



BEFORE THE TASMAN DISTRICT COUNCIL

Under the Resource Management Act 1991

In the matter of Resource Consent Applications RM120928V2 (land use change of conditions), RM190790 (land use), RM190789 (subdivision), RM190791 (land disturbance), and RM191308 (water permit)

By The Integrity Care Group Limited
(Applicant)

And in respect of proposed changes to the existing retirement village (Olive Estate Lifestyle Village) at Lakehouse Crescent, and a proposed extension onto a site at Hill Street, Richmond

Submissions for Applicant



INTRODUCTION

- 1 The existing Olive Estate Lifestyle Village ("Olive Estate") was consented in 2014 and is currently under construction, with 136 units complete (*"the existing village"*). Ms Nimmo in her evidence explains the vision and design philosophy for the site. The application before you is essentially for an extension to this existing village onto an adjoining site, together with relocation of the Care Facility. The fact that the majority of the consented development is complete means that on your site visit you will see first-hand how this vision and the design philosophy has been achieved.
- 2 A model of the Care Facility in its context has been constructed. That model gives a 3D indication of the Care Facility.

The Application

- 3 The Application seeks new resource consents to extend Olive Estate onto an adjoining 3.387 hectare site (the *"Hill Street Block"*). This will include additional villas and town houses and a Care Facility, to replace the Care Facility which was consented, but not built, within the existing village.
- 4 On the existing site, changes to the current resource consents are required for the additional villas and townhouses to be built in place of the Care Facility on that part of the site.
- 5 The development also involves changes to the internal roading network with Fairrose Drive to be extended through the new site to provide a through road connection, and there will be a new intersection on to Hill Street.
- 6 A proposed boundary adjustment subdivision will provide for the Care Facility on a separate title. The balance of the new site will be amalgamated with the overall Olive Estate village, and the extended Fairrose Drive will be vested as road. **No** additional lots will be created.
- 7 The changes to the application since lodgement have been outlined in detail in the evidence and so we do not repeat them here.

Reserves

- 8 The "issue", if I can call it that, arising out of submissions, and more particularly the s 42A report, relates to vesting of reserves.

- 9 The tone of the s 42A report is that the Applicant is not proposing to provide a reserve - that is simplistic. The Applicant is providing the green space and making it available to the public, although owned by the Applicant. It is also providing walkways and cycleways by way of easement in gross, but it is not vesting ownership in the Council, which the Reporting Officer seeks. The evidence and simple common sense shows why there is not to be a vesting, and there is nothing of any substance provided on the part of the Reporting Officers to show why vesting should take place, other than to say that is what the Council usually does. And the Reporting Officer's only reason for not recommending approval in her report is about ownership of the green space, not about provision of it. Resource management is not about ownership, it is about sustainable management, providing for the various wellbeings for people and communities and about adverse effects. Non ownership of a green space does not make for an adverse effect – just as the non vesting of green space in the existing village has not led to adverse effect(s).
- 10 As explained in the evidence of Ms Nimmo, already within the existing village the public regularly use green spaces, including the children's playground, and it is proposed to formalise this use by the public as it relates to an area totalling 2,500m² (the same area as the indicative reserve shown on the planning maps). This publicly available space will consist of open, green space and a shared cycle/pedestrian walkway accessible from Fairrose Drive (with parallel parking available).
- 11 The Open Space Plan 3.11 identifies the open green spaces proposed. This is comprised of:
- (i) The original consented development open green space, which equates to 8,500m².
 - (i) The new proposed development open green space which equates to 8,050m².
 - (i) The areas that Olive Estate intends to formally allow public access over which equates to an additional 2,500m².
- 12 This means that allowing for the current application provides an additional 10,550m² area of Open Green Space and the combined area of Open Green Space across the existing village and the Hill Street block will total 19,050m²

(1.905ha) out of a total combined site of 12 ha. This is drastically more than the amount referred to in Ms Lancashire report which incorrectly states:¹

The applicant is proposing to provide 'publicly available' open green space within the development which will have a combined total area measuring 8,600m². This open green space comprises 6,100m² of open green space within the existing site subject to RM120928V1 and 2,500m² of open green space within the proposed Hill Street block.

- 13 The key reasons why a reserve is not being vested are addressed in the evidence of Ms Nimmo and include:
- (i) Olive Estate wish to maintain the green space to a higher standard consistent with the balance of the village than would be the case with a "Council reserve". A simple comparison shows just how much higher the Applicant's standard is. Some submissions recommend that a park is vested with the Council and that the applicant could also have an agreement with the Council on maintenance. However as soon as the land is vested in the Council it becomes a local purpose reserve subject to the Reserves Act. We are not aware of how the Council could delegate its maintenance role to Olive Estate given the restraints set out in the Act and as such Olive Estate would have no certainty over the standard to which the reserve would be maintained to.
 - (ii) The open space area is in the middle of an aged retirement village. Olive Estate needs to retain control over anti-social behaviour to ensure that there is no nuisance created to its residents, and to ensure the health and safety of the public is not comprised during construction activities. It would be completely inappropriate for there to be unrestricted public access in the middle of a retirement village.
 - (iii) There are no examples of public reserves in the middle of a rest home development in this District, including in the recently consented Arvida Richmond Plains development in Lower Queen Street.

¹ Section 42A report, para 3.27.

14 The mechanism originally proposed by the Applicant was a condition on the land use consent and a covenant on the title so as to ensure on-going compliance by all future landowners. In response to the concerns expressed in the s 42A Report, an alternative now suggested is an easement in gross registered on the title. A draft easement document is annexed as “A” so that it is clear what is envisaged. An easement in gross can be registered on the title but does not need to be in favour of any particular land. Both of these alternatives (covenant or easement in gross) are certain, enforceable and binding on future land owners.

15 Ms Squire acknowledges the role of easements in her report:²

It is acknowledged that walking/cycling connectivity can be provided through the site by easements rather than Council ownership. However, to date the mechanism to provide for recreation space in residential areas within the Tasman District has been via the vesting of recreation reserves owned and managed by Council.

– With respect, the fact that you may have done things such as vesting in the case of a traditional residential subdivision in the past does not justify a vesting approach in circumstances such as this.

16 Mr Ley also states:³

The applicant confirms ... that access to these walkways and greenspaces will be available to the Public to use ... An “Easement in gross” for the public, is usually the best option to legally secure this Public access.

- We agree with Mr Ley.

17 As such, easements to cover the green space areas to provide walking and cycling connections seem to be supported and there is no reason that this cannot be extended to cover the open space/pocket park areas that essentially form part of the open space linkage. There is neither compelling reason, nor indeed any reason, as to why this cannot happen other than that it is not what has traditionally been done.

² Page 199.

³ Page 222.

- 18 An easement in gross is same instrument used for the Tasman Great Taste Cycle trail, where it passes through private land. The use of an easement in gross is also consistent with the framework set up for esplanade strips. Esplanade strips are registered on the title and bind every person having an interest in the land, but the land is retained in private ownership. Responsibility for maintenance of an esplanade strips remains with the landowner. A purpose of an esplanade strip, as set out in s 229 is to: *enable public recreational use of the ... esplanade strip and adjacent sea, river or lake, where the use is compatible with conservation values.* – clearly an easement in gross is an acceptable solution.
- 19 The use of legal mechanisms such as easements and covenants to achieve public access is common. The Environment Court has stated⁴ that vesting of a cycleway could not be imposed in that case but in discussing control of and access to the cycleway the Court stated:
- [115] These are matters that clearly could be resolved by various legal mechanisms, including easements, consent notices, covenants and the like...*
- 20 A further change now proposed in response to concerns expressed in the s 42A report is that the Applicant no longer suggests that the provision of publicly available open space areas be given a total offset against the reserve contributions payable. The Applicant is willing to both make the open space areas identified available and pay an appropriate financial contribution.
- 21 The issue of reserves in addressed further below in the context of effects; objectives and policies; and the s 42A report.

STATUS OF THE ACTIVITY

- 22 The section 42A report agrees with the assessment put forward on behalf of the Applicant in the application and further information response that the activity falls to be assessed as a compact density development and a community activity. This is addressed further in the evidence of Mr Rae.

⁴ *Matakana Coast Trail Trust* [2017] NZEnvC 201

23 The activity falls for consideration as a Discretionary Activity under the Act. Accordingly, the provisions of Section 104 and 104B of the Act are of application.

24 It is worth noting the indicative reserve rules of the TRMP. The performance standard in the subdivision rules relating to reserves states:

Subject to but not limited by rule 16.4.2.1:

- (a) *Land that is subject to a notation on the planning maps as indicative reserve is set aside as reserve and vested in the Council upon subdivision in general alignment with the indicative reserve areas shown on the maps and dimensions where specified, as follows: ..*
- (b) *Indicative reserve areas are to be vested in the Council as Local Purpose Reserve (walkway/recreation) and Local Purpose Reserve (drainage) **and the part of the area vested as Local Purpose Reserve (walkway/recreation) will form part of the financial contribution for reserves and community services in accordance with rule 16.5.2.4.***

(emphasis added)

25 With the present application the only subdivision being proposed is a simple boundary adjustment and no additional titles will result. In those circumstances, we do not consider the vesting of a reserve can be required without either the agreement of the applicant, or the applicant proffering a reserve. The reasons for this are as follows:

- (i) As set out above the only subdivision proposed is a boundary adjustment. No additional allotments will be created.
- (ii) Rule 16.5.2.4, which is referenced in the indicative reserve performance standard deals with financial contributions on subdivisions. This provides that a financial contribution is payable with respect to each allotment created by subdivision, less:
 - *The number of any existing separate certificates of title pertaining to the land being subdivided which have*

resulted from a previous subdivision consent or equivalent approval;

- *Any allotment which, by agreement, is to be vested in the Council or the Crown for a public purpose;*
- *Any allotment, which by agreement, is to be vested in the Council or the Crown for a public purpose;*
- *Any allotment required by a condition of consent to be amalgamated with another allotment.*

- (iii) When applying the above clause there are no financial contributions payable (for the subdivision). The section 42A report agrees with that.
- (iv) Although the subdivision rule referred to above provides for indicative reserve areas to be vested in Council, the rule envisages that the actual power to take the reserve is by way of financial contribution on subdivision (refer to part of the rule where emphasis has been added). The indicative reserve rule and the financial contribution rule on subdivisions are intended to dovetail together. As set out above, there are no financial contributions payable on the subdivision (boundary adjustment). As such, that statutory basis referred to in the rule for taking the land for reserve (namely financial contribution on subdivision) does not apply. The indicative reserve rule does not contemplate a boundary adjustment scenario.
- (v) In *Matakana Coast Trail Trust v Auckland Council*⁵ referred to above, the Court considered the ability to impose conditions requiring the consent holder to establish a walkway/cycleway as part of its consented development. The Court concluded that there was jurisdiction to impose a condition regarding the provision of a cycleway, but distinguished that from a condition requiring vesting. The Court held:

[103] We acknowledge that a condition requiring vesting of their land in the Council or MTCC [sic] was not sought by the

⁵ [2017] NZEnvC 149

appellants. It would likely not meet the test in s 108(10)(b) given we were not shown any contribution provisions in the Unitary Plan. While this does not prevent the parties from meeting a condition by granting an easement ...

- (vi) Likewise the High Court⁶ has also held that a condition requiring an Applicant to vest land constitutes a financial contribution which must meet the requirements of s 108(10)(a) and (b) unless proffered as an *Augier* condition. No such condition is proffered here.

Copies of those cases are available should the Commissioners require them.

- (vii) Section 108(10)(b) referred to relates to financial contributions and states that a consent authority must not include a condition requiring a financial contribution unless (amongst other matters) the level is determined in the manner set out in the plan.
- (viii) As set out above the TRMP provisions do not provide for the vesting of a reserve in the context of a straight boundary adjustment situation.

26 For the reasons set out above, it would therefore be inappropriate to require a reserve to vest, and likewise to decline the application based on the failure to vest a reserve in the context of a boundary adjustment.

27 Out of an abundance of caution, an application was made to not comply with the indicative reserve performance standard. Such an application is a discretionary activity. Thus the TRMP leaves the door open to depart from that performance standard. It is no different to applying to breach any other performance standard. There is nothing inherently inappropriate about a discretionary activity. The s 42A report seems to treat the vesting of a reserve as some absolute requirement that needs to be complied with, when that is not the case. The indicative reserve is simply that - indicative. There is no designation in the plan. The Applicant simply seeks to depart from a performance standard in the plan and have this considered on its merits.

⁶ *Frasers Papamoa Ltd v Tauranga City Council* [2010] NZRMA 29 (HC).

28 As the evidence explains, there are very good reasons as to why retaining ownership by Olive Estate, but making the identified open space areas available for public use, would result in a better outcome than a vested reserve when considered in the context of the Olive Estate Lifestyle Village.

29 We address this further in the context of the s 42A report.

STATUTORY ASSESSMENT

30 Section 104 requires that the Consent Authority must, subject to Part 2, have regard to certain matters and in my submission in this case the relevant matters are:

- (i) Any actual and potential effects on the environment of allowing the activity (Section 104(1)(a));
- (ii) Any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing the activity (Section 104 (ab));
- (iii) The statutory documents - including any National Environmental Standard, Regulations, National Policy Statement, Coastal Policy Statement, Regional Policy Statement or Plan or Proposed Plan; and
- (iv) *“Any other matter the Consent Authority considers relevant and reasonably necessary to determine the Application”.*

Effects

31 The evidence for the Applicant addresses all and any actual and potential effects on the environment. We focus on three areas – the reserve issue; and the Care Facility and the matter of access from Brenda Lawson Drive because they have attracted staff negative comment and submissions.

Reserves

32 As set out above, open green spaces will be created and made available to the public. The issue between the Reporting Officer and the Applicant is one

of ownership. In considering the implications arising from this we refer to the evidence of Mr Ward (reserves expert) who concludes:

- (1) *There is no need for the space to be vested in, and owned by the Council, for it to be "provided" or made available to the public.⁷*
- (2) *Olive Estate has higher maintenance and design standards than the Council has delivered in other local reserves, and the community receives significant benefits from the proposal at no cost to the Council.⁸*
- (3) *There is no requirement on Council to provide additional vested reserve in this part of Richmond nor any need for it in this location. It currently provides 15.8 ha per 1000 population, 11.8 ha more than its Level of Service.⁹*

33 The retention of the open space in Olive Estate's ownership can be said to have positive effects when compared to the vesting of reserves in Council ownership. Land will be available to the public, but maintenance obligations and costs would be borne by Olive Estate and in addition to that Olive Estate will pay an appropriate financial contribution for reserves. All vesting would achieve would be enable Council staff to "tick the box" in relation to the number reserves it owns – but as is clear from the above, it has no need to do that.

34 When considering the effects arising from the nature of the open space proposed (i.e. a green corridor through the site and pocket parks, compared to a rectangular reserve), it is again relevant to consider the evidence of Mr Ward who states:

Given the location of the requested reserve, it would seem that the majority of the need for the park would be generated by the village.¹⁰

The need would therefore be identified as facilities for older adults to remain connected and stay active. It is unlikely a rectangular

⁷ Para 42.

⁸ Para 59.

⁹ Para 57.

¹⁰ Para 46.

grassed reserve would be identified as a preferred option for this demographic. Instead, a series of connected green areas with seating and other activities, as proposed by Olive Estates, would, in my opinion, better meet the need.¹¹

35 We are confident that the open space and walkway linkages proposed by Olive Estate will be a better outcome than an arbitrary square area – which is left outside overall maintenance of Olive Estate – and would appear “at odds” with the overall amenity areas within the estate.

36 This is addressed further in the evidence and we comment on this further below the context of the s 42A report.

Care Facility

37 Ms Lancashire spends some time in the s 42A report comparing the consented Care Facility with the Care Facility now proposed. However, the question for the Commissioners is not what is the “better” of the two options. Rather your role is to make a decision on the application before you based on the merits of the current application.

38 Clause 1(b) of Schedule 4 of the RMA requires an assessment of the effects on the environment to include a description of any possible “alternative locations or methods” for undertaking an activity where the activity would result in any *significant* adverse effect on the environment or involve a discharge. Unless cl 1(b) of Schedule 4 applies (which it does not here), every proposal must be assessed on its own merits without regard to whether there might or might not be a better alternative or site.¹²

39 A care facility is consented within the existing village. Where the consented care facility becomes relevant is in considering the “receiving environment”. The Court of Appeal has stated that the definition of “*environment*” embraces the future state of the environment as it might be modified by permitted activities and by resource consents which have been granted where it appears likely that those consents would be implemented.¹³

¹¹ Para 47.

¹² *All Seasons Properties Ltd v Waitakere CC* EnvC W021/07.

¹³ See *Queenstown Lakes DC v Hawthorn Estate Limited* (2006) 12 ELRNZ 299; *Rural Forest and Bird Protection Society of New Zealand Inc v Buller DC* (2013) NZHC 1324

- 40 Therefore the "environment" already includes a care facility within this locality (although that will not proceed should consent be granted to the variation) – so the question is not should there be a care facility in this village because that has already been determined, but what are the effects of it where it is proposed.
- 41 The s 42A report states that the Care Facility is not "entirely compatible" with the residential environment (owing to its length, height, scale and bulk and nature of the traffic movements and parking that will be associated with its use) – but rest homes and the like are very much part and parcel of the residential environments in which we live, including those of this scale. Care facilities and retirement villages are a very necessary part of our environment, given the Nelson Tasman demographic. One should add that facilities such as this overall village and Care Facility carefully located in a residential environment can free up traditional family homes for families, but leave the ability for older people in our community to remain in the area in which they have lived throughout their working lives and to be cared for in that facility. This is a matter relevant to s 104(1)(c).
- 42 The Environment Court has said that when assessing residential character account must be taken of the sort of activities generally associated with pure residential uses and that encompasses things normally found in, and which add to, the general character of a residential area. The Environment Court has said¹⁴ when referring to property in Pakuranga that there ... *"was a predominance of single residential buildings. Residential character also encompasses things, normally found in, and which add to, the general character of a residential area. In the present case this included recreational parks, a bowling green, primary school, church and associated community hall, and a community centre."*
- 43 It is submitted that a retirement village and care facility is part and parcel of a residential area; it also forms part of and adds to residential character. Residential character is not just houses – rather community buildings, such as churches, halls, and in our case retirement villages, all form part of what is expected in a residential area and contribute to the residential character of an area.

¹⁴ *BP Oil New Zealand Ltd v Manukau City Council A141/98.*

44 Mr Rae assesses the evidence on this matter and concludes:¹⁵

I consider that taking account of the substantial compliance with permitted activity standards, and the special measures the applicant's design team have gone to in order to make this building a good fit in this setting, the Care Facility does not compromise the residential character of the area. Taking account of Ms Gavin's evidence in particular, I consider the adverse effects on amenity values will be no more than minor.

Access from Brenda Lawson Way

45 This has been addressed by the Applicant who has recast the proposal so as not to use Brenda Lawson Way for that access. This appears to have been accepted fondly from submitters if the number who have withdrawn their right to be heard is an indication.

Positive effects

46 Recognition of the significant positive effects of the proposal have become lost in the s 42A report because of the focus on one issue – ownership of the green spaces.

47 The present application has very significant positive economic and social effects and this is exactly the sort of development that should be encouraged in the region. Mr Rae assesses the positive effects of the application and states: ¹⁶

I consider this is much-needed residential development in the context of the nation-wide shortage of housing, and in the context of the strong demand that clearly exists in the Nelson/Tasman region for modern well-designed housing.

The Statutory Documents

48 Mr Rae has in his primary evidence has addressed the relevant Statutory Documents – including the Objectives and Policies of the TRPS.

¹⁵ Paragraph 65.

¹⁶ Para 79.

49 He also addresses the NPS on Urban Development Capacity 2016 to which you must have regard in accordance with s 104(1)(b) of the Act. Mr Rae describes the thrust of this as being to provide for additional housing opportunities not only through district plan provisions but also by decision-makers. The NPS-UD is high in the statutory document hierarchy.

50 Mr Rae concludes:

... the proposal has very significant positive economic and social effects. It is in accord with the NPS-UDC, and with the relevant provisions of the TRPS and the Act.

51 And Mr Rae finds nothing which the proposal in its entirety is not consistent with in the relevant objectives and policies of the statutory documents and the NPS-UDC.

OFFICER'S REPORT

Reserves

52 We address the concerns raised in the s 42A report as follows:

- (i) That the application "*.. would require that Council offset reserve financial contributions*"¹⁷.

Response: As set out above, Olive Estate will pay appropriate reserve financial contributions, but given the circumstances and the green space easement in gross, that should not be a full contribution.

- (ii) "*the space may still not feel or appear to be publicly accessible...*"¹⁸:

Response: A fundamental concept in the design is to integrate the village with the wider community. Mr Porter addresses this concern in his evidence:¹⁹

¹⁷ Page 199.

¹⁸ Page 73.

¹⁹ Paragraph 38.

“The proposed 2,500m² greenspace available for public use will be demarcated through landscape treatment including specific plant placement, seating and screen fences to protect the privacy of residents in the apartments. The stormwater channel will also create a natural buffer between public and private space near the Care Facility. Signage will be provided to clearly indicate public access further ensuring the space feels accessible to the general public.”

- Through a combination of availability and signage the green space not only feels accessible but is accessible.

(iii) *“The applicants proposed green spaces are fragmented, serve different functions ...”²⁰*

Response: And what’s wrong with that. A community has a need for reserves to meet different functions. A cycleway around a pocket park would probably not be appropriate. A picnic area in the middle of a cycleway would equally not be appropriate. The green space should reflect the function. The linkage areas start adjacent to Fairrose drive near the Care Facility and run in a continual strip down to Langdale Drive. In relation to serving different functions, this is entirely consistent with policy 6.8.3.25 of the TRMP which seeks to *promote multi-purpose use of open space for recreation, non-motorised transport networks, ecological corridors and stormwater management.*

(iv) *“...the Council would not be able to retain control over its maintenance...”²¹*

Response: It will be evident from the existing village the high standard to which facilities are maintained. We consider the fact that the burden of maintenance falls on the landowner rather than the Council is a positive effect arising from the proposal. This is addressed further in the evidence of Ms Nimmo; Mr Porter and Mr Ward with the key point being that Olive Estate has higher maintenance and design standards than the Council has delivered on other reserves, with a reason being the limited

²⁰ Page 40, where referring to concerns expressed in submissions.

²¹ Section 42A report, page 73.

resources that the Council has for investing in neighbourhood parks.

- (v) "...the applicant does not guarantee unrestricted public access..."²² –

Response: the s 42A report insists that unrestricted public access must be provided to a publicly managed reserve and shared path through the village.²³ However, unrestricted access is inappropriate when the green space is located in the middle of an aged care village. Even to the Council's own parks access is not unrestricted. Bylaws are in place to control the use of reserves, with one of the purposes of bylaws being "*informing the community about acceptable standards of behaviour in public spaces*" and "*promoting a nuisance free environment.*"²⁴ Mr Ward also explains that the type of rights that Olive Estate proposes to retain are not dissimilar from the rights the general public have if they are being subject to anti-social behaviour and nuisance.

- (vi) The statement that a precedent would be created.

Response: There are a number of distinguishing features about this application which set it apart from others. This includes the very large amount of open space proposed as part of the application; the alternative mechanism put forward by the applicant to allow public access; and the fact that this is a retirement village rather than a standard residential subdivision. Although we see the rationale for vesting a reserve as part of a standard residential subdivision, this is inappropriate in the context of a retirement village, and as stated by Ms Nimmo in her evidence, as far as we are aware, no other retirement villages in the area have needed to do this. If there is a precedent it is a precedent that public enjoyment can be achieved on privately owned, privately maintained and privately managed green space. As said no other villages in this district have had to provide green

²² Section 42A report 8.31.

²³ Page 199.

²⁴ <https://www.tasman.govt.nz/my-council/key-documents/more/bylaws-and-regulations/>

space in the middle of a private village – one could say that if there is a precedent it would be a precedent created by something the Council has not required in the past.

53 The Council are seeking a reserve at the corner of Fairrose and Iris drive. We make the following comments on the topic of the location and type of reserve:

- (i) The area proposed to be available for public access is very close to this indicative reserve area.
- (ii) The reserve area shown on the planning maps is “indicative” only. There is no magic in the exact location shown on the planning maps. In fact 14.1.20 (Methods of Implementation) of the TRMP states:

14.1.20.1 Regulatory

(a) Designation of proposed reserves on planning maps when required sites are well known or to address a local shortfall of reserve land or facilities.

*(b) Showing indicative reserves on planning maps **when required sites are less well known.***

- (iii) The rationale for that location seems to be that it was to provide a linkage between two cul de sacs. This rationale is now redundant now that a through road is proposed rather than two cul de sacs. However the intention was always that this indicative reserve perform a linkage function – and this is what the open green space proposed by the applicant does.
- (iv) The Council seem to prefer a traditional square park. It is much more beneficial for the open space area to include both pocket parks as well as walkway linkages. If the open space were not in the location proposed by the Applicant there would be no green open space walkway linkage between Fairrose Drive and Wensley road. Mr Ward explains in his evidence that a survey found walkways and cycleways to be the most frequently visited setting, much more frequent than local or neighbourhood parks.

This is entirely consistent with the purpose of the indicative reserve set out in the plan which is “recreation/walkway”. In addition the plan recognises the importance of walking as a form of recreation. The Principal Reasons and Explanation set out in 14.1.30 states:

A range of reserves is needed to cater for the different activities favoured by the varying age groups in the population: for example, play areas, sports fields, walkways and nature areas. A Council survey has shown that walking is the most popular recreational activity.

- (v) As explained by Mr Weir, the position of the open space area off Fairrose Drive near the Care Facility was based on the recommendation of the Urban Design Panel (UDP). This was for easier public access and enhanced outlook and appeal from the resident’s apartments adjacent.²⁵

Private Rights of Way

- 54 There is a suggestion in the Officers Report that there should be public access over private rights of way serving various of the units (namely Idris Drive, Olive Terrace, Camarosa Place and Pajaro Way). We must consider the fact that this is a retirement village catering for people 55 and over. It would be the anathema of safety to bring walkers, cyclists, children on bicycles, mobility scooters and the like into conflict – to do so could easily occasion confrontation, anxiety and potentially injury. This is of course not the case for cycleweays and walkways designed for that purpose.

THE SUBMISSIONS

- 55 Many of the issues raised by submitters have already been addressed above.
- 56 A number of amendments were made in direct response to submissions received and throughout the process and as a result this has resolved many of the matters raised by submitters. A key change was the removal of the service access off Brenda Lawson way. This is outlined in detail in the evidence.

²⁵ Evidence of Robert Weir, paragraph 14.

PART II

57 The Act has a single purpose, the promotion of the sustainable management of natural and physical resources whilst achieving the various wellbeings set out in s 5(2) and enabling people and communities to achieve those wellbeings. In this case we have an addition to an existing village on the fringe of Richmond with good accessibility through to the Richmond CBD, a place where people want to live if the existing development is anything to go by. A grant of consent can do nothing but achieve sustainable management and an efficient use of the land resource gives its location, but also provide for those wellbeings that people and communities obviously need, and are entitled to have enabled. Where else would you put a Care Facility but within an existing village where centralised facilities can provide for the physical resources to serve that facility.

58 The Reporting Officer seems not to have taken a balanced approach to her assessment, but has focused it appears on the matter of ownership of a reserve (and not the outcome of the proposal which is the matter of relevance), and has brushed aside the obligation indicated by the NPS on Urban Development, which is one of the highest documents in the statutory document hierarchy.

CONDITIONS

59 Annexed as "B" is a draft set of conditions.

60 We have presented the conditions at this point in the hearing so as to bring them all together into a single document using the s 42A conditions as a base. We have marked in red the conditions we suggest be added and added lines through those sought to be deleted. Explanations are given in the side bar for the deletions/additions. The presentation at this point gives the other parties, the Commissioners and reporting officer the opportunity to consider them as the case unfolds.

WITNESSES

61 There are 10 witnesses for which evidence has been exchanged:

(1) Ms Kristin Nimmo – Olive Estate Lifestyle Village.

(2) Mr Luke Porter – Urban Design.

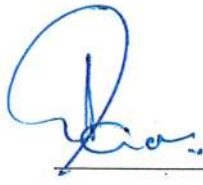

- (3) Mr Robert Weir – architectural design.
- (4) Ms Liz Gavin –Landscape.
- (5) Dr Jeremy Trevathan – Acoustic Consultant.
- (6) Mr Chris Ward – Reserves.
- (7) Mr Gary Clark – Transportation.
- (8) Mr Mike Verrall – Subdivision and Engineering.
- (9) Ron O’Hara - stormwater
- (10) Mr Gary Rae – Planning.

62 With your leave, I will now:

- (1) Call the witnesses and have them make any corrections they wish to make;
- (2) Have them confirm their evidential statement;
- (3) Hand them over to you for questioning.

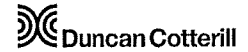
CONCLUSION

63 It is submitted that the evidence shows that consent should be granted subject to a judicious application of conditions. There is nothing in the Act, the Plan, the regional policy statement, or any other statutory document that could merit a decline of consent. The matter of ownership of the reserve is little more than a diversion – the question is will greenspace be available to the public – and the answer to that is yes secured by way of an easement in gross exactly as will be the walkways and cycleways forming part of that green space link.

NA McFadden/S Galbreath
Solicitors for the Applicant

25 February 2021



“A”

Form 22

Easement instrument to grant easement or *profit à prendre*

1. (Section 109 Land Transfer Act 2017)

- 2.
- 3.

4. Grantor

5. Olive Estate Lifestyle Village (as to [insert title reference])
--

6. Grantee

7.
8. Tasman District Council

Grant of Easement or *Profit à prendre*

<p>The Grantor being the registered owner of the burdened land set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or <i>profit(s) à prendre</i> set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)</p>
--

Schedule A
additional Annexure Schedule, if required

Continue in

Purpose of Easement, or <i>profit</i>	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Right of access	[reference open space plan]	[title reference]	Tasman District Council in Gross

Easements or *profits à prendre* rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2018 and/or Schedule 5 of the Property Law Act 2007

The implied rights and powers are hereby **[varied]** ~~[negated]~~ ~~[added to]~~ or ~~[substituted]~~ by:

~~[Memorandum number _____, registered under section 209 of the Land Transfer Act 2017]~~

[the provisions set out in Annexure Schedule A]

SCHEDULE A

9. The Grantee has the right to allow the public to enter, recreate and go over and along the Easement Area on foot, or on a bicycle for the purposes of recreation subject to the terms of this easement instrument.
10. The Grantee acknowledges that the Easement Area is owned by the Grantor and administered by it.
11. The Grantor reserves control and management over the Easement Area.
12. The Grantor may temporarily prohibit access to the Easement Area during construction activities.
13. The Grantor may temporarily restrict access to members of the public in the event of the following:
 - (i) Any members of the public are, in the opinion of the Grantor, displaying anti social behaviour while within the Easement Area.
 - (ii) Any members of the public are behaving in a manner that impacts on the quiet enjoyment of residents while within the Easement Area.
 - (iii) Maintenance.
 - (iv) Health and safety requirements.
14. The Grantor shall have the responsibility for maintenance of the Easement Area.
15. The Grantor shall place signs stating the name of the Easement Area and shall place these at each end of the easement area advising that it is open to public access and identifying restrictions to that access and that it is administered by the Grantor.
16. In this Schedule 'Grantee' includes the Grantee's employees, contractors, agents and invitees.
17. In this Schedule 'Grantor' includes the Grantor's employees, contractors, agents, tenants, licensees and invitees.
18. Where there is a conflict between the provisions of Schedule 4 Land Transfer Regulations 2002, and the modifications in this easement instrument, the modifications shall prevail.



“B”

RM190790 and ors – Recommended conditions

Attachment to Section 42A Report of J Lancashire, reporting planner

Recommended variations to RM120928V1

[Activity - variation to condition 1]

Additions in underline, deletions in ~~strike through~~

Variation to condition 1

1. The construction and operation of the lifestyle village for people aged 55 years and over shall be in general accordance with the information provided in the application and the information submitted as part of the variation application RM120928V1 as varied by the suite of applications received by the Council on 1 July 2019 and referenced (RM120928V2, RM190790, RM190789, RM190791 & RM191308) and the attached plans labelled 3.0 – Masterplans 3.2 - 3.5 (014 – 017) 17115, 3rd Amendment dated 06.10.2020, in general accordance with the following Plans prepared by Weir-Walker Architecture, Canopy Landscape Architecture and Verrall & Partners Ltd, attached to this consent:

- ~~Development Master Plan, C-01 dated 28 August 2017;~~
- ~~Setbacks and Private Space, C-02 dated 28 August 2017;~~
- ~~Open Spaces and Linkages, 1208 – 103, Revision 3 May 2013;~~
- ~~Street Trees, 1208 – 104, Revision 3 May 2013;~~
- ~~Park trees, 1208 – 105, Revision 3 May 2013;~~
- ~~Sections B, 1208 – 107, Revision 3 May 2013;~~
- ~~Conceptual Road Calming Treatment Plan, 1208 – 114, Revision November 2013; and~~

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- ~~Proposed Boundary Adjustment 109 Wensley Road, Richmond being Lots 2, 3, and Pt 4 Deeds 1763 and Lot 2 DP 489806 NL 56/85 and 705790, Plan dated May 2017.~~

~~In addition, the construction and operation of the lifestyle village shall be in general accordance with the following plans prepared by Weir Walker Architecture, Canopy Landscape Architecture and Verrill & Partners Ltd, attached to this consent:~~

- ~~Staging Plan, 1208 – 108A, Revision October 2013; and~~
- ~~Indicative Mains Services Layout 109 Wensley Road, Richmond being Lots 2, 3, and Pt 4 Deeds 1763 comprised in CTs 56/85 and 56/87.~~

~~Where there are any discrepancies or apparent conflict between the information provided with the application and any conditions of this consent, the conditions shall prevail.~~

Advice note:

~~The Staging Plan, 1208 – 108A is indicative only and no conditions restrict the staging. It is expected that the development will proceed generally along the lines of the plan, but that the stages may proceed in any order and that the dates indicated may not be adhered to.~~

New condition 7A inserted as follows:

- 7A. Villas V25-D and V24-B as shown on Masterplan 3.5 'Proposed Development' 3rd Amendment – 06.10.2020 17115 and attached to this decision as Plan X, shall be constructed so as to comply with rules 17.1.3.1 (m) and (n) 'building envelope' and 17.1.3.1 (q), (r) and (s) 'setbacks' of the Tasman Resource Management Plan:

Recommended conditions - land use consent RM190790

[Activity - Land use consent to construct a compact density development (residential villas and apartments) and a community activity (care facility) in the Richmond South Residential area.]

General

1. The construction and operation of the lifestyle village for people aged 55 years and over shall be in general accordance with the information provided in the application, in general accordance with the following Plans prepared by Canopy Landscape Architecture, Weir Architecture and Verrall & Partners Ltd, attached to this consent:
 - (a) 3.0 Master Plan – 3.2 Overall Site Development Stages referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (b) 3.0 Master Plan – 3.3 Overall Site Building Type Numbers referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (c) 3.0 Master Plan – 3.4 Overall Site Master Plan referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (d) 3.0 Master Plan – 3.5 Proposed Development referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (e) 3.0 Master Plan – 3.6 Care Facility Unit referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (f) 3.0 Master Plan – 3.7 Care Facility Unit – Overland Flowpath referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (g) 3.0 Master Plan – 3.9 Care Facility Unit Section Plans-Elevations (sections (EE – JJ) referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
 - (h) 3.0 Master Plan – 3.10 Construction Staging Plan referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.

- (i) 3.0 Master Plan – 3.11 Open Space Plan – Overall Site referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
- (j) 3.0 Master Plan - 2.3 Design Guide Road Type Sections referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
- (k) Catchment Plan for Proposed Boundary adjustment, Hill Street, Richmond referenced 12039-6a, attached and marked XX.
- (l) Care Facility Hill Street Block Site Plans referenced 12.689, SK9-SK14 and dated June 2019, attached and marked XX.

Where there are any discrepancies or apparent conflict between the information provided with the application and any conditions of this consent, the conditions shall prevail.

Advice note:

The Staging Plan, 3.10 Construction Staging Plan, is indicative only and the no conditions do not restrict the staging. It is expected that the development will be staged and proceed generally along the lines of the plan, but that the stages may be of a different size and proceed in a different order relative to the timing of the vesting of Fairrose Drive, and that the timeframes indicated may not be adhered to.

Reserves and community services financial contributions

- 2. The Consent Holder shall, no later than the uplifting of the building consent for each building, pay a reserves and community services financial contribution to the Council. The amount of the financial contribution shall be assessed as a percentage of the value of the building consent in accordance with the following table but adjusted by reduction to reflect the green space areas that are subject to an easement in gross or covenant in favour of the Council:

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Financial contribution – building	
Component	Contribution
Building consent (\$0 to \$50,000 value)	0%
Building consent (\$50,001 to \$200,000 value)	0.5%
Building consent (above \$200,001 value)	0.25%

Notes:

- (1) The financial contribution is GST inclusive.
- (2) The building consent value is GST exclusive.
- (3) The contribution due on a building should be identified separately from other contributions set for any resource consent for an activity that includes buildings.
- (4) The financial contribution shall be determined by taking the total estimated value of the work required for a building consent and applying each component identified in the table to that value and the contribution is the sum of the components.

3. Prior to the issue of building consent for any building in ~~Stages 6B or 7C~~ on Plan 3.10 – Construction Staging Plan, or when extension of Fairrose Drive is constructed, whichever occurs earlier, the applicant shall pay a financial contribution being an 8% cost share of the stormwater detention basin that has been constructed between Hart Stream and Pine Crest Drive (on Lot 101 DP 485765), in order to mitigate the adverse effects of stormwater flows from this property. The amount payable shall be \$59,000 inflation adjusted from March 2016.

Commented [DC1]: Refer evidence of Mike Verrall.

Maximum height

4. The maximum building height of the care facility building shall not exceed ~~10.56m from ground level, that shown on elevations 12.689 SK.12, Sk.13 and Sk.14 Weir Architecture and dated June 2019, attached and marked xx.~~

Commented [DC2]: It is more accurate to simply refer to the elevations.

Advice note:

For the avoidance of doubt, ground level is defined in the Tasman Resource Management Plan as follows: means the natural ground level, or where that has been altered by subdivision, means the actual finished ground level when all works associated with the subdivision of the land are completed, and excludes any excavation or filling associated with the building activity.

Setbacks

5. The care facility building and the following villas / townhouses, as shown on Masterplan 3.5 'Proposed Development' 3rd Amendment – 06.10.2020 17115, shall be constructed so as to comply with rules 17.1.3.1 (m) and (n) 'building envelope' and 17.1.3.1 (q) (r) and (s) 'setbacks' of the Tasman Resource Management Plan:

- V09 • V10 • V21 • V22 • V25 • V01
 - TH01 • V14 • V31 • V32-
- 36

Care facility building

6. The care facility building shall be located at least 14.23m from the eastern boundary (adjacent to Brenda Lawson Way) and at least 8m from the boundary with Hill Street in general accordance with the care facility plans prepared by Weir Architecture, 3.0 Master Plan – 3.5 Proposed Development referenced 17115 – 3rd Amendment and dated 6 October 2020, attached and marked XX.
7. The care facility building shall be "benched" into the landscape on which it is to be constructed such that the building elevations do not exceed the heights shown on the cross-section care facility plans prepared by Weir Architecture, referenced 12.689 Sk.12, Sk.13 and Sk148-44, and dated 28 June 2019, attached and marked XX. ~~These plans show that the care facility building elevations generally do not exceed 7.5 metres in height when measured from ground level (as per Tasman Resource Management Plan definition). The central portion of the care facility building shall not exceed 10.52m in height when measured from ground level (as per Tasman Resource Management Plan definition).~~
8. The footprint of the care facility shall not exceed an area of 4500 square metres in accordance with the plan 12.689 Sk.8 prepared by Weir Architecture and dated June 2019, attached and marked XX.
9. The development shall be designed and constructed in accordance with the design mitigation measures identified in section 59 of the LVA prepared by Canopy NZ Ltd to include the following elements:
 - (a) the exterior of the care facility building shall be finished in colours that are appropriate for the residential environment. The Consent Holder shall submit to the Council's Team Leader – Monitoring and Enforcement for certification prior to applying for building consent the following details of the colours proposed to be used on the walls and roof of the building:

- (i) the material to be used (eg, paint, Colorsteel);
- (ii) the name and manufacturer of the product or paint;
- (iii) the reflectance value of the colour;
- (iv) the proposed finish (eg, matt, low-gloss, gloss); and
- (v) either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The building shall be finished in colours that have been certified by the Council.

Advice note:

The purpose of the above condition is to ensure the care facility building has elements of a residential building and good urban design. Colours do not necessarily need to be recessive or dark but should be carefully chosen to be compatible with the residential environment and to create a high-quality urban space.

Contact Council's duty planner for further information on approved hue ranges. As a guide, the Council will generally approve painted roof colours with a reflectance value of $\leq 25\%$ and painted wall colours with a reflectance value of $\leq 50\%$.

10. A Detailed Landscape Plan (DLP) prepared by a landscape architect shall be developed for the length of the care facility building fronting Hill Street. The plan shall be in general accordance with the Hill Street render plans prepared by Canopy NZ Ltd (plans 5.1 – 5.3 (041-046)). The DLP shall be submitted to the Council's Team Leader – Monitoring and Enforcement for certification at time of lodging building consent application for the care facility building.

The landscape plan shall include the following elements and details:

- (a) The plan shall be drawn to a known scale, specify the proposed species including botanical names, their height at maturity and their layout position.
- (b) The plan shall be designed so that the landscaping and planting will avoid a continuous hedging or shelter belt effect.
- (c) Trees shall be not be planted within 2 metres of the boundary or shall be of a specimen type which at maturity shall allow all or most of the canopy to remain within the Consent Holder's site.

- (d) Trees proposed within 4 metres from the property boundary shall consist of species that at maturity are no greater than 6 metres in height.
 - (e) Trees between 4 and 8 metres of the property boundary shall consist of species that at maturity are no greater than 8 metres in height.
 - (f) All trees planted between 8 to 18 metres of the boundary can at maturity be greater than those heights specified above.
 - (g) The species utilised shall predominantly be species that provide seasonal fruit, flower and nectar production that is suitable for insects and native birds. In the event that it is impractical to do so the reasons and rationale for not doing so shall be stated in the DLP.
 - (h) A maintenance schedule shall be provided to address the first two growing seasons and for ongoing management to ensure successful establishment and maintenance. Details shall include staking, mulching, watering, weed control, trimming and replacement of dead or dying plants.
11. That the consent holder shall advise the Team Leader – Monitoring and Enforcement in writing when the care facility building will be both occupied and operational 20 working days prior to occupation and operation of the building.
 12. The landscaping shall be implemented prior to occupation of the care facility building and maintained in accordance with the approved plan and any plants that die shall be replaced in the next planting season (May to August inclusive).
 13. Prior to the operation of the care facility building, a minimum of 49 car parking spaces shall be provided and located as shown on the plan titled Masterplan Care Facility unit showing Amendments (3.6 17115, 3rd amendment) attached and marked **XX**. All parking spaces shall be formed and finished with an all-weather dust-free surface prior to the activities on site commencing.
 14. ~~[delete]No staff or contractors working at the care facility shall park their vehicles off-site. For the purposes of this condition 'off-site' does not include Fairrose Drive.~~
 15. Any area for outdoor storage or rubbish holding and collection for the care facility building shall be fenced and landscaped so that it is screened from the view of any neighbour(s) and the general public, and shall also be:
 - (a) covered to prevent any windblown debris from leaving the storage area;
 - (b) separated from and not encroaching into any boundary setback for building or parking area.

Commented [DC3]: Refer evidence of Gary Clark.

Buildings other than the care facility building

16. The residential units authorised by this consent shall be designed to include the following elements:
- (a) the exterior of the buildings shall be finished in colours that are appropriate for the residential environment. The Consent Holder shall submit to the Council's Environment & Planning Manager for certification prior to applying for building consent the following details of the colours proposed to be used on the walls and roof of the building:
 - (i) the material to be used (eg, paint, Colorsteel);
 - (ii) the name and manufacturer of the product or paint;
 - (iii) the reflectance value of the colour;
 - (iv) the proposed finish (eg matt, low-gloss, gloss); and
 - (v) either the BS5252:1976 (British Standard Framework for Colour Co-ordination for Building Purposes) descriptor code, or if this is not available, a sample colour chip.

The buildings shall be finished in colours that have been certified by the Council.

Advice note:

The purpose of the above condition is to ensure the buildings have elements of a residential building and good urban design. Colours do not necessarily need to be recessive or dark, but should be carefully chosen to be compatible with a residential environment and to create a high-quality urban space.

Outdoor living areas

17. Each villa ~~and~~ -townhouse, ~~carriage house and apartment~~ shall be provided with an outdoor living area with a minimum dimension of ~~6m~~ 6m² to which its occupants have exclusive rights of use in general accordance with the Private Space Plan prepared by Canopy Landscape Architects (referenced 3.12 – 17115 – 3rd Amendment – 06.10.2020) attached and marked **XX**.

Commented [DC4]: There are no carriage houses or apartments proposed (other than the apartments which are part of the Care Facility).

Advice note:

It is noted that the ~~apartment blocks and~~ care facility apartments will contain balconies providing outdoor living spaces above ground level. These areas will need to be shown on the building consent plans when submitted to Council.

Landscaping

- 18. The landscape plans and design guide shall be implemented for each stage or phase of the development in general accordance with the guide entitled "Olive Estate Design Guide" prepared by Canopy Landscape Architects and attached to the application as Appendix B, and in accordance with the plans attached to this consent.
- 19. The landscaping shall be maintained and any plants that die shall be replaced in the next planting season (May to August inclusive). The landscaping provided for each stage shall be completed prior to occupation of the buildings within that stage.

Service deliveries

- 20. All delivery and service vehicles entering and exiting the site for the purposes of the operation of the care facility shall be restricted to 7.00 am to 9.00 pm.

Lighting

- 21. All site lighting shall be designed to ensure that light spill or glare onto neighbouring properties is avoided and that the light is directed onto the site. All site lighting shall also be designed to ensure that vertical light spill is avoided to the maximum extent practicable. This shall be achieved by either outdoor lighting being shielded from above in such a manner that the edge of the shield shall be below the whole of the light source; and/or low powered street-level lights are used (eg, bollard lighting).

Noise

- 22. The operation of the care facility shall not exceed the noise limits in the Tasman Resource Management Plan for the Residential Zone, at the boundary of the site unless a subsequent resource consent is obtained that authorises the exceedance of the noise limits.

Noise generated by the activity measured at or within the boundary of all neighbouring sites any site within the zone, other than the site from which the noise is generated 376 Hill Street, does not exceed:

Commented [DC5]: Conditions 22 and 23: refer evidence of Jeremy Travathan.

	Day	Night
L _{eq}	55 dBA	40 dBA
L _{max}		70 dBA

Day is 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays);

Night is all other times plus public holidays.

23. All plant and equipment (such as heat pumps, cooling fans, generators) shall be located, designed, installed and maintained using the best practicable option to ensure that the noise does not exceed the noise limits in the Tasman Resource Management Plan for the Residential Zone, ~~at the boundary of the site~~ unless a subsequent resource consent is obtained that authorises the exceedance of the noise limits.

[condition number] An appropriately qualified Acoustic Engineer shall review the developed Mechanical Services design of all proposed external plant associated with the Care Home Facility, as part of the Building Consent process, to ensure that the noise emissions comply with the TRMP noise limits, when received at the boundaries of the neighbouring properties.

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[condition number] All construction works on site shall be undertaken in accordance with NZS 6803:1999 Acoustics - Construction Noise. All construction works will be undertaken in accordance with a Construction Noise and Vibration Management Plan, which will be approved by Council prior to any construction works on site commencing. This management plan will be required to provide details of mitigation measures in accordance with Annex E of NZS 6803:1999; good practice guidelines to reduce noise levels as far as practicable, undertake consultation with persons in the immediate surrounds around the times and duration of particular noisy aspects of the construction and ensure a complaints procedure is in place, should it be required. With these measures established prior to any construction works on site commencing construction noise will be managed and/or avoided where possible and/or mitigated to an acceptable level.

Noise generated by the activities, measured at or within the notional boundary of a dwelling, shall not exceed:

	Day	Night
L_{eq}	55 dBA	40 dBA
L_{max}		70 dBA

Day is 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays);

Night is all other times plus public holidays.

-Construction management plan

24. A detailed Construction Management Plan shall be prepared by a suitably qualified and experienced person and submitted to the Council's Team Leader – Monitoring and Enforcement for certification at least 20 working days prior to the commencement of work on site.

The Construction Management Plan shall establish acceptable performance standards regarding public safety and amenity protection during the construction process of this development. Such standards are expected to include but not be limited to the following:

- (a) a contact telephone (mobile) number(s) for the on-site manager where contact could be made 24 hours a day / 7 days a week;
- (b) details of appropriate local signage/information on the proposed work including the location of a large (greater than 1 m²) noticeboard on the site that clearly identifies the name, telephone number and address for service of the site manager, including cell phone and after hours contact details;
- (c) a communication and complaints procedure for adjoining property owners/occupiers, passers-by and the like;
- (d) a timetable and nature of the construction works proposed;
- (e) hours of operation;
- (f) safety fencing and associated signage for the construction site;
- (g) dust mitigation measures (the noise aspect of the Management Plan should be written with reference to NZS 6803:1999 Acoustics - Construction Noise); and
- (h) measures to ensure dirt, mud or debris is not left on the road, and does not enter the Council's stormwater system.

The Council's Team Leader - Monitoring and Enforcement will certify the Construction Management Plan in a timely fashion following consultation with appropriate officers within the Tasman District Council.

Construction Traffic Management Plan

25. A detailed Construction Traffic Management Plan must be prepared by a suitably qualified and experienced person and submitted to the Council's Team Leader – Monitoring and Enforcement for certification at least 20 working days prior to the commencement of work on site.

The Construction Traffic Management Plan will establish acceptable performance standards regarding public safety and amenity protection during the construction process of this development. Such standards shall include but not be limited to the following:

- (a) hours at which construction vehicle movements may take place;
- (b) defining the routes which construction vehicles will take to and from the site;
- (c) identifying potential impacts on pedestrians and cycle movements within the vicinity and how these will be addressed;
- (d) measures to ensure dirt, mud or debris is not left on the road, and does not enter the Council's stormwater system;
- (e) staff parking areas; and
- (f) communication and complaint procedures.

The Council's Team Leader – Monitoring and Enforcement will certify the Construction Management Plan in a timely fashion following consultation with appropriate officers within the Tasman District Council.

- 26. The Construction Management Plan and Construction Traffic Management Plan approved under conditions 24 and 25 must be implemented and maintained throughout the entire construction period and modified as directed by the Council's Team Leader – Monitoring and Enforcement to deal with any deficiencies in their operation.

Advice note

Any earthworks, including works involving the disturbance of contaminated soils, shall comply with the conditions of land use consent RM190791.

Engineering works

- 27. All engineering works shall be designed and constructed to comply with the conditions of consent, the approved engineering plans and the Council's Engineering Standards & Policies 2013, or where the engineering plans or Standards & Policies 2013 are not complied with, to the Council's Engineering Manager's satisfaction.

Advice note:

The Council has agreed that the relevant standards to apply are the Council's Engineering Standards & Policies 2013

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Commented [DC6]: Refer evidence of Mike Verrall.

There may be engineering works that are appropriate to be carried out in accordance with the Nelson Tasman Land Development Manual 2019 standards (although this is not obligatory, and shall be at the sole discretion of the consent holder).

Engineering plans

28. Engineering plans showing the details of all works required, detailing all services, roading, footpaths and access, right turn bay on Hill Street, and including works for stormwater control, sediment control during earthworks for each stage or phase of construction work shall be submitted to Council's Engineering Manager for approval prior to any works on that phase or stage being carried out. The plans will be approved by the Engineering Manager if the works are designed to comply with the conditions of consent, and they are in accordance with the Engineering Standards & Policies 2013 or, where the latter is not complied with, they are to the satisfaction of Council's Engineering Manager.

~~29. Prior to the occupation of any residential buildings or commencement of activities within the care facility in each respective stage, as-built plans detailing all services and access formation shall be provided for approval and signing by the Tasman District Council Engineering Manager. All plan details are to be in accordance with the Tasman District Council Engineering Standards & Policies 2013 or to the satisfaction of Council's Engineering Manager.~~

Commented [DC7]: Provision of as built is already governed by condition 14 of the subdivision consent. It should not be tied to the occupation of buildings because the civil works may not be entirely completed – refer to explanation in evidence of Mike Verrall.

Occupation should be left to be governed by the building being compliant with the NZ Building Code and the relevant NZ Standards as is normally the case.

~~29.~~ Commencement of works and inspection

30. The Tasman District Council Engineering Department shall be contacted 5 working days prior to the commencement of any engineering works. No work shall commence on each phase or stage until the engineering plans for that phase or stage are approved and signed by Council's Engineering Manager.

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Engineering certification

31. At the completion of works for each stage or phase, and prior to occupation of any residential building in respective stage or phase, a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Council's Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any approved amendments.

Traffic and connecting road

32. All vehicle access and car parking shall be in general accordance with the information provided in the application and the plans attached to this consent.

- 33. All internal roading and car parking shall be constructed in accordance with the ~~Council's 2013 Engineering Standards~~conditions of this consent, or otherwise to the approval of the Council's Engineering Manager.
- 34. All roading and car parking shall be shown on the engineering plans required under conditions 28 above in each respective phase or stage of work.

Advice note:

The extension to Fairose Drive is an important strategic linkage for the development of this area. This condition ensures that connection is made to the boundary in a timely fashion in step with the development of this site.

- 35. The road to vest within Lot 9 shall be formed prior to vesting in accordance with the Tasman District Council Engineering Standards 2013. The road formation shall include:

- ~~(a) a minimum 15.5 metre legal width;~~
- ~~(b)(a) a 2.5 metre shared path and 1.4 metre footpath;~~
- ~~(e)(b) a minimum 6 metre formed carriage way;~~
- ~~(d)(c) street lighting as approved by Council's Engineering Manager; and~~
- ~~(d) fourteen 2.5 metre wide indented parallel parks.~~

~~(e) *Advice note: the legal width will be sufficient to accommodate the road formation requirements set out above, and will be of a varying width.*~~

- 36. ~~The timing of vesting of Lot 9 is to be proposed by applicant. Road should vest as soon as is it relied on by any household units or the care facility. Lot 9 may be constructed and vested as road in stages in conjunction with the development of villas, townhouses and the care facility alongside.~~

- 37. All roading and car parking within Lot 9 shall be shown on the engineering plans required under conditions 28 above in each respect of each phase or stage of work.
- 38. A landscaping plan for the road to vest within Lot 9 shall be developed in accordance with the guide titled "Olive Estate Design Guide" prepared by Canopy Landscape Architects and attached to the application as Appendix B. This plan shall be submitted to Council's Engineering Manager for approval as part of the engineering plans required by condition 28. Landscaping in accordance with the approved plan shall be completed by Consent Holder prior to the vesting of the road.

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Commented [DC8]: Refer evidence of Mike Verrall.

- 39. ~~[delete condition] The boundary adjustment authorised by RM190789 shall be completed (section 224(c) certificate issued) prior to issue of building consent for the care facility building.~~

Hill Street right turn bay

- 40. A right turn bay into the road to vest in Lot 9 shall be constructed on Hill Street prior to the vesting of Lot 9. The turning bay shall be constructed in accordance with the Manual of Traffic Signs and Markings (MOTSAM) Figure 3.26 Council's Engineering Standards 2013 for a 50km/h speed environment, ~~and shall have a 3-metre long holding bay and Motsam land design~~ be in general accordance with Motsam land design fig 3.26. Final design of this turning bay shall be included in the Engineering Plans required by condition 28, and shall be subject to approval by Council's Engineering Services Manager.

Reserve to vest Easement in gross/covenant - reserve

- 41. ~~A 2,500m² Recreation Reserve shall vest in the Tasman District Council at the northern corner of the Fairose and Iris Drive intersection. The reserve shall be presented and provided with a vehicle crossing and a working water connection in accordance with the Tasman District Council Engineering Standards 2013. The consent holder shall grant an easement in gross or land covenant in favour of the Tasman District Council to allow public access to the area marked "Olive Estate Open Green Space subject to easement in gross or covenant" on plan 1.0 Olive Estate Open Green Space; but the management, control and ownership of the land shall remain with the consent holder.~~

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Advice Note:

- 42. ~~[delete] Compensation shall be payable by Council for the land to vest as Recreation Reserve. A valuation shall be sought by the Council prior to the land vesting and shall be submitted to the consent holder prior to requesting an invoice for payment following vesting.~~

- 43. ~~[delete] Right of way easements in gross shall be created over the entire length of Iris Drive, Olive Terrace, Camarosa Place, and Pajero Way in order to create a public access linkage between Fairose Drive and Langdale Drive prior to building consent being lodged for any residential unit within any stage of the development as shown on the construction staging plan attached to this consent. The easement shall allow for walking, cycling and vehicular access.~~

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Commented [DC9]: Refer evidence of Gary Clark.

**the applicant needs to agree to this condition because it relates to a small section of Iris Drive that is located outside of the application site*.*

Hill Street right turn bay

44. ~~[delete – duplication] A right turn bay into Fairrose Road shall be constructed on Hill Street prior to the vesting of Lot 9 of subdivision RM190789 or a section 348 shall be applied for.~~

~~The turning bay shall constructed in accordance with Council's Engineering Standards 2013 for a 50km/h speed environment, and shall have a 3 metre long holding aby and Mtsam land design. Final design of this turning bay shall be included in the Engineering Plans required by condition 28, and shall be subject to approval by council's Engineering Services Manager.~~

Servicing

45. Full ~~separate~~ servicing shall be provided for each residential unit and the care facility building in general accordance with Infrastructure report prepared by Verrall & Partners Limited (contained in Annexure E of the AEE provided with the application).

Advice note:

Connection fees will be payable to Council at the time building consent is issued.

46. Prior to the each residential unit and the care facility building being occupied, a ~~separate~~ water connection shall be provided to the buildings in accordance with the Tasman District Council Engineering Standards & Policies 2013.

Advice note:

~~Connection fees will be payable to Council for each residential dwelling, individual couple up point to existing Council reticulation rather than for each residential unit/building, apartment, carriage houses and the proposed lake house and care facility buildings and this is payable at the time building consent is issued.~~

Commented [DC10]: Refer evidence of Mike Verrall.

47. The servicing provided shall include:

- (a) Water Supply

Water reticulation shall be provided to the each residential unit, and the proposed care facility building, complete with all mains, valves, fire hydrants and other necessary fittings. The final layout of water reticulation and location of water meters shall be confirmed at the engineering plan stage. ~~Clusters of villas may share water fees and a meter.~~

Commented [DC11]: Refer evidence of Mike Verrall.

(b) Sewer

Full sewer reticulation discharging to the Council's approved system shall be installed complete with any necessary manholes and connection to each residential unit and care facility building. Wastewater services provided through the site shall contain connections for Lot 2 DP 7794 (the Nicoll Block) in general accordance with the Infrastructure report prepared by Verrall & Partners Limited (contained in Annexure E of the AEE provided with the application).

(c) Stormwater

Full stormwater reticulation discharging to Council's approved system shall be installed in accordance with Council's Engineering Standards 2013. The primary network shall be designed to receive stormwater flows up to a 5% AEP rainfall event and all secondary flow paths shall be designed to receive flow up to a 1% AEP rainfall event.

(d) Stormwater swale

Prior to the filling of the pond or re-contouring works within proposed Lot 6 the consent holder shall submit detailed design plans for the swale to be constructed to the north of the car facility to the Council's Engineering Services Manager for approval. These shall be accompanied by a report from a suitably qualified and experienced Chartered Professional Engineer certifying that the proposed design is appropriate to receive overland flows during a 1% AEP rainfall event without overtopping or scouring and setting out any geotechnical requirements for the construction of the swale. This report shall also provide a recommended maintenance schedule for the swale.

Construction of the swale shall be carried out in accordance with the approved design and report and shall be supervised by a suitably qualified and experienced Chartered Professional Engineer.

The Consent Holder shall maintain the swale in accordance with the maintenance schedule required above.

(e) Electricity and telephone

Live telephone and electric power connections shall be provided to each residential unit and care facility building and all wiring shall be run underground.

Advice note:

Services connection fees will be payable with respect to the connection to the existing Council service (rather than each individual connection within the private network) for each residential dwelling, apartment building, carriage houses, lake house and care facility buildings to Council in accordance with Council's Long Term Plan at the time building consent is issued.

Commented [DC12]: Refer evidence of Mike Verrall.

- 48. All the services referred to in conditions of this consent shall be installed in accordance with the Tasman District Council's Engineering Standards & Policies 2013.

Firefighting water supply

- 49. All domestic-scale residential buildings (villas and town houses) shall be provided with a firefighting water supply system and access to this system that complies with the *New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008*.
- 50. As a minimum, each residential unit shall be within 135 metres of a working fire hydrant and also within 270 metres of a second working fire hydrant. Both fire hydrants must be capable of delivering 12.5 litres per second to achieve compliance with SNZ PAS 4509:2008.

Advice note:

- 51. ~~[delete condition number – advice note only]~~ The optimal means of compliance with the New Zealand Fire Service Code is considered by the NZ Fire Service to be the installation of domestic sprinkler systems in accordance with Fire Sprinkler Systems for Houses NZS 4517:2010.
- 52. The ~~carriage houses, apartments and~~ care facility shall be provided with a firefighting water supply in accordance with the SNZ PAS 4509:2008.
- 53. Notwithstanding the above, the ~~carriage houses, apartments and~~ care facility shall be provided with a sprinkler system in accordance with the relevant requirements of the Building Code.
- 54. The firefighting water supply shall be shown on the engineering plans required under condition 28 above.

Commented [DC13]: No carriage houses or apartments proposed (except for apartments forming part of Care Facility).

Stormwater management plan

- 55. The Consent Holder shall produce a stormwater management plan that provides for maintenance and servicing of the stormwater system, including secondary flow paths, through the site. The plan shall also address land use in

the contributing catchment with the objectives of maximising ground soakage and avoiding the transfer of silt, bark, mulch and contaminants being entrained in the stormwater system.

56. The stormwater management plan shall be finalised prior to any residents being accommodated in Olive Estate and a copy of the plan shall be provided in writing to the Council's Team Leader – Monitoring and Enforcement for their certification.

Lapse date

57. This consent shall lapse 10 years after the date that it commences, unless it has been given effect to, or unless the Council has granted an extension pursuant to section 125(1)(b) of the Act.

Advice note:

This consent commences when it can legally be given effect to.

General advice notes

Council regulations

1. This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all building and health bylaws, regulations and Acts.

Other Tasman Resource Management Plan provisions

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
- comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - be allowed by the Resource Management Act; or
 - be authorised by a separate resource consent.

Consent holder

3. This consent is granted to the abovementioned Consent Holder but section 134 of the Act states that such land use consents "attach to the land" and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to "Consent Holder" in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or

occupiers should therefore familiarise themselves with the conditions of this consent as there may be conditions that are required to be complied with on an ongoing basis.

Development contributions

4. The Consent Holder is liable to pay a development contribution in accordance with the Development Contributions Policy found in the Long Term Plan (LTP). The amount to be paid will be in accordance with the requirements that are current at the time the relevant development contribution is paid. Council will not issue a Code Compliance Certificate until all development contributions have been paid in accordance with Council's Development Contributions Policy under the Local Government Act 2002.

Interests registered on property title

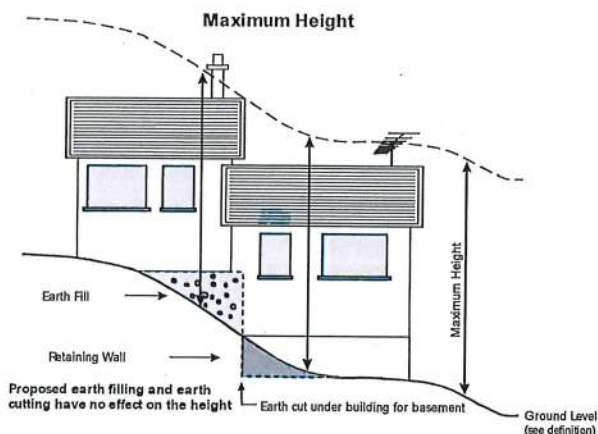
5. The Consent Holder should note that this resource consent does not override any registered interest on the property title.

Height

6. For the avoidance of doubt, "height" is defined in The Tasman Resource Management Plan as follows:

Height - in relation to a building, means the vertical distance between ground level at any point and the highest part of the building immediately above that point. For the purpose of calculating height, account is taken of parapets, but not of:

- (a) radio and television aerials, provided that the maximum height normally permitted by the rules for the zone is not exceeded by more than 2.5 metres;
- (b) chimneys (not exceeding 1.1 metres in any direction); or finials, provided that the maximum height normally permitted by the rules for the zone is not exceeded by more than 1.5 metres.



Monitoring

- 7. Monitoring of this resource consent will be undertaken by the Council as provided for by section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

Archaeological

- 8. The Council draws your attention to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. In the event of discovering an archaeological find during the earthworks (eg, shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) you are required under the Heritage New Zealand Pouhere Taonga Act 2014 to cease the works immediately until, or unless, authority is obtained from Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014.

Firefighting standards

- 9. The Consent Holder should address the requirements of the New Zealand Fire Service Firefighting *Water Supplies Code of Practice* (SNZ PAS 4509:2008). The NZ Fire Service Commission considers the optimal means of compliance with the NZFS Code is the installation of a domestic sprinkler system in accordance with *Fire Sprinkler Systems for Houses NZS 4517:2010*.

10. For the larger buildings (~~carriage houses, apartments, commercial and facilities buildings and~~ care facility) the sprinkler requirements of the Building Code are applicable.
11. Regarding the design of the care facility it is recommended that early contact is made with New Zealand Fire Service fire risk management personnel to discuss management and integration of the evacuation scheme and alarm system requirements.
12. The first point of contact for discussing firefighting requirements as set out in the conditions of consent and in advice notes above is Rob Dalton, Senior Fire Risk Management Officer on (03) 577 8211 or 027 4956 691.

Signage

13. Any signage proposed must comply with the Tasman Resource Management Plan standards in Section 16.1 for the Residential Zone. Separate resource consent would be required for any signage that does not comply with these rules, including for each commercial tenancy within the ~~Olive Market Lake~~ House Building.

Sale of Liquor

14. No liquor sales shall take place until the required licences pursuant to the Sale & Supply of Alcohol Act 2012 are issued.

Commented [DC14]: No new carriage houses, apartments or commercial buildings proposed.

**Recommended conditions - subdivision consent
RM190789**

[Activity - Subdivision boundary adjustment to provide for the care facility on Lot 6 and to amalgamate Lots 5, 7 and 8 with Lots 2 and 3 and to create a new Lot 9 to vest as road including consent for soil disturbance under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.]

General

1. The subdivision shall be undertaken in accordance with the information submitted with the application and in particular with the plan prepared by Verrall & Partners Limited titled, *Proposed Boundary Adjustment Hill Street, Richmond being Lot 2 DP 511511 (comprised in CT 785433)*, Job No. 12039-6, dated June 2019 and attached to this consent as Plan A, and the following plans attached to land use consent RM190790:
 - (a) 3.0 Master Plan – 3.2 Overall Site Development Stages referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (b) 3.0 Master Plan – 3.3 Overall Site Building Type Numbers referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (c) 3.0 Master Plan – 3.4 Overall Site Master Plan referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (d) 3.0 Master Plan – 3.5 Proposed Development referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (e) 3.0 Master Plan – 3.6 Care Facility Unit referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (f) 3.0 Master Plan – 3.7 Care Facility Unit – Overland Flowpath referenced 17115 – 3rd Amendment and dated 6 October 2020
 - (g) 3.0 Master Plan – 3.9 Care Facility Unit Section Plans (sections (EE – JJ) referenced 17115 – 3rd Amendment and dated 6 October 2020

- (h) 3.0 Master Plan – 3.11 Open Space Plan – Overall Site referenced 17115 – 3rd Amendment and dated 6 October 2020
- (i) ~~32.0~~ Master Plan - 2.3 Design Guide Road Type Sections referenced 17115 – 3rd Amendment and dated 6 October 2020

If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.

Easements

- 2. ~~Easements are to be created over any mains reticulation for TDC assets and Network Tasman or Chorus services; (including secondary flowpaths) located outside the where they are located within the boundary of the allotment titles of the Lifestyle Village that they serve as easements in gross to the appropriate authority (if applicable), or appurtenant to the appropriate allotment. Reference to easements shall be included on the title plan and endorsed as a Memorandum of Easements.~~
- 2. *Advice note: Many of the main services are private and are internal to the greater Olive Estate complex and may not require easements, including for sanitary sewage, stormwater, water, power and communications as well as any secondary flow paths. However easements may be required for external services such as telecommunications, power and TDC assets.*
- 3. ~~Right of way easements in gross shall be created over Iris Drive in order to create a public access linkage between Fairese and Langdale Drives. The easement shall allow for walking, cycling and vehicular access.~~
- 4. ~~A covenant allowing continuing public access to 'Open Green Space' areas as shown on Plan 3.12 – Rev 3 shall be registered on the titles of Lots 5 and 6. The consent holder shall grant an easement in gross or land covenant in favour of the Tasman District Council to allow public access to the area marked "Olive Estate Open Green Space subject to easement in gross or covenant" on plan 1.0 Olive Estate Open Green Space; but the management, control and ownership of the land shall remain with the consent holder.~~

Commented [DC15]: Refer to evidence of Mike Verrall.

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Amalgamation

- 5. That Lots 5 and, 7 & 8 hereon be amalgamated with Lots 2 & 3 (DP.....)RM130346V1 as authorised by subdivision consent RM130346V1 and held in the same register of title.

LINZ Reference: 1608263

Advice note:

Lots 2 & 3 RM130346V1 currently held in RT NL56/85 as Lots 2 & 3 Deeds Plan 1763 will be required to have title issued and have the Limitation as to Parcels uplifted prior to the subdivision creating Lots 5, 7 & 8.

Advice Note: development contributions

No development contributions or reserve fund contributions are applicable to this subdivision as it is a boundary adjustment with no additional new titles created.

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Road to vest

6. The road to vest within Lot 9 shall be formed prior to vesting in accordance with the Tasman District Council Engineering Standards 2013. The road formation shall include:

- (a) ~~a minimum 15.5 metre legal width;~~
- (b) a 2.5 metre shared path and 1.4 metre footpath;
- (c) a minimum 6 metre formed carriage way;
- (d) street lighting as approved by Council's Engineering Manager; and
- (e) fourteen 2.5 metre wide indented parallel parks.

Advice note: the legal width will be sufficient to accommodate the road formation requirements set out above, and will be of a varying width.

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(e) —

7. Lot 9 may be constructed and vested as road in stages in conjunction with the development of villas, townhouses and the care facility alongside.

[new condition number] As soon as reasonably practicable following construction of the Carriageway, the road to be constructed on Lot 9 shall vest in the Council in accordance with [plan reference]

Advice Note

The vesting will take place in stages. Refer to condition 7.

Commented [DC16]: Refer to evidence of Mike Verrall.

~~7. Lot 9 shall be vested in Council as road...~~

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Timing of vesting to be proposed by applicant. Road should vest as soon as is relied on by any household units or the care facility. Staging of vesting may be appropriate.

8. All roading and car parking within Lot 9 shall be shown on the engineering plans required under condition 13 in each respective phase or stage of work.

9. A landscaping plan for the road to vest within Lot 9 shall be developed in accordance with the guide titled "Olive Estate Design Guide" prepared by Canopy Landscape Architects and attached to the application as Appendix B. This plan shall be submitted to Council's Engineering Manager for approval as part of the engineering plans required by condition 13. Landscaping in accordance with the approved plan shall be completed by Consent Holder prior to the vesting of the road.

Street Conduits and Street Furniture

[new condition] Notwithstanding any standards, policies, or other requirements of Tasman District Council, the consent holder may, at its cost, at any time and in any manner install:

(a) a maximum of three service conduits underneath the Main Road; and/or

9. any Street Furniture on any part of the Main Road (other than the Carriageway and/or the Car Parks).

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Planting

[condition number] The installation of street trees and other landscape planting within Fairrose Drive shall be undertaken by the Consent Holder at its cost and pursuant to the relevant resource consent conditions. Such street trees and other landscape planting shall, at all times, be owned by the Consent Holder.

Commented [DC17]: Added for consistency with conditions of existing consent. Refer to evidence of Gary Rae.

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Hill Street right turn bay

10. A right turn bay into the road to vest in Lot 9 shall be constructed on Hill Street prior to the vesting of Lot 9. The turning bay shall be constructed in accordance with the Manual of Traffic Signs and Markings (MOTSAM) Figure 3.26 for a 50km/h speed environment. Final design of this turning bay shall be included in the Engineering Plans required by condition 13, and shall be subject to approval by Council's Engineering Services Manager.

Commented [DC18]: Refer to evidence of Gary Clark.

~~10. A right turn bay into the road to vest in Lot 9 shall be constructed on Hill Street prior to the vesting of Lot 9. The turning bay shall be constructed in accordance with Council's Engineering Standards 2013 for a 50km/h speed environment, and shall have a 3 metre long holding aby and be in general accordance with Motsam land design figure 3.6. Final design of this turning bay shall be included in the~~

~~engineering plans required by condition 13, and shall be subject to approval by council's Engineering Services Manager.~~

Reserve to vest

11. ~~[delete and replicate our condition 41] A 2,500m² Recreation Reserve shall vest in the Tasman District Council at the northern corner of the Fairese and Iris Drive intersection. The reserve shall be presented and provided with a vehicle crossing and a working water connection in accordance with the Tasman District Council Engineering Standards 2013.~~

Advice note:

~~Compensation shall be payable by Council for the land to vest as Recreation Reserve. A valuation shall be sought by the Council prior to the land vesting and shall be submitted to the consent holder prior to requesting an invoice for payment following vesting.~~

Engineering works

12. All engineering works shall be designed and constructed to comply with the conditions of consent, the approved engineering plans and the Council's Engineering Standards & Policies 2013, or where the engineering plans or Standards & Policies 2013 are not complied with, to the Council's Engineering Manager's satisfaction.
13. Engineering plans showing the details of all works required, detailing all services, roading, footpaths and access, right turn bay on Hill Street, and including works for stormwater control, sediment control during earthworks for each stage or phase of construction work shall be submitted to Council's Engineering Manager for approval prior to any works on that phase or stage being carried out. The plans will be approved by the Engineering Manager if the works are designed to comply with the conditions of consent, and they are in accordance with the Engineering Standards & Policies 2013 or, where the latter is not complied with, they are to the satisfaction of Council's Engineering Manager.

As-built plans

14. As-built plans detailing all roading, services and access formation within the road to vest shall be provided for approval and signing by the Tasman District Council Engineering Manager prior to approval of the section 223 certificate. All plan details are to be in accordance with the Engineering Standards & Policies 2013 or to the satisfaction of Council's Engineering Manager.

Certification

15. At the completion of works within Lot 9 a suitably experienced chartered professional engineer or registered professional surveyor shall provide the Council's Engineering Manager with written certification that the works have been constructed in accordance with the approved engineering plans, drawings and specifications and any approved amendments.

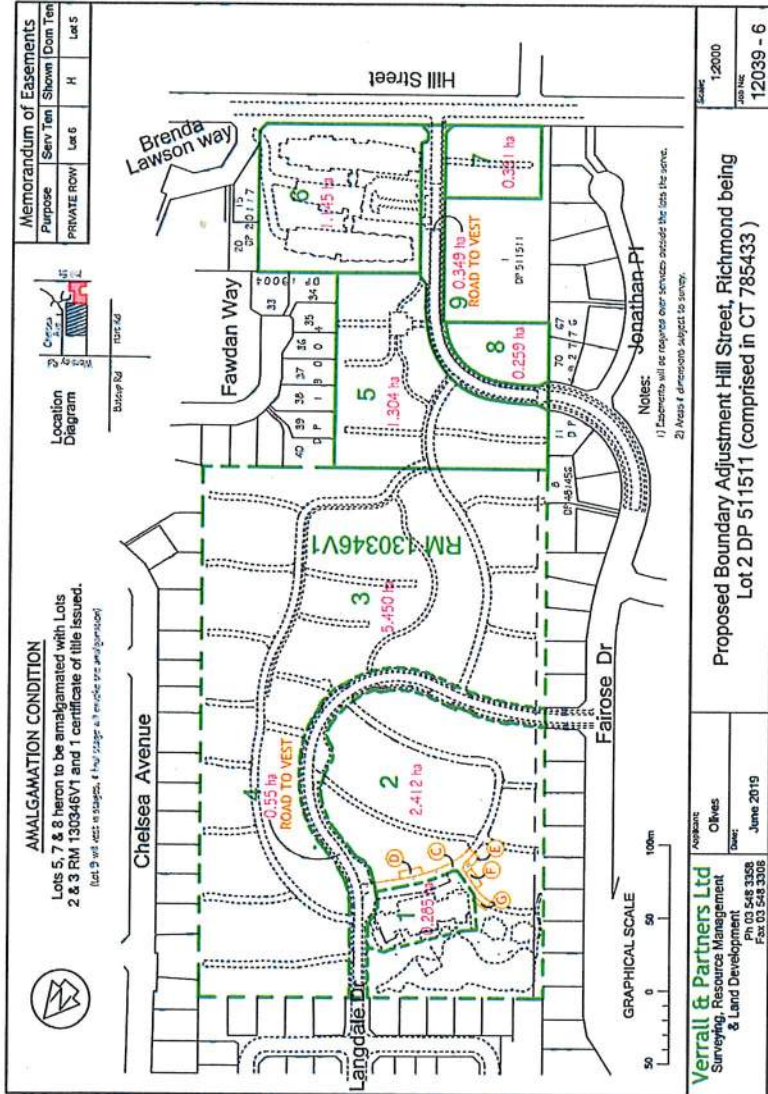
Earthworks

16. Any earthworks involving the disturbance of contaminated soil shall comply with the conditions of land use consent RM190791.

Lapse date

17. This consent shall lapse 10 years after the date that it commences, unless it has been given effect to, or unless the Council has granted an extension pursuant to section 125(1)(b) of the Act.

RM190789 Plan A [to be replaced with plan attached to evidence of Mike Verrall]



Recommended conditions s42A Report - RM 190790 and ors RM190789 conditions – word version for tracking

attachment page

**Recommended conditions - Land use consent
(earthworks) RM190791**

[Activity – Land Disturbance to undertake bulk earthworks in association with the construction of a compact density development and care facility building including all associated infrastructure and decommissioning and filling the existing on site stormwater irrigation pond.]

General

1. All works shall be carried out in general accordance with the information submitted to the Council in support of application RM190791 including the "Detailed Site Investigation, Hill Street, Richmond" produced by Contract Environmental dated February 2018, and the attached Plans A and B, unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.
2. The Council may, during the month of March each year, and within three months of the consent being given effect to, review any or all of the conditions of consent pursuant to section 128 of the Act for all or any of the following purposes:
 - (a) to deal with any adverse effect on the environment that may arise from the exercise of this consent, and which is appropriate to deal with at a later stage;
 - (b) to require the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment;
 - (c) to assess the appropriateness of imposed compliance standards, monitoring regimes and monitoring frequencies and to alter these accordingly;
 - (d) to change the compliance standards imposed by conditions of this consent to standards that are consistent with any relevant regional plan, district plan, or Act of Parliament.

Lapsing and expiry

- Pursuant to section 125 of the Act this consent shall lapse 10 years after the date of this consent unless either the consent is given effect to, or the Council has granted an extension pursuant to section 125(1)(b) of the Act.

Advice note:

The consent is given effect to once excavations commence.

Phases of work

- The land development works undertaken under this consent shall be done in a series of discrete phases. Engineering plans required in condition [x] of land use consent RM190790 shall be provided for each phase.

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4. [new condition] While there is no restriction on the timing of commencement of each phase, once each phase has been given effect to (i.e. earthworks have commenced) all bulk earthworks required for re-contouring, road and building platform formation for that phase shall be completed within 12 months. All bulk earthworks required for re-contouring, road and building platform formation for each stage shall be completed within six months of commencement of works for that stage, unless advised in writing by Council's Team Leader - Monitoring & Enforcement that this time frame may be extended for a specified period. Stages of works shall be as shown on attached Plan B. Stages-Phases may be completed concurrently and in any order.

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Commented [DC19]: It is not intended that the consent holder be bound by the staging plan – refer to advice note to this effect in land use consent replicated below.

Advice note:

The time frame for completion of bulk earthworks may need to be extended to allow the Consent Holder some flexibility to respond to unfavourable weather and other unforeseen circumstances. This time frame should not be extended without good reason and consideration of effects of extended earthworks periods on adjacent properties.

The timeframes in the above condition relate to bulk earthworks and do not relate to construction of the buildings.

Commented [DC20]: Construction of the care facility building would take longer than 18 months. Therefore this advice note is added to make it clear that the condition governs the timing of earthworks not construction of buildings.

The Staging Plan, 3.10 Construction Staging Plan, is indicative only and the conditions do not restrict the staging. It is expected that the development will be staged and proceed generally along the lines of the plan, but that the stages may be of a different size and proceed in a different order relative to the timing of the vesting of Fairose Drive.

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Supervision and notification

5. The Consent Holder shall appoint a representative(s) prior to the exercise of this resource consent, who shall be the Council's principal contact person(s) in regard to matters relating to this resource consent.
6. For each stage of the proposed works the Consent Holder or appointed representative shall contact Council's Team Leader - Monitoring & Enforcement at each of the following stages:
 - (a) at least five days prior to commencement of works on-site;
 - (b) upon placement of all sediment control measures;
 - (c) at least 24 hours prior to decommissioning of the sediment control measures.
7. As part of the notice required in condition 6, the Consent Holder shall inform the Council's Team Leader - Monitoring & Enforcement of the name and contact details of the following persons:
 - (a) the Consent Holder representative(s) required under condition 5; and
 - (b) the earthworks contractor.

Should any persons change during the term of this resource consent, the Consent Holder shall immediately provide the Team Leader - Monitoring & Enforcement written notice of the new person's name and contact details.
8. The Consent Holder shall provide a copy of this consent and all documents and plans referred to in the consent to each operator or contractor undertaking works authorised by this consent prior to the works commencing.

Monitoring and reporting

9. All testing and reporting required under this consent shall be performed by a suitably qualified and experienced person in general accordance with the Ministry for the Environment's *Contaminated Land Management Guidelines No. 1: Reporting on contaminated sites in New Zealand (2003) & No. 5: Site investigation and analysis of soils (2004)*.
10. The Consent Holder shall keep a record of the volume of excavated material, any testing carried out on this material, and where this material is disposed of. These records shall be made available to Council officers on request.

Construction management

11. The Consent Holder shall, at least ten working days prior to the intended commencement date of activities authorised by this consent, submit a Construction Management Plan (CMP) to the Council's Team Leader - Monitoring & Enforcement for certification. Information provided shall include:
- (a) details of all principles, procedures and practices that will be implemented for erosion and sediment control to minimise the potential for sediment discharge from the site;
 - (b) the design criteria and dimensions of typical erosion and sediment control structures;
 - (c) a detailed site plan showing the location and timing of all erosion and sediment control structures to be implemented;
 - (d) construction timetable for the erosion and sediment control works and any bulk earthworks involved;
 - (e) (timetable and nature of progressive site rehabilitation and revegetation proposed;
 - (f) maintenance, monitoring and reporting procedures;
 - (g) rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures.
 - (h) a Construction Traffic Management Plan (CTMP) prepared by a suitably qualified and experienced Traffic Engineer for certification that it meets the following objectives and performance standards:
 - (i) to ensure that traffic generated during earthworks is effectively managed so that increases in traffic volume are safely accommodated within the existing road network;
 - (ii) that roads open to the public are managed in accordance with the Code of Practice for Temporary Traffic Management; and
 - (iii) that the best practicable option is used to manage traffic on roads not open to the public.
 - (i) a detailed Construction Noise Management Plan (CNMP). The Construction Noise Management Plan must describe methods by which noise associated with construction will comply in all aspects with the controls set out in NZS 6803:1999 and how all persons undertaking day-

to-day activity management will adopt best practice at all times to ensure that emission of noise from the site does not exceed a reasonable level in accordance with section 16 of the Act.

- (j) a contaminated soils management plan detailing the proposed management and use of the soil to be excavated from the contaminated area shown in Figure 8 of the Contract Environmental report. This report should also outline transport, disposal and tracking methods for this material if it is to be disposed of off-site.
- (k) details of all principles, procedures and practices that will be implemented for dust control to minimise the potential for dust discharge from the site (noting that the dust control in the contaminated area (j) will be additional to this).
- (l) The Team Leader will certify the plan if, in their opinion, the plan reasonably achieves the following outcomes:
 - (i) the discharge of sediment into any watercourse and/or coastal waters, any adjacent property, Council's reticulated stormwater network and the public road network is minimised as far as practicable;
 - (ii) the passage of vehicles through any watercourse and/or coastal waters is minimised as far as practicable;
 - (iii) the risk and effects of adverse weather have been considered and provided for to minimise the discharge of sediment and contaminants;
 - (iv) contingency and reporting protocols are established;
 - (v) relevant recommendations from the Contract Environmental report, and general best practice for the management of contaminated soils, are complied with;
 - (vi) site stabilisation, appropriate use of flocculation and decommissioning are appropriately addressed; and
 - (vii) the construction site management conditions identified in conditions 15 to 25 below are provided for.

12. All works authorised by these consents shall be carried out in accordance with the plan certified under condition 11 above.

Disposal of contaminated material

13. All contaminated material excavated from the site shall be disposed of either:
 - (a) On-site within road or recreational areas; or
 - (b) At a facility authorised to receive such material, and receipts for the disposal of soil at these facilities shall be kept by the Consent Holder, and provided to Council on request. If the material is to be disposed of at a cleanfill facility the Consent Holder shall provide testing results showing that the material meets cleanfill criteria to Council's Team Leader - Monitoring and Enforcement prior to disposal.

Advice note:

Topsoil excavated from the contaminated area, as shown in Figure 8 of the Contract Environmental report, may be able to be disposed of at a clean fill facility following mixing and appropriate re-testing showing that the material can meet cleanfill criteria.

14. Prior to any excavated material being transported off-site, the Consent Holder, or appointed representative, shall notify Council's Team Leader - Monitoring & Enforcement of the intended disposal site.

Site management

15. All sedimentation mitigation or control measures shall be maintained by the Consent Holder for as long as there is a potential for sediment movement (resulting from earthworks) to occur and until the site is adequately reinstated/vegetated.
16. There shall be no dust or odour discharged that is considered to be objectionable or offensive in the opinion of Council's Team Leader - Monitoring & Enforcement at or beyond the site boundary.
17. All earthworks shall be designed and carried out under the supervision of a suitably experienced Chartered Professional Engineer practising in geotechnical engineering or other suitably qualified geo-professional as defined by NZS 4404:2010, and any fill placed in accordance with NZS 4431:1989 – *Code of Practice for Earth Fill for Residential Development*.
18. All noise from construction activities pursuant to these consents shall meet the requirements of the noise limits specified for typical duration works in Table 2 of NZS 6803:1999 '*Acoustics – Construction Noise*'.

19. The Consent Holder shall take all practicable measures to limit the discharge of sediment with stormwater run-off to water or land where it may enter water during and after the construction period. In particular:
 - (a) stop construction in heavy rain when the activity shows sedimentation in water tables or tracks on the site;
 - (b) ensure that water control is maintained at all times during works;
 - (c) ensure all open ground and stockpiles have cut-off drains installed before storm events;
 - (d) all operators are required to be appropriately trained and familiarised with the certified management plans;
 - (e) water tables, sediment traps and other erosion sediment control structures shall as soon as practicably possible after any significant rain event be inspected and appropriate maintenance carried out as required.
20. If during the construction works excavated contaminated soil needs to be temporarily stockpiled on-site, the Consent Holder shall ensure stockpiles are:
 - (a) managed in a manner that minimises, to the greatest practicable extent, any adverse effects on on-site workers, the public and off-site migration pathways (such as stormwater drains).
 - (b) located on concrete hard-standing or if necessary placed on sheeting, and at least 25 metres from site boundaries;
 - (c) kept tidy, less than 2 metres in height and with a stable slope;
 - (d) covered and banded;
 - (e) fenced to prevent public or unauthorised access; and
 - (f) removed off-site within 14 days following excavation.
21. The operation shall be carried out in a manner, or measures implemented, so that at no time will dust generated by the authorised activity become a nuisance to occupants of neighbouring properties or the public in general.
22. The Consent Holder shall stop earthworks when sediment run-off or dust movement is occurring that is more than minor in the view of the Council's Compliance Officer.
23. All exposed ground shall be reinstated as soon as practicable following the completion of the works so that movement of soil is limited as much as is

practical. This shall include supplemental planting of appropriate vegetation that enhances the stability and minimises surface erosion.

24. Hours of operation for construction shall be between 7.00 am – 6.00 pm Monday to Saturday. There shall be no earthworks operations during public holidays and within the period 25 December to 10 January each year.
25. Dust suppression measures, such as the use of water carts, shall be available and utilised on the site and site access roads at any time that dust may be discharged from the site (hot and / or windy conditions).

Advice note:

Dust suppression polymer products may be required to efficiently manage dust in very dry windy conditions. An additional resource consent would be required for the discharge of these products. Alternatively, several suppliers for these products have global consents to discharge throughout the Tasman District and the Consent Holder may wish to engage one of these suppliers. It is recommended that the Consent Holder contact Council's Team Leader – Natural Resources to discuss the use of alternative dust suppression products.

26. In the event of any archaeological artefacts (eg, shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc) being uncovered, you are required – under the Heritage New Zealand Pouhere Taonga Act 2014 – to cease the works immediately.

The Consent Holder shall consult with the Heritage New Zealand's Central Regional Office (PO Box 19173, Wellington, phone (04) 801 5088), and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals to damage, destroy or modify such sites have been obtained.

Additionally, in order to enable appropriate cultural procedures and tikanga to be administered, if any artefact and/or any historical, cultural or archaeological material of Māori origin, or likely to have significance to Māori, is found or uncovered, advice of the discovery shall be given (within 24 hours) to relevant iwi organisations.

Advice note:

All archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under the Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to Heritage New Zealand for an Authority to modify, damage or destroy an archaeological site.

Advice notes

1. Any excavated material disposed of to a clean fill site must comply with the requirements of that site's consent and relevant Council guidance.
2. The Consent Holder shall meet the requirements of Council with respect to all Building Bylaws, Regulations and Acts.
3. All necessary signage and safety measures should be implemented during the works.
4. Access by the Council's officers or its agents to the property is reserved pursuant to section 332 of the Resource Management Act 1991.
5. Council draws the attention of the Consent Holder to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014 that require you in the event of discovering an archaeological find (eg, shell, midden, hangi or ovens, garden soils, pit, depressions, occupation evidence, burials, taonga) to cease works immediately, and tangata whenua, the Tasman District Council and Heritage New Zealand should be notified within 24 hours. Works may recommence with the written approval of the Council's Team Leader - Monitoring & Enforcement, and Heritage New Zealand.
6. This resource consent only authorise the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - be allowed by the Resource Management Act; or
 - be authorised by a separate resource consent.

Recommended conditions - water permit RM191308

[Activity - Water permit for the 'take' of water associated with the de-watering of the existing stormwater irrigation pond]

General

1. The activities authorised by this consent shall be undertaken in general accordance with the application received by the Council on [redacted] the further information provided on attached to this consent. If there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
2. Prior to the commencement of the taking of water authorised by this consent the consent holder shall engage suitably qualified ecologist to determine the species of aquatic fauna present in the pond and to produce a plan for the removal and appropriate relocation of these species. The required plan shall set out methods for capture, transportation and location of release, as well as the timing of the removal in relation to pond water levels. The water take shall be carried out in accordance with this plan.

Advice note:

The consent holder may also be required to apply for approval from the Ministry for Primary Industries for the transfer of freshwater species.

3. The consent holder shall notify Council's Team Leader Monitoring and Enforcement at least five working days prior to the commencement of the taking of water authorised by this consent for monitoring purposes.
4. Pumping of water from the pond may only be carried out between the hours of 7.00 am and 7.00 pm Monday to Saturday. No pumping shall be carried out on Sundays or public holidays.
5. All noise from pumping activities pursuant to these consents shall meet the requirements of the noise limits specified for typical duration works in Table 2 of NZS 6803:1999 'Acoustics – Construction Noise'.

Expiry date

6. This consent shall expire one month after the commencement of dewatering works.

Lapse date

7. Pursuant to section 125 of the Act this consent shall lapse 10 years after the date of this consent unless either the consent is given effect to, or the Council has granted an extension pursuant to section 125(1)(b) of the Act.

