



OFFICERS REPORT

**PREPARED UNDER SECTION 42A OF THE RESOURCE MANAGEMENT
ACT 1991**

TO

INDEPENDENT COMMISSIONER ALLAN CUBITT

IN RESPECT OF

RESOURCE CONSENT APPLICATION 101.2017.2

MADE BY

JOHN & ROSEMARY SHIRTCLIFF

DATED

4 AUGUST 2017

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1.0 INTRODUCTION

1.1 GENERAL

This report sets out to provide an independent and objective assessment of the application in accordance with the Timaru District Council's statutory responsibilities to consider and determine the application. The report does not represent the views or opinions of the Commissioner or the Council.

1.2 QUALIFICATIONS AND EXPERIENCE OF THE REPORTING OFFICER

I, Mrs. Gemma Conlon (the writer), hold a Diploma in Environmental Resource Management from the Dublin Institute of Technology, Ireland; a Bachelor of Science in Environmental Planning and a Post-Graduate Diploma in Town and Country Planning from the Queen's University of Belfast, Northern Ireland. I am a Chartered Town Planner through my full membership with the Royal Town Planning Institute. I have seventeen years experience as a town planner, working for local authorities and as a planning consultant in three countries, including Ireland, Australia and New Zealand. I have been a Senior Planner with Timaru District Council since November 2009.

2.0 PROPOSAL DESCRIPTION

2.1 PROPOSAL DESCRIPTION & BACKGROUND

A resource consent application was lodged on 22 December 2016 to subdivide Lot 1 DP 82810 to create twelve new allotments. A further information request was issued on 20 January 2017, followed by two subsequent meetings with the applicant, Council personnel and ECan. The response to the further information request was received on 13 March 2017. As a consequence of the further information request substantial changes have been made to the application as follows:

Consent is now sought to subdivide Lot 1 DP 82810 to create nine new allotments, in three stages. Tables 1-3 below detail the nature and extent of the proposed allotments and the proposed service and access arrangements.

Table 1 - Nature and extent of the proposed allotments

Stage	Lot	Area (Ha)	Proposed Use
2	1	7.09	Rural residential
3	2	4.20	Rural residential
3	3	4.63	Rural residential
1	4	0.51	Rural residential
1	5	0.52	Rural residential
1	6	0.69	Rural residential
1	7	0.57	Rural residential
1	8	0.57	Rural residential
2	9	3.45	Rural residential

Table 2 – Proposed Services Arrangements

Lots	Water Supply	Effluent Disposal	Stormwater Disposal
1 - 9	It is proposed that water can be obtained from domestic bores, roof water collection and storage, or connection to the Te Moana rural water supply scheme.	Consent will be sought from Canterbury Regional Council (ECan) for the disposal of wastewater to ground.	It is proposed to dispose of stormwater to ground in accordance with ECan's stormwater disposal policy.

Table 3 – Proposed Access Arrangements

Lot	Physical and Legal Access
1	Access will be off Orari Station Road via the driveway to the existing dwelling.
2	Access will be off Orari Station Road via a new driveway to the underlying allotment.
3	This lot has physical frontage to Campbell Street and except for a narrow strip of land in Crown ownership, and an esplanade strip along the Ruakapuka Stream, also has frontage to Tancred Street. Access to Tancred Street is the preferred option.
4-8	Proposed new access from Orari Station Road, creating a right-of-way to service all these lots.
9	A new access off Orari Station Road will be created to access this allotment.

There is an existing 5m wide esplanade strip created from DP 79676, with no changes proposed to this esplanade strip. Proposed easements are detailed on the Subdivision Plan.

3.0 DESCRIPTION OF SITE & SURROUNDING ENVIRONMENT

3.1 SITE DESCRIPTION

The subject site is located at 584 Orari Station Road, Geraldine, approximately 1.5km by road east of Talbot Street. The site is 22.34Ha in area. There is an existing dwelling located in the eastern portion of the site. The dwelling is set back approximately 250m from the road and is not visible from the road boundary. This part of the site has extensive landscaping and established trees, which extend along the driveway to the east and are also scattered throughout. The remainder of the site remains in agricultural pasture, with open areas of pasture to the north and south/west. The site has frontage for approximately 505m along Orari Station Road, which is classified as a Principal Road in the District Plan. The location of the site is illustrated in Figure 1, while an aerial photograph of the site is provided in Figure 2.

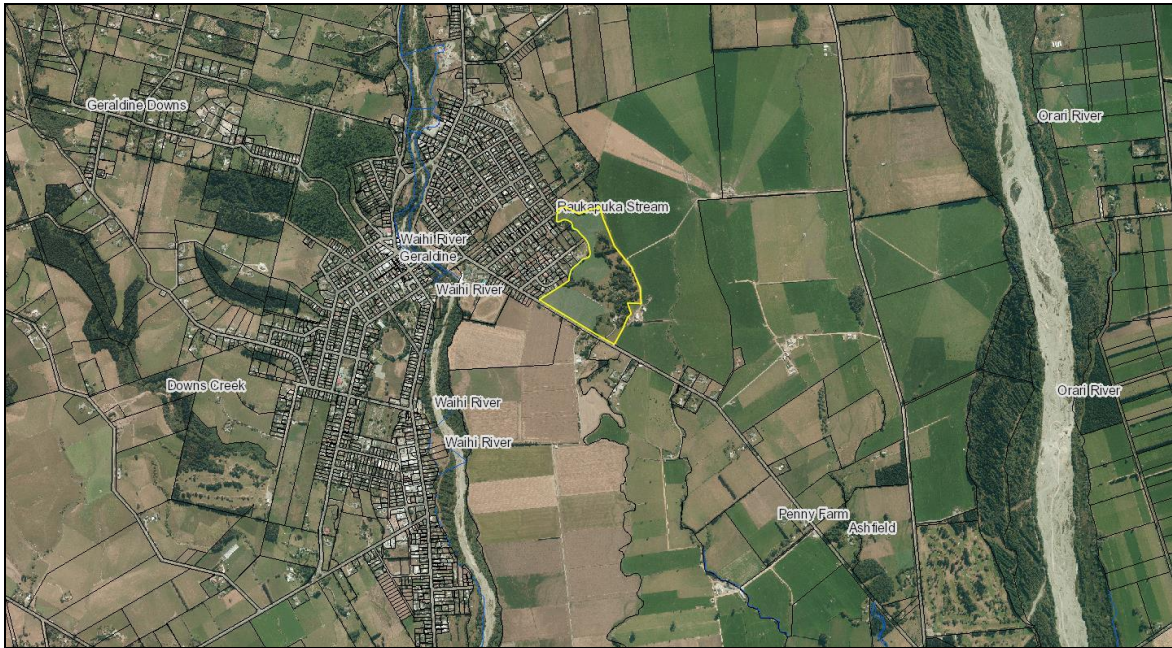


Figure 1 – Site location map. The subject land is indicated by a yellow line.

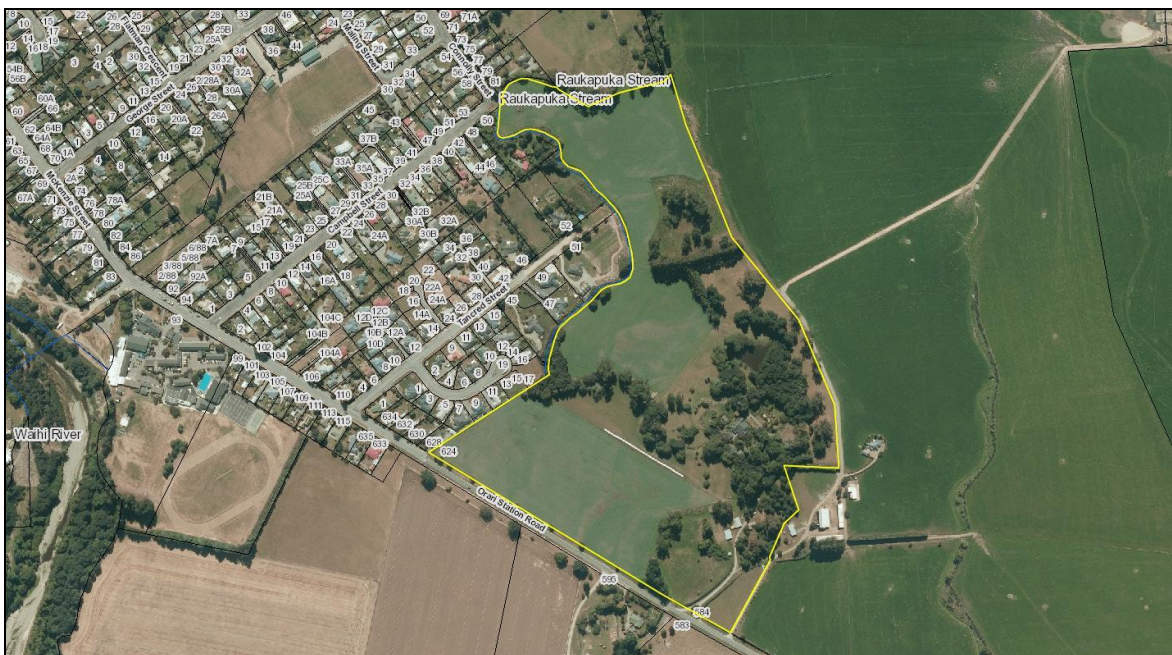


Figure 2 – Aerial photograph. The subject land is indicated by a yellow line.

A site visit was undertaken on 18 January 2017. The applicant was not present during this site visit. Photographs taken during this site visit are held in the file.

3.2 SURROUNDING ENVIRONMENT

The surrounding area to the north, south and east is characterised by rural activities and production. To the west lies the town of Geraldine, with urban residential development directly abutting the sites western boundaries.

4.0 DEVELOPMENT HISTORY

4.1 DEVELOPMENT HISTORY OF THE SITE

The following is a summary of the relevant site history pertaining to the subject lands:

Resource Consent No. 101.2012.841 was granted on 25 September 2012 to subdivide Lot 1 DP 82810 to create two new allotments. This subdivision has not been implemented and the property remains in one certificate of title. It is noted this consent will expire later this year if not implemented.

Subdivision Consent No. 4103 for a boundary adjustment was carried out in 2000 between Lots 4 and 5 DP 79676 with the issue of Lot 1 DP 82810.

Subdivision Consent No. 2874 for the site was completed in 1999 in creation of Lots 1-5 DP 79676. The following allotments were created from this subdivision:

- Three Rural Living Sites;
- A 24.26Ha allotment (comprising the subject site); and
- The balance of the title, being 103.35Ha.

4.2 DEVELOPMENT HISTORY OF LAND IN THE VICINITY OF THE SITE

The following is a summary of the relevant development history of the land in the vicinity of the subject site:

1. Resource Consent No. 101.2013.93 provided for the subdivision of two existing certificates of title into three new allotments. This discretionary activity was granted on 17 June 2013.
2. Resource Consent No. 5053 was granted on 25 July 2003 for a two lot subdivision.
3. Resource Consent No. 4133 was granted on 25 May 2000 for a two lot subdivision.
4. Resource Consent No. 3789 was granted on 26 February 1999 for a two lot subdivision.
5. Resource Consent No. 2874 was granted on 30 January 1997 for a five lot subdivision.

The allotments created as a result of these subdivisions are indicated in Figure 3.

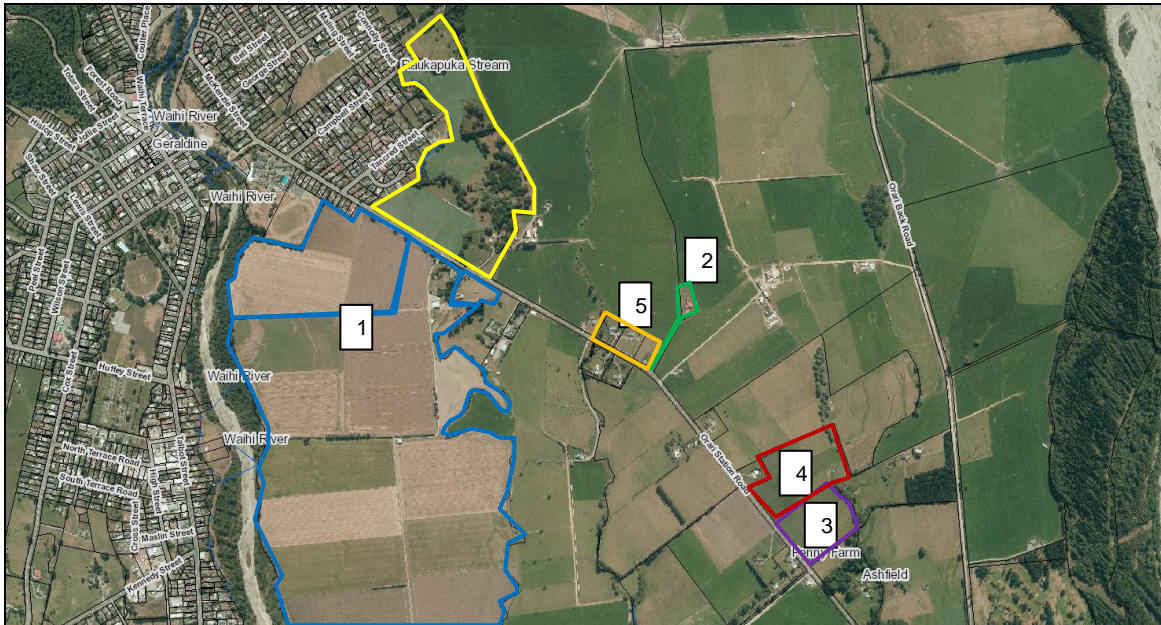


Figure 3 – Rural subdivision in the last twenty years in the vicinity of the subject site.

5.0 ACTIVITY & NOTIFICATION STATUS

The subject site is zoned Rural 1 and Rural 2 by the Timaru District Plan. The activity status of the proposed development is commented on below.

5.1 Subdivision

Part D6, Section 6.3 Subdivision, Performance Standard 6.3.12 (1) specifies that in the Rural 1 Zone rural allotments shall have a minimum area of 40Ha; other than as provided for in Performance Standard 6.3.12(2), which provides for rural living allotments in certain circumstances. Rural living sites can only be created where the underlying title has an area greater than 10Ha. The subject site is split zoned, with approximately 9.6Ha of the site located in the Rural 1 Zone. Therefore, there are no subdivision entitlements for this site.

The remainder of the site, approximately 12.7Ha is located in the Rural 2 Zone. Part D6, Section 6.3 Subdivision, Performance Standard 6.3.13 requires allotments to have a minimum area of 10Ha. Subdivision of the allotment does not therefore comply with this performance standard.

Therefore, as the proposed subdivision does not comply with the above stated Performance Standards, this aspect of the application is assessed as a Discretionary Activity in accordance with Rule 6.3.5 (i).

5.2 Rooding

Part D6, Section 6.6 Rooding Hierarchy, Rule 6.6.2(5) specifies the requirements for road widths and formation in the urban area. Under this rule the extension of Tancred Street is required to have a minimum formed carriageway width of 7m. This carriageway width and associated parking and footpath provisions are not being complied with. Therefore in accordance with Rule 6.6.3, this is assessed as a Discretionary Activity.

5.3 Compliant Activities

5.3.1 Esplanade

Part D6, Section 6.4, Rule 6.4.2 (1) specifies the circumstances in which an esplanade reserve is required for lots of less than 4Ha in area. Rule 6.4.2 (1)(a)(ii) states that for those rivers set out in Rule 6.4.2 (7) an esplanade reserve or strip of a minimum width of 10 metres shall be required (unless varied or waived by a decision on a resource consent application).

Subdivision consent 101.2012.841 was granted for a two lot subdivision on this site that has not yet been exercised. This consent decision concluded at paragraph 5.3.4 that:

Raukapuka Stream transverses the property in a west-east direction. Esplanade strips of 5m have been created on both sides of the bank of the stream. The esplanade strips were created for the purpose to the protection of conservation values and to enable public access and public recreational use.

It is considered that the existing esplanade strip is sufficient to protect the waterbody, flora and fauna along the stream.

As an esplanade strip 5m in width was accepted by Council as adequate, this fits within the exception in the Rule that applies if a decision on a resource consent has varied or waived the default 10m wide requirement. This rule is therefore considered to be complied with.

5.4 Other Activities

5.4.1 Rural Zones

Part D1, Section 1.11.2 Rural 2 Zone, Performance Standard 5.12 specifies that all earthworks shall be set back 10m from the bank of any stream, except for crossing places including bridges and their approaches. The extension of Tancred Street will be required to provide legal access to Lot 3. Due to a lack of information being provided regarding the crossings, it cannot be determined at this stage whether compliance with this performance standard will be met. For this reason, the earthworks associated with any crossing and its approaches are not included in this application.

5.4 Overall Activity Status

Overall, the application is assessed as a Discretionary Activity.

5.5 Notification Status

The application was notified on 15 June 2017, which included serving notice of the application on the following owners/occupiers that were considered potentially affected:

Table 4 – Properties on Which Notice of Application was Served

Address
45, 46, 47, 51 and 52 Tancred Street, Geraldine
7, 9, 11, 15 and 17 Cascade Place, Geraldine
50, 81 and 73 Connolly Street, Geraldine
540, 595, 583 and 628 Orari Station Road, Geraldine



Figure 4 - Adjacent properties that have been considered in this assessment

6.0 STATUTORY CONSIDERATION

This section of the report details the provision of the Act that are relevant to the consideration and determination of the application. The remainder of this report has been set out to address these provisions.

6.1 Determination of Application

After considering an application for a resource consent for a discretionary activity or non-complying activity, section 104B of the Act states that a consent authority —

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

6.2 CONSIDERATION OF APPLICATIONS

When considering a resource consent application and any submissions, section 104 of the Act provides that the consent authority, must, subject to Part 2, have regard to the following:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of:

- a national environmental standard:
 - other regulations:
 - a national policy statement:
 - a New Zealand coastal policy statement:
 - a regional policy statement or proposed regional policy statement:
 - a plan or proposed plan;
- any other matter it considers relevant and reasonably necessary to determine the application.

When forming an opinion for the purposes of actual and potential effects on the environment of allowing the activity, subsection 104(2) of the Act states that a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

Subsection 104(3) of the Act states that a consent authority must not when considering an application have regard to trade competition or the effects of trade competition, or any effect on a person who has given written approval to the application.

Subsection 104(3) of the Act also provides that a consent authority must not grant a resource consent:

- To do something that will or is likely to, have a significant adverse effect on a recognised customary activity, unless written approval is given to conduct the activity from the holder of the customer rights order.
- If the application should have been notified and was not.

Subsection 104(6) of the Act states that a consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

6.3 CONSENT AUTHORITY MAY REFUSE SUBDIVISION CONSENT IN CERTAIN CIRCUMSTANCES

Subsection 106(1) of the Act provides certain circumstances when the Consent Authority may refuse subdivision, or impose conditions, if it considers that —

- (a) the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
- (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or
- (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

Section 106(2) of the Act that conditions under subsection (1) must be -

- (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and

(b) of a type that could be imposed under section 108.

6.4 CONDITIONS

Sections 108 and 220 of the Act provide the consent authority with the ability to impose conditions on resource consent applications.

7.0 ASSESSMENT OF APPLICATION

7.1 ADEQUACY OF INFORMATION

It is considered that the information provided by the application and the applicant's response to the further information request is adequate to determine the application in terms of section 104(6) of the Act.

7.2 SECTION 106 MATTERS

7.2.1 Access

There are existing vehicle accesses which will be retained to serve the development.

Council's Group Manager Infrastructure (GMI) reviewed the application and has provided comments. The GMI has recommended that the new right of way to service Lots 4 - 8 be provided with vehicle access formed, sealed and drained prior to section 224(c) Certification under the Act.

Lot 2 and Lot 9 will require new independent vehicle accesses to be formed and sealed prior to section 224(c) certification. The GMI has advised that the location of these accesses will need to consider the site visibility requirements. However, alignments are generally acceptable in both directions and no issues are anticipated.

Access to Lot 3 is proposed from the end of the existing Tancred Street formation. To enable this access, should consent be granted, the consent holder will be required to form Tancred Street from the end of the existing formation through to the end of the legal road reserve; whereby Lot 3 will be accessed via a structure crossing Raukapuka Stream. The GMI has noted that any culvert installed to facilitate the access will have to be designed to the appropriate size to ensure there is sufficient capacity for maximum waterway flow. The cost of the upgrade of Tancred Street and construction of the crossing structure should be borne by the developer.

The extension to Tancred Street will need to be constructed to residential standard with a width of three metres to an engineering standard approved by Council. This three metre width varies from the District Plan requirement under Part D6, Section 6.6 Roding Hierarchy, Rule 6.6.2(5). However, this is considered appropriate in this instance as only one additional allotment is being created. It should be noted that should the intensity of use increase the requirement to form the road to the District Plan standards will be revisited.

All design will need to be completed in accordance with Part D6, Section 6.6 Roding Hierarchy, Rule 6.6.2 (4) of the District Plan. Conditions of consent can ensure these requirements are met and the effects on the environment are less than minor.

7.2.2 Natural Hazards

The site is located in an area which is known to be subject to flood risk. A Flood Hazard Assessment (FHA) has been prepared by ECan, dated 19 December 2016, providing a specific analysis of flood potential to the proposed allotments. This assessment was based on the original twelve allotment layout. However, as there are now less allotments proposed, the effects are reduced, and the FHA is still considered valid.

In summary ECan's assessment identified that low parts of the property adjacent to Raukapuka Stream were inundated during the 13 March 1986 flood. Additionally, the Orari-Waihi-Temuka Floodplain Study indicates this property is floodable from a combination of overflow from the Waihi River and Raukapuka Stream in the 100 year Average Recurrence Interval (ARI, is the average time period between floods of a certain size) flood or larger, indicating flood depths over the property of up to 0.5m in the 100 year ARI and up to 1m in the 500 year ARI flood event.

Part D6, Section 6.16 Natural Hazards, Rules 6.16.2.1 (1) of the District Plan specifies that residential buildings be constructed with a floor height such that the risk of flood waters rising to that level does not exceed 0.5% in any year. This equates to a minimum floor height complying with the 200 year ARI flood level as defined by ECan.

Bearing these matters in mind, ECan have advised that there is potential within each of the allotments to locate dwellings on slightly higher ground, with some elevation required to meet the District Plan requirement. Additionally, ECan have advised that they can calculate specific floor heights when building sites are confirmed.

However, consideration needs to be given to the interrelationship and impact of the locational requirements of any dwelling to avoid flooding and those of the on-site service infrastructure, and whether one will impede the other. For this reason, a structure plan or outline development plan is necessary.

7.3 ACTUAL & POTENTIAL EFFECTS ON THE ENVIRONMENT

7.3.1 PERMITTED BASELINE

As stated above, a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or plan permits an activity with that effect. This is termed the 'permitted baseline'. It is at the consent authority's discretion as to whether the permitted baseline is taken into account when considering an application. As the District Plan does not permit any subdivision activity there is no permitted baseline in terms of the subdivision of the site.

7.3.2 WRITTEN APPROVALS

Section 104(3) of the Act provides that a consent authority may not have regard to any effect on a person who has given written approval to the application. No written approvals have been submitted with the application.

7.3.3 ENVIRONMENTAL EFFECTS ASSESSMENT

In assessing this application it is considered that the potential environmental effects are:

- Landform
- Landscape and Visual
- Agriculture
- Infrastructure
- Road Safety
- Natural Hazards
- Nuisance

These are considered as follows:

i. Landform Effects:

Earthworks

The site is located on the south/west side of Geraldine, on the edge of the residential area. The site currently presents as a rural property, used for living and agricultural production. It is proposed to introduce five rural living sites, with areas ranging from 0.51Ha (5,100sq.m) to 0.69Ha (6,900sq.m); and four larger sites with areas ranging from 3.45Ha to 7.09Ha.

To create the allotments, it is anticipated that minimal earthworks will be required. However, there are a few specific areas where there are contour changes, mainly along the Raukapuka Stream. Earthworks would be required to cross this stream in relation to the extension of Tancred Street to access Lot 3 and the access to Lot 2. Part D1, Section 1.11.2 Rural 2 Zone, Performance Standard 5.12 specifies that all earthworks shall be set back 10m from the bank of any stream, except for crossing places including bridges and their approaches. Any earthworks associated with new access and construction will need to be designed and approved by Council. However, no information about earthworks has been provided with the application, and therefore no assessment of the effects can be given at this time.

With this being said, from a landform perspective the visual effect from earthworks will likely be minor.

ii. Landscape and Visual Effects:

Openness

Clearance of vegetation at the site to create the subdivision of Lots 4-9 will be minimal as it is predominately vegetated by grass. It is proposed to remove the shelterbelt on Lot 2 and a select number of 'dangerous' trees from Lots 1, 2 and 3. However, the majority of the established planting is located in Lot 1 and on the periphery of Lots 2 and 3, which will be generally unaffected by the development based on the location of the proposed building platforms indicated on the subdivision plan.

Four of the proposed lots will have frontage to Orari Station Road. One of these lots, being Lot 1 has the existing dwelling located on it, which is not visible from the road; and it is therefore considered that there will be no change in landscape along the road boundary of this lot. This cannot be said for proposed Lots 4, 8 and 9, which if created will have the ability to erect a dwelling and associated ancillary structures on each, which will be visible from the road. This will create a visual impact on Orari Station

Road, its users and the wider public. Buildings will also be visible on Lots 5, 6 and 7, adding to the change in landscape. The proposed allotments will create new and an increased level of residential development along Orari Station Road.

Should consent be granted for the subdivision, a consent notice on the new certificates of title of Lots 4 and 5 could ensure a defined landscape area is provided along their north/east boundary with the adjoining residential area. Likewise, a similar buffer of landscape planting could be provided along the boundary of the new lots adjacent to Orari Station Road. Consideration should however be given to whether any such landscaping would further enclose the openness and rural character of the area, as it is important a balance is met when implementing strategies to mitigate the effect on the adjoining land uses. In considering the permitted baseline it could be argued that shelterbelt planting could be established along the entire length of the road boundary and the eastern boundary of the site, which is adjacent to the residential zone. But in terms of effects created, it is maintained that the effect of built form creates a change in the character and openness, which is not comparable to any permitted landscaping.

It is noted that the application does not offer any mitigation regarding the effect on the landscape along this urban edge. Many of the submissions cite the great value and enjoyment obtained from the rural character and outlook. This enjoyment and value will be diminished should the subdivision occur.

Character

The rules for subdivision in the Rural 1 Zone specify a minimum allotment size of 40Ha, except where there may be entitlements. The existing property has an area of 22.34Ha, although only approximately 9.6Ha of this is located in the Rural 1 Zone. The sites remaining 12.7Ha is located in the Rural 2 Zone. The rule for subdivision in the Rural 2 Zone specifies a minimum allotment area of 10Ha. There is no subdivision entitlement regarding the creation of rural living sites in the Rural 2 Zone; and therefore no anticipated increase in the density of allotments on the subject site, as is proposed by this specific application.

It is proposed to create five rural living sites in close proximity to each other. It is considered Lots 4-8 are comparable to the character anticipated in the District's one and only Rural Residential Zone at Brookfield Road, Timaru, which provides for minimum site areas of 0.5Ha.

There will be a marked change in the character of the area and rural outlook, changing from a distinct residential/rural interface to a blurred boundary owing to the introduction of rural living sites within this area. Consequently, this scale of development is out of character with the anticipated level of built form to be found in this area and zone. It is acknowledged that these lots are located on the periphery of the Residential 1 Zone of Geraldine. Notwithstanding, as a result of this subdivision the character of this land will be altered. Those properties located directly adjacent and abutting the proposed allotments will be exposed to a marked change in the character of their area and rural outlook.

Amenity Values

In terms of amenity, the current urban edge forms a very distinct line or boundary with the rural area. Submissions on the application suggest the Raukapuka Stream used to form the boundary between the Geraldine borough and county; and this development would lose the buffer between the two, increasing the potential for conflict.

In order to maintain a low density of development in the wider rural areas, the District Plan limits subdivision within the rural zones by providing for rural residential

opportunities in the Rural 1 Zone. This approach provides for choice in the rural environment as well as affording certainty to the community as to where this type of development will likely occur. It is therefore considered that the density of development created in this area will be significantly higher than anticipated. The scale of development proposed will therefore have an impact on the existing amenity of the area, with the effects created considered to be more than minor.

Therefore, in relation to landscape and visual amenity, there is potential for the proposed new allotments to create effects on character, amenity values and openness.

iii. Effects on Agriculture:

The Timaru District's economy is heavily dependent on the agricultural sector, and agriculture primarily occurs in the rural areas of the district. The potential effect of the subdivision on the viability of agriculture is therefore a highly relevant consideration in this instance. The majority of the subject site is currently in rural production, in addition to being identified as having versatile Class 1 and 2 Soils. Versatile land is best described as having good soils, access to water and transport.

The creation of five rural living sites and four larger rural/residential sites will remove a substantial amount of this Rural 2 versatile land out of rural production. The effect of this loss of rural productive land has an effect that is more than minor on the availability of the sites soil reserve for production. Soils are non-replaceable national assets that require long-term protection. While it could be argued that lifestyle blocks are productive, few owners of lifestyle blocks earn most of their income from their property. While lifestyle blocks between 4-30Ha can diversify and increase production, below 4Ha generally takes land out of production. It is for this reason that while the site remains zoned as Rural 1 and Rural 2 land it should remain in agricultural use.

iv. Effects on Infrastructure:

Lots 1-9 have no Council water, wastewater or stormwater infrastructure available for connection and therefore will be responsible for providing on-site solutions. Council has discussed extensively with the applicant the lack of ability to extend the reticulated services to meet this rural area, as it is Council policy not to extend infrastructure outside of urban areas.

As such, the applicant has indicated that applications will be made to ECan for the relevant discharge and water take consents. With the information provided with the application it was unclear what consents are required from ECan and the exact disposal methods proposed. Therefore a joint meeting with the applicant, ECan and TDC was held; with ECan clarifying that consent will be required for a wastewater discharge on any lot smaller than 4 hectares, i.e. Lots 4-9. Consent is likely to be granted provided there is sufficient treatment, disposal area (based on the number of bedrooms) and setbacks. However, without seeing the calculations ECan could not determine whether consent is required for individual stormwater disposal systems.

Subsequent to the meeting ECan advised that if there is any road servicing more than five lots, consent will be required for the discharge of stormwater from the road. Consent is likely to be granted assuming sufficient treatment, attenuation, and provided any Runanga concerns are adequately addressed. However, this advice was given based on the information available to them at the time, with the applicant made aware that the advice may change if circumstances change. It should be noted that the layout of the application changed subsequent to this advice from and the meeting with ECan.

The provision of stormwater, water and wastewaters services is discussed further through the submission made by ECan.

In its submission to Council it is now ECan's opinion that the appropriate servicing be confirmed prior to the proposed new lots being created. Without a confirmed water supply, the application does not contain sufficient detail for it to be certain that consents can be granted. I agree with ECan on these matters. On this basis, the Commissioner could enact section 91 of the Act determining not to proceed with the hearing on grounds that other resource consents under this Act are required in respect of the proposal. However, in addition to the absence of discharge consents from ECan, the application is premature pending the lands zoning being changed and an outline development plan being prepared for service provision; and therefore a section 91 deferral resulting in the procurement of the discharge consents would not alter the overriding opinion that this proposal is unsuitable.

In relation to electricity provision, the applicants advised that they are liaising with the electricity provider to obtain a new transformer. The applicant will need to advise and confirm that electricity can be provided to serve the subdivision.

v. Effects on Road Safety:

Access

Access to all the proposed allotments has been considered and commented on in Section 7.2.1 Access of this report.

Vehicle and Pedestrian Movement

Council's GMI has advised that the proposed development will increase the amount of vehicle and pedestrian movements utilising Council's land transport network by placing a demand on the services, resulting in an extension of the existing residential environment. The GMI comments that the effect on the pedestrian infrastructure will be more than minor, as there will be a demand for a pedestrian link where there currently is none. To mitigate this effect, a footpath along the full frontage of Lots 4 and 8 is considered appropriate.

Safety

There is a traffic speed sign located at the boundary of Section 1 SO 494241 and Lot 4. As this subdivision proposes to extend the urban environment beyond the existing 'town boundary', Council's GMI has suggested that this speed sign be relocated to the boundary of Lots 2 and 9. This will ensure traffic speeds are maintained at a safe and acceptable level in an area with increased pedestrian traffic. However, this will need specific approval via a by-law process.

vi. Effects on Natural Hazards:

Natural hazards, specifically the potential for flooding has been considered and commented on in Section 7.2.2 Natural Hazards of this report.

vii. Nuisance Effects:

Noise

The subdivision of the land itself will not create any nuisance effects. However, the residential activities permitted on the allotments when created will result in increased occupation on this land. This will create noise effects associated with people, movement to and from the site, and so forth, which may create an effect that is minor or more than minor.

Lighting

Lighting from dwellings, buildings and vehicles emanating from future residential activities on the resultant allotments has the potential to generate lighting effects that are not associated with the rural environment. Increased lighting in the countryside will decrease the sense of rural-ness which is a much valued quality. Additionally, the creation of rural residential allotments along Orari Station Road has the potential to generate a demand for the extension of the road lighting. The installation of lighting on rural roads is a key source of incremental change that poses a long-term threat to rural character. The effect of this lighting is considered to be minor or more than minor.

7.3.4 CONCLUSION

Based on this assessment of actual and potential effects on the environment, it is considered that the application will have effects that are minor and more than minor.

7.4 ASSESSMENT OF APPLICABLE STATUTORY PLANNING DOCUMENTS

The Timaru District Plan and the Canterbury Regional Policy Statement 2013 (CRPS) are the two statutory planning documents pertaining to the consideration of the subject application. Accordingly, and in the interests of conciseness, no other statutory planning documents are considered in this assessment.

A detailed assessment of both documents is contained in Appendix 2 and 3 supplementary to this report. A brief summary of the most relevant objectives and policies is provided as follows:

7.4.1 TIMARU DISTRICT PLAN

Part B (1) Land Resources, Objective 1 and Policy 3 provides for the sustainability of the District's land resources and the retention of versatile soils. The proposed subdivision of the land for rural residential purposes would create an irreversible effect on the versatile soil. This subdivision creates rural residential subdivision resulting in a net reduction in the area of the most versatile land in the district. Proposal is therefore contrary to Objective 1 and Policy 3.

Part B (2) Natural Environment, Issue 4, Policy 4 outlines the importance of esplanades to protect and enhance river margins. The existing esplanade strip is considered appropriate to achieve the values for this portion of the Raukapuka Stream.

Part B (4) Natural Hazards, Objective 2 and Policy 5 seek to mitigate the effects of flooding and mitigate risks of flood hazards. There is a flood risk associated with the subject lands. However, ECan has advised that there should be areas on each of the proposed lots that could accommodate a building platform.

Part B (8) Roading, Objective 3 and Policies 11 & 13 seek to provide a safe and efficient roading network. As a result of this development there is a potential issue of safety and efficiency on Orari Station Road, and specifically on the demand for pedestrian linkages along the northern side of the road. It is recommended that a footpath be provided along the boundary of Lots 4 and 8, providing linkages to the urban area should consent be granted.

Part B (9) Services and Infrastructure, Objective 1(a) and Policy 1 seek to ensure the means of providing water to a site is established at the time of subdivision. In this case, there is no reticulated infrastructure servicing the site. The applicant is therefore responsible for the provision of these services. Additionally, for the disposal of

stormwater and wastewater consent from ECan is required. It is not until the site specific engineering solutions have been investigated that confirmation of services will occur, and compliance with these objectives and policies established.

Part D1 Rural Zones, 1.1 Land, 1.1.1 Issue, Objective 1.1.2 and Policy 1.1.3 seek to safeguard the life-supporting capacity of soil and ecosystems and avoiding, remedying or mitigating any adverse environmental effects. The subdivision of the subject property providing for rural-residential and rural lifestyle properties is contrary to the Policy relating to the Rural 2 Zone stating that, *'The establishment of buildings in this zone and subdivision is limited because of the need to protect the versatility of land in this zone'*.

Part D1 Rural Zones, 1.1.5 Issue 2, Policy 1.1.7 seeks *'To avoid, remedy or mitigate the adverse effects of some land uses...'*. Consideration of the relevant issues pertaining to this consent have been addressed in Section 7.3.3 Environmental Effects Assessment of this report, where it was concluded that the adverse effects of the proposed subdivision have not been satisfactorily mitigated.

Part D1 Rural Zones, 1.2 Intensification of Development, 1.2.1 Issue, Objective 1.2.2 and Policies 1.2.3 (1) and (2) identify the need for servicing to be planned for, achieving an efficient use of physical resources. In this case, there is no reticulated infrastructure servicing the site.

Where rural residential development becomes intensive the need for reticulated effluent disposal and other services increases as concerns arise over health issues and levels of service. The occupiers of rural residential sites frequently expect the servicing of rural sites at a level consistent with the servicing of urban allotments. The community has difficulty covering the cost of high quality services, such as reticulated sewage disposal, and urban standards of water supplies for populations at anything less than urban densities.

It is not until the site specific engineering solutions have been investigated that confirmation of services will occur and compliance with this objective and policies can be assessed. For these reasons the proposal is considered contrary to this objective and policies.

Part D1 Rural Zones, 1.4 Noise, 1.4.1 Issue, Objective 1.4.2 and Policy 1.4.3 seek to provide for a moderate maximum noise level while allowing for reasonable normal seasonal agricultural and forestry use e.g. harvesting machinery. To ensure there is no reverse sensitivity effects on the existing land uses to the west it is recommended that consent notices are attached to the certificate's of title for these lots to the effect that they cannot complain about the effects generated from adjoining and adjacent agricultural activities.

Part D1 Rural Zones, 1.6 Scenic and Landscape Values and Rural Amenity, 1.6.1 Issue, Objective 1.6.2 and Policy 1.6.3 seek to protect and enhance the character and amenity of the District's landscapes. The proposed subdivision of the land is contrary to this objective and policy in that the character and amenity of the area and the rural landscape character will be altered and the ensuing built form will alter the rural amenity values adjoining properties and Orari Station Road currently enjoy.

Part D1 Rural Zones, 1.8 Roding, 1.8.1 Issue, Objective 1.8.2 and Policy 1.8.3(1) seek to *'maintain a high standard of roding in rural areas and require the safe and efficient provision of roding access from new rural allotments to the roding network'*.

It is expected that the vehicle access to all new allotments is formed to Council standards. Additionally, the extension of the Tancred Street road formation is required for access to Lot 3; and the provision of a pedestrian footpath along Orari Station Road. These measures will ensure that the rural community is provided with a roading network of an adequate standard to provide access to rural areas of the District. Should these measures be accepted by the applicant, then consistency with the Objective and Policy will be achieved.

7.4.2 Canterbury Regional Policy Statement

Chapter 5 – Land-Use and Infrastructure

Objective 5.2.1 - Location, design and function of development specifies that development should be located and designed so that it achieves consolidated, well designed and sustainable growth and will result in the continued safe, efficient and effective use of regionally significant infrastructure. In this case, it is considered that the loss of agricultural land to residential development does not provide for sustainable growth, as it is not being considered in the context of the entire district or even Geraldine.

Objective 5.2.3 - Transport network seeks to provide a safe, efficient and effective transport system that supports a consolidated and sustainable urban form and provides an acceptable level of accessibility. To provide for sustainable transport modes, it is desirable to provide pedestrian options, for example in the form of a footpath.

Policy 5.3.1 - Regional growth provides for sustainable development patterns that ensure *'limited rural residential development occurs in a form that concentrates, or is attached to, existing urban areas and promotes a coordinated pattern of development'*. Whilst the proposed development is adjacent to an existing urban area, it is not currently zoned for urban or rural residential land uses. Therefore, there is a limit to the provision of services to this site and the expected amenity values. Until such time as a comprehensive development plan for the lands can provide certainty for a planned, coordinated and sustainable approach to the development of these lands, this policy will not be achievable.

Policy 5.3.5 - Servicing development for potable water seeks to *'ensure development is appropriately and efficiently served for the collection, treatment, disposal or re-use of sewage and stormwater, and the provision of potable water, requiring these services to be designed, built, managed or upgraded to maximise their on-going effectiveness'*. No assurance has been given that the subject lands can be efficiently or effectively served with the provision of potable water. There is no outline development plan prepared for these lands or included in the current District Plan which specifies the provision of public infrastructure. As the servicing of the allotments with potable water remains uncertain, it is considered that the proposed development is inappropriate at this time and contrary to this policy.

Policy 5.3.12 - Rural production seeks to *'maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas which are valued for existing or foreseeable future primary production...'*. The majority of the subject land has been classified as having high quality versatile soils, important for rural productive activities. This land is therefore considered to contribute to a range of productive uses and the rural economy. Should subdivision consent be granted as proposed, it is considered that options for the future use for rural productive purposes will be lost. In addition, there is no mitigation proposed to ensure reverse sensitivity

effects do not occur between the existing rural area and the proposed rural residential area. Accordingly, the proposal is considered to be contrary to this policy.

7.4.3 Conclusion

Based on this assessment, I have concluded that the proposal will be contrary to and not in accordance with many of the objectives and policies of the District Plan and the CRPS.

7.5 SUBMISSIONS RECEIVED

The application received a total of thirteen submissions which were all received on time. Of these, nine submissions were opposed to the application, one was neutral, two supported the proposed development and one supported in principle. One submission was a joint submission made by nine landowners. Table 5 provides the names and addresses of each person who lodged a submission in respect of the application.

Table 5 – List of Submitters on the Application

	Name	Address
1.	Alan & Jill Young	Ashbury Farm, 583 Orari Station Road
2.	Ross and Robyn Irvine	45 Tancred Street
3.	Freerk & Anke Numan	11 Cascade Place
4.	Peter & Desiree McCaskill	50 Campbell Street
5.	Ad & Anita Hendricks	540 Orari Station Road
6.	Notified Geraldine Residents Group	9, 11, 16 & 17 Cascade Place; 47, 51 & 52 Tancred Street; 50 Campbell Street; and 540 Orari Station Road
7.	Ian & Lynne Lyttle	17 Cascade Place
8.	Alison & Grant Norton	47 Tancred Street
9.	William Anderson	51 Tancred Street
10.	Canterbury Regional Council (ECan)	N/A
11.	New Zealand Fire Service Commission (NZFS)	N/A
12.	Lee Burdon	73 Connolly Street
13.	Brett & Melissa Horrell	15 Cascade Place



Figure 5 – Location of Submitters in Locality; Red circles indicate persons in opposition; Blue circles indicate persons in support; and the orange circle indicates a neutral submission. The seven remaining submitters were located outside this catchment area.

A summary of the submissions received is located in Appendix 1 to this report. In the interest of conciseness, these will not be repeated here. There were a number of submissions made on issues which are outside the scope of this resource consent application, namely, concerns with the potential rezoning of the subject lands, availability of residential land in Geraldine, house prices and shared private boundary fencing.

The issues raised in the submissions are as follows:

- Inconsistent with the District Plan
- Inconsistent with the CRPS
- Draft Growth Management Strategy
- Wastewater and Stormwater
- Water
- Raukapuka Stream, Flora & Fauna
- Scale of Development
- Roding
- Access
- Lighting
- Reverse Sensitivity
- Visual Amenity
- Rural outlook
- Fragmentation and Sub-Economic Arguments
- Housing Stock
- Earthworks

Submissions relating to the following matters have been discussed in other sections of this report:

- Section 7.3.3 (i): Landscape and Landform Effects (Earthworks and Landscape)
- Section 7.3.3 (ii): Visual and Amenity Effects
- Section 7.3.3 (iii): Density Effects
- Section 7.3.3 (iv): Effects of Agriculture
- Section 7.3.3 (v): Effects of Infrastructure
- Section 7.3.3 (vi): Effects on Road Safety (Access, Vehicle & Pedestrian Movement and Safety)
- Section 7.3.3 (vii): Effects on Natural Hazards
- Section 7.3.3 (viii): Nuisance Effects (Lighting)
- Section 7.6.1: Precedence

The remaining issues raised in the submissions are considered by topic below.

7.5.1 Inconsistency with the District Plan

Submission:

It is submitted that the application is inconsistent with the zone rules with a general understanding there would be minimal future subdivision of the subject lands.

Comment:

This is a fair and valid comment, although a landowner is entitled to apply for resource consent to contravene the rules of the District Plan. In this case, the application is for a Discretionary Activity, which signals that once effects can be avoided or mitigated, the proposal may be appropriate. In this case, and bearing in mind the discussion and assessment of the objectives and policies throughout this report, it is considered that the effects cannot be mitigated and the proposal is not suitable.

7.5.2 Inconsistent with the CRPS

Submission:

It is submitted that the application is inconsistent with the CRPS as residents in the proposed subdivision will be unable to connect to the reticulated Council infrastructure.

Comment:

This view is supported, as Policy 5.3.5 of the CRPS requires development to be appropriately and efficiently served for the collection, treatment, disposal or re-use of sewage and stormwater, and the provision of potable. A full assessment of this policy is contained in Appendix 3 of this report.

7.5.3 Draft Growth Management Strategy (DGMS)

Submission:

It is submitted that the applicants make an assumption about a Council planning position that has not yet been determined. In addition, it is submitted that it is presumptuous to assume an outcome on the DGMS when the hearings have not been held.

ECan submit that, *‘The Strategy does not envisage that rural residential lots will necessarily be provided with reticulated services. However it does state that each rural residential area will have an appropriate zoning and structure plan to guide development. Together, these processes enable a coherent approach to be taken to servicing (and to other matters like biodiversity) over the whole area. They avoid the*

possibility for cumulative adverse effects from creating a new rural residential area through a succession of smaller subdivisions each requiring on-site services’.

Comment:

The subject lands are located in an area identified in the DGMS as a potential growth area in Geraldine, identified as ‘Cascade Place Rural Residential’. The application places significant weight on the strategy, even though the officer’s report on submissions has not been prepared nor the hearing date set down. It is stated in the DGMS that structure plans should be advanced for the rural residential zoning prior to the zoning being made operative. It is envisaged that implementation of the GMS will occur by requiring outline development plans from applicants prior to the development of any new greenfield rural residential area. The outline development plans will detail stormwater management areas, roads, pedestrian and cycleways, the reserve network and relevant infrastructure and services (amongst a range of other factors).

In the absence of an outline development plan/structure plan or similar information being provided with the application, the strategic, staged and sustainable development of these lands will not be achieved. In addition, it needs to be noted that even when the GMS is adopted, it still does not change the zoning of the land, it simply indicates Councils intent. The GMS will be used to inform the District Plan Review process, which still has to go through public consultation and a lengthy statutory process.

7.5.4 Wastewater and Stormwater

Submission:

It is submitted there is evidence that leaching of private wastewater from on-site disposal systems from the Geraldine surrounds are causing issues with the water quality of the Waihi River and aquifers. There is therefore opposition to the disposal of stormwater to soak holes.

ECan also submits that the Land and Water Regional Plan Policy 4.14A seeks to avoid the adverse effects from on-site disposal of domestic effluent and wastewater.

The disposal of domestic effluent and wastewater shall be managed so as to avoid any adverse effect that is more than minimal on surface and ground waters.

ECan advise that in addition to the current planning framework, the Healthy Catchments Project being undertaken by the Orari Temuka Opihi Pareora Zone Committee is focused on maintaining and where necessary improving the quality of ground and surface water. This includes managing nitrogen discharge from both rural and urban sources.

They further submit that *‘...in the case of this application, there is no clear servicing strategy for the lots being created. Neither is there any indication of a strategy for servicing the likely further subdivisions of the remaining larger lots. Where on-site servicing is necessary for small rural residential lots, and where there is no overarching plan for servicing, it is highly desirable to design the subdivision around the need for servicing requirements. If lots are created without a confirmed means of servicing, it sets a dangerous precedent. It has the potential to create difficult development pathways both for the newly created lots, and for subsequent development of the remaining lots’.*

Comment:

I agree with this submission in terms of the lack of an overall strategy for the lands, which therefore creates uncertainty regarding the potential impacts of the development, servicing and sustainability.

7.5.5 Water

Submission:

It is submitted that there is no evidence that water provided through roof runoff or ground water is possible or that the quality will meet the New Zealand drinking water standards.

ECan have submitted that confirming the water supply is important, because the choice of water supply will impact on the ability to discharge wastewater and stormwater on each lot. A shallow domestic bore may be a permitted activity. However, the placement of domestic bores on the smaller lots and the required setbacks from on-site wastewater systems are likely to make it difficult to achieve on-site discharge of wastewater and stormwater. Similarly, if a single "community supply" bore was used, it may require a Community Drinking Water Protection Zone. This would impact on both future development options, and existing activities within the supply zone.

Comment:

Based on these submissions and in-lieu of there being no information provided with the application in terms of confirming an adequate water supply, it is Council's opinion that this application lacks sufficient information and therefore cannot be considered to create effects that are less than minor.

7.5.6 Raukapuka Stream, Flora & Fauna

Submission:

It is submitted that the Raukapuka Stream has recently been returned to a higher water quality status following the shutting off of the Orari stock race inflow. It is stated that the stream supports a wide range of aquatic fauna including insect larvae, long-finned eel and trout, in addition to a range of birdlife. It is also submitted that there are some small areas of indigenous vegetation along the stream margins planted by adjoining landowners. It is submitted that water quality is likely to be impacted by the proposed discharge of effluent and stormwater to ground.

Comment:

This submission is contrary to the applicant's assertions that the Raukapuka Stream environment is likely to benefit and *'any affect attributable [to] the proposed subdivision is assessed as being less than minor'* and that there are no trout in the stream.

Both the applicant's and the submitter's submissions have been made on their local knowledge of the stream. However, there has been no evidence from any independent professional submitted to support or disprove either party's claims. It is suggested that neither stance can be accepted until such time as the engineering details have been submitted to ECan in relation to the required (if any) wastewater and stormwater resource consents.

7.5.7 Roding

Submission:

Access to Lot 3 is proposed from the end of the existing Tancred Street formation. To enable this access, should consent be granted, the consent holder will be required to

form Tancred Street from the end of the existing formation through to the end of the legal road reserve; whereby Lot 3 will be accessed via a structure crossing Raukapuka Stream. The cost of the upgrade of Tancred Street and construction of the crossing structure will be borne by the developer.

It is submitted that a formed carriageway width of 3m, as suggested in the notification report, is unacceptable. It is submitted that the north/east end of Tancred Street *'experiences a high volume in traffic every day often just from sightseers; the development would attract more interest therefore increasing the use on the road...'*. It is requested that the road is formed to the District Plan standard of 7m.

Comment:

As discussed in Section 7.2.1 of this report the three metre wide residential standard is considered appropriate in this instance as only one additional allotment is being created.

7.5.8 Access

Submission:

It is submitted that there are three versions of the plan in circulation, with particular opposition to the version indicating the driveway along the properties of Cascade Place.

Comment:

It is advised that the different versions of the plan were in circulation due to the applicant amending the original plan from a twelve lot subdivision to the current nine lot subdivision (date amended 24.02.2017). The current nine lot subdivision, for which consent is sought, does not have a driveway along the boundary with the properties at Cascade Place.

7.5.9 Reverse Sensitivity

Submission:

Submissions relate to issues such as the increased chances of dog problems on surrounding farms, animal/stock issues between properties, and concern that with the introduction of residential activities the rural operations will be compromised. Specifically, the owner of 540 Orari Station Road requests consent notices be placed on the new certificates of title created as a result of this subdivision restricting any complaints being made about the adjoining farming activities.

Submitters refute the statement by the applicants that *'any reverse sensitivity effects of the proposed subdivision upon neighbouring properties will be less than minor'*.

Comment:

The potential for reverse sensitivity to impact on productive rural land uses and the character of a working rural environment is a well known resource management issue. The rural productive economy is of vital importance to the Timaru District. The District Plan recognises the importance of rural land predominately as a working environment, as opposed to a living environment. Therefore, until such time as the land is identified, serviced and rezoned for rural residential use, it is considered the potential for reverse sensitivities to be created on the adjoining agricultural land uses is a real and potential effect.

7.5.10 Fragmentation and Sub-Economic Arguments

Submission:

In relation to the statement in the application that *'the property has already become fragmented and sub-economic in production as the result of historical subdivision'*, a number of submitters suggest that the land could be sold to adjoining farmers to be retained in rural production. This would reduce the risk of urban encroachment with possible impact on their farming business in the future.

Comment:

These submissions are generally agreed with, as discussed in Section 7.3.3 (iii) of this report. It should also be noted that various agricultural uses, activities and methods could be suitable for the continued rural use of these lands.

7.5.13 Other Issues Raised In Submissions

7.5.13.1 New Zealand Fire Service Commission

Submission:

The NZFS Commission is concerned that there will be an insufficient supply of water for firefighting available to the NZFS if it were required to respond to a fire emergency at this property. Given the distance of the site to the nearest fire station, Geraldine Volunteer Fire Brigade, and that the site is not on reticulated water supply, it is important that water supply is provided on-site so that in the event of a fire it can be utilised to respond to the emergency.

The best way to achieve this is to comply with the New Zealand Standard for the provision of a firefighting water supply, known as the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. This provides standards for the provision of a firefighting water supply in both reticulated and non-reticulated systems and access to these supplies in order to enable the NZFS to respond to a fire emergency efficiently and effectively.

Comment:

The District Plan does not require fire fighting facilities for dwellings constructed in the rural area. Therefore in relation to the conditions requested to be imposed should consent be granted, it is suggested that the applicant agrees to these as a form of mitigation against the lack of details on water supply and the potential effects of not providing sufficient water services.

7.5.13.2 Canterbury Regional Council (Environment Canterbury)

Submission:

ECan's comments regarding compliance with the CRPS, discharge of stormwater and wastewater, and water supply have been addressed in Appendix 3, Sections 7.5.4 and 7.5.5 respectively of this report. The remaining matters raised in the submission are addressed as follows.

ECan are concerned that the subdivision application does not provide sufficient information to confirm that all the new lots can be appropriately serviced. They are also concerned about the wider implications of creating new rural residential areas in advance of the appropriate planning provisions signalled in the DGMS. In particular they are concerned there is no overall plan to provide servicing for the area.

ECan submit that,

In the absence of appropriate planning provisions and the required details about water supply and discharge consents, it is difficult to be certain that all the lots being created are suitable for onsite servicing. Before this subdivision is granted, the water supply needs to be confirmed, as does the detail of the onsite servicing. We are happy to consider a joint process for the district and regional consents to ensure a good outcome.

This application also raises wider issues than the servicing of these proposed lots. Given the proposal in the draft Growth Management Strategy for this area to transition from rural to rural residential, it is very important that sound planning is in place to guide this development. This includes making efficient and effective provision for servicing, whether it is reticulated, onsite, or a mix of both. If this application is granted in advance of that planning then the opportunity for coordinated planning across the site is lost, at least in part.

In addition, it is likely there will be subsequent applications for more small rural residential lots, both in this area and potentially in other areas targeted in the Growth Management Strategy for future rural residential zoning. One of the goals of the draft Growth Management Strategy is to avoid rural residential areas developing in a piecemeal fashion, and we consider that Timaru District Council should continue to place weight on the existing rural zone objectives, policies and rules until such time as the appropriate zoning provisions and outline plan are in place for this land.

I concur with this submission and reiterate the importance of considering the application under the operative rules of the District Plan.

7.6 ANY OTHER MATTERS

7.6.1 PRECEDENCE

It is well established under case law that precedent, while not an effect on the environment, can be a relevant matter to be taken into account under section 104 of the Act. The Environment Court has held that in some circumstances, an application for resource consent should have been treated on an equivalent basis to other previous applications, and the consent authority should fully and appropriately spell out distinctions between cases leading to different conclusions.

Notwithstanding, in *Feron v Central Otago DC EnvC C075/09*, the Court observed that the precedent created by earlier decisions provides an expectation of like treatment, not an absolute entitlement. Precedent should not be relied upon where an earlier decision is inappropriate, as one questionable decision should not form the basis for ongoing questionable decisions.

Submissions received are concerned that this development will set a precedent for future subdivision proposals that will be difficult to decline, again eating into valuable agricultural land; and that allowing this inconsistency creates the precedence for other applicants to embark on a progressive process of rural subdivision to create uneconomic land parcels.

In terms of this application, I suggest that precedence could very well be created should consent be granted. The reasoning behind this is as follows:-

The proposed subdivision activity is clearly disparate with the direction and expectations of the operative District Plan. The application is heavily reliant on the potential future outcome of the DGMS. Should consent be granted, this would signal that other rural land identified in the DGMS as having potential for rural residential land uses can also be subdivided, prior to being rezoned, or having a structure plan or outline development plan prepared for the land. The GMS is being prepared as a background document that informs Council's intentions. The GMS will not confer development rights; it will indicate Council's intentions for the District Plan Review in terms of land provision. The rezoning on land will be done through the District Plan Review process, which invites submissions and allows for appeals. The publication of the GMS does not circumvent this process. If Council starts granting consents based on the GMS precedence will be created.

7.6.2 INTEGRITY OF THE PLAN

As discussed in the assessment of environmental effects and the assessment of the District Plan's objectives and policies, the proposed subdivision of this land is contrary to a number of Rules, Performance Standards, Objectives and Policies of the District Plan. Owing to the nature and scale of these differences, it is considered that the integrity of the District Plan would be compromised by permitting this proposal. From the community's perspective, owing to the zoning of the subject lands, there is an expectation of limited development. Should Council make decisions which are contrary to the District Plan, the integrity of the District Plan will be brought into question.

7.7 PART II MATTERS

Part II of the Act stipulates the purpose and principles of the Act. The purpose of the Act is to promote the sustainable management of natural and physical resources. The various principals provided under Part II support this purpose. As the District Plan is valid, has complete coverage and is certain, it is considered that the proposed activity does not accord with Part II of the Act.

8.0 CONCLUSION

This report has included an assessment of the potential effects on the environment of the proposed activity and assessed the application against the rules and performance standards relevant to the proposal. Assessment of the objectives and policies of the District Plan and the CRPS has also been undertaken.

Having completed this assessment, I have concluded that the application is not in accordance with the District Plan and the CRPS. On this basis, I recommend that the application be declined.

Should the Commissioner be of a mind to grant consent, a number of conditions of consent are essential to ensure the effects on the local and wider environment can be somewhat mitigated. It should be noted that some conditions have been recommended in submissions made in the notification process.

9.0 RECOMMENDATION

Pursuant to sections 104, 104B, and 106 of the Act, it is recommended that consent is REFUSED.

The reasons for recommending refusal are summarised as follows:

- The application is contrary to a suite of Objectives and Policies of both the District Plan and the CRPS.
- There is no consideration to the interrelationship and impact of the locational requirements of any dwelling to avoid flooding and those of the on-site service infrastructure, and whether one will impede the other.
- Servicing has not been confirmed prior to the proposed new lots being created.
- The lack of an overall strategy for the lands, which therefore creates uncertainty regarding the potential impacts of the development, servicing and sustainability.
- No information about earthworks has been provided with the application in relation to the creation of new access's to Lots 2 and 3.
- The effect of built form creates a change in the character and openness, which is not comparable to any permitted activities.
- There is no subdivision entitlement regarding the creation of rural living sites in the Rural 2 Zone; and therefore no anticipated increase in the density of allotments on the subject site.
- The scale of development is out of character with the anticipated level of built form to be found in this area and zone.
- The scale of development proposed will have an impact on the existing amenity of the area, with the effects created considered to be more than minor.
- The creation of five rural living sites and four larger rural/residential sites will remove a substantial amount of this Rural 2 versatile land out of rural production.
- Granting of consent will create precedence issues.
- Granting of consent will call into question the integrity of the District Plan.

Gemma Conlon
Senior Planner