

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE
WAIMAKARIRI DISTRICT COUNCIL**

IN THE MATTER OF

The Resource Management Act 1991 (**RMA** or
the Act)

AND

IN THE MATTER OF

Hearing of Submissions and Further
Submissions on the Proposed Waimakariri
District Plan (**PWDP** or **the Proposed Plan**)

AND

IN THE MATTER OF

Hearing of Submissions and Further
Submissions on Variations 1 and 2 to the
Proposed Waimakariri District Plan

AND

IN THE MATTER OF

Submissions and Further Submissions on the
Proposed Waimakariri District Plan and
Variation 1 by **Bellgrove Rangiora Limited**

**LEGAL SUBMISSION ON BEHALF OF BELLGROVE RANGIORA LIMITED
REGARDING STREAM 10A FUTURE DEVELOPMENT AREAS**

Dated: 9 February 2024

Presented for filing by:
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**LEGAL SUBMISSION ON BEHALF OF BELLGROVE RANGIORA LIMITED
REGARDING STREAM 10A FUTURE DEVELOPMENT AREAS**

INTRODUCTION

- 1 These submissions are filed on behalf of Bellgrove Rangiora Limited (**Bellgrove** or **BRL**) in respect of the Stream 10A hearing of submissions on the Proposed Waimakariri District Plan (**Proposed Plan**) and Variation 1 to the Proposed Plan (**Variation 1**) dealing with Future Development Areas in relation to Urban Growth at East Rangiora.
- 2 Bellgrove owns approximately 100 ha of land immediately east of Rangiora. The land is in two blocks separated by Kippenberger Avenue. Land north of Kippenberger comprising approximately 63 ha located within the North East Rangiora Development Area (**NER DA**) is known as Bellgrove North. Land south of Kippenberger comprising approximately 36 ha located largely within the South East Rangiora Development Area (**SER DA**) is known as Bellgrove South (collectively referred to as the **Bellgrove land**).¹
- 3 Bellgrove lodged submissions on the Proposed Plan and Variation 1.² The relief sought by Bellgrove has been requested to ensure that the Proposed Plan identifies the Bellgrove land as suitable for future residential development and that the associated provisions assist in timely delivery of plan-enabled housing development at East Rangiora.
- 4 To a large extent the outcomes sought by Bellgrove's submissions have been achieved through:
 - (a) proposed rezoning of virtually all of the North Block as part of Variation 1; and
 - (b) recommendations in the s42A Report on Stream 10A – Future Development Areas (**s42A Report**) to accept much of the relief requested in Bellgrove's submissions including changes to the North-East Rangiora Outline Development Plan (**NER ODP**) and retention of the certification process to enable residential development of land within Development Areas identified in the Proposed Plan.

¹ The Bellgrove land is shown at Attachment 1 to the evidence of Ms Ruske-Anderson

² The Bellgrove submissions are summarised in the evidence of Ms Ruske-Anderson at [22]-[24]

- 5 However there remain several important submission points that have not been accepted by the s42A Report. In particular, the Report rejects (or does not fully accept) Bellgrove's submissions that:
- (a) seek amendments to the NER ODP outside the area of the Stage 1 subdivision consent obtained by Bellgrove to create approximately 200 houses in Bellgrove North;
 - (b) seek the inclusion of an additional 4 ha of land owned by Bellgrove being the eastern part of Lot 2 DP 452196 (hereinafter referred to as the '**Additional Land**') within the **SER DA** and associated South East Rangiora Outline Development Plan (**ODP**); and
 - (c) seeking various other changes to the SER DA and SER ODP requested by Bellgrove.
- 6 These legal submissions focus on the points at issue between Bellgrove and the s42A Report. Bellgrove has filed evidence prepared by Jason Trist (infrastructure) and Michelle Ruske-Anderson (planning) addressing these matters. In broad summary, this evidence demonstrates that accepting the changes requested by Bellgrove will achieve well-functioning urban development and will assist provision of plan-enabled housing within the East Rangiora Development Areas.

CONTEXT

- 7 Bellgrove Rangiora Limited was established primarily by Paul McGowan, a local land developer, and Mike Flutey of Mike Greer Homes North Canterbury Limited. Both have considerable experience in delivering successful subdivision and housing projects in the Waimakariri District. More recently, a joint venture has been agreed with Ngai Tahu Property Limited to facilitate development of the Bellgrove land.
- 8 Bellgrove has demonstrated a consistent commitment to meeting demand for housing in the Waimakariri District over the past three years. Key milestones include:
- (a) Securing approval for 198 residential lots within Stage 1 of Bellgrove North under the COVID-19 Recovery (Fast-track Consenting) Act 2020, which was approved 29 June 2022 (**Stage 1 Consent**);

- (b) Funding agreements secured under the Government's Infrastructure Acceleration Fund (**IAF**) initiative as part of the Housing Acceleration Fund³ designed to accelerate provision of housing within the Bellgrove land.
 - (c) Rezoning of virtually all of Bellgrove North to Medium Density Residential Zone as part of Variation 1 notified on 5 November 2022⁴;
 - (d) Private Development Agreement between Bellgrove and the Waimakariri District Council (**WDC**) covering Bellgrove North and including certain IAF funded infrastructure projects located within Bellgrove South (29 September 2023);
 - (e) Release of titles for Bellgrove North Stages 1A and Stage 1B, with titles for Stage 1C soon to be released; and
 - (f) Completion (or near completion) of civil works for Stage 1A-1D, the roading upgrade to Kippenberger Avenue and a new Kippenberger Avenue roundabout.
- 9 Moving forward, Bellgrove intends to apply for subdivision consent for Stages 2-5 (the remainder of Bellgrove North) during Quarter 2 of 2024. Thereafter, Bellgrove anticipates developing Bellgrove South pursuant to the restricted discretionary certification consent process described in the s42A Report.

KEY ISSUES

- 10 In light of the above context and the submissions lodged by Bellgrove, the key issues arising from s42A Report are as follows:
- (a) Are the amendments sought by Bellgrove to the NER ODP appropriate;
 - (b) Is the certification consenting process proposed by the s42A Report (inclusive of the amendments proposed by Ms Ruske-Anderson) appropriate;
 - (c) Should provisions of the Canterbury Regional Policy Statement (**CRPS**) preclude identification of the Additional Land within the SER DA; and

³ The IAF was announced in March 2021

⁴ An area of Bellgrove land adjacent to the golf course was not rezoned. This appears to be an omission. Bellgrove has filed a submission on Variation seeking MDRZ for this area.

- (d) Are the amendments sought by Bellgrove to the SER ODP appropriate.

AMENDMENTS SOUGHT BY BELLGROVE TO THE NER ODP

- 11 Ms Ruske-Anderson's evidence carefully explains the amendments sought by Bellgrove to the NER ODP. Key points are summarised below⁵:
- (a) The zoning of Bellgrove North to MDRZ as part of Variation 1 is supported by Bellgrove except that MDRZ has not been applied to an area of Bellgrove land adjacent to the golf course which has been omitted from MDRZ (the **Omitted land**).
 - (b) This appears to be an oversight as the Omitted land is within the NER DA, the NER ODP and within Map A of the CRPS. Bellgrove intends to address this issue as part of Stream 12 (Large Scale Rezoning).
 - (c) The changes to the NER ODP sought by Bellgrove within the Stream 10A hearing are advanced on the assumption that the Omitted land will be rezoned MDRZ through the Proposed Plan hearing process.
 - (d) The s42A Report supports changes requested by Bellgrove to the NER ODP where these give effect to and recognise the Stage 1 Consent but the wider changes to the NER ODP sought by the Bellgrove do not appear to have been considered by the Report.
 - (e) Bellgrove seeks changes to the NER ODP outside the area of the Stage 1 Consent with respect to:
 - (i) The extent of stormwater reserve area, and
 - (ii) Modification to the alignment of the primary road movement network
 - (f) The addition changes to the NER ODP reflect the Stage 1 Consent and recognise additional work and development undertaken since development of the draft East Rangiora Structure Plan process.
- 12 The purpose of these changes is to enable the balance Bellgrove North to be developed as a coherent extension to the works already approved and largely completed with Stage 1 taking into account analysis completed by Bellgrove since notification of the Proposed Plan.

⁵ Ms Ruske-Anderson evidence at [25]-[31] and Attachment 4C, Figures 4C-1 to 4C-5

CERTIFICATION CONSENTING PROCESS PROPOSED BY THE S42A REPORT

- 13 Bellgrove supports the certification consenting process proposed by the s42A Report.
- 14 Through the evidence of Ms Ruske-Anderson, Bellgrove has promoted a range of amendments to improve the clarity, efficiency and practical implementation of the provisions relating to the certification consent process.⁶

INCLUSION OF THE ADDITIONAL LAND WITHIN THE SER DA

- 15 The s42A Report does not support inclusion of the additional land within the SER DA on the basis that Map A in the CRPS bisects the relevant land parcel and states that⁷:

As the PDP must give effect to Map A insofar as it determines the extent of the development areas within the district, I consider that to adjust the development area boundary to include all of this parcel would result in the PDP being inconsistent with the CRPS. I cannot support this relief.

- 16 With respect there are several flaws in this approach. In particular, the s42A Report fails to recognise:
- (a) Demand for additional housing supply at Rangiora;
 - (b) IAF Agreements that anticipate provision of infrastructure to service housing development within the South Block including the Additional Land;
 - (c) Bellgrove's commitment to Kainga Ora and WDC to deliver 1300 houses on the Bellgrove land including within the Additional Land;
 - (d) Recent case law interpretation of the word "avoid" in planning instruments; and
 - (e) The RMA hierarchy of planning instruments and introduction of the NPS-UD.

Demand for additional housing supply at Rangiora

- 17 As mentioned, Bellgrove secured the Stage 1 Consent in June 2022 under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**COVID Fast-track Act**).

⁶ Evidence of Ms Ruske-Anderson at [32]-[52]

⁷ S42A Report at [327]

- 18 The COVID-Fast-track Act provided a short term fast-track consenting process for resource consent applications and lodging notices of requirement for listed or referred projects.⁸
- 19 The Act was aimed at stimulating the economy and was intended to accelerate the beginning of work on a range of different sized and located projects, support the certainty of ongoing employment and investment across New Zealand, and continue to promote the sustainable management of natural and physical resources.⁹
- 20 Bellgrove Rangiora lodged an application with the EPA under the COVID-19 Recovery (Fast-track Consenting) Act 2020 for Stage 1 of the North Block. The decision panel put the application through a multi-step process, inviting comments on the application, which the applicant responded to, before the panel eventually made its final decision.¹⁰
- 21 Bellgrove's application was successful. The final decision of the Expert Consenting Panel addressed the issue of housing supply and made the following comments regarding the situation within the Waimakariri District¹¹:

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.

- 22 The "urgency about need for supply in the short term and long term continues because, apart from the Stage 1 Consent, no substantial tracts of greenfield land have been consented for subdivision at Rangiora since the Panel's decision in 2022.

IAF Agreements

The Infrastructure Acceleration Fund

- 23 The above-mentioned IAF Agreements are a response to the above-mentioned housing shortage at Rangiora. They are the outcome of a collaborative effort between Bellgrove and WDC to satisfy the demanding and

⁸ [Overview: Consenting under the COVID-19 Recovery \(Fast-track Consenting\) Act 2020 | EPA](#)

⁹ [COVID-19 Recovery \(Fast-track Consenting\) Act 2020 | Ministry for the Environment](#)

¹⁰ [Fast-track consenting timeline | EPA](#)

¹¹ Record of Decision of the Expert Consenting Panel under Clause 37 Schedule 6 of the FTCA, at [37].]

exhaustive application process to the Government's Infrastructure Acceleration Fund (**IAF**).

- 24 The IAF was launched in June 2021, in order to enable new homes to be built in areas of high housing need. Administered by Kainga Ora, the IAF was designed to help increase the pace and scale of housing delivery by allocating funding to critical infrastructure projects in New Zealand towns and cities.¹² The fund was intended to unlock housing development in the short to medium term, enabling a meaningful contribution to housing outcomes in areas of need.¹³
- 25 Applications could be made by territorial authorities, developers and iwi and the application process began with an expression of interest period, which attracted more than 200 applications. The applicants were then subject to two further stages. In the first stage, over 80 applicants were invited to submitted a more detailed response to a Request for Proposal (RFP) by December 2021. In April 2022, 35 of those proposals were invited to enter the final stage, which involved further due diligence and commercial negotiation.¹⁴
- 26 Each proposal was assessed against key criteria set by Cabinet, the criteria included:
- (a) How will the proposal, if delivered, contribute to the housing outcomes that are the purpose of the IAF?
 - (b) How critical is this funding to advancing the infrastructure and housing development?
 - (c) How cost effective is the proposal and is everyone paying their fair share?
 - (d) If funding is approved, how certain is it that the project will advance, and at what pace?
- 27 Final funding decisions were made by the Ministers of Housing and Finance. Only two proposals were chosen in greater Christchurch, namely Bellgrove Rangiora and a development in Papanui, Christchurch.

¹² [Infrastructure Acceleration Fund :: Kāinga Ora – Homes and Communities \(kaingaora.govt.nz\)](https://www.kaingaora.govt.nz/news-and-events/news/infrastructure-acceleration-fund)

¹³ [Government's infrastructure fund for housing accelerates :: Kāinga Ora – Homes and Communities \(kaingaora.govt.nz\)](https://www.kaingaora.govt.nz/news-and-events/news/government-s-infrastructure-fund-for-housing-accelerates)

¹⁴ [Infrastructure Acceleration Fund :: Kāinga Ora – Homes and Communities \(kaingaora.govt.nz\)](https://www.kaingaora.govt.nz/news-and-events/news/infrastructure-acceleration-fund)

Key terms of the IAF Agreements

- 28 The IAF Agreements for the Bellgrove development are as follows :
- (a) IAF Funding Agreement between Kainga Ora and WDC date 11 October 2022 (**Funding Agreement**); and
 - (b) IAF Housing Outcomes Agreement between Kainga Ora, WDC and Bellgrove 11 October 2022 (**Housing Outcomes Agreement**).
- 29 In summary the IAF Agreements commit Kainga Ora to pay \$5.7 million to WDC for transport and three waters projects which are expected to accelerate the delivery of 1,300 affordable and market homes within the Bellgrove development at Rangiora.
- 30 Key terms of the Housing Outcomes Agreement relevant to the Additional Land are as follows:
- (a) Bellgrove Rangiora Limited is to provide a total of 1,300 dwellings in aggregate across the entire Housing Development.¹⁵
 - (b) The land comprising the “entire Housing Development” is described in the “land map” at Attachment A.¹⁶ This map is appended to the evidence of Ms Ruske-Anderson at Attachment 1A. It depicts all of Bellgrove’s landholdings within Bellgrove North and Bellgrove South.
 - (c) The Developers’ Land is legally described as including “RTs 577722”.¹⁷ This land is identified in CB45D/1257 (attached at **Appendix 1** to these submissions). Lot 2 DP 452196 is 14.2 ha and contains the Additional Land coloured blue in Attachment 1B of Ms Ruske-Anderson evidence.
 - (d) The Funding Recipient (WDC) and the Developer (Bellgrove) each acknowledge that the Housing Outcomes (i.e. provision of 1,300 dwellings) are “the fundamental basis on which the Funding Recipient was selected to receive IAF Funding”¹⁸ and, further, that:

“achievement of the Housing Outcomes in relation to the Housing Development are of utmost importance to Kainga Ora, including, in particular, that delivery of the total number

¹⁵ Housing Outcomes Agreement at Item 3, page 3

¹⁶ Supra

¹⁷ Supra

¹⁸ Housing Outcomes Agreement at Item 5, page 5

of dwellings to be provided by the Developer and in the years contemplated, in each case as set out in this Item 5 and Schedule 3".¹⁹

- (e) Schedule 3 details the dwellings to be completed by the Developer in respect of the Housing Development in each year²⁰ (attached at **Appendix 2**). In summary Schedule 3 requires that Bellgrove complete 1,300 dwellings on the Bellgrove land within nine years between 2023 and 2032.
- (f) Item 7 refers to Funding Recipient Support and records that the Funding Recipient (WDC) must use reasonable endeavours to support and facilitate the delivery of the Housing Development and achievement of the Housing Outcomes including by "...granting all necessary consents and approving all required plan changes in a timely manner" subject always to the acknowledgement that "... in terms of its regulatory function as a local authority the Funding Recipient must act as an independent local authority and not as a party to the Housing Outcomes Agreement".²¹

31 It follows that the Housing Outcomes Agreement is not binding on WDC in terms of its regulatory function. Even so, the Agreement is an important matter to which WDC should give significant regard when making decisions in the context of the Proposed Plan review. This is especially the case when such decisions affect Bellgrove's ability to deliver the Housing Outcomes specified in the IAF Agreements.

32 Mr Trist was closely involved in development of the IAF Funding Agreements for Bellgrove.²² The evidence of Mr Trist is that the Additional Land has always been considered as part of development of the entire Bellgrove landholding, including roading, sewer, stormwater, water and geotechnical conditions to ensure the entire Bellgrove South, including the Additional Land, will be suitably serviced and appropriate for residential development.²³

¹⁹ Supra

²⁰ Housing Outcomes Agreement at Schedule 3, page 27

²¹ Housing Outcomes Agreement at Item 7, pages 7 and 8

²² Evidence of Jason Trish at [17]

²³ Supra at [18]

- 33 Further Mr Trist explains that the yield figure of 1,300 homes referred to in the Agreements includes housing development to be located on the Additional Land which will yield approximately 57 residential allotments.²⁴
- 34 It is apparent from the text of the IAF Agreements and the evidence of Mr Trist that the Additional Land is an integral part of the Housing Outcomes to be delivered by Bellgrove.
- 35 Against this context it can be seen that the approach proposed by the s42A Report is inconsistent with the IAF Agreements and jeopardises Bellgrove's ability to deliver 1,300 dwellings if housing development cannot be located on the Additional Land as anticipated under those Agreements.

Recent case law interpretation of the word "avoid" in planning instruments

- 36 The s42A Report does not support extension of the SER DA to include the Additional Land because this would result in the PDP being inconsistent with the CRPS and Map A.
- 37 The purported inconsistency arises from the wording of Objective 6.2.1 (3) 'Recovery Framework' of the CRPS which seeks to ensure that development within Greater Christchurch:

...avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS.

- 38 As noted in the evidence of Ms Ruske-Anderson, the intent behind Map A's inclusion relates to certainty and efficiency of infrastructure delivery for appropriately located greenfield residential development.²⁵
- 39 In the present case the policy intent of Map A and associated Objective 6.2.1 (3) is readily achieved insofar as the Additional Land is concerned. This is demonstrated by the IAF Agreements which are supported by the Private Development Agreement between Bellgrove and WDC.²⁶
- 40 It is therefore unsurprising that Mr Trist is able to confidently state with respect to infrastructure to service development of the Additional Land that²⁷:

²⁴ Supra at [22]

²⁵ Evidence Ms Ruske-Anderson at [87] and see also [85]-[87]]

²⁶ Covering Bellgrove North and including certain IAF funded infrastructure projects located within Bellgrove South)

²⁷ Evidence of Mr Trist at [23] and [24]

The Additional Land has the ability to be serviced as part of the Bellgrove South development, and has to date been factored into all conceptual masterplan designs and layout considerations. Key infrastructure proposed to service the Bellgrove South development, such as stormwater treatment facilities and sewer pump stations, are intended to be located within the Bellgrove South land and will be sized to provide capacity to service the Additional Land (enabling approximately an additional 57 lots).

The Additional Land area can be easily developed in conjunction with the wider Bellgrove South landholding, aided by the fact that all the land is in Bellgrove's sole ownership. This will provide the opportunity for the future development of this land to be comprehensively designed and master planned to ensure good connectivity, integration and continuity with the wider development area, and assist the provision of housing in accordance with the IAF agreements. This also means the land can be developed without impeding on any other landowners because access can only be obtained through the Bellgrove landholding, with the Cam River providing a natural barrier with the adjoining landowners.

- 41 Ms Ruske-Anderson's evidence discusses the relevant statutory planning framework and reaches the following conclusion regarding the Additional Land (underling added):²⁸

Inclusion of the Additional Land within the SER ODP is generally consistent with the outcomes anticipated by the CRPS objectives and policies within Chapter 6 and the only point of inconsistency appears to be in relation to Objective 6.6.1(3) [sic]. Given the relatively small size of the land, its location adjacent to land already within the SER ODP, and the provision already made for servicing this area through the IAF Agreement, I do not consider any material harm arises from the inclusion of the Additional Land. Further, inclusion of the Additional Land would appear to be consistent with the outcomes for urban development anticipated by the NSP-UD.

There are a number of other matters relevant to the consideration of the Additional Land that distinguish it from other land at the periphery of urban areas, and provide comfort that the inclusion of the Additional Land within the SER DA would not set a precedent for widespread changes to the FDA's that are inconsistent with Map A.

- 42 Further, Ms Rusk-Anderson's evidence identifies a range of features relevant to the consideration of the Additional Land that distinguish it from other land at the periphery of urban areas. These features provide confidence that the

²⁸ Evidence Ms Ruske-Anderson at [90]

inclusion of the Additional Land within the SER DA would not set a precedent for widespread changes to the FDA's that are inconsistent with Map A.²⁹

43 These findings are highly relevant to consideration of the alignment between the CRPS and Bellgrove's request for inclusion of the Additional Land in light of the recent Supreme Court decision of *Port Otago Limited V Environmental Defence Society Incorporated*.³⁰ This decision relates to the relationship between a policy in the NZCPS relating to ports and a number of other policies that require adverse effects of activities to be avoided.

44 The Court noted that conflicts between policies are likely to be rare if those policies are properly construed, even where they seem to be pulling in different directions³¹ and further that concepts of mitigation and remedy may serve to meet the "avoid" standard by bring the level of harm down so that material harm is avoided.³²

45 The Court summarised it's view as follows³³:

All of the above means that the avoidance policies in the NZCRS must be interpreted in light of what is sought to be protected including the relevant values and areas and, when considering any development, whether measures can be put in place to avoid material harm to those values and areas.

46 The *Port of Otago* decision supports an approach to interpretation of the CRPS such that the word "avoid" in Objective 6.2.1 (3) should be interpreted as "avoid material harm from" urban development outside of existing urban areas or greenfield priority areas for development rather than "avoid" any such development.

47 When this approach is applied, the impediment identified by the s42A Report is resolved. The change requested by Bellgrove is not inconsistent with Objective 6.2.1 (3) because no material harm will arise from inclusion of the Additional Land within the SER-DA.

²⁹ Supra at [91]-[101]

³⁰ *Port Otago Limited V Environmental Defence Society Incorporated* [2023] NZSC 112

³¹ Supra at [63]

³² Supra at [65]

³³ Supra at [68]

RMA hierarchy of planning instruments and the NPS-UD

48 Ms Ruske-Anderson's evidence makes the following salient points regarding the NPS-UD:³⁴

The NPS-UD represents the Government's latest thinking on how to encourage plan-enabled, well-functioning and liveable urban environments that meet the diverse needs of their communities. It is the key planning instrument specifically designed to manage urban growth in New Zealand's fastest growing urban areas, with Rangiora no exception.

Enabling MDRZ on the Additional Land through the amendment to the SER ODP proposed by Bellgrove would be generally in accordance with the NPS-UD because the Additional Land is a natural extension of the SER ODP and Mr Trist's evidence demonstrates that it is infrastructure-enabled and can be provided with appropriate roading connections.

49 In this context it is relevant that the CRPS does not yet give effect to the NPD UD.

50 As currently worded Chapter 6 and Map A do not anticipate urban growth on the Additional Land and therefore this creates a potential inconsistency with avoidance objective 6.2.1(3) discussed above.

51 On 29 October 2020 Rolleston Industrial Developments Limited lodged a private plan change request PC69 with the Selwyn District Council. The request seeks a change to the Operative Selwyn District Plan by rezoning approximately 190 hectares of current rural land in Lincoln to residential land. This would enable approximately 2000 residential sites and a small commercial zone.

52 The key issue arising from the application was whether it was appropriate to rezone the land given that it was not identified on Map A of the CRPS and therefore was subject to CRPS avoidance objective at 6.2.1(3).

53 The finding of the Commissioner on this issue is recorded in the decision as follows:³⁵

[410] Overall, it is my view, as I have previously found, that in light of the position the NPS-UD holds in the hierarchy of documents; that is the latter in time; that it was promulgated in the context of a housing crisis; and after carefully considering its text, its purpose and other

³⁴ Supra at [81] and [82]

³⁵ PC69 Recommendation by Commissioner David Caldwell Date 13 May 2022, [410]-[411].

contextual matters, it enables appropriate plan changes to be assessed on their merits, notwithstanding the avoidance objectives and policies of the CRPS.

[411] My findings in this regard do not render the provisions of Chapter 6 of the CRPS irrelevant, nor does it lead to a finding that significant development capacity provides, in essence, a 'trump card'. Chapter 6 of the CRPS clearly remains an important part of the overall planning framework for Canterbury. But I do not accept the avoidance objective and policies mean that this request must be declined.

54 A similar approach was adopted by the Independent Hearing Panel decision on PC31 to the Waimakariri District Plan. The discussion deals with policy 8 NPS-UD and states that:³⁶

[37] Policy 8 of the NPS-UD introduces a concept of responsive planning to enable plan changes to be considered if they would add significantly to development capacity and contribute to well-functioning urban environments, even if that they are unanticipated by RMA planning documents and out-of-sequence with planned land release.

[38] Policy 8 provides:

"Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents; or*
- (b) out-of-sequence with planned land release."*

[39] Ms Appleyard submitted RCP031 will add significantly to development capacity and contribute to well-functioning urban environments even if unanticipated or out-of-sequence compared to that provided for under planning documents such as the CRPS and the WDP.

[40] For Policy 8 to 'open the door' for us to consider the merits of RCP031 there are three key evidential issues that we need to address. Even if the 'door is opened', then the application still needs to be considered on its merits and assessed against the requirements of s74,75 and 76, including an evaluation under s32 or s32AA, as required.

[41] In order for Policy 8 to apply (and in addressing the three key evidential issues) we need to be satisfied RCP031:

- (a) affects urban environments;*
- (b) provides significant development capacity; and*

³⁶ PC31 Independent Hearing Panel Decision Report, at [37]-[41].

(c) contributes to well-functioning urban environments.

55 Ms Ruske Anderson's evidence discusses application of policy 8 NPS-UD to the circumstances of this case³⁷ and concludes that:

Inclusion of the Additional Land within the SER DA would provide an additional development capacity of approximately 57 households... Whilst this may not be considered 'significant' in the context of the housing requirements for Greater Christchurch, or possibly even in the context of the Waimakariri District, I do consider it to be significant in the context of Bellgrove South and the SER DA. Further, its inclusion within the SER DA in an area which is infrastructure-enabled with good transportation connections is consistent with the NPS-UD objectives of achieving a well-functioning urban environment and consolidated urban form and ensuring that housing is provided for in an efficient manner for housing affordability.

56 With respect to whether the Additional Land will provide "significant" development capacity as required by Policy 8 NPS-UD it is noteworthy that the latest Housing Capacity Assessment for Greater Christchurch (**HCA**) at page 15 discusses consultation with the development community (while writing the HCA) and describes landowners that could develop 20 or more dwellings as being significant.³⁸ As such the proposed additional capacity of 57 allotments provided by the Additional Land would qualify as a significant increase in capacity for the Waimakariri District.

AMENDMENTS SOUGHT BY BELLGROVE TO THE SER ODP

57 The amendments sought by Bellgrove to the SER ODP relate to plans dealing with Movement Network, Open Space and Reserves, and Water and Wastewater. The amendments described in the evidence of Mr Trist together with an explanation of why these changes are necessary.³⁹

58 My understanding is that none of these changes will impede development of land further south within the SER DA. Further these changes are each informed by Bellgrove's knowledge of the site and how the land can be developed in a practical and efficient manner. Further, making these changes now will help ensure a streamlined certification and subdivision process which

³⁷ Ms Ruske Anderson's evidence at [102]-[105]

³⁸ <http://www.greaterchristchurch.org.nz/assets/Documents/greaterchristchurch-HuiHui-Mai/Greater-Christchurch-Housing-Development-Capacity-Assessment-March-2023-v3.pdf>

³⁹ Evidence of Mr Trist regarding at [26]-[48]

will enable Bellgrove to achieve timely provision of housing outcomes on the Bellgrove South land in accordance with the IAF Agreements.

CONCLUSION

59 Overall the changes requested by Bellgrove are considered necessary to provide for plan-enabled residential development within the NER and SER Development Areas so that Bellgrove can continue to provide much-needed housing supply to the District and meet its commitments under the IAF Agreements.

Dated: 9 February 2024



Chris Fowler
Counsel for Bellgrove Rangiora Limited

APPENDIX 1

Certificate of Title CB45D/1257



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier **577722**
Land Registration District **Canterbury**
Date Issued 13 July 2012

Prior References
378539 CB45D/1257

Estate Fee Simple
Area 23.0009 hectares more or less
Legal Description Lot 2 Deposited Plan 394668 and Lot 2
Deposited Plan 452196

Registered Owners
Bellgrove Rangiora Limited

Interests

777195 Notice declaring the State Highway adjoining the above land to be a Limited Access Road - 26.9.1969 at 9:30 am (Affects Lot 2 DP 394668)

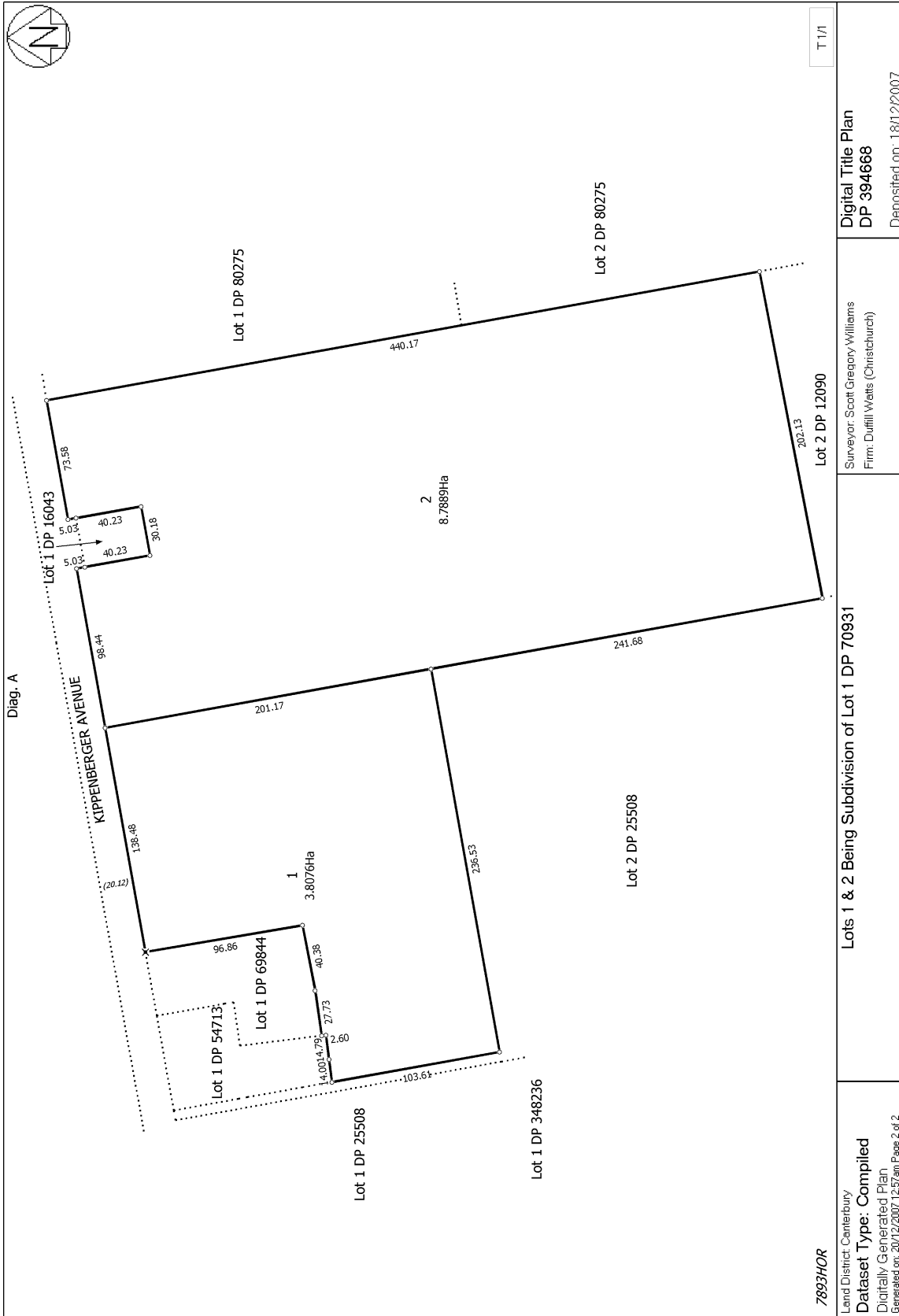
7661438.6 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 18.12.2007 at 9:00 am (Affects Lot 2 DP 394668)

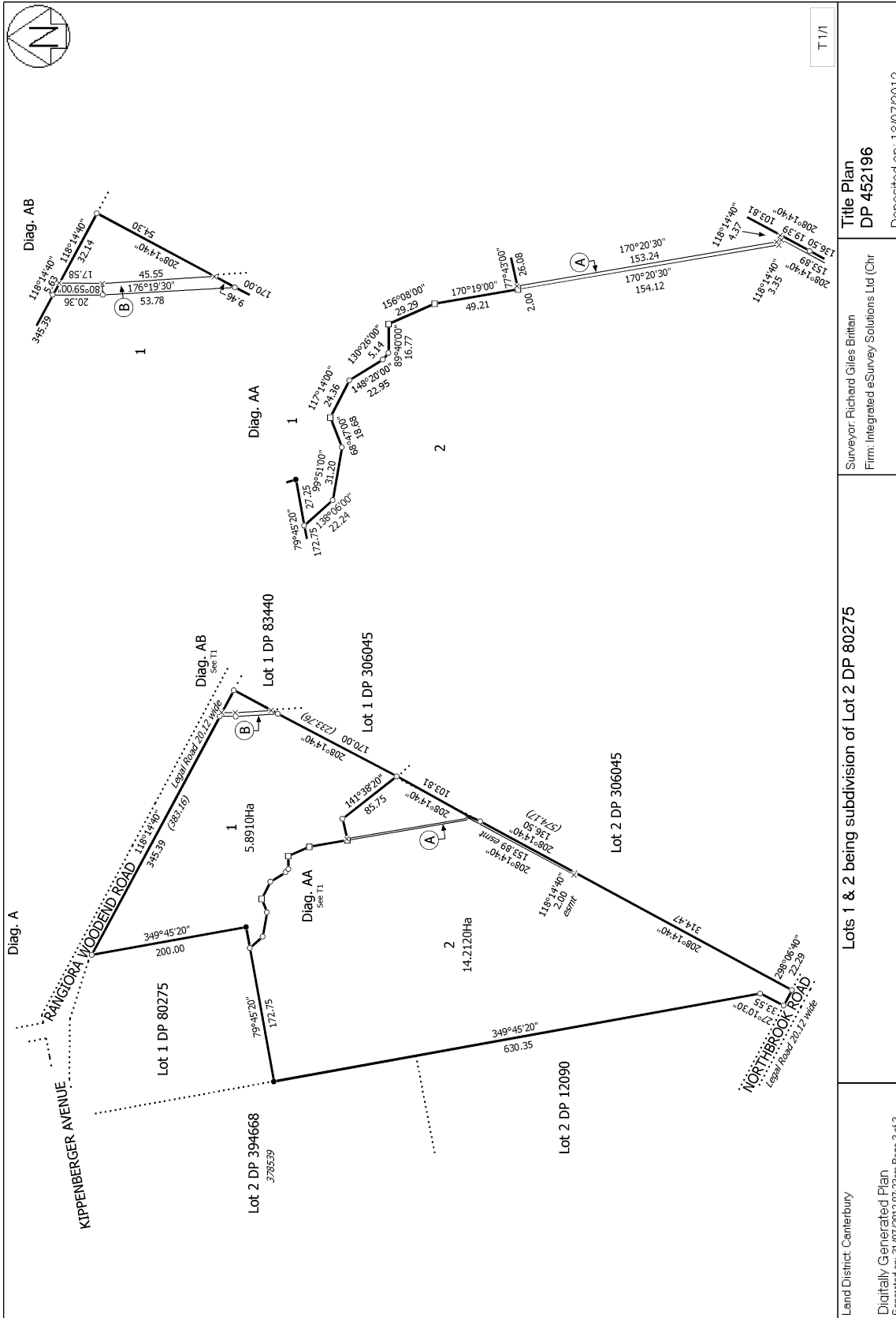
Subject to Section 241(2) and Sections 242(1) and (2) Resource Management Act 1991(affects DP 452196)

9097943.6 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 13.7.2012 at 4:46 pm (Affects Lot 2 DP 452196)

Subject to a right to drain water over part Lot 2 DP 452196 marked A on DP 452196 created by Easement Instrument 9097943.7 - 13.7.2012 at 4:46 pm

The easements created by Easement Instrument 9097943.7 are subject to Section 243 (a) Resource Management Act 1991
11654881.7 Mortgage to (now) Bellgrove DM Limited and Bellgrove RGL Limited - 3.2.2020 at 3:54 pm





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Title Plan
DP 452196

Surveyor: Richard Giles Brittan
 Firm: Integrated eSurvey Solutions Ltd (Chr)

Lots 1 & 2 being subdivision of Lot 2 DP 80275

Land District: Canterbury
 Digitally Generated Plan
 Generated on: 31/07/2012 07:23am Page 3 of 3

Deposited on: 13/07/2012

Schedule 3 of the IAF Housing Outcomes Agreement

Schedule 3: Dwellings to be Completed in each year

This **Schedule 3** sets out the type and total number of dwellings (to be Completed by the Developer in respect of the Housing Development) in each year.

		2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035 onwards	Total
1.	Public housing dwellings	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
2.	Papakāinga dwellings	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
3.	Lower-cost dwellings	Nil	12	80	97	94	76	112	100	80	44	15	Nil	Nil	Nil	710
4.	Other dwellings	Nil	13	65	80	76	62	92	82	66	36	18	Nil	Nil	Nil	590
5.	Total	Nil	25	145	177	170	138	204	182	146	80	33	Nil	Nil	Nil	1,300