

Notice to Environment Court of appeal on decision on application concerning
resource consent, [Sections 121](#), Resource Management Act 1991

To the Registrar
Environment Court
Christchurch

I, John Leonard SHIRTCLIFF & Rosemary Jean SHIRTCLIFF, appeal a decision on the following matter:

Application **101.2017.2** for a 9 lot Subdivision made to Timaru District Council

I am the applicant.

I received notice of the decision on 20th December 2017.

The decision was made by Timaru District Council.

I am not a trade competitor for the purposes of [section 308D](#) of the Resource Management Act 1991.

The decision I am appealing is:

The decision to decline the application.

The land affected is:

Lot 1 DP 82810 at 584 Orari Station Road, Geraldine.

The reasons for the appeal are as follows:

1. The adverse effects upon rural amenity are neither contrary (in the sense of being repugnant) to the district plan nor incapable of mitigation. This is particularly so as the receiving environment (Orari Station Road) has already been subject to appreciable compromise as to rural amenity – a factor which has not been appreciated by the decision-maker who visited the site only after the conclusion of the public stage of the hearing. We were not made aware that this was an issue in the commissioner's mind and were thus denied an opportunity to present the counter view in our right of reply.
2. Significant precedent exists for grant of such applications by resource consent as an appropriate and expedient method of determining such a land use as that proposed. We can find only one case in which a rural subdivision was processed via a plan change mechanism – due, it appears, to the larger scale and relatively major issues (sewer, water and roading infrastructure) associated with that subdivision. Disposal of waste water, storm water and the provision of potable water have all been considered and feasibility confirmed, for this proposal and are in accordance with existing planning provisions.
3. Proceeding by way of a plan change is neither specifically required to the exclusion of an alternative approach by the applicable planning documents, nor is it appropriate or cost effective under the circumstances of a relatively small scale proposal such as this. Resource consent is an approach that is contemplated in the RMA, National Policy Statement on Urban Development, the Canterbury Regional Policy Statement and the District Plan.
4. Neither the decision nor the district plan gives effect to the National Policy Statement on Urban Development (2016).
5. Neither the decision nor the district plan gives effect to the Canterbury Regional Policy Statement (January 2013).

6. The Growth Management Strategy was introduced by Timaru District Council as a special circumstance in the s95 assessment (and therefore demanding of public notification) but held not to be relevant by the decision-making authority under section 104 and the s42A report of the planning officer. They cannot have it both ways.
7. The decision addresses possible consequences of the Growth Management Strategy at some length (having discounted it also within the text of the decision), even to the extent of positing undesirable creation of precedent and future zone rules which are imagined to conflict with this proposal or render it undesirable. Yet it is clear, from case precedent, that any future resource consent application that may arise on this or other lands must be considered solely upon its own merits at the time of application.
8. The Growth Management Strategy is due to be reported back to Council and adopted as Council policy in March 2018 (email dated 14th December 2017). Adoption of this policy will then be, unarguably, a mandatory relevant consideration.
9. The purposes of the RMA would be better served by granting the application.

I seek the following relief:

Grant the application with appropriate conditions.

I attach the following documents* to this notice:

- (a) a copy of my application supported by my further submission:
- (b) a copy of the relevant decision:
- (d) a list of names and addresses of persons to be served with a copy of this notice.

*These documents constitute part of this form and, as such, must be attached to both copies of the notice lodged with the Environment Court. The appellant does not need to attach a copy of a regional or district plan or policy statement. In addition, the appellant does not need to attach copies of the submission and decision to copies of this notice served on other persons if the copy served lists these documents and states that copies may be obtained, on request, from the appellant.



Signature of appellant
(or person authorised to sign
on behalf of appellant)

Date: 30th January 2018

Address for service of appellant:
584 Orari Station Road
RD 22
GERALDINE 7992

Telephone: 03 6937419 021 474334
Fax/email: john.shirtcliff@xtra.co.nz
Contact person: J.L. Shirtcliff

Advice to recipients of copy of notice

How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Resource Management Act 1991.

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* [form 38](#)).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the relevant application (*or* submission) and (*or or*) the relevant decision (*or* part of the decision). These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Parties identified for service:

	Name	Address
1.	Alan & Jill Young	Ashbury Farm, 583 Orari Station Road ashburyfarm@gmail.com
2.	Ross and Robyn Irvine	45 Tancred Street
3.	Freerk & Anke Numan	11 Cascade Place fnuman@xtra.co.nz
4.	Peter & Desiree McCaskill	50 Campbell Street peter.mccaskill@gmail.com
5.	Ad & Anita Hendriks	540 Orari Station Road ahendriks@xtra.co.nz
6.	Notified Geraldine Residents Group	9, 11, 16 & 17 Cascade Place; 47, 51 & 52 Tancred Street; 50 Campbell Street; and 540 Orari Station Road ianlyttle@xtra.co.nz
7.	Ian & Lynne Lyttle	17 Cascade Place ianlyttle@xtra.co.nz

8.	Alison & Grant Norton	47 Tancred Street grant.norton@xtra.co.nz
9.	William Anderson	51 Tancred Street debpaulyboyce@gmail.com
10.	Canterbury Regional Council (ECan)	P.O. Box 345 Christchurch 8140 Julia.forsyth@ecan.govt.nz
11.	New Zealand Fire Service Commission (NZFS)	C/o Beca ltd P.O. Box 13960 Christchurch 8141 alice.burnett@beca.com
12.	Lee Burdon	73 Connolly Street wittonlodge@outlook.com
13.	Brett & Melissa Horrell	15 Cascade Place horrellconstruction@gmail.com
14.	Timaru District Council	PO. Box 522 TIMARU 7940 tracy.tierney@timdc.govt.nz