

BEFORE THE INVERCARGILL CITY COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of application for resource consent for the
Hawthorndale Care Village

BY **THE HAWTHORNDALE CARE VILLAGE
CHARITABLE TRUST**
Applicant

**BRIEF OF EVIDENCE OF LUKE GERARD MCSORILEY FOR THE
HAWTHORNDALE CARE VILLAGE CHARITABLE TRUST**

November 3, 2020

1. My full name is Luke Gerard McSoriley. I hold the degrees of Bachelor of Resource Studies, Post-graduate Diploma in Resource Studies and a Master of Resource and Environment Planning. I am a Full Member of the New Zealand Planning Institute.
2. I have nineteen years' experience as a Resource Management Planner in a variety of resource management roles in Southland and overseas. I currently work for WSP New Zealand Limited from its Invercargill Office and have done so since March 2013.
3. I am familiar with the Code of Conduct for Expert Witnesses contained in Environment Court of New Zealand Practice Note 2014. I have read and agree to comply with that Code. My evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

4. In my evidence I discuss my involvement in the resource consent application (the application) and provide; background; a description of the activity, a brief overview of the application including changes that have been made since it was lodged; discuss the status of the activity in relation to the applicable district plan rules, discuss the effects of the activity, provide a response to the Council Officer's Section 42A report and discuss the relevant statutory considerations.

Involvement in the Application

5. I drafted the resource consent application which was lodged with Invercargill City Council (ICC) on 15th May 2020. I also drafted a further information response dated 1st July 2020 and provided further clarification in an e-mail on 23rd October 2020. I have read the submissions and I have visited the site.

Response to Section 42A Report

6. I have read Ms Steele's 42A report and agree with the recommendation to grant resource consent. The reasons why I agree with the recommendation are outlined below. I support the recommended conditions outlined in the Section 42A but have recommended some changes and an additional condition as detailed in Appendix 1 of my evidence.

Background

7. The Hawthorndale Care Village Charitable Trust (THCVCT) is a charitable trust proposing construction of a new care village (The Hawthorndale Care Village) at the former Hawthorndale School site in the suburb of Hawthorndale in Invercargill.

8. The proposed care village development will model the De Hogeweyk facility in the Netherlands which is internationally renowned for the delivery of innovative dementia services and accommodation.

The Activity

9. The proposed HCV development will be formed of an 86-bed aged residential care facility of thirteen residential care homes (buildings) with 6 or 7 beds per home. The residential care homes are a mix of detached and semi-detached buildings with two central blocks formed of four attached care homes. The HCV also includes 19 independent residential living units and 22 residential apartments. HCV includes an administration block facing State highway 1 Tay Street, landscaped grounds, village amenities, loading bay, internal access roads and car parking areas. A full description of the HCV was provided in the resource consent application along with detailed plans of the development.

Activity Status

10. As outlined in the resource consent application aspects of the HCV proposal are discretionary activities and other aspects are non-complying. As such bundling of the activities is considered appropriate and the proposed HCV development is therefore a Non-Complying Activity. The proposed demolition of the former Hawthorndale Scout building at 32 Stuart Street is a Controlled Activity. The application was publicly notified at the applicant's request on 17th August 2020.

Receiving Environment

11. The application site is located at 40 Fairview Avenue and 32 Stuart Street, Hawthorndale Invercargill. The application relates to a large vacant property approximately 2.6ha in size that was previously occupied by Hawthorndale Primary School (40 Fairview Avenue). A second adjoining property 809m² in size also forms part of the application site and this property is occupied by the former Hawthorndale Scout Hall (32 Stuart Street). The resource consent application (Section 3) provides a detailed description of the receiving environment. I adopt those descriptions for the purposes of my evidence.

Community Engagement & Consultation

12. In late April and early May 2020, the applicant implemented a community engagement and consultation phase in relation to the proposed development. This included mail out of a letter and plans of the proposed development to all neighbouring property owners and occupiers. A total of 126 letters were sent as part of this process. The intention of the letter was to inform

the Hawthorndale community, particularly neighbouring residents, about the proposal and provide an opportunity for feedback. The THCVCT had planned to hold a community drop-in session prior to lodgement of the resource consent application. Unfortunately, this had to be postponed due to the Covid-19 pandemic.

13. On the 22 October 2020 the applicant met with three of the Tay Street submitters to discuss their submissions. At the time of writing the applicant was intending to follow up with these submitters and provide additional information.

Matters Raised in Submissions

14. At the close of the public notification process a total of 6 submissions had been received. The recommending report has summarised the matters raised in submissions and I adopt that for the purposes of my evidence. Matters raised in the submissions are discussed in my evidence below in the discussion on actual and potential effects.

The Permitted Baseline Section 104(2)

15. Under section 104(2) of the RMA, the Council may disregard an adverse effect of an activity on the environment if the district or regional plan or a national environmental standard permits an activity with that effect. In this instance, as outlined in the section 7 of the resource consent application the permitted baseline is formed of residential activity and residential care activity (up to 8 persons) which could be undertaken on the site. These are both permitted activities on the site under the Residential 1 Zone of the operative District Plan.
16. In my opinion the 19 independent living units proposed as part of HCV are residential activities consistent with the District Plan definition of residential activity. The 22 proposed residential apartments proposed as part of HCV are also consistent with the District Plan definition of residential activity. The persons living in these residential units will not be supervised and will live independently in a residential unit. As residents age or fall into ill health they may move from the independent units or apartments into the care homes where the accommodation is supervised. In my opinion, the independent living units and residential apartments are therefore consistent with the District Plan definition of residential activity:

Means the use of land and buildings by an individual, a family unit or a group of unrelated individuals living together in a single household which is self-contained in respect of sleeping, cooking, dining, bathing and toilet facilities, and includes ancillary entertainment and recreation activities and home detention.

17. The application seeks resource consent for the HCV as a whole and all aspects of the development are connected and integral to the overall concept. However, in my opinion the independent living units and residential apartments are consistent with the District Plan definition of residential activity and can be considered part of the permitted baseline given residential activity is permitted on the site.
18. In considering the permitted baseline as it applies to the site, I note that the independent living residential units and the apartments exceed the one residence per 400m² requirement under Rule RES1Z-R5 of the District Plan. In addition, thirteen of the first-floor level residential apartments have outdoor living space less than the 15m² required under Rule RES1Z-R910. The three units at the Stuart Street property also require resource consent under the outdoor living rule RES1Z-R9. While resource consent is sought under these rules for these residential activities that form part of HCV the key point in relation to the permitted baseline is that residential activity is permitted on the site.
19. Residential care activity of up to 8 persons could be undertaken on the site as part of the permitted baseline.
20. The District Plan through rules and standards relating to noise permits a set level of noise from activities in the Residential 1 Zone. As discussed further below expert evidence from Mr Smith indicates that with use of appropriate mitigation via conditions of consent the HCV can operate in a manner that complies with the relevant District Plan standards in relation to noise.

Section 104 Matters

21. The matters that the Commissioner must have regard to include the actual or potential effects on the environment of allowing the activity, any relevant Plan or Proposed Plan provisions, and any other matter the Commissioner considers relevant. Section 104 is subservient to Part 2 of the Act.

Section 104D The Gateway Tests

22. Aside from the proposed demolition activity (which is controlled) the activity status of the proposal is non-complying. When considering a non-complying activity, the Council may only, in accordance with section 104D, grant a resource consent for the activity if it is satisfied that the adverse effects of the activity are minor, or the application is for an activity that will not be contrary to the objectives and policies of the relevant plan or proposed plan. If the application passes one of either of the limbs of the “gateway” tests in section 104D, under section 104B the Council may grant or refuse consent and if it grants the application, may impose conditions under section 108 of the RMA. There is no primacy given to either of the two limbs, so if one

limb can be passed then the 'test ' is passed. As one of the limbs of the 'gateway test' has been passed, then the application is eligible for approval under s104.

23. My evidence concludes that the effects of the activity are no more than minor, and the effects gateway test is met. This opinion is based on the conclusions of the Traffic and Noise Assessments and, the expert evidence of Mr Venkataraman and Mr Smith. This opinion is also based on the use of appropriate mitigation measures promoted through conditions of consent.
24. I am also of the opinion that when the objectives and policies are read and appraised as a whole the proposed activity also meets the second gateway test and is not contrary to the objectives and policies of the District Plan. I understand the phrase "not contrary" means that the proposal must not be opposed in nature or opposite to what the policies are intending to achieve. The relevant plan provisions and my assessment of the activity against them are detailed below at paragraphs [54] – [63]. I note that my analysis in these paragraphs addresses Section 104 and 104D assessments.
25. I will now discuss the actual and potential effects of the activity before discussing the statutory considerations including the relevant plan as part of the assessment of the application under the broader Section 104 assessment.

ACTUAL OR POTENTIAL EFFECTS

26. An Assessment of Environmental Effects (AEE) of the proposed activity was supplied with the resource consent application. In my evidence today I will focus on the key environmental effects and related issues that have been discussed in the recommending report along with those raised by submitters. Mr Venkataraman has discussed the environmental effects of the proposal in relation to transportation / traffic matters. I comment on this area briefly given he has already provided an expert opinion on behalf of the Applicant. Mr Smith has discussed the environmental effects of the proposal in relation to noise

Noise

27. A Noise Assessment of the HCV proposal was provided on 23 October 2020. The Noise Assessment notes that all activities readily comply with the daytime standard and are not expected to give rise to unreasonable noise effects at surrounding properties. It then notes that:

Sounds levels when assessed at dwelling facades would meet the night time activity standard. While a technical non-compliance in terms of the assessment location, we consider the effects would be reasonable on this basis.

28. The Noise Assessment concludes:

Sound from activity within the site will sometimes be audible outside at the neighbouring houses, but it will be at a reasonable sound level compatible with a residential area and should not interfere with normal domestic activities.

There is the potential for minor annoyance from vehicles using the internal road / car parks. This will predominantly be during shift changes. Management practices will be adopted to restrict staff vehicle movements after 2200h to the Tay Street frontage and adjacent the Monarch Hotel.

Noise effects from the additional traffic on Tay Street will be negligible, considering the existing levels of traffic on SH1. Noise from vehicles on public roads is permitted by the District Plan and the state highway network anticipates traffic at all times of the day.

Construction noise effects can be managed using standard industry practices defined in NZS 6803.

29. The Noise Assessment notes there is potential for minor annoyance from vehicles using the internal road and access parks after 2200h and before 0700h. In response the applicant is promoting use of a condition requiring all staff vehicles accessing and parking on the site after 2200h and before 0700h to use the on-site car parks fronting Tay Street. Mr Smith notes in his evidence that this would resolve potential breaches of the District Plan noise standards and address the potential for minor annoyance. Management of staff parking on the site in this manner will enable the HCV to operate in a manner that complies with the relevant District Plan standards. Mr Smith in his evidence notes that he considers the potential noise effects from car parking would be less than minor (paragraphs 11 – 15).

30. In terms of the suggested use of an acoustic fence Mr Smith in his evidence concludes that appropriate noise levels can be achieved with a corrugated iron fence, provided it is well maintained. A condition of consent is promoted to ensure that the existing fence is upgraded and maintained. Mr Smith concludes that any plant within the developed site can achieve the District Plan noise standards through appropriate design. In relation to construction noise effects Mr Smith recommends an amended Construction Noise and Vibration Management

Plan condition. I note that noise effects associated with construction activity will be temporary and limited to the periods of construction.

31. Mr Smith's evidence concludes that subject to use of appropriate conditions controlling the location of staff parking the permitted activity standard of the District Plan can be achieved. In addition, he considers that infrequent vehicle movements adjacent the eastern property boundary would result in less than minor noise effects.
32. Relying on the evidence of Mr Smith in my opinion subject to development and use of appropriate mitigation measures via conditions of consent any noise effects from the HCV will be no more than minor.

Amenity

33. I agree with Ms Steele's conclusion that the proposal will provide a high level of amenity for residents of the independent living units, apartments and residential care homes (paragraph 7.11).
34. In terms of the built form of HCV I agree with Ms Steele's conclusion that the adverse effects of the proposed built form on site will be comparable to that which would occur if the site were developed for residential activities, and will be less than minor (paragraph 7.20).
35. I agree with Ms Steele's opinion that the HCV maintain a high level of visual amenity at the public interfaces and would not appear out of place in the surrounding residential environment (paragraph 7.21). I also agree with Ms Steele's opinion that any adverse visual effects on the streetscape would be no more than minor.

I agree with Ms Steele's conclusion that overall, the adverse effects on residential amenity anticipated to arise as a result of the development would be no more than minor and the proposed development would maintain the residential character and amenity of the surrounding area (paragraph 7.41).

36. In terms of actual and potential noise effects of the HCV I rely on the conclusions of the Noise Assessment from Altissimo Consulting Limited and the evidence of Mr Smith. As outlined above Mr Smith concludes that subject to adoption of appropriate measures, noise limits will comply with the permitted activity standards in the Plan and adverse noise effects will be no more than minor. These measures include adoption and use of a Noise Management Plan and management of use of staff car parking activity at night time to ensure the noise standards in the Plan are adhered to.

Retail and Commercial Activities

37. As outlined in the resource consent application and in Ms Hannan's evidence the retail and commercial aspects of the HCV are integral to the De Hogeweyk Model the proposal is based on and the Trust's vision for the Village. I agree with Ms Steele's opinion that these activities will function as an ancillary activity and will not give rise to any adverse effects on the viability of the city centre or other commercial centres within the City. These aspects of the HCV will also have positive social effects in terms of enabling residents to live as normal a lifestyle within the Village as possible. In my opinion any adverse effects of the retail and commercial activities proposed as part of HCV will be no more than minor.

Signage

38. The 42A report raises concerns about proposed signage associated with HCV. In response to these concerns as outlined in Mr Hamlin's evidence the applicant has provided additional information on proposed signage and clarified the size and height of the signs. In my opinion the revised signage is appropriate for the site and will not give rise to any significant adverse environmental effects. While the site is in a residential zone it is a large 2.7ha site with a history of non-residential use. I note no submissions have raised concerns with the proposed signage. The revised signage is reduced in size and the height of the signs has been clarified. There are benefits associated with clear labelling of the HCV through larger signs in terms of enabling visitors to locate the Village, particularly the main entrance. In my opinion the revised signage will not be out of scale with the built form on the site, will not be visually dominant and will not detract from residential amenity. In my opinion any adverse effects associated with signage will be no more than minor.

Transportation and Traffic

Tay Street Access

39. A Traffic Impact Assessment (TIA) was provided as part of the application. As Ms Steele notes in the 42A report the TIA includes an assessment of the traffic impacts on the road network. Changes to the proposed access to Tay Street were promoted by the applicant in response to feedback received from NZ Transport Agency (Waka Kotahi). Waka Kotahi have subsequently made a neutral submission supporting the proposed Tay Street access location and providing suggested conditions of consent. The applicant promotes use of these conditions of consent. I note that submission points were made from neighbours concerned about the location of the Tay Street access. The applicant moved the access location in response to a request from Waka Kotahi. Waka Kotahi have subsequently submitted

supporting the proposed access location. The evidence of Mr Venkataraman supports the location of the proposed access to Tay Street and proposed changes to State highway 1. He concludes that it represents the best option from a traffic safety viewpoint.

Car Parking

40. In relation to car parking I do wish to clarify proposed staff numbers on the site at any one time in contrast to the total number of staff that will work at HCV. The first RFI letter from the Council states that *'The application notes that a maximum of 84 staff will be on site at one time'*. It appears that this may be a reference to the original Traffic Assessment which states that the HCV will have 84 staff on site at peak. Subsequently the proposed shift arrangements and number of staff on site at any one time have been clarified. The reference to 84 staff being on site at any one time is incorrect and the actual figure is 50. This covers shift staff and staff that may be working in the commercial aspects of the HCV.
41. The required number of staff car parks under the District Plan should therefore be assessed at 50 staff not 84. The car park rule for residential care activity requires: *'One staff car park per two staff or part thereof on site at any one time, plus one car park per four care residents or part thereof'*. As Mr Venkataraman has noted in his evidence this equates to a requirement for 25 on-site car parks for staff under the District Plan. As detailed on the amended site plan provided 23 October 2020 there are now 62 onsite car parks proposed for staff. I note here that if Ms Steele's view that the entire HCV should be considered as Residential Care Activity the required number of on-site car parks reduces further as only one car park per 4 residents would be required for the Independent Living Units and Residential Apartments rather than 1 car park per residential unit.
42. In terms of car parking I note the evidence of Mr Venkataraman who concludes that there will be sufficient on-site car parking available and any adverse effects associated with car parking will be no more than minor. Given clarification of the number of staff on the site at any one time as outlined above the HCV will have more on-site car parks than the District Plan requires. As a result, resource consent is not needed under Rule TRA-R1 'Off-Street Car Parking Requirements'. The applicant provided an amended site plan dated 23 October 2020 which included additional on-site car parks. This was in response to the concerns of submitters and applicant proposes retention of the additional car parks.
43. In relation to the design and location of on-site car parks I note the concerns of Ms Steele at paragraphs 7.85 to 7.89. The evidence of Mr Venkataraman indicates that these car park spaces will function if allocated to staff who will be regular users and familiar with the layout. Relying on his expert evidence in my opinion any adverse effects associated with the design

and location of these car parks spaces will be no more than minor. The other alternative is to remove this car park given the development proposes more on-site car park spaces than is required.

Fairview Avenue Access

44. The Trust proposes restricting access to the Fairview Avenue access (paragraph 7.72 of the 42A report) but does wish to retain the ability for emergency services to use Fairview Avenue access at any time. Updated conditions of consent have been promoted (letter of 26th October 2020) in response to submission points raised by the Stuart Street submitter. These draft conditions seek to address the concerns of the Stuart Street submitter. I agree with Ms Steele's opinion (paragraph 7.77) that subject to suitable mitigation through use of conditions of consent any adverse effects of traffic generation at the Fairview Avenue access can be appropriately mitigated. Suggested updates to draft conditions of consent are also appended as Appendix 1 of my evidence.
45. Ms Steele concludes in the her 42A report that that the adverse effects of traffic generation at the Fairview Avenue access can be appropriately mitigated by ensuring that access is limited to residents' vehicles only. Relying on the evidence of Mr Venkataraman in my opinion subject to use of appropriate conditions of consent any transportation related effects at the Fairview Avenue access will be no more than minor.

Conclusion

46. Mr Venkataraman concludes in his evidence that *'HCV can be developed and can operate in manner that any transportation/ traffic and car parking effects will be no more than minor'* Overall, relying on the expert evidence of Mr Venkataraman in my opinion any adverse effects associated with transportation and traffic issues will be no more than minor. I note his conclusion is based on use of conditions of consent.
47. In my opinion relying on the evidence of Mr Venkataraman, subject to sue of appropriate conditions of consent the adverse effects of the proposed HCV in relation to transportation, traffic and car parking will be no more than minor.

Infrastructure

48. I note the comments received from the Council's Engineering Services Manager and agree with Ms Steele's opinion that the proposed development can be appropriately serviced, and that any adverse effects on the Council's infrastructure networks can be mitigated through use of appropriate conditions. In my opinion any adverse effects on infrastructure will be no more than minor.

Demolition, Construction and Earthworks

49. I agree with Ms Steele that through use of appropriate resource consent conditions the effects of the demolition and construction phase works can be appropriately managed to minimise disturbance and disruption to the residents of adjoining properties. Mr Smith's evidence indicates that demolition, construction and earthworks activity can be undertaken in a manner that will not result in any significant adverse noise effects. I note Mr Smith has recommended a slight change to the Construction Noise and Vibration Management Plan condition. In my opinion relying on the evidence of Mr Smith any adverse noise effects from demolition and construction works can be appropriately mitigated and will be no more than minor.

Contaminated Land

50. As outlined in the resource consent application the property at 40 Fairview Avenue has a history of land use activity that appears on the Hazardous Activities and Industries List (HAIL). Southland Regional Council has listed the site in its Selected Land Use Sites (SLUS) register (registration number SLUS-20163057). Two Detailed Site Investigations (DSI) have been completed and both DSI conclude that any contaminants of concern are below human health guidelines and well below background concentrations. No resource consents are required under the NESCS for the HCV development. The proposed development will not give rise to any significant risks to human health associated with soil contamination. Any adverse environmental effects associated with contaminated land will be no more than minor.

Social and Economic

51. The HCV is likely to have a range of social and economic benefits, including those described in Mrs Hannan's evidence. The HCV will provide residential care for people with dementia and elderly people generally in a purpose build facility based on the De Hogeweyk model. This will result in positive social effects for both the elderly and dementia patients and their friends and families. HCV will increase the amount of residential accommodation available for residential care patients in Invercargill and Southland. The construction phase of HCV will have positive economic effects through employment of contractors, supply of materials and provision of construction services. HCV will also have positive economic effects through employment of staff, use of contractors, suppliers and provision of local services once operational. I agree with Ms Steele's opinion that the HCV will have a range of positive effects as outlined in paragraphs 7.102 – 7.103.

Summary of Effects

52. The application seeks resource consent for development and operation of the Hawthorndale Care Village (Residential Care Activity). I agree with Ms Steele's conclusion that adverse effects can be adequately mitigated to ensure that the surrounding area maintains a high level of residential amenity (paragraph 7.104). In my opinion the adverse effects of the activity will be no more than minor, and the development will give rise to positive social and economic effects.

CONSENT CONDITIONS

53. Suggested updates to draft conditions of consent are also appended as Appendix 1 of my evidence. These draft conditions reflect matters discussed in my evidence and additional information provided through applicant and expert evidence.

STATUTORY CONSIDERATIONS

National Policy Statement on Urban Development 2020

54. Ms Steele's 42A report provides a useful summary of the NPSUD which I adopt for the purposes of my evidence. I agree with her opinion that the HCV does not conflict with Policy 11 of the NPSUD which states.

Policy 11: In relation to car parking:

- (a) the district plans of tier 1, 2, and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks; and*
- (b) tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.*

55. Under Subpart 8 'car parking' of the NPSUD clause 3.38 requires the Invercargill City Council as a tier 3 territorial authority to remove from its District Plan requirements on provision of minimum numbers of car parks (other than accessible car park requirements). The Council has 18 months after commencement date of the NPSUD (20th August 2020) to do this. The District Plan has yet to change to give effect to the NPSUD. However, it is worth noting that the relevant rules of the District Plan requiring minimum car parking requirements for HCV will be removed before February 2022. Policy 11 of NPSUD is directing territorial authorities to remove car parking requirements from district plans and this would apply to the HCV if a resource consent application were made after the Council has given effect to this policy.

National Environmental Standard for Contaminants in Soil 2011

56. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (The NES) has been considered and discussed in the resource consent application. Matters relating to management of contaminants in soil and risks to human health have been addressed and resource consent for the HCV is not required under the NES.

Operative Regional Policy Statement 2017

57. The Regional Policy Statement for the Southland Region (SRPS) provides an overview of the resource management issues of the region. It sets out how natural and physical resources are to be managed in an integrated way to promote sustainable management. The resource consent application provides an assessment of the relevant SRPS objectives and policies and I adopt that for the purposes of my evidence.
58. In my opinion the activity is not contrary to the relevant objectives and policies of the SRPS. I therefore agree with Ms Steele's conclusion that the proposal is consistent with the objectives and policies of the Regional Policy Statement (paragraph 10.2)

Operative Invercargill City District Plan 2019

59. The resource consent application provides an assessment of the relevant District Plan objectives and policies (please refer to Appendix 2 of my evidence) and I adopt that for the purposes of my evidence. I agree with Ms Steele's conclusion that the proposal is generally consistent with the relevant objectives and policies of the District Plan.
60. Those aspects of the HCV that are non-complying activities include the commercial aspects of the Village being the retail dairy, bakery, post office, commercial service activity and the café / bar. As discussed above these aspects of the HCV are integral to the De Hogeweyk Model the HCV is based on and the Trust's vision for the Village. These activities will function as an ancillary activity rather than standalone commercial businesses and will not give rise to any adverse effects on the viability of the city centre or other commercial centres within the City. As such I consider the proposal consistent with Objectives BUS-01 – BUS-04 and Policies BUS-PI and P2 of the Business Overview section of the District Plan (Appendix 2).
61. The proposed signage is also non-complying activity and revised plans for HCV signage have now been provided. The District Plan limits on signage reflect the residential zoning of the site. I don't consider these limits appropriate for a development of the scale of HCV and in my opinion the revised signage will not detract from residential amenity. As outlined above in my

opinion any adverse effects from the proposed signage as amended will be no more than minor and I consider the signage consistent with Policy RES1Z-P15.

RES1Z-P15 Signage: To protect residential amenity by controlling the size and nature of signage

62. In my opinion the HCV proposal is not contrary to the relevant objectives and policies of the District Plan.

Te Tangi au Tauria

63. The applicant consulted Te Ao Marama Incorporated prior to lodgement of the resource application and no submissions were received from them. In my opinion the proposal consistent with the relevant policies of the relevant iwi management plan 'Te Tangi'.

PART 2 OF THE RMA

64. Part 2 of the RMA sets out the purpose and principles of the RMA. Section 5 sets out the purpose of the RMA, as '*the sustainable management of natural and physical resources*'. In my opinion the proposal will sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations (Section 5 (2) (a)), will give rise to no more than minor adverse effects on the environment (Section 5 (2) (b)), and will safeguard the life-supporting capacity of air, water, soil, and ecosystems (Section 5 (2) (c)). Of particular relevance to HCV is the wording of Section 5 (2) in terms of enabling people and communities to provide for their health and safety.

65. In my opinion the proposed activity is consistent with the purpose and the principles of the RMA 1991.

66. Section 6 of the RMA lists the matters of national importance which are to be recognised and provided for. In my opinion none of the matters listed under Section 6 is directly relevant to this application.

67. In relation to Section 7 in my opinion the proposed activity is consistent with the efficient use and development of natural and physical resources (7(b)), the maintenance and enhancement of amenity values (7(c)) and maintenance and enhancement of the quality of the environment (7(f)).

68. With regard to Section 8 the principles of the Treaty of Waitangi have been taken into account through the consideration of Te Tangi (Iwi Management Plan) and the relevant policies in the District Plan.

Section 104D

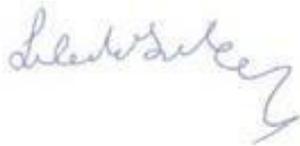
69. I agree with Ms Steele's opinion that the adverse effects of the activity will be no more than minor, and that the proposal is not contrary to the objectives and policies of the relevant Plan. I understand the phrase "not contrary" means that the proposal must not be opposed in nature or opposite to what the policies are intending to achieve. In my opinion the proposed development therefore meets both limbs of the gateway test, and the Council has discretion to grant the consent.

Conclusion

70. The adverse environmental effects of the proposed activity, provided conditions of consent are met, will be no more than minor. The proposed activity will have positive social and economic benefits.

71. On balance the activity is consistent with relevant RMA plan and policy documents.

72. The proposal is consistent with the sustainable management purposes of the Resource Management Act 1991, in that it will provide for the sustainable management of the natural and physical resources. The purpose of the Act will be better met by the approval of the application than its refusal.



Luke McSoriley

November 3, 2020

Appendix 1 – Updated Draft Conditions of Consent

1. HCV staff vehicles arriving at the site before 7am or departing after 10pm shall only use on-site car parks fronting Tay Street.
2. Prior to the building consent for the construction of stage 1 of the development being issued, the consent holder shall submit to the Council a Construction Noise and Vibration Management Plan (CNVMP) outlining how noise and vibration nuisance will be mitigated during construction activities to minimise any exceedance of the District Plan construction noise standards. The CNVMP must be prepared in accordance with NZS 6803:1999.
3. Prior to construction works commencing on site, a gate or other effective vehicle barrier shall be installed at the entrance to the Fairview Avenue site access. The gate or barriers shall remain in place and shall be closed ~~and locked~~ until the gate required by condition 22 is installed.
4. A maximum of one free-standing sign shall be displayed at each of the Stuart Street and Fairview Avenue entrances to the site. Each of these signs shall not exceed 1.5 m² in area, and 2m in height.
5. A maximum of two free-standing signs shall be erected adjacent to the Tay Street road boundary, as indicated on the site plan. These signs shall have a maximum area of 5m² and a maximum height of 2 m.
6. The damaged sections of corrugated iron fence located along the eastern boundary of the site adjacent the main HCV access shall be repaired prior to construction activity commencing ensuring. The fence shall be maintained in good order.

Appendix 2 – Objectives and Policies

Regional Policy Statement for Southland 2017

Relevant provisions of the Regional Policy Statement for Southland (RPS) are detailed below.

Objective URB.1 – Urban development: Urban (including industrial) development occurs in an integrated, sustainable and well-planned manner which provides for positive environmental, social, economic and cultural outcomes

Policy URB.1 – Adverse environmental effects: The adverse effects of urban development on the environment should be avoided, remedied or mitigated.

Policy URB.2 – Urban development: Manage urban growth and development in ways that: (a) support existing urban areas; (b) promote development and/or redevelopment of existing urban areas ahead of greenfield development; (c) promote urban growth and development within areas that have existing infrastructure capacity; (d) promote the progressive upgrading of infrastructure and improvement of the quality of sewage and stormwater discharges; (e) provide potable water supply; (f) plan ahead for the expansion of urban areas; (g) promote compact urban form; and (h) promote appropriate site and building orientation that supports the principles of optimum energy efficiency and solar energy gain.

Policy URB.4 – High quality urban design - Encourage high quality urban design.

Policy URB.5 – Land use activities - Make provision for a range of land use activities within urban areas.

The proposal will contribute to the social and economic wellbeing of the region. The proposed activity is consistent with support of existing urban areas, urban infill, compact urban form and avoidance of development on greenfield sites. The site of the proposed development is in a serviced area of the City and our understanding is there is existing infrastructure capacity. HCV represents a high-quality urban design and is consistent with provision of a range of land use activities within urban areas.

Policy TW.3 – Iwi management plans - Take iwi management plans into account within local authority resource management decision making processes.

The relevant Iwi Management Plan has been considered and is discussed below.

Policy INF.3 – Infrastructure protection - Protect regionally significant, nationally significant and critical infrastructure, particularly from new compatible land uses and activities under, over or adjacent to the infrastructure.

The site of the HCV adjoins State highway 1 (Tay Street). As outlined above in the Assessment of Environmental Effects (AEE) HCV will not give rise to any significant adverse effects on SH1 and is considered consistent with this policy.

Policy INF.5 – Development, subdivision and land use - Management of development, subdivision and land use shall ensure:

- a) *development does not result in adverse effects on the efficient operation, use, maintenance and development of infrastructure;*

- b) *the nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of infrastructure, as appropriate for the type of development being undertaken;*
- c) *the efficient and effective functioning of infrastructure, including the ability to develop, maintain, remove, decommission and upgrade infrastructure, is retained;*
- d) *a coordinated and integrated approach across regional and district boundaries, and between agencies.*

As discussed above in the AEE the HCV will not give rise to any significant adverse effects on infrastructure and is consistent with this policy.

Objective TRAN.1 – Transport and land use - Development of transport infrastructure and land use take place in an integrated and planned manner which:

- (a) integrates transport planning with land use;*
- (b) protects the function, safety, efficiency and effectiveness of the transport system;*
- (c) minimises potential for reverse sensitivity issues to arise from changing land uses;*
- (d) provides for positive social, recreational, cultural and economic outcomes;*
- (e) minimises the potential for adverse public health and environmental effects;*
- (f) enhances accessibility and connectivity, maximising transport choice for users of the transport system.*

The proposed development is a land use activity that will protect the function, safety, efficiency and effectiveness of the transport system and is considered consistent with Objective TRAN.1.

Overall, the HCV proposal is considered consistent with the relevant objectives and policies of the RPS.

Proposed Invercargill City District Plan 2019

The relevant objectives and policies of the District Plan relevant to the HCV proposal are listed and discussed below.

RESIDENTIAL OVERVIEW

Objective RES-01: Critical mass is maintained within the defined residential areas.

Objective RES-02: A range of housing types is available, meeting the housing needs of a population that is growing only slowly and ageing.

Objective RES-03: A high standard of residential amenity is maintained.

Objective RES-04: Unplanned peripheral expansion of the built-up area resulting in increased demand for urban services is avoided.

Policy RES-P1 Existing residential areas: To encourage infill development, use of vacant allotments and upgrading/redevelopment of existing houses in the Invercargill and Bluff urban areas.

Policy RES-P2 Residential density: To provide for a range of housing densities, from large lot residential to medium density, in recognition of the changing demographics of the Invercargill population.

Policy RES-P4 – Residential Amenity: To require a high standard for residential amenity in new development, particularly with respect to space for outdoor living.

Policy RES-P6 – Non-residential Activities: To enable non-residential activities when it can be demonstrated that they:

- a) Are in keeping with the character anticipated in a residential area; and*
- b) Will not compromise the health, safety and amenity values enjoyed by residents; and*
- c) Cannot be practically located in other zones where such activities are anticipated.*

Policy RES-07 Residential Amenity: To advocate for and encourage the site layout and design of residential buildings so as to provide as far as practical sunlight access and opportunity for solar gain.

The proposal is consistent with maintenance of critical mass within residential areas (Objective RES-01).

The proposal will assist in terms of achieving a range of residential densities and housing types to meet the housing needs of an aging population and changing demographics. Provision of a high standard of residential care accommodation for people with dementia is one of the key drivers of the project (Objective RES-02).

As outlined above in the AEE the proposed development will give rise to no more than minor effects on residential amenity and will provide a high level of amenity for residents. In relation to the surrounding area and the suburb of Hawthorndale and proposal will give rise to no more than minor adverse effects. HCV is a residential care development that will maintain residential amenity (Objective RES-03).

HCV is consistent with avoidance of unplanned peripheral expansion resulting in increased demand for urban services and efficient use of existing infrastructure. (Objective RES-04).

The proposal is consistent with redevelopment of urban areas to achieve infill development (Policy RES-P1).

HCV will provide a range of residence types including independent living units, apartments and dementia care units consistent with a range of densities. The range of residential accommodation provided will provide choice for residents, a positive effect (Policy RES-P2).

HCV will provide a high level of residential amenity for residents through provision of large area of outdoor living space throughout the site and extensive landscape treatment (Policy RES-P4).

The development site is a brownfield site in suburban Invercargill and the HCV development is consistent with compact urban form and avoidance of greenfield development (Policy RES-P5).

HCV will maintain a high standard of residential amenity and will achieve good urban design outcomes.

The non-residential aspects of the HCV are in keeping with the concept of a village and need to be located on the development site (Policy RES-P6).

The proposal has been designed comprehensively to achieve high levels of residential amenity. The HCV development will provide a high standard of residential amenity (Policy RES-P7).

The HCV is considered consistent with the relevant objectives and policies of the Residential Overview section of the District Plan.

RESIDENTIAL 1 ZONE OBJECTIVES

Objective RES1Z-01: The maintenance and ongoing development of the zoned areas as residential neighbourhoods offering a high degree of amenity to their inhabitants is provided for and encouraged.

HCV will create a residential neighbourhood that provides a high degree of amenity to its residents consistent with Objective RES1Z-01.

Objective RES1Z-02 – Adverse effects of urban development on the environment are avoided, remedied or mitigated

HCV will have no more than minor adverse effects on the environment and is consistent with Objective RES1Z-02.

Objective RE1ZS-03: Opportunities for urban intensification and redevelopment are encouraged within Invercargill's existing urban areas.

HCV is consistent with intensification and redevelopment within Invercargill's existing urban areas (Objective RES1Z-03).

Objective RES1Z-04 – Provision is made for good accessibility to service and retail activities, educational establishments, and to places of employment.

The HCV incorporates service and retail activities and will be a place of employment in the Invercargill suburb of Hawthorndale and is consistent with Objective RES1Z-04.

Objective RES1Z-05 – High Quality urban design is incorporated into new development and redevelopment

The HCV is consistent with high quality urban design (Objective RES1Z-05).

Objective RES1Z6: Housing choice, both in terms of type and lot sizes, is provided for within urban areas.

HCV is consistent with provision of a range of housing types (Objective RES1Z-06).

Objective RES1Z-07 – Urban growth and development is managed in ways that: (a) Support existing urban areas (b) Promote development of existing urban areas ahead of greenfield development (c) Promote urban growth and development within areas that have existing infrastructure capacity (d) Plan ahead for the expansion of urban areas (e) Promote compact urban form.

HCV represents a form of urban growth and development that: supports an existing urban area, represents development of existing an existing (brownfield) urban area, promotes urban growth and

development in an area that has existing infrastructure capacity and promotes compact urban form (Objective RES1Z-07).

Objective RES1Z-08 – The amenity values of the Residential 1 Zone are maintained and enhanced.

HCV will maintain a high level of amenity consistent with Objective RES1Z-08.

RESIDENTIAL 1 ZONE POLICIES

RES1Z-P1 Residential 1 Zone: To provide for suburban residential development by zoning within the existing urban area for dwellings on lots 400m² in size or larger.

HCV is a residential development and the density of the proposed development on the site is likely to be less than the possible yield of a residential subdivision development based on allotment sizes of 400m² and the potential number of residential dwelling that could be constructed on the property without subdivision. I note that this policy refers to the planning technique of zoning and as such appears to be a policy guiding the council itself on outcomes sought under the district plan through zoning. HCV is not inconsistent with this policy.

RES1Z-P2 Connectivity: To require that provision is made for safe, logical, and direct access by the variety of transportation modes in common use (pedestrian, cycle, mobility scooter, motor vehicle, public transport) from dwellings to service and retail activities, educational establishments, and places of employment.

HCV will provide for passive means of transportation, will include retail and service activities within the village and will have good links to other service and retail activities in the CBD and nearby Ascot suburban shopping centre. HCV is considered consistent with Policy RES1Z-P2.

RES1Z-P3 Urban Design: To encourage good urban design in terms of: 1. Context 2. Character 3. Choice 4. Connections 5. Creativity 6. Custodianship 7. Collaboration.

The HCV is consistent with high quality urban design (Policy RES1Z-03).

Policy RES1Z-P4 Stormwater runoff: To require site and building development to incorporate methods to: (A) Minimise loadings on stormwater runoff networks and reticulation systems caused by rainfall events; and (B) Improve the water quality of stormwater flows.

No more than 40% of the site will be covered in buildings and this will mitigate potential effects in terms of stormwater generation consistent with this policy.

RES1Z-P5 Choice: To enable the development of a range of housing types by: 1. Allowing, as of right, development on sections exceeding 400m². 2. Allowing development on sections between 350m² and 400m² when buildings are well designed to give effect to other relevant Objectives and Policies of the Residential 1 Zone.....

HCV is consistent with provision of a range of housing types (Policy RES1Z-05).

Policy RES1Z-P6 – Outdoor living: To require the provision of practical outdoor private open space as an important dimension of amenity.

RES1Z-P7 – Space around buildings: To maintain the residential scale and amenity of space around and between buildings.

Adequate outdoor living space will be provided. No more than 40% of the site will be covered in buildings. HCV will be formed of one and two-story buildings of similar scale to residential development throughout the suburb of Hawthorndale and other residential parts of Invercargill City. Extensive landscaping of the site is also proposed. The proposal is considered consistent with Policies RES1Z-P6 and RES1Z-P7.

RES1Z-P8 – Ambient Noise: To maintain low daytime ambient noise levels and lower night ambient noise levels consistent with residential use of the area.

HCV is a residential land use and noise levels associated with residential care activity will be similar to those anticipated in the Residential 1 Zone. The proposal is considered consistent with Policy RES1Z-P8.

RES1Z-P9 – Noise from Transportation Networks: To recognise that some parts of the zone are subject to higher levels of noise generated by the transport networks and to avoid, or mitigate reverse sensitivity affects associated with those activities.

The HCV site adjoins State highway 1 but all residential aspects of the proposed development are set well back from the highway. The proposal is not likely to give rise to reverse sensitivity effects and is considered consistent with Policy RES1Z-P9

RES1Z-P10 – Odour: To ensure absence of nuisance from objectionable odour.

HCV will not result in nuisance from objectionable odour and the proposed activity is consistent with this policy.

RES1Z-P11 – Glare: To ensure freedom of nuisance from glare.

HCV will not result in nuisance from glare and the proposed activity is consistent with this policy.

RES1Z-P14 – Wind: To encourage the provision of shelter from wind as an important dimension of residential amenity.

HCV incorporates covered walkways as part of the design of the dementia care block and is consistent with this policy.

RES1Z-P15 – Signage: To protect residential amenity by controlling the size and nature of signage.

Signage proposed as part of HCV is an appropriate scale and design, will not give rise to adverse effects and is consistent with this policy.

RES1Z-P16 Dilapidated Structures and Ill-maintained Lands: To require that buildings and sections in the Residential 1 Zone shall be sound, well-maintained and tidy in appearance, avoiding adverse effects of dilapidated structures and ill-maintained lands on the wider neighbourhood.

HCV will result in development of a vacant site and will result in a residential care village that will be well maintained and tidy in appearance consistent with this Policy.

RES1Z-P17 – Demolition or removal activities: To manage the adverse effects of demolition or removal activities on amenity values by ensuring the clean-up, screening and maintenance of sites.

The Hawthorndale Scout Hall building will be demolished or removed as part of the HCV development. Demolition and / or removal activity can be undertaken in a manner that mitigates potential adverse effects on the environment and the HCV proposal is consistent with this policy.

RES1Z-P19 Hazardous Substances: To protect the public from the effects of storage and use of hazardous substances.

Hazardous substances used in normal domestic living will be used and stored on site as part of residential living. HCV does not propose large scale storage of hazardous substances on the site and is considered consistent with this policy.

RES1Z-P20 – Height and Location of Structures: To maintain a 1-2 storey scale for development.

HCV will be formed of one and two-story buildings of similar scale to residential development throughout the suburb of Hawthorndale and other residential parts of Invercargill City. The proposal is considered consistent with Policy RES1Z-P20.

RES1Z-P21 – Car parking and vehicle manoeuvring: To maintain road safety by providing for residents to park their vehicle(s) on-site and to manoeuvre them safely on and off the formed road.

Off-street car park will be provided on site and as discussed in the AEE above an appropriate number of car parking spaces will be provided. HCV is consistent with Policy RES1Z-P21.

CONTAMINATED LAND

Objective CL-01: Land that is affected by soil contamination is identified, monitored and managed.

Objective CL-02: The adverse effects of contamination on subdivision, use and development of contaminated land are remedied or mitigated.

Policy CL-P4 – Human health: To manage the subdivision, land use and development of land that is potentially, or known to be, contaminated land so as to protect human health.

Policy CL-P5 Management: To determine appropriate management action for contaminated land on the basis of: (A) The type of contaminants involved. (B) The degree of contamination. (C) The availability and practicality or appropriate technology for monitoring or remediation. (D) Existing and proposed use of the site and surrounding land use. (E) National standards or guidelines. (F) The potential for offsite or downstream adverse public health and other environmental effects.

Potential adverse environmental effects of land contamination from use and development of the application site have been assessed in the AEE above. Two DSI have been completed for the development site and residential development of the site for residential use will not give rise to any risks to human health. The proposed development of HCV is consistent with these objectives and policies.

TRANSPORT

Objective TRA-O1 – Development of transport infrastructure and land use takes place in an integrated and planned manner which:

(a) Integrates transport planning with land use.

- (b) *Protects the function, safety, efficiency and effectiveness of the transport network*
- (c) *Minimises potential for reverse sensitivity effects to arise from changing land uses*
- (d) *Provides for positive, social, recreational, cultural and economic outcomes.*
- (e) *Minimises, where practical, the adverse public health and environmental effects.*

The HCV development will integrate with transport infrastructure, will protect the function, safety, efficiency and effectiveness of the transport network, will minimise potential for reverse sensitivity effects to arise, will provide for positive, social, recreational, cultural and economic outcomes and will minimize the adverse environmental effects. HCV is considered consistent with this policy.

Policy TRA-P3 – Roading Hierarchy: To have regard to the Council’s Roading Hierarchy when considering subdivision, use and development of land.

Regard has been had to the Council’s roading hierarchy and any adverse environmental effects from the HCV development on traffic and transportation infrastructure will be no more than minor. HCV is considered consistent with Policy TRA-P3.

Policy TRA-P4 – Standards: To set development standards for vehicle access, loading, parking and manoeuvring facilities

HCV will provide appropriate vehicle access, loading, parking and manoeuvring areas and is consistent with this policy.

Policy TRA- P5 – Adverse effects: To manage subdivision, use and development adjacent to transport infrastructure in such a way as to avoid, remedy or mitigate potential effects, including reverse sensitivity effects on transportation infrastructure.

HCV will have no more than minor effects on transportation infrastructure and is consistent with this policy.

Policy TRA-P6 – State Highways: To have regard to any New Zealand Transport Agency standards regarding the location of new accesses on to, and egresses from State Highways where the speed limit exceeds 50 kph.

The HCV site is located in a 50km/hour speed area and is consistent with this policy.

Policy TRA-P8 – Public Health: To manage transport activities and surrounding land use activities to protect public health and environmental values.

Policy TRA-P9 – Integration: To integrate the planning of land use with existing transport infrastructure and provide for future transportation requirements.

The transport activities associated with the HCV development will not give rise to any adverse effects on public health and environmental values and it integrate with transport infrastructure consistent with these two policies.

SOIL, MINERALS AND EARTHWORKS

Objective SOIL-03 – Earthworks in Invercargill are carried out in such a way as to avoid, remedy or mitigate adverse environmental effects

Policy SOIL-P6 – Filling and Re-contouring: To control land use activities and development which propose to fill or re-contour land, or move or remove significant quantities of soil.

Earthworks associated with construction of HCV will have no more than minor adverse effects and the development is consistent with these two policies.

INFRASTRUCTURE

Policy INF-P2 – Management of Effects:

Where practicable, avoid, remedy or mitigate adverse environmental effects arising from the development, construction, operation, maintenance and upgrading of infrastructure on the environment.

Adverse effects on infrastructure from the HCV development will be no more than minor and it is consistent with Policy INF-P2.

WATER

WAT-P1 – General: To require that the adverse effects of subdivision and land use activities on water quantity and quality are avoided, remedied or mitigated.

WAT-P3 – Effects on Water quantity: To manage the effects of activities on flows and levels of water in waterbodies and on Council's reticulated services.

WAT-P4 – Effects on Water Quality: To promote land use practices that minimise effects on the quality of water in waterbodies and water supply catchments.

The HCV will not give rise to any significant adverse effects in relation to water quality or quantity and is consistent with these policies.

Summary

The proposed development is consistent with the objectives and policies of the District Plan.

Te Tangi A Tauria – Iwi Management Plan 2008

The policies of the Iwi Management Plan, relevant to the proposal are considered below.

Subdivision and Development:

Policy 2: Encourage developers to be proactive, and to seek views of iwi in the early stages of project development, particularly when the proposed is located in an area of cultural significance.

Policy 7: avoid adverse effects on the natural environment as a consequence of increased demands placed upon land, water and community infrastructure resulting from the granting of new subdivision consents for residential or commercial development.

The applicant has consulted iwi prior to lodgement of this application. As far as we are aware the development site is not located in an area of cultural significance. As detailed in the AEE above HCV will not give rise to any significant adverse effects on the natural environment and any adverse effects will be no more than minor. The proposed development is considered consistent with the relevant policies of the Iwi Management Plan.