

Sections 95, 95A-E, 104, 104B, 108, 108AA, 127 Resource Management Act 1991



Decision and Planning Report

Planning Report pursuant to section 42A of the Resource Management Act 1991 recommending whether or not an application for resource consent should be:

- Publicly notified, limited notified or non-notified
- Granted or declined, and, if granted, the conditions of consent

Decision pursuant to section 113 of the Resource Management Act 1991

APPLICATION NUMBER:	RC245227
APPLICANT:	Wendelborn Property Limited
BRIEF DESCRIPTION OF APPLICATION:	RC245227 is sought to change condition 26 of RC215538.
SITE DESCRIPTION:	Address: 523 East Maddisons Road Legal Description: Lot 25 of the subdivision of Lots 226 & 2002 DP 568215 Title Reference: 1020765 & 1020773 Area: 411m ²
ZONING / OVERLAYS	Operative Selwyn District Plan (2016), Rural Volume Inner Plains Zone Partially Operative Selwyn District Plan (Appeals Version) Neighbourhood Centre Zone Medium Density Residential Zone Development Area DEV-RO13 Plains Flood Management Overlay Liquefaction Damage Unlikely Overlay
OVERALL ACTIVITY STATUS:	Discretionary

The Application

1. This application was formally received by the Selwyn District Council on 9 April 2024. Further information was received on 20 May 2024, and this information now forms part of the application.
2. The application proposes to change condition 26 of underlying subdivision consent RC245538, to enable the construction of a vehicle crossing which does not comply with the Business 1 Zone standards of the Operative District Plan.
3. The main aspects of the activity are as follows:
 - a. The applicant is proposing to erect a residential dwelling and attached garage.

- b. The proposed vehicle crossing will have a width of 5.5 metres, and will be located approximately 2.9 metres from the shared accessway to the south of the site.
4. FC240237 has been issued for the site, which requires a finished floor level (FFL) of 37.53m LVD193. The applicant has confirmed that the dwelling complies with this, with the FFL drawn as 37.61m on the plans submitted with this application.

Background

5. As part of the underlying subdivision, the following consent notice was registered on Lot 226 DP 568215:
That Lot 226 is a business (neighbourhood centre) lot and any future development is to be in accordance with RC215538
6. Condition 26 of RC215538 requires that any development on Lot 226 DP 568215 is undertaken in accordance with the Business 1 zone rules of the Townships Volume of the Operative District Plan, including vehicle access.
7. As the wording of the consent notice does not include any provision for an approved land use consent to override the conditions of RC215538, a variation to the subdivision consent is required to allow the proposed vehicle crossing to be constructed.

Description of Proposed Changes

8. Condition 26 of RC215538 (as varied by RC235787) currently reads:
The rules and standards for the Business 1 Zone in the Operative District Plan (including in relation to vehicle access) shall apply to Lot 226 (the Neighbourhood Centre created by subdivision consent RC215485), except where modified by the following additional conditions.
 - a. *All Commercial Service and Retail Activity shall be restricted to a maximum total combined GFA of 870m².*
 - b. *Any individual Commercial Service or Retail Activity tenancy area shall be restricted to a maximum GFA of 350m².*
 - c. *The maximum number of storeys that any building may have is 2. The maximum height of any building shall be 8.0m.*
 - d. *Vehicle access to more than six sites via Right of Way (as opposed to road) is permitted in accordance with resource consent RC235680 & RC235681.*
9. Condition 26 is proposed to read:
The rules and standards for the Business 1 Zone in the Operative District Plan (including in relation to vehicle access) shall apply to Lot 226 (the Neighbourhood Centre created by subdivision consent RC215485), except where modified by the following additional conditions.
 - a. *All Commercial Service and Retail Activity shall be restricted to a maximum total combined GFA of 870m².*
 - b. *Any individual Commercial Service or Retail Activity tenancy area shall be restricted to a maximum GFA of 350m².*
 - c. *The maximum number of storeys that any building may have is 2. The maximum height of any building shall be 8.0m.*
 - d. *Vehicle access to more than six sites via Right of Way (as opposed to road) is permitted in accordance with resource consent RC235680 & RC235681.*
 - e. **The vehicle crossing servicing Lot 25 shall be constructed in accordance with the approved plans for RC245227**

The Existing Environment

10. The application site is currently being developed, with the underlying subdivision consent not yet completed. Lot 25 is located over both of the parent lots, being Lots 266 and 2002 DP 568215 as identified in Figure 1 below:



11. The surrounding sites are also residential allotments in varying stages of development, with the area to the east being a well established residential area, and the area to the south and west still in the process of being subdivided.
12. I visited the site on 3 May 2024.

Statutory Requirements

13. Section 127 of the Resource Management Act states:

127. Change or cancellation of consent condition on application by consent holder –

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent)*
- ...
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if –*
 - (a) *the application were an application for a resource consent for a discretionary activity; and*
 - b. *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –*
 - (a) *made a submission on the original application; and*
 - (b) *may be affected by the change or cancellation.”*

Activity Status

14. Overall, the proposal is a **Discretionary activity** pursuant to Section 127 of the RMA.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS)

15. The proposal is not a change of use of the land and therefore the NES-CS does not apply.

Overall Activity Status

16. At the time of lodgement, the application was assessed/treated as being for a **Discretionary** activity.
17. As per the Activity Status section above, at the time of writing this report the proposal is still for a **Discretionary** activity (i.e. the most restrictive status applicable).
18. Therefore, the proposal is being considered as a **Discretionary** activity overall.

Written Approvals (Sections 95D(e), 95E(3)(a) and 104(3)(a)(ii))

19. The provision of written approvals is relevant to the notification and substantive assessments of the effects of a proposal under sections 95D, 95E(3)(a) and 104(3)(a)(ii). Where written approval has been provided, the consent authority must not have regard to any effect on that person. In addition, that person is not to be considered an affected person for the purposes of limited notification.
20. No written approvals have been provided with the application.

Notification Assessment

Assessment of Adverse Environmental Effects (Sections 95A, 95B, 95D and 95E)

Assessment

21. The receiving environment for this proposal includes the existing environment and the future environment as it could be, i.e. as modified by non-fanciful permitted activities and unimplemented resource consents. In this case, the receiving environment is a recently developed subdivision area of medium density residential allotments.
22. The status of the activity is Discretionary. As such, the Council's discretion is unrestricted and all adverse effects must be considered.
23. The applicant has assessed the proposed change in conditions against the relevant matters for discretion under Rule 17.3.3 of the Operative Plan, which are as follows:
 - *17.3.3.1 Any adverse effects on the ease and safety of vehicle manoeuvres, and on the visibility and safety of pedestrians, cyclists and motorists;*
 - *17.3.3.2 Any potential increase in the cost or difficulty of maintaining the road and vehicle crossings, including transporting of mud and chip on to any sealed road, if the vehicle crossing or vehicle accessway is not sealed.*
 - *17.3.3.3 Any visual effects on street design and residential amenity values from not forming the vehicle crossing or vehicle accessway to the specified standards.*
24. As the proposed change in conditions is required solely due to the vehicle crossing not complying with the Business 1 Zone rules, I consider that the above matters are appropriate and provide suitable coverage of the likely actual and potential effects.
25. With respect to 17.3.3.2, the proposed vehicle crossing will be sealed, therefore no further discussion is required.
Adverse effects on the ease and safety of vehicle manoeuvres, and on the visibility and safety of pedestrians, cyclists and motorists
26. The application proposes to locate the vehicle crossing approximately 2.9 metres from the shared accessway located along the southern boundary of the site. The Applicant submits that this separation is sufficient to avoid any potential conflicts between vehicles turning at each vehicle crossing, and for pedestrians to wait between the two vehicle crossings clear of any vehicles entering or exiting the sites.
27. I agree with this assessment. I also note that East Maddisons Road is a straight road, with clear sight lines provided in both directions of the application site, further reducing the potential for any conflict between road and footpath users.
28. Under RC215538, the application site can also take access from the shared accessway. This accessway services more than six allotments, and would likely pose more risk of conflict than the proposed vehicle crossing, therefore the proposed change in conditions does not represent any increase in effect from what was originally consented.
29. I therefore consider that the actual and potential effects of the proposal on the ease and safety of vehicle manoeuvres, and on the visibility and safety of pedestrians, cyclists and motorists to be less than minor.

Visual effects on street design and residential amenity values from not forming the vehicle crossing or vehicle accessway to the specified standards

30. The applicant considers that no adverse visual effects are anticipated, noting that the separation distance is sufficient to break up the vehicle crossings and avoid the appearance of one continuous sealed vehicle crossing. I agree with this assessment.
31. Further to this, I note that the vehicle crossing will be formed to comply with all other relevant standards applicable to the Business 1 Zone, including width and surfacing, therefore it is not considered that the location of the crossing would result in a discernible effect on street design or residential amenity.
32. The location of the vehicle crossing along the southern boundary of the site is the most practical use of the site, enabling the outdoor living areas to be located in the northern portion of the site, and providing for a high level of on-site residential amenity.
33. Overall, I consider that the actual and potential visual effects on street design and residential amenity values from not forming the vehicle crossing or vehicle accessway to the specified standards will be less than minor.

Positive Effects

34. Positive effects are not relevant to the consideration of notification and will be considered as part of the s 104 assessment later in this report.

Conclusion

35. I consider that the actual and potential effects of the proposal on the wider environment, and on any adjoining properties, will be less than minor.

Public Notification (Section 95A)

36. Section 95A states that a consent authority must follow the steps in the order given to determine whether to publicly notify an application for resource consent.

Step 1: mandatory public notification in certain circumstances (sections 95A(2) and 95A(3))	Y	N
Has the applicant requested that the application be publicly notified?	☐	✓
Is public notification required under section 95C (no response or refusal to provide information or agree to the commissioning of a report under section 92)?	☐	✓
Has the application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	☐	✓

Step 2: public notification precluded in certain circumstances (sections 95A(4) and 95A(5))	Y	N
Are all activities in the application subject to one or more rules or national environmental standards that preclude public notification?	☐	✓
Is the application for one or more of the following, but no other types of activities: • A controlled activity? • A boundary activity only (as per the definition of "boundary activity" in s 87AAB of the Act)?	☐	✓

Step 3: public notification required in certain circumstances (sections 95A(7) and 95A(8))	Y	N
Is the activity subject to a rule or national environmental standard that requires public notification?	☐	✓
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor?	☐	✓

Step 4: public notification in special circumstances (section 95A(9))	Y	N
Do special circumstances exist in relation to the application that warrant public notification?	☐	✓

37. In conclusion, in accordance with the provisions of section 95A, the application must not be publicly notified and a determination on limited notification must be made, as follows.

Limited Notification (Section 95B)

38. Section 95B states that a consent authority must follow the steps in the order given to determine whether to give limited notification of an application for resource consent, if it is not publicly notified under section 95A.

Step 1: certain affected groups and affected persons must be notified (sections 95B(1)-(4))	Y	N
Are there any affected protected customary rights groups, as defined in s 95F?	☐	✓
Are there any affected customary marine title groups, as defined in s 95G (in the case of an application for a resource consent for an accommodated activity (as defined in the Act))?	☐	✓
Is the proposed activity on or adjacent to, or may it affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and is the person to whom that statutory acknowledgement is made an affected person under s 95E?	☐	✓

Step 2: limited notification precluded in certain circumstances (sections 95B(5) and 95B(6))	Y	N
Are all activities in the application subject to one or more rules or national environmental standards that preclude limited notification?	☐	✓
Is the application for a controlled activity only and not a subdivision of land?	☐	✓

Step 3: certain other affected persons must be notified (sections 95B(7)-(9))	Y	N
In the case of a "boundary activity", is an owner of an allotment with an infringed boundary an affected person?	☐	✓
For any other activity, are there any affected persons in accordance with section 95E of the Act (as assessed in the Assessment of Adverse Environmental Effects above)?	☐	✓

Step 4 – Limited notification in special circumstances	Y	N
Do any special circumstances exist in relation to the application that warrant notification to any other persons not already determined to be eligible for limited notification (excludes persons assessed under section 95E as not being affected)?	☐	✓

39. In conclusion, in accordance with the provisions of section 95B, the application must not be limited notified.

Notification Recommendation

40. I recommend that the application (RC245227) is processed on a **non-notified** basis in accordance with sections 95A-E of the Resource Management Act 1991.

Report by: Olivia Robertson, Consultant Planner	Date: 4 June 2024
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Notification Decision

41. For the reasons set out in the report above, the Notification Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 11 June 2024
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Section 104 Assessment

42. Section 104 of the Act sets out the matters the Council must have regard to when considering an application for resource consent.
43. Section 104(1), in particular, states as follows:

104 Consideration of applications

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M [Effect of incorporation of MDRS in district plan], have regard to—*
- (a) any actual and potential effects on the environment of allowing the activity; and*
 - (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) any relevant provisions of—*
 - (i) a national environmental standard;*
 - (ii) other regulations;*
 - (iii) a national policy statement;*
 - (iv) a New Zealand coastal policy statement;*
 - (v) a regional policy statement or proposed regional policy statement;*
 - (vi) a plan or proposed plan; and*
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

...

44. Section 104(2) states that a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan, i.e. the operative plan, permits an activity with that effect.
45. Section 104B applies to discretionary and non-complying activities. It allows that the consent authority may grant or refuse the application, and, if granted, it may impose conditions under s 108.

Section 104 – Effects on the Environment

46. An assessment of the adverse environmental effects of the proposal was completed above as part of the notification section of this report. That assessment is equally applicable to section 104 and is applied as such. Again, it is noted that the permitted baseline is relevant (section 104(2)), and regard must not be had to any person who has given written approval (section 104(3)(ii)).
47. It is also appropriate to consider the positive effects of the proposal at this section 104 stage. I consider that the proposed change in conditions will allow the applicant to develop the site in a manner which best suits their needs, and provides for a high level of on-site amenity.
48. As concluded in my notification assessment, I consider that the adverse effects on the environment resulting from the proposal will be less than minor. Taking the positive effects into account, on balance and overall, I conclude that the adverse effects of the proposal will be less than minor.

Section 104(1)(b) – Relevant Provisions of Statutory Documents

District Plans (section 104(1)(b)(vi))

Operative Plan – Objectives and Policies

49. The Operative Plan objectives and policies that I consider relevant relate to transport.
50. Objective B2.1.4 seeks to avoid, remedy or mitigate adverse effects from land transport networks. Supporting policy B2.1.4(a) requires that all sites have legal access to a legal road which is formed to the necessary standard, while policy B2.1.10 seeks to ensure that vehicle crossings, among other matters, are designed and positioned to ensure good visibility for all road users, and safe access.
51. Aside from the location within the required setback from the adjoining shared accessway, the vehicle crossing will be formed to the required standards. As assessed previously, the location of the proposed vehicle crossing is

unlikely to result in adverse effects on visibility or safety, therefore I consider that the proposal is generally consistent with the above provisions.

52. Overall, I consider the proposal to be generally in keeping with the Operative Plan.

Partially Operative Plan – Objectives and Policies

53. The Partially Operative Plan objectives and policies that I consider relevant relate to transport.
54. TRAN-O1 seeks to connect people and places through safe land transport corridors, and TRAN-P7 supports this by requiring the design and position of accessways to be safe and efficient for road users, pedestrians and cyclists. The proposed vehicle crossing infringement will not have an impact on the safety of transport corridors or road users, and has been designed in a manner that best suits the site and which most nearly complies with the relevant rules.
55. Overall, I consider the proposal to be generally in keeping with the Partially Operative Plan.

Other Relevant Documents (section 104(1)(b)(i)-(v))

Canterbury Regional Policy Statement (CRPS)

56. The District Plans give effect to the relevant higher order documents, including the CRPS. Therefore, I consider there is no need to assess these provisions.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS)

57. The NES-CS was discussed earlier in this report, with my conclusion being that it does not apply to the proposal.

Section 104(1)(c) – Other Matters

58. Given the nature and scale of the proposal, I do not consider that there are any other matters which are relevant to the application.

Section 104(3)(d) – Notification consideration

59. Section 104(3)(d) states that a consent authority must not grant a resource consent if the application should have been notified and was not. This consideration under s 104 does not raise any issues that would lead me to the conclusion that the application should have been notified. Therefore, it is my view that section 104(3)(d) does not preclude the granting of consent in this case.

Part 2 – Purpose and principles

60. The consideration under section 104 is subject to Part 2 of the Act – Purpose and principles.
61. The purpose of the Act is contained within section 5 and it is to promote the sustainable management of natural and physical resources. *Sustainable management* means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while: sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and avoiding, remedying, or mitigating any adverse effects of activities on the environment.
62. The other sections of Part 2, sections 6, 7 and 8, address matters of national importance, other matters and Te Tiriti o Waitangi (the Treaty of Waitangi) respectively.
63. The relevant District Plans have been prepared having regard to Part 2, with a coherent set of policies designed to achieve clear environmental outcomes; therefore, taking into account relevant case law, I consider that assessment under Part 2 is unlikely to be necessary. For the sake of completeness, however, Part 2 is briefly assessed below.
64. In addition to section 5, I note that the following clauses of Part 2 would be particularly relevant:
- 7(b) *the efficient use and development of natural and physical resources*
 - 7(c) *the maintenance and enhancement of amenity values*

65. Based on my assessment of the proposal in this report, I conclude that the proposal will be consistent with Part 2 of the Act, as the proposal will enable the efficient use of residentially zoned land in a manner that will not detract from the amenity of the surrounding environment.

Conclusions

66. This application is to change Condition 26 of RC215538, to enable the establishment of a vehicle crossing in a non-complying position.
67. The application is a discretionary activity pursuant to section 127 of the Act
68. The actual and potential effects of the proposed activity are less than minor, on both adjoining properties and the wider environment.
69. The proposal is generally in keeping with the provisions of the District Plans.
70. There are no other matters considered relevant to the proposed activity.
71. Having considered all relevant matters, on balance and overall, I conclude that the application may be granted, subject to conditions of consent.

Recommendation

72. I recommend that change of conditions RC245227 is **granted**, pursuant to sections 104, 104B and 127 of the Resource Management Act 1991, subject to the conditions of consent below pursuant to sections 108, 108AA and 220 of the Act.

RC245227 Change of Condition

Condition 26 shall now read:

The rules and standards for the Business 1 Zone in the Operative District Plan (including in relation to vehicle access) shall apply to Lot 226 (the Neighbourhood Centre created by subdivision consent RC215485), except where modified by the following additional conditions.

- a. *All Commercial Service and Retail Activity shall be restricted to a maximum total combined GFA of 870m².*
- b. *Any individual Commercial Service or Retail Activity tenancy area shall be restricted to a maximum GFA of 350m².*
- c. *The maximum number of storeys that any building may have is 2. The maximum height of any building shall be 8.0m.*
- d. *Vehicle access to more than six sites via Right of Way (as opposed to road) is permitted in accordance with resource consent RC235680 & RC235681.*
- e. *The vehicle crossing servicing Lot 25 shall be constructed in accordance with the approved plans for RC245227.*

Attachment

1. RC245227 Land Use Approved Plans – **Lot 25 Maddisons Quarter Concept Design**

Full conditions of RC215538 (as amended by RC235787 and RC245227):

Earthworks

1. The development and activity shall proceed in accordance with the information submitted with the application RC215538, the further information provided and any further information or amendments provided in the response to comments and the comments on draft conditions provided by the Applicant.

2. Any uncontrolled fill encountered during subdivision works shall be removed and replaced with controlled compacted clean fill in accordance with NZS4431:1989.
3. Hours of earthworks operations shall be limited from 7am to 7pm Monday to Saturday. These hours shall exclude public holidays and Sunday, unless otherwise agreed by Selwyn District Council.
4. All construction noise on the site shall be planned and undertaken to ensure that construction noise emitted from the site does not exceed the noise limited outlined in Table 2 of NZS6803:1999 Acoustics – Construction Noise. Sound levels associated with construction activities shall be measured and assessed in accordance with the NZS6803:1999 Acoustics – Construction Noise.
5. The Consent Holder shall implement the best practicable option to avoid or mitigate the dispersal and deposition of dust from construction and earthworks activities beyond the boundary of the property.
6. The total area of disturbed land at any one time shall not exceed 4 hectares.
7. The maximum depth for all excavations shall not exceed 4.2 metres below natural ground level.
8. A Dust Management Plan which includes measures to ensure compliance with condition 5 above is to be prepared by a suitably qualified and experienced practitioner and provided to Selwyn District Council for approval at least 10 working days before work under this consent begins on site.
9. The Consent Holder shall implement the best practicable option to avoid or mitigate the discharge of sediment laden runoff beyond the boundary of the property.
10. On the completion of works:
 - a. All disturbed areas shall be returned to their original state as near as is practicable and stabilised and/or revegetated; and
 - b. All spoil and other waste material from the works shall be removed.

Contaminated Soils / unexpected contamination

11. The area identified at 870 Selwyn Road as being contaminated shall be remediated in accordance with the recommendations in the ENGEO Report titled “Combined Preliminary and Detailed Site Investigation: 870 Selwyn Road” dated 22.01.2021.
12. No earthworks are to occur in the area identified in the ENGEO Report titled “Combined Preliminary and Detailed Site Investigation: 870 Selwyn Road” dated 22.01.2021 until the area has been investigated by a Suitably Qualified and Experienced Practitioner with respect to contaminated land, and an updated report, and remedial action plan and site validation report (if necessary) supplied to Council.
13. Where contaminated material (exceeding residential guidelines) is removed from the site, the Consent Holder shall submit to the Team Leader Compliance waste manifests from the contractor and cartage company that clearly identify the stockpile reference number against the laboratory sample number at the end of the remediation process.
14. Any contaminated material (exceeding residential guidelines) that is excavated and stored on the site shall be stockpiled on an already contaminated part of the site or on a surface that will prevent the stockpile from contaminating a new part of the site.
15. Any replacement soils shall be certified as clean fill in accordance with the definition of Ministry for the Environment’s Guide to Management of Cleanfills (2002) or tested by a Suitably Qualified and Experienced Practitioner with respect to contaminated land to confirm that they are suitable for residential land use under the National Environmental Standard (NES) for Assessing and Managing Contaminants in Soil to Protect Human Health. The soil trace element concentrations that define “cleanfill” (per the MfE 2002 cleanfill guidelines, Section 4.3.2) for the South West site are those of “Regional Yellow Brown Stony” soils. These contaminant concentrations are available on the “Soil Trace Elements Level 2” layer on Canterbury Maps. For convenience, those values have been tabulated below:

Contaminant	Regional Yellow Brown Stony background levels (mg/kg)
Manganese	721.4
Arsenic	6.35
Cadmium	0.14
Chromium	19.89

Copper	11.68
Mercury	0.07
Nickel	13.91
Lead	19.75
Zinc	69.58
Total DDT	0.431
Polycyclic aromatic hydrocarbons, benzo(a)pyrene toxicity equivalent (BaP TE)	0.922

Advice note: Different levels apply to the South East Faringdon development area that is subject to separate consents.

16. Where evidence of a contaminated site/materials not identified in the application is found at any stage of the site development works, then work shall cease at that site until the risk has been assessed by a Suitably Qualified and Experienced Practitioner with respect to contaminated land in accordance with current Ministry for the Environment Guidelines and, if required, a resource consent obtained under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (or most recent subsequent amendment). Once the risk has been assessed and any required resource consent obtained, the Consent Holder shall undertake all necessary work to remediate the contaminated area to applicable land use NESCS and in accordance with the resource consent (as appropriate). All works shall be undertaken at the Consent Holder's expense.
17. The Consent Holder shall submit to the Team Leader Compliance for their approval a Site Validation Report prepared by a Suitably Qualified and Experienced Practitioner with respect to contaminated land and in accordance with the Ministry for the Environment Contaminated Land Management Guidelines No.1 – Reporting on Contaminated Sites in New Zealand (Revised 2011) at the end of the remediation process.
18. After the demolition of buildings built prior to 1 January 2000 and prior to earthworks, an asbestos clearance certificate shall be provided to Selwyn District Council.

Advice note: Prior to the demolition of buildings that were constructed or installed prior to 1 January 2000, a full asbestos survey is highly recommended.

Accidental Discovery Protocol

19. In the event of any discovery of material suspected to be evidence of pre-1900 human activity, taonga/treasured artefacts or Human remains/Kōiwi in a 'place', the following applies:
 - a. Work shall cease immediately at and within 20m of the place. This 20m perimeter shall become the 'affected area'.
 - b. The contractor shall shut down all machinery within the affected area, secure the affected area, and immediately advise the Site Manager.
 - c. The Site Manager shall secure the affected area and immediately notify the Heritage New Zealand Pouhere Taonga ("HNZPT") Archaeologist, Selwyn District Council and Environment Canterbury. HNZPT will advise if further assessment by a suitably qualified archaeologist and/or an archaeological authority application is required from the Consent Holder.
20. If the material is of Māori origin, in addition to the requirements in the condition above, the Site Manager shall immediately notify Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, subject to meeting statutory requirements (Heritage New Zealand Pouhere Taonga Act 2014, Protected Objects Act 1975). In this instance, Te Ngāi Tūāhuriri Rūnanga, Te Taumutu Rūnanga and the HNZPT Archaeologist will jointly advise if further assessment by a suitably qualified archaeologist and/or an archaeological authority is required from the Consent Holder.
21. If Human remains/Kōiwi are uncovered, in addition to the conditions above, the Site Manager shall immediately advise the NZ Police. The affected area must be treated with the utmost discretion and respect. Remains are not to be moved until such time as Te Ngāi Tūāhuriri Rūnanga, Te Taumutu Rūnanga, HNZPT and NZ Police have responded and agreed that they can be moved.

22. Any works within an affected area shall not resume until Te Ngāi Tūāhuriri Rūnanga, Te Taumutu Rūnanga and HNZPT (and NZ Police in the case of Human remains/Kōiwi) authorise work to continue.
23. Prior to commencing work, the Consent Holder shall ensure that all persons involved in, or supervising, works on-site are familiar with the Accidental Discovery Protocol.
24. The Accidental Discovery Protocol shall be clearly displayed and accessible on site at all times during work under this consent.

Advice Notes:

- *These conditions apply in addition to any agreements that may be in place between the Consent Holder and the Papatipu Rūnanga (Cultural Site Accidental Discovery Protocol).*
- *Under the Heritage New Zealand Pouhere Taonga Act 2014 an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. For sites solely of Māori origin, this evidence may be in the form of accumulations of shell, bone, charcoal, burnt stones, stone tools, etc. In later sites, artefacts such as bottles or broken glass, ceramics, metals, etc. may be found or evidence of old foundations, wells, drains, tailings, races or other structures. Human remains/Kōiwi may date to any historic period.*
- *It is unlawful for any person to destroy, damage, or modify the whole or any part of an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga. This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The Heritage New Zealand Pouhere Taonga Act 2014 provides for substantial penalties for unauthorised damage or destruction.*

Fencing and Landscaping

25. All fencing and landscaping shall be undertaken in general accordance with the Approved Landscape and Fencing Plans, except where amended by any other condition of consent.

Advice note: In circumstances where fencing and landscaping is not shown on these plans the relevant Living Z zone rules apply, except where amended by any other condition of consent.

Business – Neighbourhood Centre (Lot 226)

26. The rules and standards for the Business 1 Zone in the Operative District Plan (including in relation to vehicle access) shall apply to Lot 226 (the Neighbourhood Centre created by subdivision consent RC215485), except where modified by the following additional conditions.
 - a. All Commercial Service and Retail Activity shall be restricted to a maximum total combined GFA of 870m².
 - b. Any individual Commercial Service or Retail Activity tenancy area shall be restricted to a maximum GFA of 350m².
 - c. The maximum number of storeys that any building may have is 2. The maximum height of any building shall be 8.0m.
 - d. Vehicle access to more than six sites via Right of Way (as opposed to road) is permitted in accordance with resource consent RC235680 & RC235681.
 - e. The vehicle crossing servicing Lot 25 shall be constructed in accordance with the approved plans for RC245227.

Issuing Building Consent prior to s224 Certificate

27. The lots shall remain in the ownership of Hughes Developments Limited until the s224(c) certificate is issued for the subject allotment.
28. Where any building is erected prior to the issue of the s224(c) Certificate, the Council's Resource Monitoring Officer shall be supplied with a Building Location Certificate from a Registered Professional Surveyor prior to the pouring of foundations. The Building Location Certificate shall confirm that the building is contained wholly within the lot to which it relates and meets the Operative District Plan requirements for bulk and location.
29. No residential dwelling shall be occupied in whole or in part prior to the issue of the s224(c) Certificate for the subject lot.
30. Any services associated with buildings on an allotment shall not be installed until such time that the subdivision services are installed and backfilled for that allotment and have been signed off by Council's Development Engineer.

Selwyn District Council Advice Notes for the Consent Holder

Lapse Period (Subdivision Consent)

- a) Pursuant to section 125 of the Resource Management Act 1991, this subdivision consent lapses five years after the date of issue of the decision, i.e. the date of receipt of the Notice of Decision email, unless:
 - (i) A survey plan is submitted to Council for approval under section 223 of the Act before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the Act; or
 - (ii) Before the consent lapses an application is made to the Council to extend the period after which the consent lapses and the Council decides to grant an extension.

Section 224 Certificate Issuing Requirements (Subdivision)

- b) A Section 224 Certificate will not be issued until all Council invoices, including engineering fees and any other related costs associated with the Resource Consent have been paid in full.

Resource Consent Only

- c) This consent is a Selwyn District Council resource consent under the Resource Management Act. It is not an approval under any other Act, Regulation or Bylaw. Separate applications will need to be made for any other approval, such as a water race bylaw approval or vehicle crossing approval.

Building Act

- d) This consent is not an authority to build or to change the use of a building under the Building Act. Building consent will be required before construction begins or the use of the building changes.

Regional Consents

- e) This activity may require resource consent(s) from Environment Canterbury (ECan). It is the consent holder's responsibility to ensure that all necessary resource consents are obtained prior to the commencement of the activity.

Monitoring

- f) In accordance with section 36 of the Resource Management Act 1991, no monitoring fee has been charged.
- g) Any resource consent that requires additional monitoring due to non-compliance with the conditions of the resource consent will be charged additional monitoring fees at a time and cost basis.

Vehicle Crossings

- h) Any new or upgraded vehicle crossing requires a vehicle crossing application from Council's Infrastructure Department prior to installation. For any questions regarding this process please contact transportation@selwyn.govt.nz. Use the following link for a vehicle crossing information pack and to apply online: [Selwyn District Council - Application to Form a Vehicle Crossing \(Entranceway\)](#)

Impact on Council Assets

- i) Any damage to fixtures or features within the Council road reserve that results from construction or demolition on the site shall be repaired or reinstated at the expense of the consent holder.

Vehicle Parking During the Construction Phase

Selwyn District Council is working to keep our footpaths safe and accessible for pedestrians, including school children. The Council also seeks to avoid damage to underground utility services under footpaths, e.g. fibre broadband. During the construction phase (and at all other times), please:

- park only on the road or fully within your property – it is illegal to obstruct or park on a footpath; and
- arrange large deliveries outside of peak pedestrian hours, e.g. outside school start/finish times.

Report by: Olivia Robertson, Consultant Planner	Date: 4 June 2024
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Decision

For the reasons set out in the report above, the Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 11 June 2024
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