

BEFORE THE INDEPENDENT COMMISSIONER

IN THE MATTER of the Resource Management Act
1991 (the Act)

AND

IN THE MATTER of an application by DLC
Properties Limited for a subdivision
of land at 60 Otatara Road and
190 Dunns Road, Otatara,
Invercargill

RMA/2020/82

EVIDENCE OF JEFFREY ANDREW BROWN – PLANNING

21 April 2022

Contents

1	Introduction	2
2	The Site and environs, and the proposal	3
3	Zoning and rules framework	5
4	Effects on the environment	9
5	Objectives and policies of the District Plan	12
6	Objectives and policies of the Southland Regional Policy Statement	13
7	Part 2 of the Act	13
8	Conditions of consent	14
9	Summary and conclusion	15
Attachment A	J Brown CV	16
Attachment B	Assessment under the relevant District Plan objectives and policies	17
Attachment C	Assessment under the relevant Regional Policy Statement objectives and policies	23
Attachment D	Updated suite of conditions of consent	26

1 Introduction

1.1 My name is Jeffrey Andrew Brown. I have the qualifications of Bachelor of Science with Honours and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute. I am also a member of the New Zealand Resource Management Law Association. I was employed by the Queenstown Lakes District Council (**QLDC**) from 1992 – 1996, the latter half of that time as the District Planner. Since 1996 I have practiced as an independent resource management planning consultant, and I am currently a director of Brown & Company Planning Group Ltd, a consultancy with offices in Auckland and Queenstown. I have resided in Auckland since 2001.

1.2 **Attachment A** contains a more detailed description of my work and experience.

Code of Conduct

1.3 I have complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on another person, and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

Background

1.4 This evidence is on behalf of DLC Properties Ltd (**DLC**), in relation to DLC's resource consent application for a 31-lot subdivision at 60 Otatara Road and 190 Dunns Road, Otatara (the **Site**).

1.5 I was engaged by DLC in early 2021 to assist with the response to the Council's Section 92(1) request for further information on the application. I am familiar with the Site and environs, having visited the Site and wider area for the purpose of this hearing.

1.6 I have read:

- the application and supporting material, including the further information requested by the Council;
- the submission from Invercargill Airport Limited (**IAL**);
- Ms Ellis' s42A report for this hearing;
- the evidence of Mr Styles on behalf of DLC for this hearing.

Evidence structure

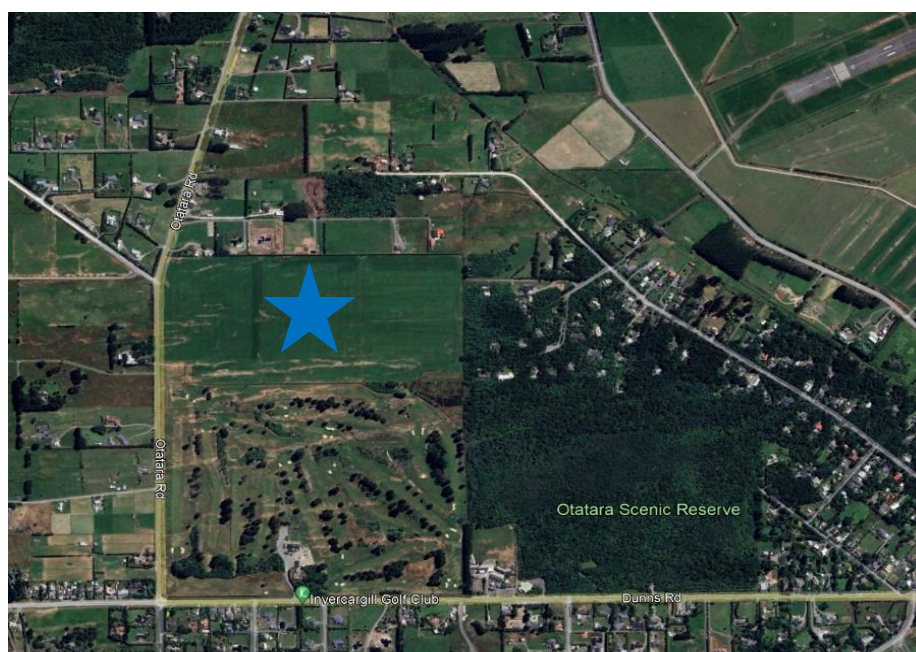
1.7 My evidence is structured as follows:

- | | |
|-----------|--|
| Section 2 | I discuss the Site and environs, and the proposal; |
| Section 3 | I set out and discuss the Invercargill City District Plan (District Plan) zoning and rules framework relevant to the application; |
| Section 4 | I assess the effects of the proposal on the environment; |
| Section 5 | I address the relevant objectives and policies of the District Plan; |
| Section 6 | I address the relevant objectives and policies of the Southland Regional Policy Statement; |
| Section 7 | I address Part 2 of the Act; |
| Section 8 | I discuss Ms Ellis' recommended conditions of consent; |
| Section 9 | I summarise and conclude my evidence. |

2 The Site and environs, and the application

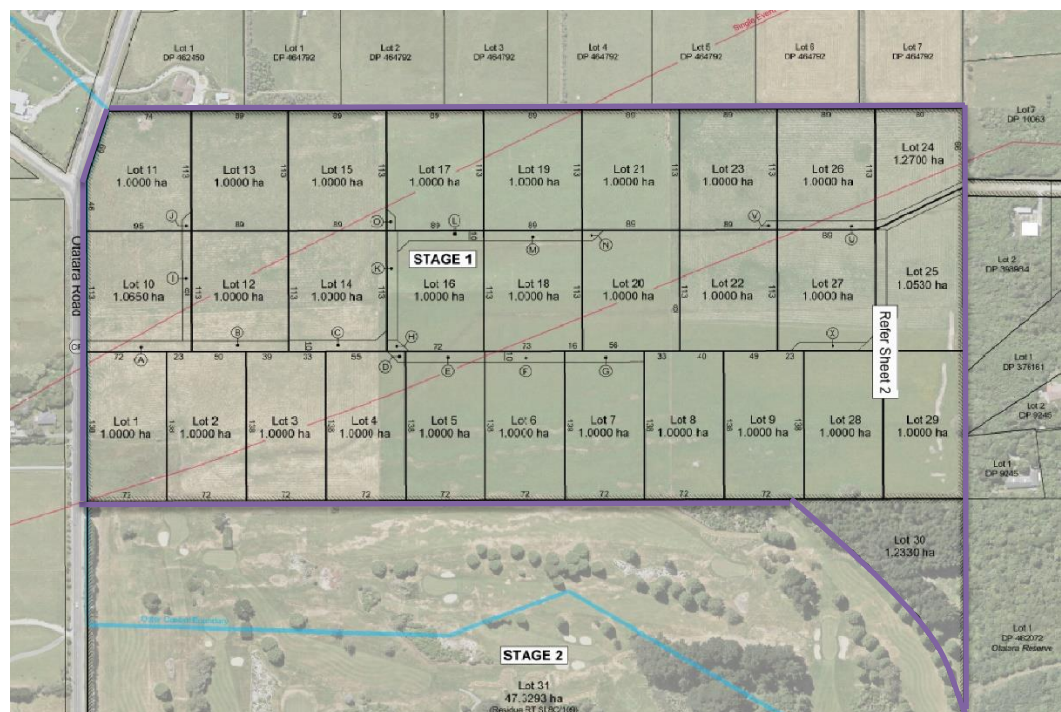
2.1 The Site and wider surrounds are shown on [Figure 1](#) below.

Figure 1 – the Site and environs – aerial. Site is marked with blue star



- 2.2 The Site is described in the application (parts 2.2 – 2.3) and generally in the s42A report. In summary, the Site comprises 77.92ha and is generally flat. The northern third of the Site comprises open paddocks and is vacant, and much of the southern two-thirds contains the Invercargill Golf Club. The wider area contains rural residential / lifestyle development (to the north and east of the Site), the Otatara Reserve (east of the Site), and farmland. The Site has road frontage to Otatara Road (west), Dunns Road (south) and Korimako Avenue (east).
- 2.3 The proposal is described in detail in the application and in part 2 of the s42A report. In summary, consent is sought for a 31-lot subdivision¹: Lots 1 – 30 are between 1.00ha and 1.27ha, and Lot 31 (the residual lot) is 47.3293ha and contains the golf course.
- 2.4 The subdivision plan is shown in **Figure 2** below:

Figure 2 – plan of proposed subdivision showing Lots 1 – 31. Lots 1 – 30 are shown outlined in purple. The Single Event Sound Exposure Boundary is the red line and the Outer Control Boundary is the blue line



¹ The subdivision would be staged; Stage 1 comprises Lots 1 – 29 and Stage 2 comprises Lots 30 and 31

- 2.5 Lots 1 – 30 are intended to be for rural residential purposes and each would be subject to various controls, imposed by way of consent notices or covenants, including a no-complaint covenant in favour of IAL².

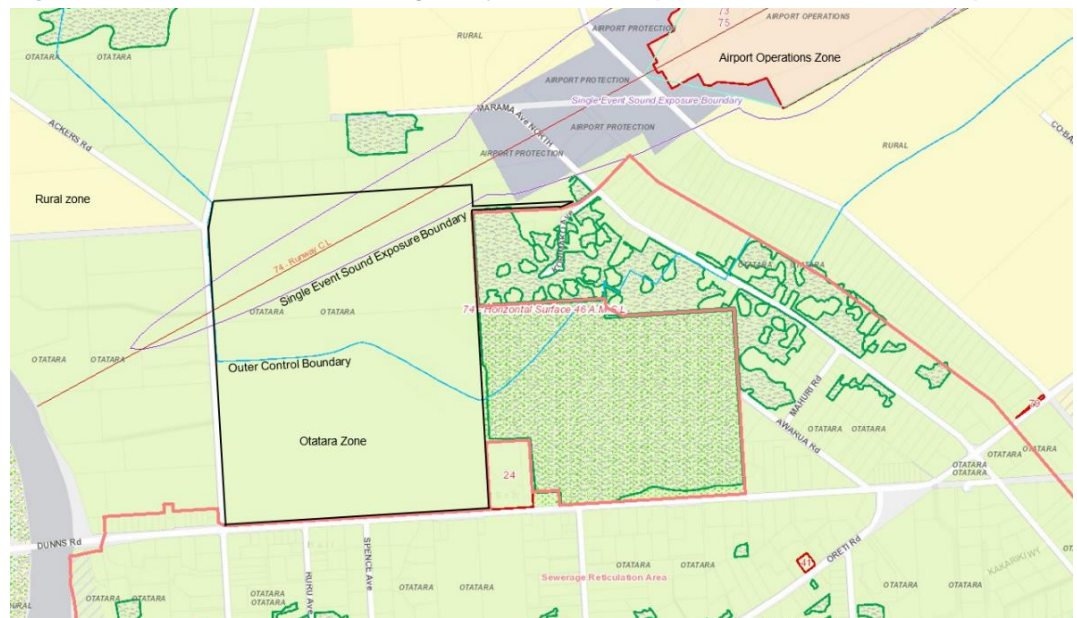
3 Zoning and rules framework

- 3.1 The Site is identified on the planning map extract in **Figure 3** below. It is within the Otatara Zone. The Zone's overview statement³ includes:

This zone provides for a high level of amenity associated with low density rural-residential lifestyle activity in a semi-rural environment. The varying sizes of allotments, high degree of privacy, scenic values and feelings of remoteness contribute to an amenity in the Otatara Zone that differs from elsewhere in the City ...

- 3.2 The Site is within the Airport's Outer Control Boundary (OCB) and part of the Site is within the Single Event Sound Exposure Boundary (SESEB), as shown on **Figure 3**.

Figure 3 – extract from the Invercargill City District Plan (site marked in black outline)



- 3.3 Airspace above the Site contains the airport's Obstacle Limitation Surface (OLS), managed by Designation 74.

² A draft covenant is attached to the application documentation at Appendix E

³ OTAZ - Overview

3.4 Subdivision generally, across all zones in the District, is a discretionary activity⁴ (Rule SUB-R3). Under Rule SUB-R4, applications under Rule SUB-R3 are required to address a wide range of matters which would apply variously depending on the location and circumstances of any application. The matters relate to, for example, infrastructure provision and its effects, effects on natural values, and hazards. Three matters of particular relevance to this case are:

3. **Potential effects on the environment of land uses enabled by the subdivision**
10. **The extent to which the subdivision avoids or addresses reverse sensitivity issues associated with infrastructure including Transpower, State Highways, railways, the seaport and the airport**
22. **In addition to the matters specified in SUB-R4.1 to SUB-R4.19 above, applications made under SUB-R3 above for sites located inside the Outer Control Boundary or Single Event Sound Exposure Boundary shall also address the following matter:**
 - a. **The extent to which evidence has been provided of a legally binding commitment (acceptable to the relevant Airport Authority) on behalf of the applicant and any successors in title not to complain as to current or potential effects associated with the operation of the airport resource and/or to waive all rights of action under the Resource Management Act 1991 or otherwise at law against the Airport. A legally binding commitment may take the form of a restrictive non-complaint covenant or memorandum of encumbrance entered against the title to the property.**

Note: Applications under SUB-R3 will be notified to Invercargill Airport Limited as an affected party where the subdivision is located, in part or in full, within the Invercargill Airport Outer Control Boundary or the Single Event Sound Exposure Boundary.

3.5 Rule SUB-R6 specifies lot size expectations in the various zones. It states:

SUB-R6 Subdivision is a non-complying activity where it would create lots as follows: ...

6. **Within the Otatara Zone: Allotments of less than one hectare (if not connected to the Council's reticulated sewerage**

⁴ Noting that subdivision that is not a discretionary activity includes subdivision for utilities, boundary adjustments and amendments to cross-leases (Rule SUB-R1); subdivision that breaches certain matters, which would trigger non-complying status (Rule SUB-R6); and subdivision in areas subject to inundation which would trigger non-complying status (Rule SUB-R7)

system) or 4,000m² (if connected to the Council's reticulated sewerage system)

Or

Allotments of less than one hectare and within the Outer Control Boundary or the Single Event Sound Exposure Boundary

3.6 Permitted activities in the Otatara Zone include Residential Activities (Rule OTAZ-R1.5).

3.7 Rule OTAZ-R4 states:

OTAZ-R4 Prohibited Activities:

The following are prohibited in the Otatara Zone:

1. Within those areas identified on the District Planning Maps as being within the Outer Control Boundary or the Single Event Sound Exposure Boundary, new Noise Sensitive Activities or alterations or additions to existing buildings containing Noise Sensitive Activities which do not comply with the specifications contained in APP15 – Appendix 15 Noise Sensitive Insulation Requirements.

Note: For those areas of the Otatara Zone located within the Invercargill Airport Outer Control Boundary or Single Event Sound Exposure Boundary, attention is drawn to the relevant objectives, policies and rules relating to the management of potential reverse sensitivity effects on Invercargill Airport.

3.8 Hence, at the time of seeking building consent, the design of each new dwelling must comply with the insulation requirements of Appendix 15.

3.9 Rules OTAZ-R8 and R9 state:

Density

OTAZ-R8 The maximum residential density is:

1. One residence per 4,000m² under contiguous ownership, where the proposed residence is to be connected to Council's reticulated sewerage system

2. **One residence per 10,000m² under contiguous ownership, where the proposed residence is not to be connected to Council's reticulated sewerage system or falls within the Outer Control Boundary as show on the District Planning Maps.**

OTAZ-R9 Where an activity does not comply with OTAZ-R8 above, the activity is a discretionary activity.

3.10 Rule OTAZ-R10 goes on to specify matters that must be addressed in any application under OTAZ-R9. Neither OTAZ-R9 or OTAZ-R10 are relevant to this case because no lots less than 1ha are proposed, but I make the observation that, under Rule OTAZ-R9, the District Plan anticipates, as a discretionary activity, applications for a higher density than one residence per hectare within the OCB.

3.11 The allotments proposed:

- (a) Will all be subject to a covenant in favour of the IAL registered on the titles that restricts the future occupants of the lots from complaining about the noise of IAL activities⁵; and
- (b) Are all a minimum of 1ha (and hence Rule SUB-R6 is not engaged, and the application is for a discretionary activity); and
- (c) Will therefore comply with all of the measures the District Plan requires for subdivision in the Otatara Zone and in relation to OCB and SESEB;
- (d) Will accommodate dwellings that must be insulated to the standard prescribed in Appendix 15.

3.12 The District Plan's settled methods for managing potential sensitivities to airport noise and potential reverse sensitivities include:

- (a) Imposition of airport noise controls (the Air Noise Boundary, OCB and SESEB);
- (b) Density limits for development of sensitive activities in zones near the airport;
- (c) Acoustic insulation requirements;
- (d) No-complaint covenant requirements.

⁵ This covenant replicates the requirement of Rule OTAZ-R4 as set out in paragraph 3.7 above

- 3.13 Collectively, the methods ensure that the airport and land uses around it, are compatible and can co-exist. The subdivision proposal, at a density of 1ha lots, with no-complaint instruments on the titles of the new lots, and the subsequent use of the new lots for rural residential purposes with dwellings that must be acoustically insulated, fully comply with the methods.

4 Effects of the proposal on the environment

- 4.1 I concur with Ms Ellis' assessment⁶ that effects in relation to infrastructure services, roading earthworks, and character and amenity are able to be managed appropriately and that any adverse effects are less than minor.
- 4.2 I agree with Ms Ellis that a consent notice condition in relation to outdoor lighting is appropriate. I consider that the following consent notice wording on Lots 1 – 30 is appropriate to manage the effects of outdoor lighting and glare:

External Lighting

- (a) All exterior lighting shall be restricted to down lighting only for the purpose of lighting private areas only.**
 - (b) Lighting should not create any light spill onto adjoining properties and be designed to avoid upward light spill into the night sky.**
 - (c) All exterior lighting not fixed to a building shall be no more than 1 metre in height and be designed to avoid light spill into the night sky.**
 - (d) Light sources are to be LED, incandescent, halogen, or other "white light". Sodium vapour or other coloured light is not permitted.**
- 4.3 In relation to positive effects, I concur with Ms Ellis' assessment in relation to housing supply and housing choice in Invercargill, and add that further positive economic effects arise from the jobs created for construction of the subdivision and subsequent dwellings on the lots and the benefits of these to the local economy.
- 4.4 The most relevant effect is the potential for sensitivity effects (i.e. the effects of airport noise on sensitive receivers nearby), and the potential for reverse sensitivity effects (the effects that those receivers could have on airport operations, through complaints about airport noise). As I discussed in part 3 above, the District Plan has anticipated the potential for sensitivity and reverse sensitivity effects in this

⁶ s42A report, part 6.2

Zone and has established a range of methods for managing or avoiding such effects, including airport noise limits, density limits, mandatory acoustic insulation of dwellings (which address sensitivity effects), and no-complaint instruments on titles (which address reverse sensitivity effects).

- 4.5 I defer to Mr Styles' expertise in acoustic matters, and rely on his views about the effectiveness of the acoustic insulation which addresses the internal noise environment of dwellings on the lots⁷. I understand from his evidence that the acoustic insulation requirements for the dwellings will ensure that the residents are able to enjoy a reasonable level of noise during the night to avoid effects on sleep disturbance, and that this will ensure that the any adverse health effects will be adequately avoided.
- 4.6 On the outdoor environment, Mr Styles considers that the noise effects would be experienced subjectively as a number of discrete, short-duration and potentially noisy take-offs or landings, and that it is commonly accepted that residential activity close to transport infrastructure can at times be subject to noise levels that are greater than normally acceptable⁸.
- 4.7 For my part, on sensitivity effects experienced outdoors, on the afternoon of Friday 8 April 2022 I stood in the centre of the Site and watched three flights depart to the southwest between around 12.55pm and 1.20pm (two small passenger aircraft to Stewart Island, and one A320 to Auckland). The aircraft were audible to varying degrees. One of the two smaller craft passed over the northern part of the site (and the other had turned left towards Stewart Island before it reached the Site). A strong wind was blowing that day and the two smaller flights were barely audible above the wind, and what noise I could hear was part of the background noise that also included trucks using Otatara Road and motorcars on one of the nearby raceways (either Teretonga Park or the speedway, which are several kilometres southwest of the Site). The A320 was louder and it passed over the Site quickly. From my brief experience of airport noise at the Site, I didn't find the noise was overly intrusive, and taking into account the limited number of flights overall in any given day, my own view is that the external noise environments of the lots would be acceptable.
- 4.8 As Mr Styles indicates⁹, the sensitivity of residents is influenced by the no-complaints covenant which the residents would take into account in their decision

⁷ Evidence of J Styles, paragraphs 24 – 25, 46 – 47

⁸ *ibid*, paragraphs 27, 48 – 56

⁹ *ibid*, paragraph 26

to purchase the lot within the Site. The covenant effectively puts potential buyers on notice that airport noise is a reality in this area, and if they go ahead with their purchase their expectations would be set and they would be accepting of the airport noise and their inability to complain about it. The District Plan methods anticipate and provide for this outcome.

- 4.9 I do not consider that the effects of the airport noise on the new lots would be adverse, and in any case the effects are mitigated by the fact that receivers are less sensitive because they are aware that the area is noisy and that they have strict obligations under the covenant. The covenant method avoids reverse sensitivity effects and in so doing protects the airport.
- 4.10 On this point I briefly respond to Ms Ellis' view that ... *I consider it is anticipated by the District Plan that noise sensitive activities in the OCB and SESEB can occur and that a level of reverse sensitivity can be reasonably anticipated*¹⁰. I agree that the District Plan anticipates noise sensitive activities in the OCB and SESEB but disagree that a level of reverse sensitivity can be reasonably anticipated. A degree of *sensitivity* to airport noise is anticipated, but not *reverse sensitivity* because the purpose of the no-complaints covenant method is to ensure that reverse sensitivity effects – i.e. residents complaining about and ultimately seeking to curtail airport operations – are avoided.
- 4.11 The OLS associated with the airspace approaches to the airport must be adhered to. From planning map 35, the OLS ranges in height across the Site from 16m above mean sea level at the north-eastern corner to around 29m amsl at the south-western corner. The ground level of the Site is between 8m and 11m amsl. The maximum height of any structures within the Otatara Zone is 10m (Rule OTAZ-R11) and any breach would require restricted discretionary activity (Rule OTAZ-R12). A covenant requiring that trees be limited in height to a maximum of 8m is appropriate and this is recorded in the updated condition 16(a) in Attachment D.
- 4.12 Ms Ellis recommends that a management plan mechanism be used for addressing the mitigation of bird strike risk, taking into account the factors set out in Part 3.2.2 of the application document. I have proposed a condition that each owner is responsible for ensuring that any risk of aircraft bird strike is minimised as far as possible by specific mechanisms as set out in Condition 16(b). These include:
- (i) **Managing pasture grass height to no greater than 150mm;**
 - (ii) **Requiring that any on-site stormwater soakage areas are designed to**

¹⁰ s42A report, for example first paragraph on page 8

avoid standing water areas;

- (iii) Avoiding ornamental ponds or other landscaping involving standing water that is likely to attract bird life;**
- (iv) Avoiding growth of any broad-leaf weed species; and**
- (v) Removing, or in the case of compost areas covering any dead vegetation so that it is not accessible by birds.**

4.13 Based on the above analysis, in summary I consider that any potential adverse effects will be adequately managed and are therefore less than minor and acceptable.

5 Objectives and policies of the District Plan

5.1 I address the relevant District Plan objectives and policies, from the Chapters on Infrastructure, Transport, Subdivision, and the Otatara Zone, in the table at [Attachment B](#). My key conclusions from that assessment are:

- (a) On infrastructure, the provisions, in broad summary, promote the efficient operation of local, regional and national infrastructure and the protection of it from incompatible activities. The airport infrastructure is protected as I discussed in Part 4 above, and potential incompatibilities between the airport and surrounding land uses are managed through the suite of methods prescribed by the District Plan that I discussed in Part 3 above;
- (b) Similarly, on transport, the provisions seek the protection and efficient operation of transport infrastructure, and I consider that this is achieved through meeting the various prescribed methods;
- (c) On subdivision, the provisions seek integration (with existing communities, infrastructure and public spaces), maintenance and enhancement of the character and amenity of Invercargill, and management of adverse effects. I consider that the provisions are achieved for the reasons discussed in Part 4 above in relation to potential adverse effects, and through the integration with existing roading, the reserve and the wider Otatara Community, and the character and amenity of Invercargill is maintained;
- (d) The Otatara Zone objectives and policies promote the rural / residential use and lot sizes, the maintenance and enhancement of amenity values and, among other matters, the provision of outdoor living, and management of reverse sensitivity effects from noise from transportation

networks. As for my assessment on the other chapters, I consider that these issues are addressed successfully by the proposal.

- 5.2 In summary, I consider that the relevant District Plan objectives and policies are achieved.

6 Objectives and policies of the Southland Regional Policy Statement

- 6.1 I address the relevant objectives and policies of the RPS in [Attachment C](#), in relation to infrastructure and transport. Their themes are very similar to those of the District Plan, and I consider, for the reasons expressed in part 5 above, that the proposal achieves them.

- 6.2 The RPS sets out the methods that authorities will adopt to achieve the various objective and policies, for example *Method INF.2* which I set out in Attachment C. For territorial authorities, the methods include the requirement for District Plans to include objectives, policies and rules to enable the use, development, maintenance and upgrading of infrastructure and management of adverse effects of and on infrastructure, including reverse sensitivity effects. As I discussed in Parts 3 and 4 above, the District Plan has settled provisions that address the airport's effects and reverse sensitivity effects, and these accord with the RPS's expected methods.

7 Part 2 of the Act

- 7.1 There are no relevant matters under s6 of the Act.

- 7.2 The key section 7 matters (matters to which regard must be given) are:

- (b) The efficient use and development of natural and physical resources:**
- (c) The maintenance and enhancement of amenity values:**
- (f) The maintenance and enhancement of the quality of the environment:**
- (g) Any finite characteristics of natural and physical resources:**

- 7.3 Regarding *efficiency*, in my view it is efficient for this type of development to proceed where it is expected by the zoning and where sensitivity and reverse sensitivity effects can be appropriately managed in accordance with settled District Plan methods.

- 7.4 Regarding *amenity values* and *quality of the environment*, the provisions adequately promote, internally, a quality environment, taking into account the measures to address effects from the airport, and I do not consider that the amenity values or quality of the lots' external environment would be degraded to the extent that the subdivision should not proceed, taking into account my discussion in Parts 3 and 4 above.
- 7.5 Regarding *finite characteristics*, the Otatara Zone is a key rural residential zone in close proximity to Invercargill and the District Plan's expectation is that the Site will be developed in a manner that accords with the zoning and District Plan's other methods for managing effects, to accommodate demand for this sector of the housing market.
- 7.6 The proposal is therefore consistent with the principles in sections 7 of the Act.
- 7.7 The purpose of the Act, in section 5, is to promote the sustainable management of natural and physical resources. This has an enabling component (using, developing and protecting resources to enable wellbeing); and a regulating component (the matters in s5(2)(a)-(c) including sustaining the potential of resources to meet the reasonably foreseeable needs of future generations; safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and avoiding, remedying, or mitigating any adverse effects of activities on the environment).
- 7.8 The District Plan enables the subdivision and development of the Site for rural residential purposes and hence enables social and economic wellbeing, subject to meeting the regulatory constraints which include the requirement for acoustic insulation and no-complaints covenants to manage sensitivity and reverse sensitivity effects. The proposal is fully consistent with the regulatory measures and I therefore consider that the proposal achieves the purpose of the Act.

8 Conditions of consent

- 8.1 Further to my discussion in Part 4 above, at [Attachment D](#) I provide an updated draft of Ms Ellis' set of conditions. I have added wording in respect of tree heights (Condition 16(a)), bird strike mitigation (Condition 16(b)) and outdoor lighting (Condition 17(a)). I am satisfied with the remainder of the conditions but have amended Conditions 3, 15 and 16 slightly, having discussed them with Steve McGregor (the applicant's surveyor).

9 Summary and conclusion

9.1 I agree with Ms Ellis that:

- any adverse effects of the proposal are acceptable, including in relation to airport noise, and I consider that any potential reverse sensitivity effects are avoided;
- the proposal is consistent with the relevant objectives and policies of the District Plan; and
- the proposal achieves the purpose and principles of the Act.

9.2 I also consider that the proposal achieves the relevant RPS provisions.

9.3 I consider that the application can be granted under s104B and that the updated conditions set out in Attachment D are appropriate.

J A Brown
21 April 2022

Jeffrey Brown – CV

Curriculum vitae – Jeffrey Brown

Professional Qualifications

1986: Bachelor of Science with Honours (Geography), University of Otago

1988: Master of Regional and Resource Planning, University of Otago

1996: Full Member of the New Zealand Planning Institute

Employment Profile

May 05 – present: Director, Brown & Company Planning Group Ltd – resource management planning consultancy based in Queenstown and Auckland. Consultants in resource management/statutory planning, strategic planning, environmental impact assessment, and public liaison and consultation. Involved in numerous resource consent, plan preparation, changes, variations and designations on behalf of property development companies, Councils and other authorities throughout New Zealand.

1998 – May 2005: Director, Baxter Brown Limited – planning and design consultancy (Auckland and Queenstown, New Zealand). Consultants in resource management statutory planning, landscape architecture, urban design, strategic planning, land development, environmental impact assessment, public liaison and consultation.

1996-1998: Director, JBA, Queenstown – resource management consultant.

1989 – 1996: Resource management planner in several local government roles, including Planner (1992 – 1994) and District Planner (1994 – 96), Queenstown-Lakes District Council. Held responsibility for all policy formulation and consent administration.

Other

- Full member of the Resource Management Law Association
- New Zealand Planning Institute – presenter at *The Art of Presenting Good Planning Evidence* workshops for young planners (2016 –)
- Judge, New Zealand Planning Institute Best Practice Awards (2017 – present)

Assessment under the relevant objectives and policies of the District Plan

Provision	Detail of Provision	Assessment
INF Infrastructure		
Objective INF- O1	Invercargill's local, regional and national infrastructure is secure and operates efficiently.	The Invercargill Airport is regional infrastructure. The proposal will not affect the airport operations as discussed in Parts 3 and 4 above and the policy assessment below.
Objective INF- O2	Infrastructure is developed, operated, maintained and upgraded whilst: <ol style="list-style-type: none"> 1. Efficiently and effectively meeting the current foreseeable needs within and between Districts. 2. Fulfilling functional, locational, technical, and operational requirements and avoiding, remedying or mitigating the effects on the environment. 	Relevant to the extent that the airport must be operated in accordance with the noise contours, and development is anticipated in the Otatara Zone within the OCB and SESEB contours.
Objective INF- O3	Existing infrastructure is sustainably managed and protected from incompatible subdivision, use and development.	Existing electricity and telecommunications services will be extended to provide for the proposed subdivision. Existing accessways onto Otatara Road and Korimako will be upgraded, however the proposed Right of Ways within the Site will remain in private ownership; this does not offend the objective in any way.
Objective INF- O5	To provide for the sustainable, secure and efficient operation, maintenance, upgrading and development of infrastructure while seeking to avoid, remedy or mitigate adverse effects on the environment to the extent practicable, and while recognising the technical and operational requirements and constraints of the networks.	The airport infrastructure is protected as discussed in Part 4 above and in the relevant policy assessment below. Potential incompatibilities between the airport and surrounding land uses are managed through the suite of methods prescribed by the District Plan that I discussed in Part 3 above.
Objective INF- O6	To recognise the importance of infrastructure to the social and economic well-being of the City, the Southland region and the nation.	The proposal will not affect the airport operations as discussed in Part 4 above and in the relevant policy assessment below.
Policy INF-P1	Existing Infrastructure: To recognise and provide for the continued operation, maintenance and upgrading of local, regional and national infrastructure and associated activities.	Existing electricity and telecommunications services will be extended to provide for the proposed subdivision. Existing accessways onto Otatara Road and Korimako will be upgraded to provide access to proposed lots 11 and 24 – 30.
Policy INF-P2	Management of Effects: Where practicable, avoid, remedy or mitigate adverse environmental effects arising from the development, construction, operation, maintenance	The proposal provides for the continued operation of the Invercargill Airport through achieving the District Plan methods for subdivision and development in the Otatara Zone, which avoids or adequately mitigates the potential for adverse effects.

Provision	Detail of Provision	Assessment
	and upgrading of infrastructure on the environment.	
Policy INF-P3	<p>Reverse Sensitivity:</p> <p>To protect local, regional and national infrastructure from new incompatible subdivision, land uses and development under, over or adjacent to the infrastructure.</p>	<p>The methods for achieving protection of the airport from new activities are addressed in part 3 above; the methods collectively ensure that the activities proposed are not incompatible with the airport's activities.</p> <p>The proposal avoids reverse sensitivity effects as all future buildings will be subject to compliance with the noise sensitive insulation requirements of the plan (OTAZ-R4 and Appendix 15).</p> <p>The no-complaint covenant protects the airport infrastructure in the manner that the District Plan anticipates and requires.</p>
Policy INF-P8	<p>Undergrounding:</p> <ol style="list-style-type: none"> 1. To require the underground placement of utilities in areas where existing networks are underground or extensions to networks are proposed, where this is economically viable and technically feasible. 2. To encourage the underground placement of utilities where they are currently above ground, particularly when those utilities are being upgraded or replaced, where this is economically viable and technically feasible. 	<p>The proposed extensions to electricity and telecommunications infrastructure will be underground.</p>
TRA Transport		
Objective TRA-O1	<p>Development of transport infrastructure and land use takes place in an integrated and planned manner which:</p> <ol style="list-style-type: none"> 1. Integrates transport planning with land use. 2. Protects the function, safety, efficiency and effectiveness of the transport network. 3. Minimises potential for reverse sensitivity effects to arise from changing land uses. 4. Provides for positive, social, recreational, cultural and economic outcomes. 5. Minimises, where practical, the adverse public health and environmental effects. 	<p>Access to the proposed lots is integrated with existing roading networks. The integration of the proposal protects the function, safety, efficiency and effectiveness of the existing transport network.</p> <p>The proposal avoids the potential for reverse sensitivity effects as discussed in Parts 3 and 4 above.</p> <p>The proposal will give rise to positive effects relating to recreational (pedestrian access to the Otatara Reserve), social and economic outcomes for the community.</p> <p>Any potential adverse public health and environmental effects are minimised as far as practicable, in the Zone which anticipates rural residential living, through applying the methods required by the District Plan including the need for acoustic insulation.</p>

Provision	Detail of Provision	Assessment
Policy TRA-P1	<p>Infrastructure:</p> <p>To provide for the safe and efficient operation, improvement and protection of transport infrastructure.</p>	<p>The proposal maintains the safe and efficient operation of the surrounding transport infrastructure as discussed above.</p>
Policy TRA-P2	<p>Noise:</p> <p>To manage the impact of noise associated with the airport, seaport, State Highway and railway networks.</p>	<p>All future residences (and any other buildings containing sensitive activities) on proposed Lots 1 – 30 require insulation from aircraft noise so that the internal noise environment complies with the District Plan requirement for noise sensitive activities.</p> <p>The no-complaints covenant to be registered to the titles of the proposed lots. This covenant states that the owner must not complain about, being any proceedings about, take any step in respect of or in any way restrict, constrain or seek to prohibit any activity or practice conducted as part of, or in connection with, any existing or proposed airport operations.</p> <p>The proposal accords with Rules OTAZ-R4, SUB-R4-22 and Appendix 15 which is the method the district plan has adopted to manage the impacts of airport noise.</p>
Policy TRA-P3	<p>Roading Hierarchy:</p> <p>To have regard to the Council's Rooding Hierarchy when considering subdivision, use and development of land.</p>	<p>Council's One Network Road Classification (ONRC) identifies Otara Road as a Primary Collector Road and Korimako Avenue as a Low Volume Road.</p> <p>The proposal will not generate traffic that is inconsistent with the road hierarchy.</p>
Policy TRA-P5	<p>Adverse Effects:</p> <p>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.</p>	<p>As discussed above, the proposal will not give rise to adverse effects on the transport infrastructure including the Invercargill Airport as the proposal complies with Rules OTAZ-R4, SUB-R4-22 and Appendix 15 which address reverse sensitivity effects on the airport.</p>
Policy TRA-P8	<p>Public Health:</p> <p>To manage transport activities and surrounding land use activities to protect public health and environmental values.</p>	<p>The proposal will not give rise to adverse effects on public health and environmental values. The noise sensitive insulation rule is the District Plan's method to achieve this and the proposal complies with the requirements.</p>
Policy TRA-P10	<p>Public Transport, Walking and Cycling:</p> <p>To promote the use of public transport, and walking and cycling networks.</p>	<p>The proposal includes a walkway to the Otara Reserve which will promote walking from the proposed lots to the surrounding area.</p>
Policy TRA-P11	<p>Significant Transportation Networks:</p> <p>To recognise that the Invercargill Airport, seaport, railway, State Highways, and the arterial roads which link this infrastructure are regionally significant transportation networks and are</p>	<p>This policy is acknowledged but the proposal does not offend it in any way; the viability and functioning of the airport is not threatened by the proposal.</p>

Provision	Detail of Provision	Assessment
	essential to the ongoing viability and functioning of the District.	
SUB Subdivision		
Objective SUB-O1	Subdivision and development is integrated with existing communities, infrastructure and public spaces.	The proposal will integrate into the surrounding rural residential area, the existing infrastructure such as roading, electricity and telecommunications, and provides pedestrian access to the Otatara Reserve. The proposal integrates with the airport as discussed above.
Objective SUB-O2	Subdivision and development maintains and enhances the character and amenity of Invercargill.	The proposal maintains the character and amenity within Otatara and the Invercargill area.
Objective SUB-O5	Subdivision and development is managed so that it avoids, remedies or mitigates adverse effects on the safe, efficient and effective operation, maintenance, upgrading and development of infrastructure.	The proposal will not give rise to adverse effects on the safe, efficient and effective operation, maintenance, upgrading and development of infrastructure as discussed above (Transport objectives and policies assessment).
Objective SUB-O7	The intensity of development along strategic arterial roads is managed to reduce the cumulative adverse effects on the safe and efficient functioning of such links.	The safety and efficiency of Otatara Road is not adversely affected.
Objective SUB-O8	The subdivision of land is undertaken in accordance with the Objectives for zones and resources of the City recognising that because subdivision sets the long-term pattern of development, subdivision is a major determinant of how land is used and therefore of the environmental effects of land use.	The proposal is provided for in the Otatara Zone and complies with the performance standards and an appropriate pattern of development within the Otatara Zone and the OCB / SESEB, as anticipated by the District Plan.
Objective SUB-O9	The process of creating allotments through subdivision is integrated with planning for the relevant utilities and services and infrastructure to which it is anticipated the allotments will be connected.	Existing telecommunications, electricity supply and access ways will be extended to provide for the proposal and therefore the subdivision is integrated with the relevant services and infrastructure.
Objective SUB-O10	Subdivision will result in good urban design outcomes.	The layout is appropriate for a rural residential development in this location, taking into account adjacent and nearby rural residential development and the minimum lot size requirements of the Otatara Zone.
Policy SUB-P1	Adverse Effects: To ensure in the creation of new allotments any adverse effects on the environment are avoided, remedied or mitigated.	The proposal will not give rise to adverse effects that are more than minor on the environment as discussed in Part 4 above.

Provision	Detail of Provision	Assessment
Policy SUB-P8	<p>Iwi:</p> <p>To ensure that subdivision design considers the relationship between Māori and their ancestral lands, sites, wāhi tapu and other taonga.</p>	<p>There is no known wāhi tapu or taonga within or near the site.</p>
Policy SUB-P9	<p>Infrastructure:</p> <p>To recognise the operational, maintenance, upgrading and development requirements and manage the reverse sensitivity issues associated with infrastructure including the National Grid, electricity lines, State Highways, railways and the airport.</p>	<p>This policy is acknowledged in relation to the Invercargill Airport and the matters relating to reverse sensitivity have been assessed in the INF provisions above and in Parts 3 and 4 above.</p>
Policy SUB-P11	<p>Public Access:</p> <p>To maintain and enhance through the subdivision process, public access to and along the coastline, waterways and public space of Invercargill.</p>	<p>The proposal provides pedestrian access from the development to the Otatara Reserve.</p>
OTAZ Otatara Zone		
Objective OTAZ-O1	<p>To provide for low density residential activity and the retention of rural allotments by zoning within the existing reticulated area for dwellings on lots of 4,000m² or larger and zoning within unserviced areas for dwellings on lots of 10,000m² or larger.</p>	<p>The proposal provides for rural residential development that is consistent with the Otatara Zone provisions (all lots are at least 10,000m²).</p>
Objective OTAZ-O2	<p>The amenity values of the Otatara Zone are maintained and enhanced.</p>	<p>The proposal will maintain the amenity values of the Otatara Zone; the lot layout is consistent with the nature and scale of development in the immediate and wider vicinity.</p>
Policy OTAZ-P1	<p>Otatara Zone:</p> <p>To provide for low density residential activity and the retention of rural allotments by zoning within the existing reticulated area for dwellings on lots of 4,000m² or larger and zoning within unserviced areas for dwellings on lots of 10,000m² or larger.</p>	<p>As for Objective OTAZ-O1, the proposal provides for rural residential development that is consistent with the Otatara Zone provisions.</p>
Policy OTAZ-P2	<p>Outdoor Living:</p> <p>To require the provision of practical outdoor private open space, accessible to the living areas of the dwellings, as an important dimension of amenity.</p>	<p>The proposed lot sizes provide for adequate outdoor living for all future dwellings.</p>
Policy OTAZ-P3	<p>Ambient Noise:</p> <p>To maintain low daytime ambient noise levels and lower night time ambient noise levels consistent with residential use of the area.</p>	<p>The proposal will be consistent with the ambient noise levels anticipated by residential activity.</p>

Provision	Detail of Provision	Assessment
Policy OTAZ-P4	<p>Noise from Transportation Networks: To recognise that some parts of the zone are subject to higher levels of noise generated by the transportation networks and to avoid, or mitigate reverse sensitivity effects associated with those activities.</p>	<p>The site is within the OCB and is potentially subject to higher levels of noise from the airport than areas outside the OCB. This is recognized in the various District Plan rules. The proposal includes a no complaints covenant to mitigate reverse sensitivity effects and all future dwellings will need to comply with the noise insulation requirements as required by the rules of the Zone.</p>

Assessment under the relevant objectives and policies (and methods for implementation) of the Southland Regional Policy Statement

Provision	Detail of provision	Assessment
Chapter 15 – Infrastructure/Transport		
Part A - Infrastructure		
15.2 Objective INF.1	Southland’s Infrastructure Southland’s regionally significant, nationally significant, and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment.	As discussed above for the District Plan provisions, the airport infrastructure is protected as discussed in Part 4 above and in the relevant policy assessment below. Potential incompatibilities between the airport and surrounding land uses are managed through the suite of methods prescribed by the District Plan that I discussed in Part 3 above
15.3 Policy INF.1	Regional, national and critical infrastructure Recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.	
Policy INF.2	Infrastructure and the environment Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account: a) any functional, operational or technical constraints that require the physical infrastructure of regional or national significance to be located or designed in the manner proposed; b) whether there are any reasonably practical alternative designs or locations; c) whether good practice approaches in design and construction are being adopted; ...	The airport has functional and operational constraints (the noise contours) and there are no other practical alternative designs or locations for the subdivision proposed taking into account the zoning and lot size requirements applying under the District Plan. As discussed above, adverse effects are avoided or adequately managed through application of the various District Plan methods for airport noise.
Policy INF.3	Infrastructure protection Protect regionally significant, nationally significant and critical infrastructure, particularly from new incompatible land	As discussed above, the rural residential development and the airport are compatible through achieving the mechanisms prescribed by the District Plan.

Provision	Detail of provision	Assessment
	uses and activities under, over or adjacent to the infrastructure.	
15.4 Methods ...		
Territorial authorities will:		
Method INF.2	District plans Include objectives, policies and methods in plans that will: <ul style="list-style-type: none"> a) enable the development, use, maintenance and upgrading of infrastructure, whilst ensuring the management of any associated adverse effects; b) help ensure that 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) ensure that adverse effects, including reverse sensitivity effects, of development and land use on existing and/or planned regionally and nationally significant infrastructure are avoided, remedied or mitigated by identifying: <ul style="list-style-type: none"> i. what activities and development may be incompatible with this infrastructure; and ii. how this infrastructure should be protected from such activities; d) promote the efficient and effective use of infrastructure; e) take into account the potential adverse effects of natural hazards and climate change on infrastructure; f) facilitate long-term planning for investment in infrastructure and its integration with land uses. 	As discussed in part 3 of this evidence, the District Plan contains settled provisions that manage the effects of airport noise on the surrounding environment and reverse sensitivities. The proposal achieves all of the relevant prescribed methods under the District Plan.
Part B - Transport		
15.6 Objective TRAN.1	Transport and land use Development of transport infrastructure and land use take place in an integrated and planned manner which:	As discussed in Parts 3 and 4 of this evidence, the

Provision	Detail of provision	Assessment
	<ul style="list-style-type: none"> 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. 	
Policy TRAN.4	<p>Protection of health and environmental values</p> <p>Manage transport activities to avoid, remedy or mitigate adverse effects on public health and environmental values.</p>	

Updated draft conditions of consent (from s42A Appendix F)

(J Brown additions in ~~blue~~ ~~strikeout~~ or addition)

General:

1. The proposed activity is to be undertaken in accordance with the plans and supporting information submitted with the application RMA/2020/82 received by the Council on 18 May 2020, and any further information provided, including on 10 June 2021, except where modified by conditions of consent.
2. All necessary easements and right of ways, including those shown in the memorandum of easements and schedule of easements provided with the application, must be duly reserved and granted.
3. The easements providing access from Lots 1-30 to Otatara Scenic Reserve must be ~~vested~~ duly reserved and granted as part of Stage 1.
4. Prior to any physical works commencing, the detailed design and specifications of any assets to vest in Council, including the crossing (bridge) from Lot 30, must be submitted to, and approved by, the Council. These assets must be constructed in accordance with the approved plans and specifications.

Stormwater:

5. Prior to any physical works commencing, a stormwater management plan must be submitted to, and approved by, the Council's Manager – Engineering Services. The design details must include (but are not limited to):
 - a) Stormwater management via on-site soakage; and,
 - b) All design details and specifications in accordance with Council standards; and,
 - c) Identification and protection of existing overland flow paths; and,
 - d) Demonstration that the proposed soakage system will result in no more stormwater leaving the site than currently occurs, i.e. post-development stormwater flows are to be no greater than pre-development stormwater flows.

Access:

6. Prior to physical works commencing, detailed design plans and specifications for the vehicle crossing off Otatara Road and Korimako Avenue must be submitted to, and approved by, the Council's Manager – Engineering Services. The Otatara Road vehicle crossing must include details of seal widening, flag lighting, and give way controls that meet Council requirements. The plans must also show the naming of the rights of way, the allocation of street numbering and location of mail boxes, as agreed with New Zealand Post.

Please Note: Given the number of lots gaining access off the proposed crossings, a site specific design is likely required. It is likely that the Rights of Way will need to be named.

7. The existing vehicle access to Lot 11 must be removed and reinstated to the satisfaction of the Council's Manager – Engineering Services
8. Prior to physical works commencing, detailed design of all vehicular Rights of Way must be submitted to, and approved by, Council's Manager – Engineering Services. The Rights of Way must be designed to meet Council standards, and Right of Ways A-C, H and K-M must be sealed.

9. All vehicle crossings, rights of way, and mailbox bays, must be constructed in accordance with the plans approved by Council's Manager – Engineering Services.

Electricity and Telecommunications:

10. Underground reticulated electricity and telecommunication must be provided to the boundary of each allotment.

Landscaping:

11. Prior to construction of Rights of Way D-G, I, J, N, O, and R-X, a landscaping plan must be submitted to, and approved by, the Council. The landscaping plan must identify the location, types, and grade of species to be established in this right of way, and include an appropriate legal mechanism to protect and maintain these features in perpetuity.

Earthworks:

12. Prior to physical works commencing, an earthworks management plan must be submitted to, and approved by, the Council that ensures earthworks are undertaken in a manner that prevents dust, silt and sediment running off the property or into any drain on site. The earthworks management plan must be implemented for the duration of the earthworks.

13. Hours of operation for earthworks, must be limited to:

- Monday to Friday (inclusive): 7.00am to 7.00pm.
- Saturday 8.00am to 6.00pm
- Sundays and Public Holidays: No Activity

In addition, heavy machinery may only operation between 7.30am to 6.00pm Monday to Friday, and 8.00am to 5.00pm on Saturdays.

Staging:

14. This subdivision may be staged. For the purposes of issuing approvals under sections 223 and 224(c) of the Resource Management Act 1991), the conditions of this consent shall be complied with only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in the following stages:

- Stage 1: Lots 1 to 29
- Stage 2: Lots 30 and 31

The staging must occur in numerical order, or occur together.

Covenants:

15. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the "no complaints covenant" in appendix E of the application report, in accordance with Section 108 of the Resource Management Act, shall be issued and registered against the Records of Title ~~for Lots 1-30~~ [394978 \(Lots 1 – 29\) and part SL8C/109 \(Lot 30\)](#) ~~Lots 1–30~~.
16. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, an "Airport Protection" covenant, in accordance with Section 108 of the Resource Management Act, shall be [approved by the Council and](#) issued and registered against the Records of Title ~~for 394978 (Lots 1 – 29) and part SL8C/109 (Lot 30)~~ ~~Lots 1–30~~ to record that:
- a) [Each owner of a lot shall be responsible for ensuring that the height of any tree on their lot shall be no higher than 8m above existing ground level;](#)
 - b) [Each owner of a lot shall be responsible for ensuring that any risk of aircraft bird strike is minimised as far as possible by:](#)
 - (vi) [Managing pasture grass height to no greater than 150mm;](#)

- (vii) Requiring that any on-site stormwater soakage areas are designed to avoid standing water areas;
- (viii) Avoiding ornamental ponds or other landscaping involving standing water that is likely to attract bird life;
- (ix) Avoiding growth of any broad-leaf weed species; and
- (x) Removing, or in the case of compost areas covering any dead vegetation so that it is not accessible by birds.

Consent Notice:

17. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be issued and registered against the Records of Title for Lots 1-30 to record that:
 - a) Light spill and/or glare shall be mitigated by the following measures:
 - (i) All exterior lighting shall be restricted to down lighting only for the purpose of lighting private areas only.
 - (ii) Lighting should not create any light spill onto adjoining properties and be designed to avoid upward light spill into the night sky.
 - (iii) All exterior lighting not fixed to a building shall be no more than 1 metre in height and be designed to avoid light spill into the night sky.
 - (iv) Light sources are to be LED, incandescent, halogen, or other "white light". Sodium vapour or other coloured light is not permitted.
 - b) No building shall be constructed in the overland flow paths, identified in condition 5 of resource consent RMA/2020/82.
 - c) No building or structure shall be constructed within 10m of any ~~drain or other~~ waterway.
 - d) Lot 1, 10 and 11 must only use their Right of Way access and must not create any new vehicle access directly to Otatarā Road.
18. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, a consent notice, in accordance with Section 221 of the Resource Management Act, shall be issued and registered against the Records of Title for any lots that have landscaping showing on the landscape plan required under Condition 11, to record that:
 - a) Planting approved under condition 11 of resource consent RMA/2020/82 must be maintained in perpetuity. Should any plant become diseased or die, it must be replaced within the following planting season.

Advice notes:

1. Under section 125 of the Resource Management Act 1991, this resource consent will lapse in five years, unless it is given effect to within that time.
2. It is the consent holder's responsibility to comply with all conditions imposed on this resource consent prior to and during the exercise of it.
3. Where any documentation is provided to Council for approval under the conditions above, the Council will either approve, or refuse to approve, the documentation within 10 working days of receipt. Should the Council refuse to approve, then they shall provide a letter outlining why
4. Please note that a resource consent is not a consent to build. A building consent must be issued prior to any building work being undertaken. For further information, contact the Building Consents staff who are located on the ground floor, Civic

Administration Building or phone 211 1777.

5. Please refer to the relevant Council Road Naming Policy or guidance for the process involved in allocating names to the proposed Rights of Way. Contact Council's Property Database Officer (ph: 211 1777) to arrange for purchase and payment of the RAPID signs that have been issued.
6. Please note that a corridor access permit is required before any work is carried out on the road reserve. Please contact the Council's Roading Department to arrange this and to ascertain the standards for the vehicle crossing. When applying for the permit you should point out that you also need to satisfy a subdivision consent condition.
7. As the lots are currently vacant, the Council expects that a dwelling complying with the District Plan will be designed for the site.