

BEFORE THE EXPERT CONSENTING PANEL APPLICATION FOR S 9 RMA LAND USE, S 11 SUBDIVISION, S 13 LAND USE, S 14 WATER PERMIT, S 15 DISCHARGE PERMIT TO SUBDIVIDE AND DEVELOP STAGE 1 BELLGROVE RESIDENTIAL DEVELOPMENT AT RANGIORA, CANTERBURY

IN THE MATTER	of the of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA) and the deliberations and final decision of the Expert Consenting Panel appointed under Clauses 2, 3, and 4 of Schedule 5 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to consider applications for consents for the subdivision and development of land for residential and commercial purposes at Rangiora, Canterbury
Expert Consenting Panel	John Hardie (Chair) Graham Taylor (Member) Karen Coutts (Member)
Applicant	Bellgrove Rangiora Ltd
Comments received under Clause 17(4) of Schedule 6 to the FTCA:	26 April 2022
Details of any hearing if held under Clause 21 of Schedule 6 of the FTCA	No hearing was held (refer Clause 20, Schedule 6 to the FTCA)
Date of Hearing if held	N/A
Date of Decision	29 June 2022

**RECORD OF DECISION OF THE EXPERT CONSENTING PANEL UNDER
CLAUSE 37 SCHEDULE 6 OF THE FTCA**

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Part A. Executive Summary

- [1] This is an application for resource consents by Bellgrove Rangiora Limited (the **Applicant**) to subdivide and develop rural land at Rangiora for residential housing, with associated consents to enable that to occur (the **Application** or the **Project**).
- [2] The Applicant elected to seek a referral from the Minister for the Environment to an expert panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the **FTCA**). The Minister accepted that the criteria of the FTCA would be met by the Project, including that it would help to achieve its purpose, and was referred by Order of Council on 26 November 2021. On 17 March 2022, the expert consenting panel was appointed to determine the Application (the **Panel**).
- [3] The Panel visited the site, together with surrounding land, including Rangiora town centre, to give context and perspective on 29 March 2022.
- [4] The Panel considered the Application and invited comment from the relevant parties. Comments were duly received from 17 parties. A reply to those comments was received from the Applicant including modified suggested conditions. Further information was requested and provided during the process from the Applicant, Waimakariri District Council (**WDC**) and Environment Canterbury (**ECan**). Comments on the Panel's draft conditions were also provided.
- [5] The Panel grants consent to the applications subject to the conditions set out in our decision (Appendix 2 (WDC) and Appendix 3 (ECan)).

Part B. Introduction and Procedure

Introduction

- [6] The Applicant is said to be an experienced developer with a track record of development in Rangiora.
- [7] It has acquired land which is known as Bellgrove named after a farm which historically existed on the site.
- [8] The total area of the Application site is about 21 hectares. It is a part of a wider area known as the Bellgrove North site. This is Stage 1 of a future development of that wider area. The Application would accommodate approx. 196 residential lots, a small commercial centre, retention of a heritage homestead which was the residence of the farming family, and local purpose stormwater utility and esplanade reserves. A full description of the site and surrounding environment was contained in the application in volume 1 section 2 and we do not intend to repeat that in our decision. A full description of the proposal was contained in section 3 of the same

volume, and once again we do not intend to record that or summarise that in this decision beyond what we say above.

Procedure

[9] The Panel records the following matters.

Meetings/Site visits

[10] The Panel met and conducted a site visit on 29 March 2022. This included a comprehensive examination of recent development at Rangiora, including travelling to the town centre and surrounding residential development and commercial centres.

[11] The Panel met on 2 and 9 May 2022 for a lengthy discussion following the receipt of comments and the Applicant's response to those comments. Given the different geographic location of one Panel member, all business was conducted via email, and online Microsoft Teams meetings, except the first Panel meeting on 29 March 2022.

Invitations to comment

[12] By letters dated 31 March 2022 the Panel invited comments on the Application from those parties listed in Clause 17(6) of Schedule 6.

[13] The Panel also invited comments from parties under Clause 17(7) of Schedule 6. Comments which were required by 26 April 2022.

[14] The Applicant's response was due by 3 May 2022, in accordance with Clause 19 of Schedule 6. It was received on 6 May 2022, The Panel felt compelled to seek legal advice on the issue of s 104D of the RMA from both the Applicant and WDC, and that was received on 8 June 2022 from WDC, and 10 June 2022 from the Applicant. This caused the Panel to serve notice that its decision would be delayed until the end of June 2022.

[15] The comments received and the Applicant's responses have all been considered in detail by the Panel. They are referred to below at Part C: Legal Context, and Part D: Evaluation of Effects.

Requests for Information

[16] The Panel requested information from the Applicant, WDC and ECan, separately and jointly, at different times during the process, through further information requests pursuant to clause 25(1)(a)(i) of Schedule 6. The relevant party/parties

provided the information requested and responses were considered by the Panel in forming its decision.

Comments on Draft Conditions

- [17] On 11 May 2022, the Panel invited comments on its draft conditions from the Applicant and those parties who had provided comments, under clause 36(1) of Schedule 6. Comments were required and provided by 20 May 2022. Comments on conditions were received from the Applicant, WDC and ECan, and four other parties.

Hearing

- [18] The Panel's decision is that a hearing is not required on any issue.

Part C. Legal Context and Legal Issues

- [19] The role of an expert panel appointed under the **FTCA** has been carefully described in the decision on a Matawii Water Storage Reservoir at Kaikohe dated 27 October 2020. However, the Matawii decision was in respect of a listed project. This Project is a referred project and that has legal relevance on the facts of this case.
- [20] A referred project is one that is referred to a Panel by an Order in Council after scrutiny by the relevant Minister taking into account the criteria and related matters at ss 18 and 19 of the FTCA.
- [21] As the Project was referred to the Panel, the Minister was therefore satisfied that the Project would be consistent with the purpose of the FTCA. But a panel cannot treat the referral as acceptance that the Project should be granted consent. We must follow the dictates of the FTCA, which sets out the criteria for us to consider.
- [22] Section 12 of the FTCA sets out the relationship between the FTCA and the Resource Management Act 1991 (the **RMA**). The process for obtaining a consent under Schedule 6 of the FTCA applies in place of the process under the RMA, but remains subject to its purpose and principles.
- [23] In respect of referred projects, Clause 31 of Schedule 6 sets out the matters to which a Panel must have regard:
- (1) When considering a consent application in relation to a referred project and any comments received in response to an invitation given under section 17(3), a panel must, subject to Part 2 of the Resource Management Act 1991 and the purpose of this Act, have regard to-

- a) any actual and potential effects on the environment of allowing the activity; and
- b) any measure proposed or agreed to by the consent applicant to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing the activity; and
- c) any relevant provisions of any of the documents listed in Clause 29(2); and
- d) any other matter the panel considers relevant and reasonably necessary to determine the consent application.

- (2) In respect of the matters listed under Subclause (1), a panel must apply section 6 of this Act (Treaty of Waitangi) instead of Section 8 of the Resource Management Act 1991 (Treaty of Waitangi).
- (3) When forming an opinion for the purposes of Subsection (1)(a), a panel may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

[24] Clause 31(5) lists the matters that a Panel must not have regard to, none of which are in issue in this Application.

[25] Clause 31(1) has significant similarities to s 104 RMA, but with the addition of scope to consider offset and compensation, if relevant. Consideration is subject not just to Part 2 of the RMA but also the purpose of this Act.

[26] Clause 32(1) applies sections 104A to 104D, 105 to 107, and 138A(1), (2), (5), and (6) of the RMA to a panel's consideration of a consent application for a referred project. We find s 104D to be particularly important in the Application.

[27] Clause 35 allows us to impose conditions, and applies RMA sections 108, 108A to 112, and 220.

Section 4 of the FTCA

[28] The purpose of the FTCA is contained in section 4. That states:

The purpose of this Act is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.

[29] Whilst the FTCA purpose is of vital importance to us, Schedule 6 FTCA requires that a panel shall have regard to all of Part 2 of the RMA – the principles in ss 6-8

as well as the s 5 purpose, but with s 8 RMA to be replaced by s 6 FTCA as mentioned above.

- [30] We proceed upon the basis that the purpose of the FTCA does not override Part 2 of the RMA. But care must be taken to remember that the purpose of the FTCA is to promote speedy development that would aid recovery from the effects of COVID, including the promotion of employment which is specifically referred to. We bear that in mind as we approach the statutory analysis. Put another way, we need to give careful consideration to the overarching purpose of the FTCA.
- [31] Our starting point was the information contained in the Application, and in particular Appendix U, an economics assessment prepared by Fraser Colegrave and Danielle Chaumeil of Insight Economics dated 27 January 2022. It indicated that the Waimakariri District is one of the fastest growing areas in New Zealand. During the 10 years ended 30 June 2020, it had the third highest rate of population growth in New Zealand. In particular, Rangiora's residential land is now largely depleted, with more required to meet projected growth over time.
- [32] The report noted that Rangiora housing has different characteristics to the norm. Houses are typically older, people are less likely to live with a partner, more likely to have recently moved to the district, and are more likely to need a smaller dwelling than has been provided historically by the market. A recent housing assessment by Livingstone and Associates projected demand for an additional 3950 dwellings in Rangiora over the next 30 years. This proposal would help restore the supply of local residential land, boost market competition, and by reason of increased housing density, provide more choice for those who live in the district, or intend moving there.
- [33] Development of the land, and construction of new dwellings on it, will create a significant one-time boost in regional and national GDP, jobs, and wages. The one-time boost in regional GDP would be nearly \$43 million. Employment would be for almost 460 people-years (that is said to be 230 full-time employees for 2 years). It would also produce additional household incomes of nearly \$22 million. As for national impacts, this is anticipated to be a one-time boost in national GDP of nearly \$86 million, employment of 860 people-years (430 people employed full-time for two years), and additional household incomes of almost \$41 million.
- [34] The report identified that this level of development will improve the district's self-sufficiency, and would assist in providing critical mass and support for Key Activity Centres (KAC's).
- [35] In relation to housing affordability, we are advised that the poor market supply of residential sections in and around Rangiora led to sections in an area known as Ravenswood, which sold for \$140,000 to \$160,000 prior to the Covid-19 lockdown in 2020, now selling for between \$340,000 to \$380,000. This is an increase well in

excess of 100% over an 18 month period. A similar example was given in relation to new sections at what is known as Townsend Fields. And similarly at Pegasus, also within the district. Prices for a new residential section in the district have more than quadrupled over the last 18 years.

[36] The report identifies that there is little (if any) greenfield land available for development in Rangiora. Townsend Fields has about 50 titles available and its next stage available about now, with registrations of interest already received from 500 parties. Ravenswood, which is about a 4 km drive east of the subject site along the Rangiora-Woodend Road, is expected to yield approximately 1100 sections upon completion, but that has also been inundated with enquiries by building companies and individuals. The developer in that area is now using a ballot system to ration new sections as they become available.

[37] This indicates to the panel that there is an extreme shortage which is driving up the price. The only way of correcting this is to provide more sections, and after reading the report, we are strongly of the view that there is some urgency about the need for supply in the short term and long term. This consent process will not solve the entire problem, but it is a step in the right direction.

[38] In summary, the report finds that the development of these areas for housing would produce positive benefits for the local community, both in terms of allowing households to purchase potentially more affordable housing and the provision of jobs.

[39] None of that assessment was contradicted by any other party to this process. We therefore come to the view that the Application is able to support New Zealand's recovery from the economic and social impacts of COVID-19. It will support employment, and it will support the certainty of ongoing investment in Canterbury. We also accept that this can be achieved in the short term rather than the long term.

Section 104D RMA

[40] it was accepted that in order for consent to be granted, the Application had to pass the gateway tests set out in Section 104D of the RMA. That is because it is a non-complying activity. That section states:

- (1) Despite any decision made for the purposes of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either –
 - a) the adverse effects of the activity on the environment (other than any effect to which Section 104(3)(a)(ii) applies) will be minor; or
 - b) the application is for an activity that will not be contrary to the objectives and policies of-

- (i) the relevant plan if there is a plan but no proposed plan in respect of the activity; or
- (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
- (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed planned in respect of the activity.

[41] It was common ground that the proposal could not meet the objectives and policies gateway test, due to being contrary to the rural zone objectives and policies of the Operative Waimakariri District Plan (OWDP), therefore cannot satisfy s 104D(1)(b). That left the issue of effects on the environment.

[42] Before the Panel proceeds to consider the effects of the proposal, it must form a preliminary view as to whether or not it is possible for any adverse effects to be minor. The land is rural in character, and if the existing environment must be taken into account, then clearly the adverse effect on rural character and rural productive values of turning that rural environment into an urban environment would be more than minor.

[43] Our concern about this gateway test caused us to issue an information request (dated 27 May 2022) requesting both the Applicant and WDC to provide us with a legal analysis of the test. As a consequence of that request, we received advice from WDC in the form of a legal opinion prepared by their solicitors Buddle Findlay dated 3 June 2022. We received a response from the Applicant dated 10 June 2022 through their agents Aurecon NZ Ltd, and attached to that document was advice from the Applicant's solicitors Saunders & Co dated 10 June 2022.

[44] We found this information useful in providing context for assessment of environmental effects, and we deal with the issue now on the understanding that if the s 104D(a) test is not met, we need not proceed further to consider the merits of the application because it will have failed the gateway tests.

[45] In analysing the position, we are required to consider hierarchical documents that might have normally been more pertinently addressed later in our decision. We do this now for the reasons above.

[46] Both lawyers who prepared opinions advised us that the leading case was the decision of the Court of Appeal in *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424. We quote from that decision at paragraph 84:

in summary... In our view, the word "environment" embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activity under a district plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it

appears likely that those resource consents will be implemented. We think Fogarty J erred when he suggested that the effects of resource consents that might in future be made should be brought to account in considering the likely future state of the environment. We think the legitimate consideration should be limited to those that we have just expressed”.

[47] That was not the last word on the subject. The matter once again came before Justice Fogarty on appeal in *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZHC 815.

[48] As we are bound by those decisions, and the latter case is a helpful articulation of the Court of Appeal case, we deal with that at more length. It was an appeal to the High Court against an Environment Court decision that granted consent for a new supermarket in an area of Queenstown known as Frankton Flats. The zoning at the time of the case was Rural General under the Operative District Plan (QODP), and Industrial zoning under the Proposed Plan Change 19 (PC19). PC 19 was the subject of numerous appeals at the time of the hearing, and therefore could not be said to be beyond challenge.

[49] Justice Fogarty held that the Environment Court had made an error of law as it assumed that the area in question would remain an undeveloped rural area in circumstances where this was not supportable on the facts of the case. The objectives of the QODP specifically recognised that eventually the area would become urbanised despite its existing rural zoning. The purpose of PC 19 was to complete the urban rezoning of the area, implementing specific policies of the QODP.

[50] The High Court (para 35) held that section 104D(1)(a) is a forward-looking judgement:

I am of the view that the first gateway test is a forward looking judgement as to whether or not the proposed activities may cause an adverse effect more than “minor” on the existing and future environment. That judgement can be made, and must be made, with regard to the provisions of the operative plan, existing resource consents, commercial activity competing for use of the subject and surrounding land, and *associated regulatory initiatives by way of proposed change* (our highlights).

[51] Further, the Environment Court had applied *Hawthorn* in a literal way, preventing it from taking into account the reality that there was demand for more industrial land which had been recognised in the QODP by way of a relevant objective, and that in the circumstances of this case this flat land would have to be used in part for that industrial activity. In assessing the environment, one had to have regard to the importance of context (paragraph 84). The Judge said that *Hawthorne* had endorsed a future orientated assessment of the environment (paragraph 64).

- [52] Applying those cases to the circumstances of this Application, we begin by noting that the relevant Proposed Plan contemplates an urban environment, but that it has not yet reached the stage of hearings, and by that process alone we cannot say that the rural environment currently in existence should carry no weight. But a more exhaustive review of the current position and what has led to the proposed change, and an understanding of the hierarchical nature of resource management documents that inform that change, can lead to a different view.
- [53] The OWDP is some 17 years old, having been made operative in 2005. It no longer gives effect to the Canterbury Regional Policy Statement (CRPS) which provides for the recovery and rebuilding of greater Christchurch since the advent of the Canterbury earthquake sequence. That document is a higher order document.
- [54] Endeavouring to deal with matters in a chronological order, in 2007 the greater Christchurch Urban Development Strategy and Action Plan (UDS) established the broad settlement pattern for the urbanisation of greater Christchurch for the next 35 years. It identified future growth opportunities, with north-east Rangiora, of which this land as part, identified as an Indicative Growth Area.
- [55] To implement the UDS, Proposed Change 1 to the CRPS was notified in July 2007, amending the CRPS to reflect the settlement pattern promoted by the UDS.
- [56] The WDC East Rangiora Structure Plan 2009 identified future growth areas for Rangiora reflecting the 35 year urban limits incorporated into the CRPS. This Structure Plan includes the application site, noting that residential development was expected at the time of its preparation to occur between 2017 – 2026.
- [57] Next comes the Land Use Recovery plan 2013 (LURP). This was prepared under the Canterbury Earthquake Recovery Act 2011 to provide for residential and business land use to support recovery and rebuilding through to 2028. The LURP identified greenfield land to ensure sufficient provision for urban development through to 2028, and it took effect from December 2013.
- [58] The LURP focused on land development outcomes to 2028, and not the longer term 2041 settlement pattern envisaged as part of Proposed Change 1 to the CRPS, and so the site was not included as a Greenfield Priority area in Map A of that document. It did, however, identify the site within the Projected Infrastructure Boundary, which indicated the planned extent of urban development at Rangiora from 2028 to 2041.
- [59] Changes were made to the CRPS in December 2013 to give effect to the LURP. The changes included the insertion of a new Chapter 6 “Recovery and Rebuilding of Greater Christchurch and Map A Greenfield Priority Areas. This site was included within the Projected Infrastructure Boundary of Rangiora.

- [60] To give effect to Action 3 of the LURP, WDC amended the OWDP to incorporate Objective 14.6.1 and Policy 14.6.1.1. Objective 14.6.1 is to “facilitate the rebuild and recovery of Greater Christchurch by directing future developments to existing urban areas, priority areas, identified rural residential development areas and MR873 for urban and rural residential activities and development”. Policy 14.6.1 was included to give effect to this, referring to existing urban areas and priority areas identified in Map A in Chapter 6 of the CRPS.
- [61] Our Space 2018 – 2048 Greater Christchurch Settlement Pattern Update (Our Space) built on the UDS of 2007, noting the land use changes which occurred following the Canterbury earthquake sequence, and identifying how Greater Christchurch could accommodate a further 150,000 people by 2048. Our Space was prepared to satisfy the requirement to produce a future development strategy outlined in the National Policy Statement on Urban Development (NPS-UD).
- [62] Our Space identifies Eastern Rangiora, including this site, as a Future Development Area (FDA). It requires FDA’s to be incorporated into the CRPS and rezoned for urban development in the respective district plans where there is a projected shortfall in housing development capacity, enabling the territorial authorities to respond to changes in the sufficiency of development capacity over the medium term. We pause to note that we find there is a housing shortfall in existence at present.
- [63] In May 2021 the Minister for the Environment approved Change 1 to Chapter 6 of the CRPS with the changes becoming operative in July 2021. This implements Our Space and gives effect to the NPS-UD. It identified this site on Map A and inserted associated policy provisions through Policy 3.6.12 to enable urbanisation to meet the medium term (10 year) housing needs. That policy states:
- enable urban development in the Future Development Areas identified on Map A, in the following circumstances:
- (1) It is demonstrated, through monitoring of housing and business development capacity and sufficiency carried out collaboratively by the Greater Christchurch Partnership or relevant local authorities, that there is a need to provide further feasible development capacity through the zoning of additional land in a district plan to address the shortfall in the sufficiency of feasible residential development capacity to meet the medium term targets set out in Table 6.1, Objective 6.2.1(a); and
 - (2) The development would promote the efficient use of urban land and support the pattern of settlement and principles for future urban growth set out in Objective 6.2.1 and 6.2.2 and related policies including by:
 - a) Providing opportunities for higher density living environments, including appropriate mixed use development, and housing choices that meet the needs of people and communities for a range of dwelling types; and

- b) Enabling the efficient provision and use of network infrastructure; and
- (3) The timing and sequencing of development is appropriately aligned with the provision and protection of infrastructure, in accordance with Objective 6.2.4 and Policy 6.3.4 and 6.3.5; and
- (4) The development would occur in accordance with an outline development plan and the requirements of Policy 6.3.3; and
- (5) The circumstances set out in policy 6.3.11(5) are met; and
- (6) The effects of natural hazards are avoided or appropriately mitigated in accordance with the objectives and policies set out in Chapter 11.

[64] We find that there is uncontested evidence from the economic assessment we have referred to earlier that leads us to the view that over the short to medium term there is a strong and compelling need to enable development of the subject site to meet housing bottom lines. Put another way, development is needed at an earlier date than was envisaged at the time of its preparation, and the above allows for that to occur.

[65] We find this proposal meets Policy 6.3.12. We also find that the Application is in accordance with all of the circumstances listed in Policy 6.3.11 (5).

[66] This brings us back to the PWDP notified on 18 September 2021. The site is zoned Rural Lifestyle, but identified within one of four areas suitable for urbanisation, this one being called the north-east Rangiora Development Area. The PWDP identifies the development areas as suitable for future urban development, with provisions enabling the transition from the underlying rural lifestyle zone to residential zoning. The release of land for urban development within that development area is proposed to be managed through a certification process that requires the following specific criteria to be met. Before we explain those criteria, we once again note that the summary of submissions on the PWDP has not yet been promulgated by WDC. A rural lifestyle zoning, when it is clearly understood that it is to become urban is unusual in itself, given that rural lifestyle blocks are largely incompatible with urban development. Nevertheless, we note that all that is required to change from rural lifestyle to an urban environment is a “certification process”, and certainly not a plan change. The criteria to be met are as follows:

- that the development will provide additional residential capacity to help achieve or exceed the projected total residential demand;
- appropriate servicing levels to achieve:
- specified fire fighting flows;
- provision of appropriate water pressure within the pipe treated water network; and
- no surcharge of pipes and flooding out of manholes during a design rainfall event (20% AEP).
- A geotechnical assessment and flood management demonstrating that any risks identified can be mitigated as part of subdivision designing consent;

- sufficient capacity available within the Rangiora Wastewater Treatment Plant;
- stormwater assessment with any recommendations made agreed by Council;
- a transport effects assessment outlining that any required mitigation can be undertaken as part of subdivision designing consent;
- a staging plan; and
- an agreement between the District Council and the developer on the method, timing and funding of any necessary infrastructure and open space requirements is in place.

[67] This analysis demonstrates that the higher order documents require this land to be rezoned for urbanisation contingent upon there being a capacity need. When the documents were prepared it was anticipated the need might be in the future beyond 2022, but the clear evidence before us is that the need is existing. We are therefore of the opinion that the “real environment” is not a rural environment, or a rural residential environment, but an environment which contemplates the urbanisation of the land.

[68] We find that the first gateway of section 104D(1)(a) is capable of being met if we find that the effects of the urbanisation are no more than minor given a starting point of that real-world environment.

Assessment of Effects

[69] The assessment of effects required under Clause 31 is the same as that under s 104 RMA but also includes any offset benefits and compensation, which is not relevant in this case.

[70] The evaluation of those effects against operative and proposed plans, and higher order documents is also the same albeit subject to the purpose of the FTCA as well as to the purpose and principles of the RMA.

The Treaty of Waitangi

[71] Section 6 of the FTCA requires all persons performing functions and exercising powers under this Act to do so in a manner consistent with the principles of the Treaty of Waitangi and Treaty Settlements.

[72] We find there are no issues in relation to the Act’s expectations of the principles of the Treaty of Waitangi and Treaty Settlements that would justify a decline of consent.

- [73] Clause 17(6)(b) Schedule 6 (FTCA) requires the panel to invite comments from relevant iwi authorities.
- [74] Te Rūnanga o Ngāi Tahu (Te Rūnanga) is the statutorily recognised tribal body of the Ngāi Tahu whānui (as provided by section 15 of the Te Rūnanga o Ngāi Tahu Act 1996 (TRONT Act) and was established on 24 April 1996 under Section 6 of the TRONT Act.
- [75] The contemporary relationship between the Crown and Ngāi Tahu is defined by three core documents; the Treaty, the Ngāi Tahu Deed of Settlement 1997 (Deed of Settlement) and the Ngāi Tahu Claims Settlement Act 1998 (NTCSA) which combine to form the legal relationship between Ngāi Tahu and the Crown.
- [76] The Deed of Settlement and NTCSA confirmed the rangatiratanga of Ngāi Tahu and its relationship with the natural environment and whenua within the takiwā.
- [77] The Crown Apology acknowledged a “new age of co-operation” and ongoing partnership between the Crown and Ngāi Tahu with the expectation that any policy or management regime would be developed and implemented in partnership with Ngāi Tahu.
- [78] The Belgrove Development, Rangiora, sits within the recognised rohe boundaries of Te Rūnanga.
- [79] Te Rūnanga encompasses five hapū and 18 Papatipu Rūnanga, who uphold the mana whenua and mana moana of their rohe. Te Rūnanga is responsible for managing, advocating and protecting, the rights and interests inherent to Ngāi Tahu as mana whenua but also accepts and respects the right of Papatipu Rūnanga to make their own responses.
- [80] Te Rūnanga, as the relevant iwi authority, has consulted with Te Ngāi Tūāhuriri Rūnanga (the relevant Papatipu Rūnanga) through its environmental entity Mahaanui Kurataiao Limited (**Mahaanui**). Te Rūnanga understands that Te Ngāi Tūāhuriri Rūnanga does not wish to provide any comments on this application other than what they have already stated in their Cultural Values Report. Te Rūnanga respected the position of Te Ngāi Tūāhuriri Rūnanga and made no further comment regarding the application.
- [81] The Application considers that it has enacted the Principles of the Treaty of Waitangi through:
- a) consultation with mana whenua, and potential effects on Tangata Whenua Values
 - b) site has been identified for future residential development by the iwi along with Crown agents

- c) part of the cultural redress in the Ngāi Tahu Settlement agreed in 1996 included the re-establishment of the traditional place name for the Cam/Ruataniwha River which the Application has adopted.

[82] It states it has considered the Principles of the Treaty of Waitangi in sufficient detail in accordance with FTCA, sch 6, cl 31(2). The Panel accepts this view based on this information and the comments received on the application and draft conditions from mana whenua, which have been reflected in his decision.

Part D. Evaluation of Effects (Clause 9(4))

[83] The Application dealt with this in some length with experts presenting their evidence to us in written form. That has been done in a very thorough manner and we have read and considered all that material. We also reviewed all comments made by the Invited Parties, including those in support or neutral that we do not specifically reference, the Applicant's comments in response and all final comments on the draft conditions. We do not intend to recite or summarise the comments, information and assessments provided.

[84] On the whole, we generally accept the assessments of the Applicant, subject to discussion below. The conditions originally sought have been amended throughout this process. Many of the amendments were made to incorporate technical planning or servicing aspects and consequential amendments, and we do not intend to discuss these in any detail in this decision. Suffice it to say that general agreement on most of those aspects was achieved between the relevant parties, as evidenced by the final comments provided on the draft conditions. Other amendments to conditions were made to address the effects of the Application.

[85] We do not intend to traverse in length the positive effects of the proposal because these were largely covered in the economic assessment which was attached to the Application as Appendix U, and we have already dealt with that. Section 6 of the proposal reminded us that the economic effects in turn lead to social effects, and we accept that evidence. We were also told that granting consent would have a positive effect on existing flooding problems because the proposal makes changes to the flood flows from the Ashley/Rakahuri River breakout which crosses the site and enters the Cam/Ruataniwha River channel. The proposal will result in better management of the network and overland flow paths, and there will be benefits for downstream properties from these changes. These were detailed in the Infrastructure Report at Appendix F.

Transport Effects.

[86] An Integrated Traffic Assessment was attached as Appendix E to the Application. It was prepared by Aurecon. It was comprehensive. It dealt with the traffic generation associated with the proposed residential activity, and the proposed internal road,

cycle and pedestrian layout within the Site. We also note that the Application is Stage 1 of what will eventually be a wider residential area if future consents are obtained.

- [87] Dealing first with trip generation, it is obvious that urbanisation of this land will have consequential effects on the surrounding road network. The expert's opinion concluded that the level of traffic generated by the Application can be accommodated on that surrounding road network, with minimal effects on the safety and efficiency of that network assuming road and upgrades are undertaken as proposed.
- [88] Potential trip generation from the Site is approximately 4100 daily trips. This is been determined by using a conservative assessment which is a maximum of 227 households and assuming a daily trip generation of 11 trips per household.
- [89] We are told that the WDC had previously undertaken a traffic study through Ableys as part of the Structure Plan process for Rangiora East (now called the NER-ODP and South- East Rangiora ODP). This demonstrated that in the year 2048 all three existing intersections on Kippenberger Avenue in proximity to the site will operate at a Level of Service A. This apparently means that traffic will operate in a free-flow manner and the general level of comfort and convenience to be provided will be excellent.
- [90] In addition, it is noted that the Level of Service operation of the proposed new Kippenberger Avenue/ MacPhail Avenue/Road 1 roundabout is anticipated to also have Level of Service A.
- [91] Lastly, the traffic generation anticipated for this stage has been considered in relation to the direction of traffic (with assumptions based in accordance with the Abley modelling undertaken for WDC. Stage 1 is anticipated to generate an additional 839 vehicle movements heading west, 102 movements heading east and 1105 vehicle movements heading south per day, which equates to a 25% daily overall increase in peak hour traffic on Kippenberger Avenue. The experts say the existing traffic network has adequate capacity to accommodate the increased traffic.
- [92] There are two new external network connections proposed. First, the formation of a new intersection onto Kippenberger Avenue to be known as Road 2 for the purposes of the Application, and the upgrade of existing intersection with MacPhail Avenue and what is called Road 1.
- [93] The formation of a T intersection at Road 2 has been carefully located to ensure that it is adequately spaced from the existing Kippenberger Avenue/Devlin Avenue intersection. This connection is anticipated to operate at a Level of Service A, and

the provision of a right-turn into Road 2 as proposed will apparently ensure it is safe and efficient operation as future stages of development occur.

- [94] The second external connection is the Road 1 roundabout. The expert advises that this will operate at a Level of Service A with minimal delay times even with an allowance of all urbanisation of the surrounding area. This connection is proposed to be constructed in its own stage called 1E, which will provide connection to the balance of Road 1 created by stages 1B and 1D. The proposal contemplates the possibility of delay but modelling states that this will not impact on efficiency to any degree.
- [95] The comments provided by WDC on this matter preferred that the balance of Road 1 and the intersection be created as part of stage 1D, in order to provide certainty that the intersection and roundabout would be constructed and to address adverse effects. WDC comments were concerned with adverse effects for residents including higher traffic on Road 2, increasing the risk of accidents and traffic safety hazards. Additionally, if an event (vehicle accident, emergency event) were to close Road 2, there would be no other access into or out of the subdivision. We agree, and consider that the staging conditions should be amended to require the balance of Road 1, and the formation of the roundabout to be incorporated into stage 1D.
- [96] In terms of internal road, cycle and pedestrian layout, we are advised that this is critical to ensuring an efficient operation. This has been designed in general accordance with the NER-ODP and in alignment with the PWP provisions for transport for residential activities.
- [97] There are some exceptions which are said to arise from constraints caused by waterbodies going through the Site and the heritage building. The roading network has been designed to accommodate these constraints so as to minimise the impact on both heritage and water body values yet providing an accessible and safe layout. The Panel was of the view that those constraints deserve special protection and we accept the proposals as meeting the internal road requirements.
- [98] Ten new internal roads were assessed against both the rural and residential road design attributes of arterial, collective, local and cul-de-sac roads. We find it unhelpful to have them assessed against rural rules. But in assessing them against residential rules, there are two (Roads 1 and 10) which do not meet the residential road standards for their road classification. The expert's report considers these non-compliances acceptable for the following reasons.
- [99] Road 1 as a Collector Road in a residential zone would have been required to have two 1.8 m wide foot paths. Instead of 2 footpaths what is proposed is a 2.5 m wide shared path in place of a footpath on one side of the road and 1.8m on the other.

We accept the advice that this is an appropriate cross-section design as it fulfils a need for pedestrian and cycle access.

- [100] Road 2 was originally proposed as a “secondary collector road”, however the applicant and WDC have agreed that it should be a local road, and the draft conditions were amended to reflect this. WDC has raised concerns about the specific design of the intersection, which will require resolution through the engineering approvals period under condition 18.3.
- [101] WDC advised in its comments that the 8m width requirement for local roads related to trafficable width including on street parking. It does not require 4m lanes. The proposal included 8m sealed widths with additional parking bays, resulting in a wider total formation than required. WDC was concerned that this would result in an unacceptable higher speed environment and that if the indented parking bays were to remain, a narrower sealed width should be required. We agree, and have amended the required widths in condition 18 of the subdivision consent accordingly.
- [102] Road 10 is anticipated to be a low-volume local road and is not intended to act as a main through-route. It has been designed to have deliberately narrow lanes to calm traffic and a lower speed of 30 km/h. On this basis it was considered appropriate at 10 m wide as opposed to the 18 m width required for a residential road. We find that in those circumstances we can approve the narrower width.
- [103] Lastly, the right of way access proposed for Lots 90-96 creates a non-compliance under the OWDP given it will provide access to 7 lots whereas normally it should be limited to 6. We have considered the expert advice and consider this non-compliance acceptable from a traffic and transportation perspective.
- [104] The proposed subdivision layout results in several internal roads intersecting in a manner such that the distance between intersections does not comply with the minimum distance required by the Council Plan. We have considered the expert report in relation to these non-compliances, and consider them acceptable from a transport, traffic and safety perspective in the context of this Application.
- [105] Future vehicle crossings were also the subject of expert evidence, and we accept that the proposals put forward by the Applicant are acceptable and do not create anything other than very minor effects on traffic safety and the environment.
- [106] The draft conditions include a requirement for a Construction Traffic Management Plan (CTMP) and this can also be appropriately dealt with by way of conditions of consent.

- [107] In summary, we accept that the Proposal will achieve a road network that is safe, functional and can meet the needs of future residents and the wider surrounding transport network.

Effects relating to Character and Amenity, including Landscape and Visual Effects

- [108] This was summarised in Section 6.3 of the Application, and further details were considered in the landscape and urban design assessment which was Appendix L to the Application. We also note that amended Indicative Reserves and Streetscape Plans were submitted in May 2022 in response to comments received.
- [109] It was important to the Panel that the esplanade and overland flow paths will predominantly be planted with locally sourced indigenous plantings, to address concerns raised in the comments on the application and conditions by Mahaanui. We consider that amendments to the conditions are necessary to provide for this, and have also provided for a process whereby by Mahaanui can have review input into final planting details.
- [110] We also note that the amended plans included detail of proposed planting on the eastern boundary of the Lot 4000 stormwater utility reserve, in response to concerns raised by Nick Thorp and Chantal Miller, who own rural land to the east. The plans were not clear as to whether this should extend along the boundary of Lot 4003 also. The Panel considers that it should.
- [111] Shared paths along the northern side of each waterway channel will enable public access within open space areas. Streetscape design is intended to provide a high urban amenity environment of carriageway and footpath thresholds. There will be street trees and amenity planting. The design features box culvert bridges over the overland flow channels, and we were satisfied that the Application proposes a high degree of amenity.
- [112] The urban designer and landscape architect (Rough Milne Mitchell Landscape Architects) considered its assessment against the appropriateness of the Stage 1 allotment layout, the appropriateness of the landscape design, the proposal in relation to the Urban Design Protocol, and the visual and landscape value effects.
- [113] The layout of the subdivision is intended to achieve a residential density of approximately 13.2 households per hectare. Higher density residential allotments are located either adjacent to, or in the vicinity of, the open space network (Northern Flow Channel) or in proximity to the Future Commercial Lot (Lot 1500).
- [114] The location of the future commercial Lot is immediately south of the Northern Flow Channel and directly adjacent to Primary Collector Road 1.

- [115] The subdivision layout provides a movement network of roads, shared paths, cycle lanes and footpaths that is well integrated and connected both internally and to the surrounding urban environment and future development areas. All of these are in alignment with the NER-ODP notified in the WPP.
- [116] The layout ensures that all proposed Lots will be within walking distance of the open space network. We accept that the Application meets the intent of the NER-ODP in providing visibility, amenity, and safety for users through the provision of the green link.
- [117] We note that the density is not as high as 15 households per hectare, but we are conscious that the intent of the Application as to preserve the historic Bellgrove Homestead, and not only is that a large lot, but surrounding lots are also of a large size in order to assist with the preservation of the heritage of the building. We find that apart from the large open space network, this in itself is a justifiable reason for a lesser density than 15 households per hectare.
- [118] The Bellgrove Homestead and its garden setting are said to be a focal point of the Application. The design is said to pay homage to the past because there will be rural elements such as a 1.2 m high post and rail fence proposed at the entrance, and new trees to maintain the open space associated with the Homestead.
- [119] The Panel was concerned about the visual effects of the proposed acoustic fence along part of Kippenberger Avenue. This was raised as concerns by WDC, and by David and Vanessa Rowland, who were concerned with visual impact and potential effects on driver behaviour. The Panel also identified this as a concern, and sought further comments in responses to draft conditions as to whether alternative acoustic insulation could be incorporated into dwelling designs to mitigate traffic noise, such that the acoustic fence would not be required.
- [120] The Applicant provided a response that advised that removal of the acoustic fence along this boundary would:
- degrade the amenity of the first row of housing adjacent to Kippenberger, including the amenity of their outdoor living space (the noise level within outdoor living spaces for these lots would substantially increase by as much as 8-10dB);
 - increase the number of lots requiring specific acoustic design standards, i.e. all houses within 80m of Kippenberger Avenue, not just those directly adjacent; and
 - increase the number of lots requiring alternative means of ventilation, i.e. Lots 40 to 58, 68, 69, and 79 to 84 inclusive, in addition to those directly adjacent to Kippenberger Avenue
- [121] Further changes to the type of fencing have been proposed by the Applicant, and we have determined that the need to protect the amenity of the homeowners from

noise along this relatively short stretch of frontage necessitates a departure from the provisions for fencing that are otherwise in operation along that stretch of road and would have been desirable from an amenity point of view to neighbours and road users.

- [122] We are satisfied that the proposed conditions requiring the fence design to achieve an attractive streetscape appearance through variation in design, materials, colour and / or texture and associated landscaping, together with the proposed certification condition, to be appropriate, although consider that the maximum height should be reduced to 1.8 to reduce visual dominance.

Effects on Built Heritage

- [123] A Heritage Impact Assessment was attached to the application at Appendix H. That assessment considered the effects on historical natural and physical resources, including effects on built heritage. We have already identified the importance of the Bellgrove Homestead, its surrounding environment and history.
- [124] The proposal does not propose any works to the Homestead itself, but works are to be undertaken within the vicinity of the Homestead, including within the delineated "Heritage Area" of the WPP. The Homestead will sit on a large 1400m² site and be part of a wider area of close to 3000 m², with an associated new driveway and connections to the new roading infrastructure, and the adjacent esplanade reserve. As we noted earlier, there will be three residential allotments adjacent to the Homestead allotment with a setback of approximately 70 m from the Homestead, and one allotment to the east which will be partially located within the heritage area. These are larger lots. Several trees within the vicinity of the Homestead will be removed, and replaced with a more comprehensive landscaping design which includes both trees and fencing.
- [125] Changes were made following the involvement of DPA Architects as Heritage consultants, with proposed subdivision plans modified to reduce any negative heritage impacts arising from the subdivision. These changes included a reduction from 3 to 2 residential lots south of the Homestead, an increase in the size of the Homestead lot to achieve an increased setback from the southern elevation, development of a detailed landscape response to the proposed heritage lot, and an indication that trees that are to be lost are to be replaced by appropriate species. Lastly, building controls have been proposed for the two lots south of the proposed heritage lot with the expectation that these will be imposed as conditions of consent and registered as consent notices against the respective titles to ensure that future dwellings on these lots are single storied, no more than 5 m in height and set back a minimum of 3 m from the boundary with the proposed Homestead Lot.

- [126] These changes were intended to ensure that the impact on the heritage values of the Homestead will be minor, and we find that to be so.

Effects on Archaeology

- [127] An archaeological assessment was attached as Appendix I to the Application. We are told that it is possible that during the earthworks throughout the site, subsurface archaeological remains relating to domestic, agricultural, or industrial activity could be discovered and destroyed. Specifically, around the Homestead building, earthworks are to be set back 500 mm from the building and if contaminated soil is found within this area during the works, it will be removed by hand excavation. The archaeological effects on this area are considered to be appropriate provided the works are managed in accordance with an archaeological management plan and archaeological authority.
- [128] Four farm buildings potentially of pre-1900 origin are proposed to be removed as part of the proposal. When we visited the Site we viewed those buildings and agreed that they are in a dilapidated and hazardous state. There is no evidence to suggest that they should be retained. To mitigate the potential loss of archaeological information caused by the removal, records of archaeological materials will be taken during earthworks prior to building demolition. This will form part of the archaeological management plan prepared for the works which will outline the monitoring and recording strategy for archaeological materials. We were told an archaeological authority is currently being sought for the extent of the Site. This will put in place protocols for managing the works so as to appropriately minimise the adverse archaeological effects.

Noise and Vibration Effects

- [129] The Panel accepts that construction brings about effects associated with noise and vibration. Accordingly, construction noise generated from the site will comply with the construction noise limits of the New Zealand Standard (NZS 6803:1999 Acoustics-Construction Noise). Vibrations resulting from compaction are not anticipated to exceed DIN 4150 1999-02. Construction hours were circumscribed in the Application, and we have determined to make a slight alteration to the Saturday construction hours for the benefit of those rural residents living nearby and after consideration of the comments of Nick Thorp and Chantal Miller.
- [130] The Kippenberger Avenue Acoustic Assessment was attached at Appendix O to the Application. It recommends a maximum indoor design sound level of 40 dB LAeq(24hrs) in future dwellings.
- [131] Acoustic fencing along part of Kippenberger Avenue was proposed on a Fencing Plan attached as Appendix B to meet the recommendations of the Assessment. Concerns regarding the effect of the fence were raised in the comments of WDC

and David and Vanessa Rowland. We invited further comment on this matter in relation to draft conditions and have discussed this above in relation to landscape and visual effects. We consider that the acoustic fence is necessary, subject to amended conditions that will require a specific design and certification process.

[132] In addition, dwellings on those lots will require specific acoustic design measures with thicker wall linings and thicker glazing for some habitable spaces. Additionally, any bedrooms with direct line of sight to the Avenue should also have an alternative means of ventilation to enable residents to sleep with closed windows.

[133] The assessment also recommends that while no specific construction standards are required for Lots 1 to 8, those lots should also either have a 1.8 m high acoustic fence installed and bedrooms with direct line of sight to the Avenue should have an alternative means of ventilation.

Effects on Groundwater Quality

[134] Section 6.10 of the Application dealt with this issue, together with accompanying Appendices M, N and O. The closest down-gradient bore is M35/5357 approximately 180 m down-gradient of the Site. It is currently used for domestic supply.

[135] We considered earthworks over aquifers, construction phase stormwater discharge, and the developed site stormwater discharge in forming our decision. Dealing with the first of these, the largest excavations over the aquifer will be the stormwater basins, in the excavation for the WWPS. Having considered the measures set out in the EMP as part of Appendix O, we agree that the effect of these excavations on groundwater quality is able to be adequately managed.

[136] In relation to construction phase stormwater discharge, the key contaminants contained in construction phase stormwater are sediments. We accept the evidence that these contaminants are not highly mobile in soil and will be retained within the erosion and sediment control measures, or within the underlying soil layer beneath the Site. There is some soil contamination identified at the Site. These contaminants may be entrained within the construction phase stormwater, and could move into the environment independently of sediment. Remediation of the contaminated soil is proposed to take place prior to the majority of the redevelopment works being undertaken. The earthworks required to remove the contaminated soil will be undertaken in accordance with the recommendations of a SQEP, and in accordance with the CSMP that is been prepared for the site and was contained in Appendix N. We find that this is appropriate.

[137] Developed site stormwater is to be discharged into land via the proposed stormwater system. The stormwater system will consist of two components. The first flush basins will be lined with sandy topsoil and sands (in accordance with best

practice guidance) to provide treatment of events up to the 90th percentile storm. As stormwater infiltrates through the soil layer, contaminants are removed through mechanisms such as filtration and absorption. Stormwater from larger events will be discharged by rapid infiltration. But the professional advice is that stormwater after the “first flush” of a rainfall event typically contains lower concentrations of contaminants, and it is therefore appropriate to provide a lower level of treatment.

- [138] We do not intend to lengthen our decision by discussing the details of the site stormwater discharge provisions. We simply emphasise that we have had regard to the Application and all relevant Appendices, including the Christchurch City Council's Waterways, Wetlands and Drainage Guide stormwater design guidelines. We have concluded that all of these issues can be dealt with by appropriate conditions.

Effects on Groundwater Quality (including stream depletion)

- [139] The Application dealt with this at section 6.11, and professional evidence was contained in Appendix M2. We accept that groundwater takes, and discharges to groundwater can alter the quantity of groundwater available. This can affect the way that groundwater interacts with surface water bodies such as springs and hydraulically connected rivers. The assessments undertaken for the site by the experts considered the Cam/Ruataniwha River to be hydraulically connected to groundwater. It also contemplated that takes can reduce the quantity of groundwater available to existing users who might have nearby bores, and this was a subject raised in comments from nearby rural property owners James and Sondra Harrison, Len Wright, Blue Jeans Limited, Carolyn Hamlin, and Nick Thorp and Chantal Miller,
- [140] The experts recognise that information available about aquifer properties in the area is poor, and that this resulted in an assessment of a likely rate of take that is highly variable. Depending on whether the take is, in reality, closer to the upper or the lower end of this range will alter the actual extent of the well interference effects.
- [141] Two bores have been identified as being potentially affected by drawdown from the dewatering activity. These are M35/0370 and M35/5493. Both of these bores are located within the residential subdivision south of Kippenberger Avenue. The experts determined from their investigations that bore M35/5493 is not considered likely to be present. That was not the case for M35/0370.
- [142] It was recognised that appropriate mitigation would need to be provided to ensure that there is security of water supply for the users of that bore. It was a matter of concern to the Panel, and conditions have been proposed to ensure that continuity of supply. We have considered the points of view of all parties affected, and we have come to the conclusion that the conditions we propose are appropriate so

that if any of these effects occur, they will be temporary and have no effect on the actual supply of water to other users.

- [143] We also gave consideration to the potential for stormwater discharge to change the groundwater regime. This can occur due to the construction of impervious surfaces which can impede recharging across the site, and also because of centralising stormwater discharges into the locations of stormwater facilities. The potential for these types of changes to occur has been carefully considered because of the springs in the area, in the hydraulic connection anticipated to be present between the Site and the Cam/Ruataniwha River. The experts PDP prepared the “Effect of Proposed Bellgrove Subdivision on Spring Flow” assessment which was contained in Appendix M2. This modelled the anticipated inputs to outputs from groundwater at the site, including rainfall and evapotranspiration. The assessment indicated that the Proposal will make changes to the water balance at the site, because stormwater run-off will be directed into land. Overall, an increasing groundwater recharge is anticipated, which could result in an increase in Spring flow downstream of the Site.
- [144] We were also told that discharges of stormwater into land can cause “mounding” of groundwater, locally raising groundwater levels beneath the discharge point. This can raise groundwater levels and have adverse effects on structures, vegetation, and other nearby discharges. Groundwater mounding can also prevent the stormwater devices from functioning as anticipated. Larger stormwater discharges as are proposed for the site are the most likely cause of groundwater mounding effects. They are most likely to occur where there is little separation from groundwater and the discharge point, and where infiltration rates are low, so stormwater is slower to dissipate. A potential consequence is that if groundwater mounding were to occur there might be more frequent overflows to surface water than designed.
- [145] The proposed stormwater basins have been designed with consideration of this possibility and rapid soaker chambers will have 0.8 m separation from the highest recorded groundwater level to the base of the disposal devices. In addition, stormwater will be disposed of to several basins with large footprints which will disburse the effects, as well as the soak pits on the individual lots which will dispose of roof stormwater. Due to the high infiltration rates measured by the geotechnical investigations, it is not anticipated that groundwater mounding will result in adverse effects on the functioning of the stormwater system or the surrounding area. We accept this expert advice.

Effects on Surface Water Quality and Ecology

- [146] We were provided with an ecological assessment attached as Appendix K to the Application. This was prepared by Aquatic Ecology Ltd (AEL). It evaluated the ecology of the headwaters of the Cam/Ruataniwha River and the swale network

up-gradient to the west of the Site, as well as the historic flow path channel to the north of the Cam/Ruataniwha River. This assessment indicates that in the recent past, there has not been permanent surface water within the Site. The ecological assessment found that the channel contained a mixture of native and exotic vegetation, but no surface water or aquatic plants. The only permanent aquatic habitat was the ornamental pond in the Homestead garden.

- [147] Downstream of Kippenberger Avenue and beyond the site, aquatic values, both for fish and invertebrates, indicated good stream health. Flow was present downstream of the culvert under Kippenberger Avenue. This region of the river contained cobble and gravel substrate as well as sediment. The riparian vegetation in this area was also a mixture of native and exotic species.
- [148] We agree that the existing vegetation has no ecological significance. We accept that there have been no wetlands or other significant habitats identified on the site, despite comments suggesting that possibility. We rely on the expert evidence. The replanted vegetation will consist of native species. We find that the Application will have the consequence of improving ecological values.
- [149] We note that the ecological assessment recommends that mitigation measures be put in place to avoid sediment mobilisation during the planting process.
- [150] All works in and adjacent of the River will be undertaken in accordance with an ESCP which will be prepared in accordance with best practice. The works in the channel and riparian areas will be undertaken as a separate stage of works, and separated from the rest of the earthworks using temporary bunds, as described in the Civil Infrastructure Report given to us as Appendix F to that report, and an ESCP contained in Appendix S.
- [151] We accept the evidence that the channel is generally dry and does not contain a permanent flow of water, and given all of the conditions to be imposed to deal with the earthworks and plantings, we hold that there are appropriate conditions so that the effects of all of this will be less than minor.
- [152] There is to be a channel realignment and reclamation of the Cam/Ruataniwha River. This is to assist with providing capacity for flood flows across the site, and to optimise the subdivision layout. The channel realignment will result in the filling of parts of the existing channel, and creation of new sections of channel in some locations. The new alignment will join the existing alignment at the ornamental pond on the Homestead site, where eels and a trout have been observed after large rainfall events.
- [153] Section 4.4 of the ecological assessment notes that the buffer strip and riparian planting proposed is likely to enhance ecological linkages, and provide habitat for wind aquatic insects, and birds. The planting will also provide filtration of

contaminants that could enter the channel, and will stabilise the banks which currently exhibit erosion which might be a potential source of sediment into the Cam/Ruataniwha River during heavy rainfall and flooding events. This assessment recommends that the new channel be generally uniform in grade to avoid forming pools where water could stagnate, which could trap aquatic life following high flows and flooding events. We accept that the proposed alignment and landscaping will improve the ecological values of the river channel on the Site.

[154] The ecological assessment also considered the fact that there would be the loss of some existing channel, and having considered that evidence, we find there are no adverse effects of this and that the new channel will bring about positive effects.

[155] Two culverts will be installed within the Cam/Ruataniwha River. These will provide road access through the site. They have been designed in most respects in accordance with the LWRP and NES-F requirements to provide for fish passage. We note the comments of Mahaanui in this regard, and agree that an amendment to conditions to require maintenance of fish passage through culverts should be required. We accept the ecological report that this is a satisfactory solution.

[156] Section 6.12.4 of the Application dealt with construction phase stormwater and dewatering discharges (including flocculants). As far as practicable, this is to be discharged into land. However, during very large rainfall events or high groundwater conditions there may be overflows into the Cam/Ruataniwha River. The concentration of any sediment discharge in those circumstances will be reduced through the use of the erosion and sediment control measures for the Site. Proposals are contained to deal with this, and having considered those, we believe the effects of these discharges on surface water quality and ecology will be less than minor.

[157] Stormwater discharges from the developed site will only occur during events larger than the 1 in 50 year rainfall event, and will only be stormwater beyond the “first flush”. As noted earlier, the experts say this would be expected to contain lower concentrations of contaminants than from the “first flush” stormwater. Furthermore, in a large rainfall event when discharge from these basins is occurring there will be significant dilution available in the receiving environment. We accept the expert evidence that the effects of developed site stormwater overflows on surface water quality and ecology will be less than minor.

Esplanade Provision

[158] Information about this was contained in the landscape and urban design report in Appendix L to the Application, and the ecological assessment which was attached as Appendix K.

- [159] The OWDP and PWDP require a 20 m wide esplanade reserve along the Cam/Ruataniwha River within the Site. This is for the purpose of conservation and natural hazard mitigation.
- [160] The ecological assessment was undertaken in part because of the need to deal with the “conservation” criteria. Based on the investigations, Aquatic Ecology determined that a 10 m wide esplanade reserve from the waterline of the river would be sufficient based on its ecological value, with this allowing for adequate sediment and nutrient control to protect downstream values and the protection of aquatic values downstream. A minimum 7 m wide area is proposed from the edge of the realigned Cam/Ruataniwha River corridor to the proposed residential allotment boundaries as shown by the landscape plans attached as Appendix B to the Application. This width allows for an effective minimum 11 m wide offset from the invert of the channel. We note the landscape plan does not provide for a vegetated buffer strip over the entire esplanade reserve with, with the setback being achieved by a combination of planted riparian buffer and setback widths. The experts say that the proposals contained in the Application provide an appropriate width to maintain and enhance the conservation values for the river.
- [161] We also note the comments of Mahaanui concerning the planting of the riparian margins, and agree that amendments to conditions to require this to be predominantly local sourced indigenous species is appropriate.
- [162] We have given much thought to the esplanade reserve provision and have determined that the appropriate response is provided in the Application.
- [163] In response to the “natural hazard mitigation” criteria, the proposed realignment of the River has been specifically designed to mitigate the Ashley River breakout flood event up to the 0.5% AEP (a 200 year event) and that has been agreed with WDC and ECan. Having considered the evidence, we find that the proposed esplanade reserve provisions are of sufficient width and capacity to mitigate the natural hazard presented by the Ashley River breakout flood event.
- [164] Finally, we accept that the proposals represent a high level of public access and connectivity to and through these areas.

Effects on Terrestrial Ecology

- [165] Two components of terrestrial ecology could be impacted by the Proposal, being the natural wetland on the site and native lizard populations. With respect to the wetland, the ecological assessment considered the site have low ecological value. A specific restoration planting plan is to be prepared for the wetland area. It is anticipated that it will enhance habitat in the vicinity of the wetland, even though surface water is not present for the majority of the time. In addition, there is a proposed consent condition that requires monitoring for the first five years following

construction to ensure that the native plants are not dominated by introduced species. We find this is appropriate.

- [166] A lizard survey was not available at the time the Application was made. It is presently being undertaken. If native lizard populations are confirmed on the Site by the herpetologist, an appropriate LMP will be prepared and followed during the works. This can be dealt with by way of appropriate conditions.

Effects on Natural Character

- [167] This was dealt with in section 6.14 of the Application. We note that the character of the site will change, and as a matter of law we have found that we can take into account the fact that the existing character will change to an urban character. And within that urban character, there are waterways and plantings which will enhance the Cam/Ruataniwha River, and enable residents and visitors to enjoy the new character which will be created.

Effects on Cultural Values and Archaeology

- [168] A Manawhenua Statement and Development Report was attached as Appendix J to the Application. We summarise that document.
- [169] The Application notes section 9.9.1 that consultation has been undertaken with manawhenua and action taken consistent with the WDP to ensure recognition has been given to manawhenua during the development of the Proposal.
- [170] Mahaanui note that the preparation of a Cultural Impact Assessment (CIA) is at the discretion of the relevant Papatipu Runanga. Regarding this development, Te Ngāi Tūāhuriri Rūnanga as manawhenua over this takiwā have declined that a CIA be prepared for this proposal and location. The Rūnanga directed Mahaanui to prepare a Manawhenua Statement in lieu of the provision of a CIA. Mahaanui confirmed this report would fulfil Clause 9(5) Schedule 6 (FTCA).
- [171] Mahaanui notes that Te Ngāi Tūāhuriri has kaitiaki responsibilities over the site and natural resources which are integral to the cultural identity of manawhenua so must be protected. The restoration of the Cam/Ruataniwha River is a priority for whānui

Cultural Values

- [172] The Application refers to the Mahannui Iwi Management Plan 2013 (MIMP) in section 9.11 and states manawhenua have not identified any cultural values, sites of significance or waipuna that require a bespoke management approach.
- [173] Mahaanui states:

- a) the restoration of the Cam/Ruataniwha River is a priority for whānui
- b) the proposal must ensure dewatering will not be located in areas with known contamination
- c) contaminated soil removed from residential areas must be disposed of to landfill but is also suitable for re-use in reserve areas
- d) contaminant risk to groundwater is considered low as heavy metals bind to soils
- e) excess stormwater will be directed to infiltration basins for soakage to the ground. Three rapid soakage detention basins are also proposed. No planting has been proposed in these areas.
- f) stormwater flows in excess of a 50-year event will flow to the surface waters of the Ruataniwha
- g) culverts will be installed to allow for crossings over the Ruataniwha and the Northern Bypass Channel
- h) riparian planting will be established along the realigned waterways
- i) a 20m wide esplanade around the Ruataniwha is required for conservation and natural hazard mitigation along with a buffer strip of 10m width from the channel edge.

[174] Mahaanui was briefed by the Applicant on 3 December 2021 and as a result prepared a report (Appendix J) identifying the potential effects on cultural values from the activities of the development. Mahaanui noted that their recommendations are assessed against the policies of the MIMP and also directed the Applicant to refer to the Ngāi Tahu Subdivision and Development Guidelines (NTSDG) to enhance cultural values inherent within the site. These guidelines support subdivision development effects on tangata whenua values being avoided, remedied or mitigated using culturally appropriate methods.

[175] The Application noted the hui with Mahaanui and the issues raised including a 5m strip for the Ruataniwha/Cam river to be planted with riparian species; plants should be locally sourced; stormwater management must detain run-off on the site with detention areas planted with appropriate indigenous species; contaminated soils disposed of appropriately; an Accidental Discovery Protocol be in place with wording consistent with that in the MIMP; appropriate sediment controls in place as per the ECan toolbox; waterways must allow for the natural processes of the river and culverts must not impede fish passage; the applicant to have regard to the NTSDG

[176] The Applicant noted it had responded to issues raised by Mahaanui:

- a) Cam/Ruataniwha is identified as Ngā Wai (waterway of significance) and relevant Mahaanui recommendations have been adopted by proposing enhancement to the Cam/Ruataniwha River including bank redefinition and indigenous riparian planting which will help provide ecological improvement for the river and is consistent with WDP Objective 2.1.4 and Policy 2.1.4.1

- b) in relation to riparian planting strip by the river (Appendix B), all works will be undertaken in accordance with an ESCP as per ECan toolbox (Appendix S)
- c) culverts will not impede fish passage (Appendix K).

It also noted that they had prepared an ESCP and have done an assessment against the NTSDG so would have regard for the stormwater management system and other sections of the NTSDG and will deal with contaminated soil in accordance with the RAP and reused soil will be away from riparian areas.

[177] On the basis of this response, the Application concluded that any potential adverse effects on cultural values are considered to be appropriate and less than minor.

[178] In Appendix J, Mahaanui specifically recommend:

- a) a minimum 10m setback must be provided along both sides of the Ruataniwha to improve biodiversity outcomes and provide habitat. A 5m planted buffer planted with riparian species should be provided.
- b) contaminated soils must be disposed of in an appropriate facility or utilised on site where there is no risk of leaching into ground or surface water, If reused on site, contaminated soils must be placed well away from riparian areas
- c) an Accidental discovery Protocol must be in place: 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
- d) plants to be used should be locally sourced
- e) all riparian vegetation must consist of indigenous species (note the rūnanga understand that some large exotic trees will be retained)
- f) the installation of structures within waterways must have strict sediment controls in place to prevent contaminant being mobilised downstream (as per Environment Canterbury's tool box)
- g) the naturalisation of waterways must allow for the natural processes of the river by providing riffles and fish 'rests'. Culverts must not impede fish passage.

[179] Mahaanui also recommend that the Applicant have regard to the Ngāi Tahu Subdivision and Development Guidelines particularly in regard to stormwater management¹ which the Panel notes the Applicant commented on.

[180] Responding to the draft conditions, Mahaanui notes:

¹ NTSDG Stormwater section provided as Appendix 1

- a) Condition 21.7 requires that planting for the reserves and streetscapes be in accordance with the Engineering Code of Practice (EOCP), however The EOCP does not specifically recommend indigenous species be used as recommended by Mahaanui and as per the Ngāi Tahu Subdivision and Development Guidelines
- b) The Ngai Tahu guidelines include objectives that indigenous biodiversity should be incorporated into street trees, open space and reserves, native ground cover for swales, stormwater management and network and home gardens consistent with restoration and enhancement of indigenous biodiversity on the landscape. Indigenous species used in planting and landscaping should be appropriate to local environment and where possible, locally sourced seed supplies.
- c) Naturalised waterways riparian margins should consist of indigenous species (with the exception of some large exotic trees that are to be retained).²
- d) Mahaanui have sought additional conditions regarding indigenous plant species being utilised across the development.
- e) Mahaanui have sought that they review the final planting plan given their concerns re indigenous planting on the site and especially for riparian planting noting that they were not provided a copy of the draft landscape plan to review.
- f) The Archaeological Protocols condition with the wording previously provided by Mahaanui (note wording is consistent with MIMP) should be retained in the subdivision consent conditions as per original condition 30.2.
- g) Draft condition 25 is not sufficient as it does not specifically mention that culverts should allow for fish migration and the wording originally provided by Mahaanui consistent with the MIMP should be used.

[181] The Panel has noted the concerns of Mahaanui and strengthened the final conditions where it is deemed necessary.

Archaeology

[182] The Application stated that their initial investigations show no recorded archaeological sites within the site. As a result of the Archaeological Assessment (Appendix I) they undertook, Belgrove homestead and adjacent farmyard have now been recorded as archaeological site M35/2200 due to the archaeological potential relating to early European settlement along with a ford feature but had no evidence of potential Māori archaeology on the site. It also noted that it had met with mana whenua where no archaeological concerns about the site were raised but mana whenua expected that standard accidental discovery protocols would be put in place for the project.

² The rūnanga understands that some large exotic trees will be retained.

- [183] The Application plans to remove four wooden farm buildings identified as having pre-1900 characteristics but not identified as heritage items. These items will be demolished or removed in accordance with the archaeological authority that is being sought (refer below).
- [184] The Application accepts that during earthworks it is possible that archaeological remains could be discovered and destroyed. Accordingly, earthworks will be set back 550m from the homestead building and if contaminated soil is found, will be removed by hand excavation only. Archaeological effects will be managed with an archaeological management plan and archaeological authority and an application for an archaeological authority is being sought. In relation to the four farm buildings, records of archaeological materials will be taken during earthworks all will be part of the archaeological management plan.
- [185] In terms of the archaeological condition, Heritage New Zealand Pouhere Taonga (HNZPT) noted that the applicant had prepared an Archaeological Assessment. That Assessment concluded that although the homestead will not be physically impacted by proposed works, there may be associated archaeological features relating to the historic use of the property and homestead within the wider property. It recommends that an archaeological authority is obtained before any subdivision works begin. This will put in place protocols for managing the works, including the monitoring and recording strategy for archaeological materials to appropriately minimise adverse archaeological effects.
- [186] The applicants have since been in communication with HNZPT archaeologists and are in the process of applying for an archaeological authority which would satisfy HNZPT that any archaeological issues or concerns would be addressed through that process. HNZPT did not consider further conditions (as noted in Appendix P) requiring archaeological protocols were necessary due to an archaeological authority planned to be in place.
- [187] Mahaanui were aware of this recommendation from HNZPT and recommended that the condition re archaeological protocols should still be retained with the wording originally provided by Mahaanui which the Panel supported.

Effects of contaminated soil on Human Health

- [188] We have considered the evidence contained with the Application and summarise the position by finding that the measures proposed by way of conditions will avoid the potential for contaminants to mobilise beyond the works area and that we cannot imagine any effects at all on neighbouring properties.
- [189] There is a problem with contaminated soil present around the Homestead area and removal is proposed. We find that the proposal is to deal with this, and the

conditions proposed, are such that there will be no adverse effects on the health of the future users of these areas.

Effects on Greenhouse Gas Emissions

- [190] A Greenhouse Gas Emissions Assessment was attached as Appendix V to the Application. This report indicates that greenhouse gas emissions can be caused by construction and the use of the site for residential activity.
- [191] Dealing first with construction emissions, we were advised that the projected amount of these from transport for construction is 150 tonnes of CO₂ eq per year over the expected four-year construction period. Based on Statistics New Zealand 2018 data the total amount of expected emissions generated from the construction of the Site would account for 0.01% of total transport emissions across the Canterbury Region. The Applicant has contemplated how this might be reduced, and notes that it will attempt to reduce emissions where possible through engaging local contractors to reduce travel time, using building materials and supplies that are locally sourced, and managing development of building materials through fewer deliveries. We accept that greenhouse gas emissions occur with the construction of new housing, and on this particular site the quantity of the emissions is negligible in the context of Canterbury Region. This must be measured against the need for housing which we have discussed earlier in our decision.
- [192] It is estimated that in the year 2048 approximately 300 tonnes of CO₂ eq will be emitted associated with the potential transport emissions generated from those who choose to live at the Site. Transport modelling estimates that this would account for approximately 0.05% of transport emissions from the Greater Christchurch Network. But none of this takes account of Governmental efforts to reduce transport emissions, for example, by subsidising the purchase of EV's. And it must be remembered that the development is being established in a way which will encourage people to walk, cycle or take public transport. We also note that public transport is controlled by entities other than the Applicant. All the Applicant can do is provide an environment which would encourage bus operators to change routes to enable greater use of public transport by those who live in this area. We also note that this is Stage 1 of a much larger area to be developed for residential housing, and that finality of build will encourage greater use of public transport if it can be provided.
- [193] Finally, we note that in anticipating this area will be used for residential housing, the higher order documents that we have referred to have taken into account the proximity of the area to the Rangiora town centre, which we are told would be a 10-20 minute walk. We therefore conclude that the effects of these emissions are acceptable when contemplating the need for housing in the Rangiora District.

Advice notes

- [194] In its comments on draft conditions, WDC requested that the Panel include the relevant development contributions advice notes below the final conditions for this consent, and these have been included for the benefit of the Applicant. We note these are contributions under the Local Government Act 2002 and as such do not form part of the decision. It is acknowledged that some infrastructure works are subject to IAF funding applications, however at the time of this decision the outcome of those applications is unknown. Accordingly, it is appropriate to include development contributions under the WDC Development Contribution Policy at his stage, with the understanding that this may be reviewed following the outcome of the IAF applications.

Part E. National Policy Considerations

- [195] The Application referred us to several National Policy Statements and National Environmental Standards. The Panel accepts the assessments provided, also recognising the comments by the Councils in particular, and notes the following in turn.

National Policy Statement on Urban Development 2020 (NPSUD)

- [196] The NPSUD became operative in August 2020, and it is focused on enabling growth by requiring councils to provide development capacity to meet the needs of communities and to encourage well-functioning urban environments.

Policy 1

- [197] As noted in Policy 1, “well-functioning urban environments” are environments which, as a minimum:
- a) have or enable a variety of homes that:
 - i. meet the needs, in terms of type, price, and location, of different households;
 - ii. enable Māori to express their cultural traditions and norms;
 - b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size;
 - c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport;
 - d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets;
 - e) support reductions in greenhouse gas emissions; and
 - f) are resilient to the likely current and future effects of climate change.

- [198] It was contended the Project is designed to contribute to the development of Rangiora as a well-functioning urban environment by building on an existing residential neighbourhood in a location which is the subject of high demand for housing but with a constrained housing supply.
- [199] We are told that the layouts for all areas incorporate a mix of site sizes, dimensions and orientations which ensure a variety of housing needs which can be satisfied in terms of housing type and price. Further, a small commercial centre is proposed to provide for small scale commercial and retail requirements.
- [200] The development was said to incorporate shared cycle/pedestrian off-road network which will provide links within the area and the future and likely development areas.
- [201] We were also told that the use of the Covid legislation will enable the Objectives and Policies of NPSUD to be achieved in a more timely fashion than would have been the case using normal RMA procedures. The design and layout of the Application area provides infrastructure which will encourage alternative, low emission forms of transport. The location is said to be in close proximity to local employment centres.

Objective 2: Planning decisions improve housing affordability by supporting competitive land and development markets.

- [202] The Application states that it which will provide enhanced competitiveness in the market, and which in turn will assist with housing affordability. It was also said that affordability is not the sole outcome of encouraging competitive markets, as competitiveness can also promote a higher quality of development as competitors seek to create points of difference to attract purchasers.

Objective 3: Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of urban development in which one or more of the following apply:

- a) the area is in or is near a centre zone or other area with many employment opportunities.
 - b) the area is well serviced by existing or planned public transport.
 - c) there is a high demand for housing or for business land in the area, relative to other areas within the urban environment.
- [203] We find that the third part of this Objective is met by this Application as we are convinced there is a high demand for housing in this area relative to other areas within the urban environment. We remain concerned about the issue of public transport as provision of that is not within the control of the Applicant. But we find that the development of this area, at least when completed, will enable that to happen if the relevant local authority takes up the initiative.

[204] As for employment, we accept that the construction of houses provides employment opportunities, as does the establishment of the development of commercial centres. And we accept that, as the Application states, once people reside in the area that in itself will bring the potential of employment in the nearby area and town centre as the community needs are catered for.

Objective 6: Local authority decisions on urban development that affect urban environments are:

- a) integrated with infrastructure planning and funding decisions; and
- b) strategic over the medium and long-term; and
- c) responsive, particularly in relation to proposals that would supply significant development capacity.

[205] The Application noted that the Project can be effectively integrated with infrastructure planning, funding and delivery through an infrastructure assessment and an Integrated Transport Assessment (ITA).

[206] We accept the proposition presented that this development adds to existing capacity, and we note it is Stage 1 of a wider residential area. Although the Objective was anticipating that such development would be led by local authorities, in light of the FTCA, we have assessed the Project as meeting the themes of the Objective. This is consistent with higher order documents seeking to progress housing in the Rangiora district.

Objective 8: New Zealand's urban environments:

- a) support reductions in greenhouse gas emissions; and
- b) are resilient to the current and future effects of climate change.

[207] The Application noted that the location and layout of the developments, as well as a provision of pedestrian and cycle ways, are intended to encourage alternative transport modes which will support reductions in greenhouse gas emissions.

[208] We note that it is difficult for residential developments of differing densities to support reductions in greenhouse gas emissions. That is little influenced by the building of houses save for the fact that buildings themselves may incorporate some features which assist in the reduction of greenhouse gas emissions. The balance of those is in part caused by vehicle emissions, and that issue will only be resolved when we move from a fleet of cars which are either petrol or diesel powered, to electric vehicles, and adopt alternative modes of transport, including effective public transport, cycling and walking.

[209] We have assessed the Application against the relevant Policies and find that it supports those.

Policy 1: Planning decisions contribute to well-functioning urban environments.

- [210] Enough has been said on that matter already.
- [211] **Policy 2** relates to the need for local authorities, depending on their tier status, at all times, to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short-term, medium-term and long-term.
- [212] We have already referred to this in our decision, and comment further in relation to the **CRPS**.
- [213] The Application also refers to **Policy 6**, and **Policy 8**. We do not need to deal with these at any length, because as the Application notes, a response to these Policies (at least in part) has been the GCP's response by promoting a change to Chapter 6 of the CRPS called **Proposed Change 1**, which identifies future development areas for residential housing in this part of Rangiora.
- [214] In summary, we find that the present Application is not inconsistent with the NPSUD 2020 and we go further and accept that its Objectives and Policies are advanced by it.

National Policy Statement on Freshwater Management 2020 (NPSFM)

- [215] The NPSFM is relevant to the Application. Section 9.5.3 of the application notes that it provides direction on managing activities that affect the health of freshwater. It is premised on the fundamental concept of Te Mana o Te Wai, which refers to the importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Additionally, we are told it is about restoring and preserving the balance between the water, the wider environment, and the community. An assessment of the relevant objectives and policies relevant to the Project was included in the application at Section 9.5.3. We find there is nothing in the Application which is inconsistent with the objective and policies of the NPSFM relating to the management of water in an integrated and sustainable way.

National Environmental Standard for Freshwater Regulations 2020 (NESF)

- [216] This was dealt with in Section 9.4.2 and Section 5 of the Application. It noted that the Regulations relate to activities that pose a risk to the health of freshwater and freshwater ecosystems. It has effect from 3 September 2020 and as such, all

resource consents should consider its provisions. We find the Application consistent with that document.

National Environmental Standard for Assessing and Managing Contamination in Soil to Protect Human Health 2011 (NESCS)

[217] This was dealt with in Section 9.4.1 of the Application, and Sections 5 and 6. We find the Application consistent with this National Environmental Standard.

Part F. Regional Considerations

Canterbury Regional Policy Statement 2013 (CRPS)

[218] We have largely dealt with this issue in our section dealing with legal issues. But for the sake of completeness we comment further.

Chapter 5.

[219] The objectives and policies in Chapter 5 of the CRPS seek to promote urban and rural residential developments that have regard to the efficient use and development of resources, while ensuring that any adverse effects on the environment are avoided, remedied or mitigated. Consolidation and integration with existing infrastructure is promoted, whilst ensuring that regionally significant infrastructure and the strategic transport network are not adversely impacted by any new development.

[220] Part of this relates to adverse effects on the environment which we deal with elsewhere, but we accept that the Application sites are a logical extension to the existing urban areas of Rangiora, and that they will achieve the consolidation required by the CRPS. We also believe that they will enable the Greater Christchurch community to provide for its well-being through the provision of additional housing as part of an established Rangiora district.

Chapter 6.

[221] This was included in the CRPS in 2013 in response to the Canterbury earthquakes. It “provides a Resource Management framework for the recovery of Greater Christchurch to enable and support earthquake recovery and rebuilding including restoration and enhancement through to 2028.”

[222] Themes in this resonate with themes that exist in the FTCA. We accept the proposition that a key focus for us is to assist in the response to the demand for business and residential activities which occur because of the Christchurch

earthquakes. Much land was lost in parts of Christchurch. It has to be replaced elsewhere.

[223] The GCP, comprising Local and Regional Authorities, NZTA and Ngāi Tahu, responded to this issue. We understand its purpose was to agree on a settlement pattern arrived at through a collaborative process, meeting the requirements of the CRPS and the NPSUD. We are advised that the greater Christchurch area was to be the geographic area of focus for an update of the existing Urban Development Strategy (UDS).

[224] And that in turn led to Proposed Change 1 of Chapter 6 of the CRPS. This identifies future development areas for urban housing in the Rangiora district. It contains policy provisions to enable the WDC to rezone land within these areas through their district planning processes as required to meet shortfalls in housing capacity. We deal with Proposed Change 1 shortly. Meanwhile, we continue to deal with other relevant aspects of Chapter 6.

[225] We were referred to **Objective 6.2.1** Recovery framework. We were also referred to **Policy 6.3.1**. Whilst we do not repeat these in full, we regarded them as important matters for us to consider and we have done so. We have assessed this Project in the context of the relevant documents, and find that, with appropriate conditions, it meets all of these Objectives and Policies.

Chapter 11.

[226] The Objectives and Policies in Chapter 11 provide a framework for managing natural hazard risk in Canterbury. It also sets out the responsibilities of the local authorities in the region for the control of land use to avoid or mitigate natural hazards. We were specifically referred to **Objective 11.2.1** and **Policy 11.3.1** and we find that the application does not offend any of those objectives and policies provided that appropriate conditions are included with any consent.

Chapter 15.

[227] Chapter 15 provides a framework for managing productive soils within Canterbury as well as preventing soil erosion and managing contaminated soils. We were specifically referred to **Objective 15.2.1** and **Policy 15.3.1** which seek to maintain or improve the quality of Canterbury soils and ensuring that land uses and land management practices avoid significant long-term adverse effects on soil quality.

[228] We accept that the site contains soils which have the capacity for farming purposes, but the section 32 analysis for urbanising these soils has already been undertaken at a higher RMA level by the documents outlined in our decision.

Chapter 17.

[229] Chapter 17 sets out is to identify issues associated with contamination of land, and to resolve issues in relation to land that may be currently contaminated. We deal with this elsewhere in our decision.

Proposed Change 1 to the CRPS.

[230] The key change to the CRPS was the inclusion of a new **Policy 6.3.12** which set out to demonstrate where future development in, inter alia, Rangiora should take place. These areas were termed “future development areas”. Apart from the policy in question, as we noted earlier in our decision, there was a revised Map A to the CRPS which, relevantly, included this site as a Future Urban Development Area (FUDA).

[231] Because of its importance, we set out Policy 6.3.12 in full.

Enable urban development in the Future Development Areas identified on Map A, in the following circumstances:

- (1) It is demonstrated, through monitoring of housing and business development capacity and sufficiently carried out collaboratively by the Greater Christchurch Partnership or relevant local authorities, that there is a need to provide further feasible development capacity through the zoning of additional land in a district plan to address a shortfall in the sufficiency of feasible residential development capacity to meet the medium term targets set out in Table 6.1, Objective 6.2.1a; and
- (2) The development would promote the efficient use of urban land and support the pattern of settlement and principles of Future Urban growth set out in Objective 6.2.1 and 6.2.2 and related policies including by:
 - a) Providing opportunities for higher density living environments, including appropriate mixed use development, and housing choices that meet the needs of people and communities for a range of dwelling types; and
 - b) Enabling the efficient provision and use of network infrastructure; and
- (3) The timing and sequencing of development is appropriately aligned with the provision and protection of infrastructure, in accordance with Objective 6.2.4 and Policy 6.3.4 and 6.3.5; and
- (4) The development would occur in accordance with an outline development plan and the requirements of Policy 6.3.3; and
- (5) The circumstances set out in Policy 6.3.11(5) are met; and
- (6) The effects of natural hazards are avoided or appropriately mitigated in accordance with the objectives and policies set out in Chapter 11.

[232] The Applicant dealt with each of the parts of the Policy, and we comment as follows.

Circumstance 1.

[233] We were told there is a current housing shortfall and neither WDC or ECan contradicted that in their comments to us.

Circumstances 2.

[234] We are reminded that the development achieves a net density in excess of 12 households per hectare and incorporates a mix of densities, including higher densities around focal points such as the commercial centre and reserve areas. We accept the design and layout of the sites provides for a variety of housing typologies and housing choices through lot area and dimensions. We accept all other infrastructure supporting the development is able to integrate efficiently within the existing network, as was submitted to us.

Circumstances 3.

[235] The Applicant says the timing and sequencing of development is aligned with the WDC's long-term plans. Roading upgrades will enhance the safety and efficiency of the local network and the internal network has been designed to encourage modal choice.

Circumstances 4.

[236] We note that no Outline Development Plan exists for the site under the OWDP, however the proposal is consistent with the NER-ODP contained in the PWDP, which will give effect to the CRPS policies for the FUDA,

Circumstances 5.

[237] We accept that as the relevant sites are included in Map A, this issue is not relevant for our purposes.

Circumstance 6.

[238] We address the assessment of the relevant objectives and policies of Chapter 11 in a different part of our decision, and are satisfied that these can be met.

[239] It also commented on proposed densities. It accepted that 12 houses per hectare is consistent with the minimum densities specified in the CRPS and the direction provided in the future development strategy, but noted that one of the actions

arising from a document called Our Space 2018 – 2048 was to undertake an evaluation of the appropriateness of existing minimum densities specified in the CRPS. That led to the Greenfield Density Analysis Report 2020 commissioned by the partnership, which made a finding that a minimum density of 15 houses per hectare would be “optimal” in terms of greenfield land development and there are benefits to doing this. But it went on to note that there are a number of identified constraints and issues raised in the review that need to be overcome to ensure that development at this density occurs in an effective way. We find there are constraints to that density as already discussed and that the proposed density of closer to 13 is appropriate.

- [240] In summary, we find that although there might be an issue of timing, none of the relevant authorities has taken exception to the development of this land. We find that it fulfils the requirements of Policy 6.3.12, and that this is of significant importance and our reaching our decision to grant the consents sought.

Canterbury Land and Water Regional Plan (CLWRP)

- [241] We were provided with an assessment of the relevant Objectives, Policies and Rules at section 9.8 of the Application, and Appendix W3. We find that with appropriate conditions the management of land and water can be achieved in a manner which is consistent with the CLWRP.

Canterbury Air Regional Plan (CARP)

- [242] We were advised by the Applicant that it relates to activities that may affect air quality and no consents are needed under that Plan so an assessment against its Objectives and Policies is unnecessary.

Part G. Waimakariri District Plan and Proposed Plan

- [243] The Sites are currently zoned rural under the OWDP. That required us to undertake a legal analysis earlier in our decision as to the effect of s 104D in those circumstances. What we now say is circumscribed by that analysis.
- [244] We see no benefit in considering the Application against the Objectives, Policies and rules in the OWDP, although we acknowledged this task was undertaken by the Applicant.
- [245] An assessment against the PWDP was carried out in Section 9.10 of the Application. Naturally we have had regard to all of those Objectives, Policies and Rules in reaching our decision. We have regard to Appendix T, and the relevant parts of Appendix W, and especially DEV-NER-01 and DEV-NER-P1. Although

being achieved by a different process, we find the Application consistent with those provisions.

[246] Overall, we accept the conclusions of the Applicant with respect to the PWDP.

Part H. RMA Threshold Test

[247] The activities under the OWDP are non-complying in status. As such, we must have regard to s 104D of the Act, as we noted in our earlier analysis.

[248] This aspect can be simply addressed. Based on the assessments and information provided, and subject to the conditions imposed, we are satisfied that any adverse effects on the environment resulting from this Application will be minor given our legal findings. As such, the first limb of the test is satisfied.

Part I. RMA 1991, Part 2

[249] Schedule 6, Clause 9(1)(g)(i) provides that every application for a referred project must include an assessment of the activity against Part 2 of the RMA. The matters to which we must have regard when considering a referred application for consent are expressed as being subject to Part 2. For the sake of completeness we have undertaken our own assessment of relevant Part 2 matters.

[250] Having reviewed the Application and its Appendices and all the information and comments received, on the Application, the invited comments and the draft conditions, we consider that the Project, to the extent approved by us, will better enable the people of Rangiora to provide for their social and economic wellbeing and for their health and safety. It will also sustain the potential of Rangiora to meet the reasonably foreseeable needs of future generations by contributing to the supply of housing in and around that part of the town.

[251] The Application will better enable the efficient use and development of this land as an alternative to its existing rural zoning with its associated land uses. We find the Application is consistent with Part 2.

Part J. Final Decision

[252] Having had regard to the FTCA, Clause 31 Schedule 6 considerations, and having concluded that the dual purposes of the FTCA and the RMA are achieved by this Decision, the consents are granted as sought subject to the Conditions appended to this Decision as **Appendix 2 and Appendix 3**.

[253] Pursuant to Clause 37(7) of Schedule 6 of the FTCA, the resource consents lapse two years from the date of commencement unless they are given effect to.

[254] Durations for the Canterbury Regional Council consents are listed at the end of the conditions for each of those consents in Appendix 3.

[255] As required by Clauses 38 and 45 of Schedule 6 (FTCA), persons entitled to appeal are to commence any appeals within the 15-day working period from the day they are notified of this Decision.



John Hardie (Chair)



Karen Coutts (Member)



Graham Taylor (Member)

Appendix 1 Stormwater section of Ngāi Tahu Subdivision and Development Guidelines

Stormwater

- 2.1 All new developments must have on-site solutions to stormwater management (i.e. zero stormwater discharge off site), based on a multi-tiered approach to stormwater management that utilises the natural ability of Papatūānuku to filter and cleanse stormwater and avoids the discharge of contaminated stormwater to water [refer to Section 5.4, Policy P6.1].
- 2.2 Stormwater swales, wetlands and retention basins are appropriate land based stormwater management options. These must be planted with native species (not left as grass) that are appropriate to the specific use, recognising the ability of particular species to absorb water and filter waste.
- 2.3 Stormwater management systems can be designed to provide for multiple uses. For example, stormwater management infrastructure as part of an open space network can provide amenity values, recreation, habitat for species that were once present on the site, and customary use.
- 2.4 Appropriate and effective measures must be identified and implemented to manage stormwater run off during the construction phase, given the high sediment loads that stormwater may carry as a result of vegetation clearance and bare land.
- 2.5 Councils should require the upgrade and integration of existing stormwater discharges as part of stormwater management on land rezoned for development.
- 2.6 Developers should strive to enhance existing water quality standards in the catchment downstream of development, through improved stormwater management.

Appendix 2 & 3 Conditions of Consent