.

64. All landscaping on Lot 1 and 12 shall be maintained by the consent holder. Any dead, diseased, or damaged landscaping shall be replaced by the consent holder within the following planting season (extending from 1 April to 30 September) with trees/shrubs of similar species to the existing landscaping.

Light, Noise and Operational for Lots 1 and 12

65. At least 20 working days prior to opening of any premises on Lots 1 and 12 to the public, the consent holder shall provide a statement from a suitably qualified and experienced lighting consultant confirming that the lighting associated with that specific premise and any associated carparking area has been installed in accordance with Rules 6.3.4 and 6.3.5 of the District Plan as dated August 2020. This statement shall be provided to Council, Attention: Team Leader - Environmental Compliance, by email to rcmon@ccc.govt.nz.
66. All lighting shall be aimed, adjusted and/or screened to direct lighting away from the windows of habitable spaces of sensitive activities.
67. All staff bicycle parking areas shall be lit with automatic sensor lighting, with a range of between 2.0 to 2.5 lux light spill associated with the staff bicycle parking spaces.
68. Lighting shall be provided at the four vehicle accesses, in accordance with the lighting design requirements within the IDS (2018).
69. The operating hours for any bar, restaurant or food and beverage outlet shall be restricted to 0700 to 2200 hours on any day.
70. The noise level within any bar shall be no greater than 95 dB $L_{Aeq(15mins)}$.
71. External doors to the food and beverage retail activity must be fitted with self-closing devices and no bottles or cans are to be emptied outside after 2200 hours and until 0700 the following day.
72. Service vehicles (eg for rubbish and recycling) shall be restricted to entering the supermarket site between 0700 and 1900 on any day.
73. Mechanical plant for all non-residential tenancies (including the supermarket) must be designed to comply with the Christchurch District Plan night time noise rules of 45 dB $L_{Aeq(15mins)}$ at the nearest Commercial Zone site boundary and 40 dB $L_{Aeq(15mins)}$ at the nearest dwellings within the Residential Zone.
74. No more than 80 children and 18 staff are permitted on the childcare site at any one time.
75. For the apartments on Lot 1 with a façade directly facing an access laneway, road or carpark, at least 30 working days prior to the lodgment of any residential building consent, the consent holder must submit via rcmon@ccc.govt.nz an acoustic report from a qualified acoustic engineer appointed by the consent holder identifying the construction measures required for that façade to achieve the acoustic insulation complying with $(30 \text{ dB } D_{tr2m,nTw} + C_{tr})$.
76. The layout of the apartments shall ensure that:
- a. any bedroom window(s) facing an external breezeway as identified in Set J – Architectural Drawings Approved Plan RC43 are:
 - i. not located within 4.5 meters of any apartment directly opposite; and
 - ii. fully offset from any bedroom window of apartment units directly opposite.

- b. for any bedroom with window(s) facing an external breezeway as identified in Set J – Architectural Drawings Approved Plan RC43:
 - i. the bedroom has mechanical ventilation;
 - ii. the adjoining breezeway contains a fixed barrier (for example a rail around a void, a fixed planter box or a planting bed with hedge planting or similar) that provides 1m of physical separation between the window and pedestrians in the breezeway; and
 - iii. the bedroom has access to direct daylight through either a light well or roof / floor opening that extends 1m from the window in any direction within the breezeway.

77. Any outdoor waste storage area shall be screened by a 1.5m high solid fence or landscaping at least 1.5m high.

Transport sight lines for Lots 1 and 12

78. Within the southwest corner of Lot 1, the sight line for Road F at its intersection with Road A (defined by Austroads Guide to Road Design Part 4A: Signalised and Unsignalised Intersections, SISD=90m) shall not be blocked by any structures (including signs) or landscaping.

