



Sections 95, 95A – 95F Resource Management Act 1991

Report determining whether an application for Resource Consent should be processed as publicly notified, limited notified or non-notified

Consent number:	SUB23/0066 LUC23/0121
Applicant's Name:	Ashburton Riverside Development Limited
Street Address:	Melrose Road and 21 Melrose Road, ASHBURTON
Legal Description of Site:	SUB: LOT 2 DP 382372 LUC: Melrose Road and LOT 2 DP 382372
Zone:	Rural A
Application summary:	Resource consent to subdivide one existing site zoned Rural A in order to create two resultant allotments at 21 Melrose Road, Ashburton to facilitate future widening of Melrose Road. Land use consent at 21 Melrose Road to address associated non-compliance with ODP rules, zoned Rural A.

1.0 DESCRIPTION OF THE PROPOSAL

The purpose of the road widening is to enable future traffic movements over Melrose Road into the land owned by Ashburton Riverside Developments Ltd zoned Business D and the future development potential of this land.

NZTA conditions have been agreed to by the applicant.

Other land use matters relating to the entire ODP/development area will be addressed with the future subdivision consent. These are likely to include:

- Earthworks for the formation of the widened and extended Melrose Road, and formation of the business allotments and stormwater areas
- Inconsistency with ODP
- Buildings within 100m of stopbank
- Business/Industrial activities in Rural A Zone
- NES CS (land use and subdivision) for potentially contaminated site (Ashburton Clay Target Club)

A consent notice will be required to be registered on the Title for Lot 2. This will alert the owner that steps will need to be taken at the time of road formation (e.g. removal of easements, amalgamation with Melrose Road and vesting with Council).

The applicant will need to consult with the Canterbury Regional Council as part of the second stage when the ODP Business D area is developed (setback from stopbank, flood hazard, use of Designated land)

SUB23/0066 LUC23/0121
 21 Melrose Road, Ashburton
 Notification Report

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Contractor to locate all existing services & verify all dimensions before commencing work



Issue	Date	Reason	Approved
A	01/23	FOR DISCUSSION	GM

- Notes:
- Owners: The Allenton Rugby Football Club (Incorporated)
 - Address: 21 Melrose Road, Allenton, Ashburton
 - Appellation: Lot 2 DP 382372
 - IT Reference: 329320
 - Total Area: 9.2875 ha
 - Applicant: Ashburton Riverside Development Limited
c/- Ben Shearer
 - All dimensions in metres unless shown otherwise;
 - Existing boundaries adopted from LINZ online database;
 - Aerial Photography: Sourced from LINZ Database
<https://data.linz.govt.nz/layer/11403-ashburton-0075m-urban-aerial-photos-2021-2022/> under Creative Commons Attribution 4.0 International;
 - This plan is in terms of NZGD2000 Geoid Height;
 - This plan has been prepared for the sole purpose of obtaining subdivision consent pursuant to Section 88 of the Resource Management Act 1991;
 - Use of this plan for other purposes or its reproduction in part or full is not permitted without the prior consent of Davis Ogilvie (Auckland) Ltd;
 - A full assessment of easements will be undertaken prior to final survey and subsequent to proposed servicing and engineering requirements being confirmed;
 - All dimensions and areas are subject to final legal survey;
 - Services are sourced from Canterbury Maps and are indicative only;

Key:

	Water Supply
	Foul Sewer
	Stormwater
	Electricity (Underground)
	Telecom
	Existing Easement
	Proposed Easement

Schedule of Proposed Easements			
Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way	D	Lot 2	Lot 1

Schedule of Existing Easements			
Purpose	Shown	Servient Tenement	Document
Right of Way	A	Lot 2	
	AB	Lot 1	E.C.A204542.7
Right to Convey Electric Power	B	Lot 2	T.5042038.1
River Control and Protection	Lot 1 and 2	Lot 1 and 2	T.6724321.1
Slope and Batter, Right to Drain Water	X	Lot 1	E.I.9418109.8

FOR DISCUSSION ONLY
 NOT FOR CONSENT

LOTS 1 AND 2 BEING A PROPOSED SUBDIVISION OF LOT 2 DP 382372

ASHBURTON RIVERSIDE DEVELOPMENT LIMITED

Drawn	Checked	Checked	Drawn	Issue
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01/23				

Figure 1: Subdivision Scheme Plan

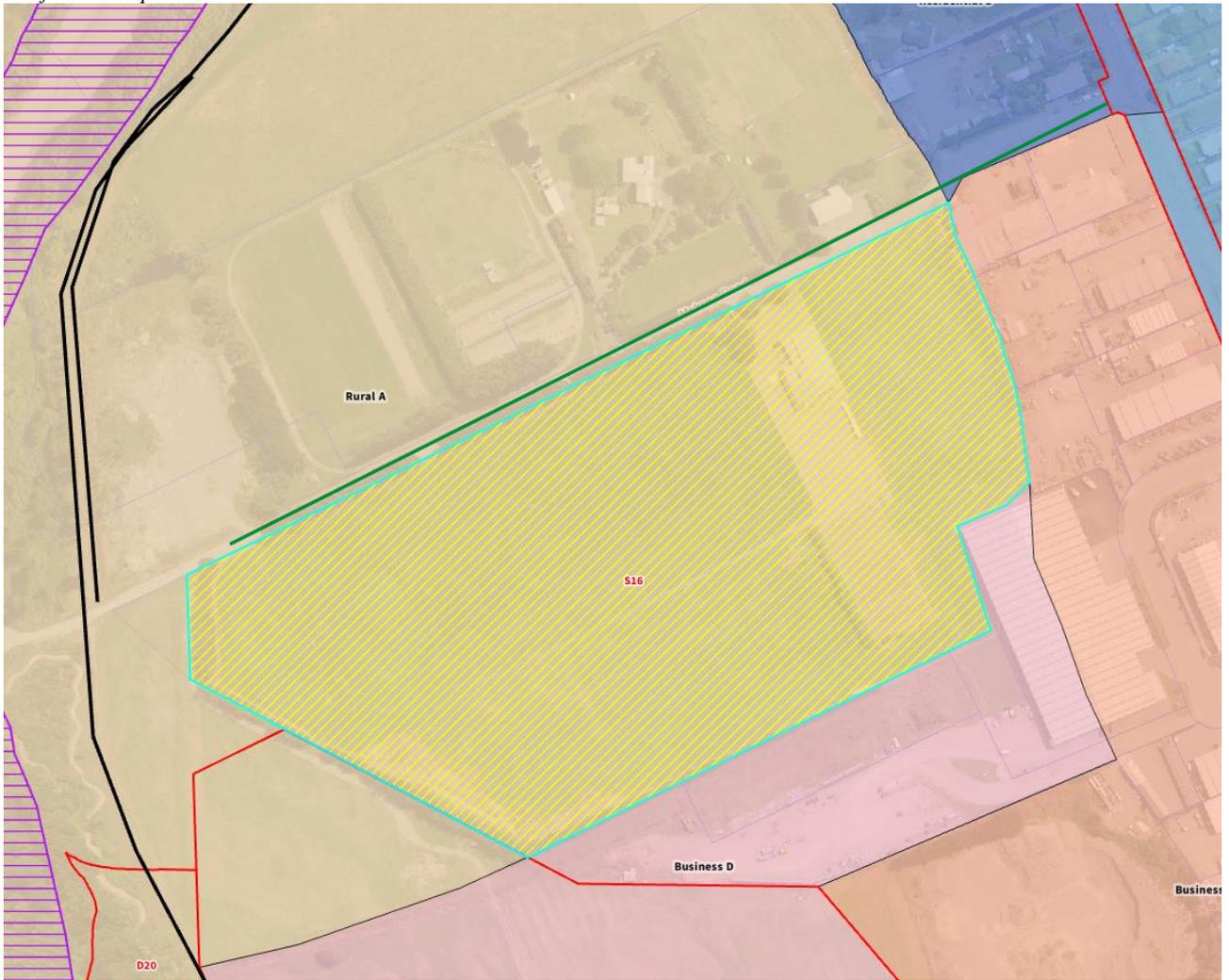


Figure 2: Aerial view of the subject sites (Melrose Road shown as green line; Allenton Rugby Football Club land outlined in blue with yellow hatching).

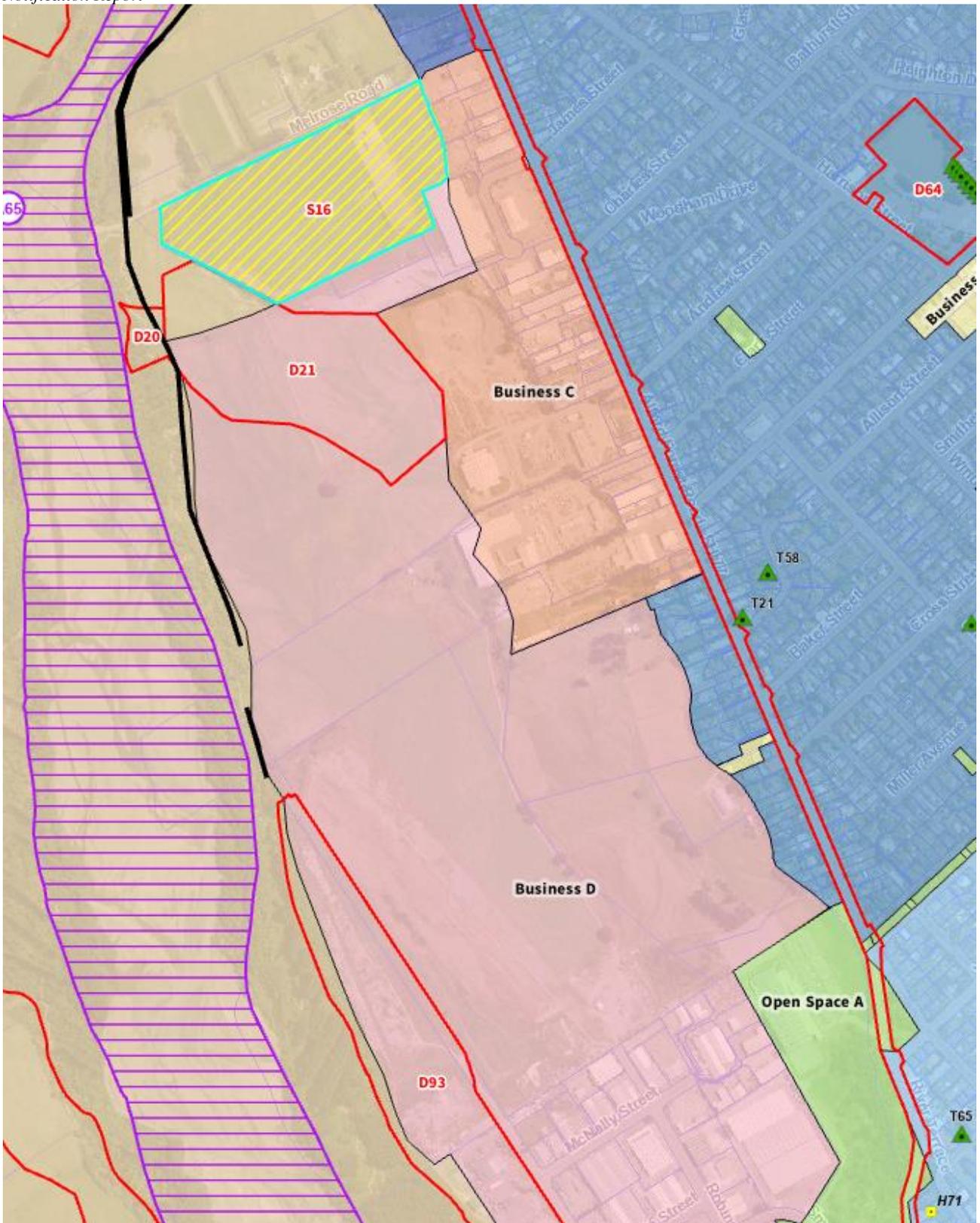


Figure 3: Aerial view of the wider area showing the Business D Zone, Riverside area to the south of the application sites.

Appendix 5-3: Outline Development Plan Business D Zone, Riverside

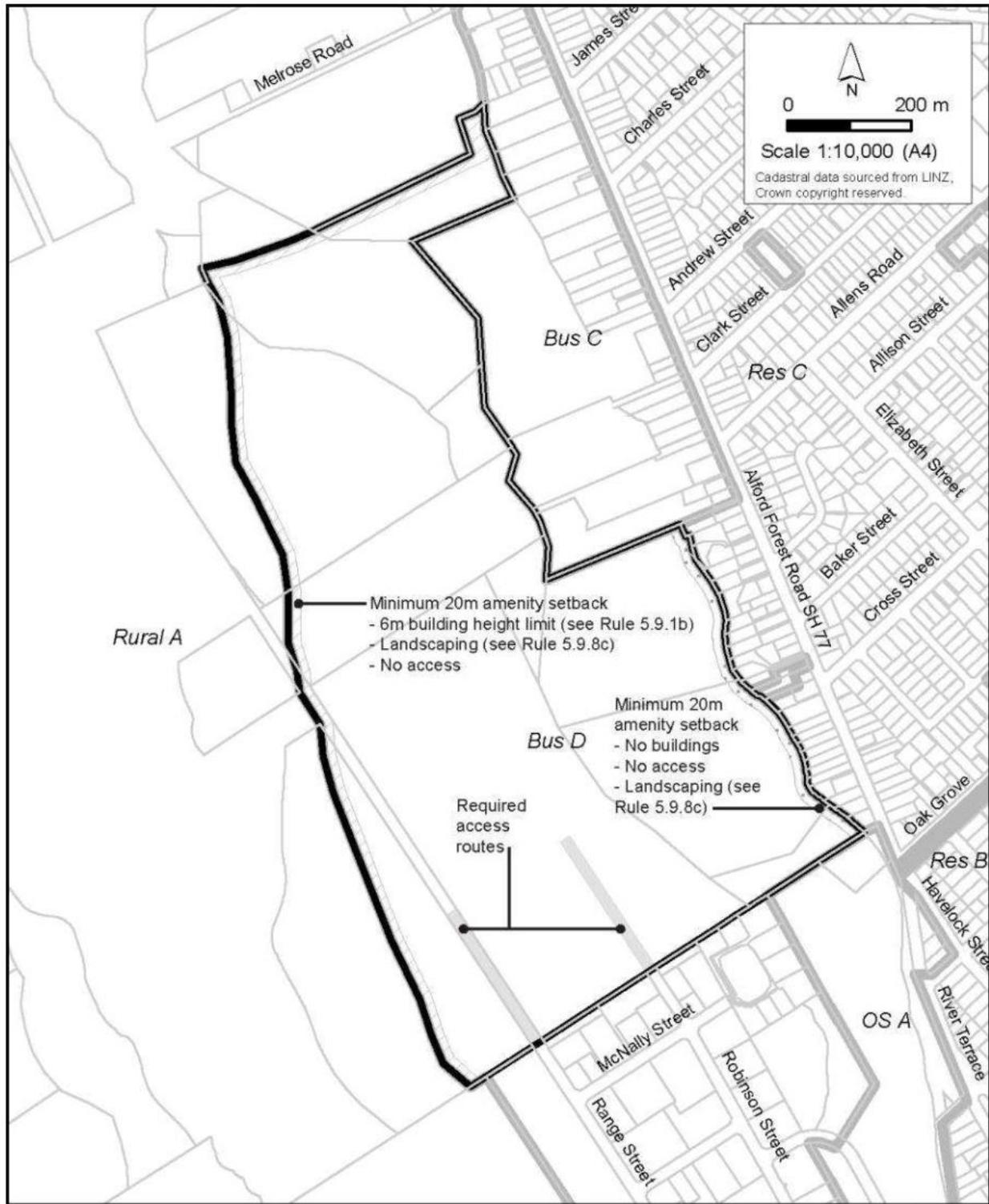


Figure 4: District Plan Appendix 5-3 Outline Development Plan Business D Zone, Riverside.

1.1 DESCRIPTION OF THE EXISTING ENVIRONMENT

LUC21/0106 was granted in 2021 for the establishment and operation of a motor caravan park on land owned by the Allenton Rugby Club, zoned Rural A (on a portion of Lot 2 DP 382372).

The caravan park is established and is located adjacent to the proposed lot boundary. It will be retained however the entranceway will need to be shifted back, similar the Rugby Club, to enable the widening of Melrose Road.



Figure 5: Blue square shows the approximate location of the caravan park.

1.2 BACKGROUND

The applicant has been seeking for a while to get access to the Business D area:

- The applicant has been unable to secure access via the existing Riverside ODP area (Range St/Robinson Street) due to the established activities and land ownership (which includes the Gun Club on Crown lease land).
- The applicant has also been unable to secure an access via the existing Business C Zone area from Alford Forest Road (SH77).

If either of the above options was utilised for access, then the proposal would comply with the ODP access requirements.

2.0 PLANNING FRAMEWORK

2.1 Ashburton District Plan – relevant rules

Section 3 Rural Zones

Relevant Rule	Compliance of proposed subdivision
<p>3.8.2 Permitted Activities</p>	<p>Permitted Activity</p> <p>The proposed allotments comply with all Rural A Zone site and zone standards, scheduled activity conditions (Allenton Rugby Football Club), or existing resource consent (MCA caravan park).</p> <p>Non-compliances generated by the road formation and development of the business park will be addressed as part of a future land use consent.</p>

Section 5 Business Zones

Relevant Rule	Compliance of proposed subdivision
5.8.6 Non-complying activities	Non-complying activity The proposed road does not comply with Zone standard 5.10.3 Riverside ODP.
Zone Standard 5.10.3 Outline Development Plans and Limitations on Activities (Riverside ODP) e) No development shall take place in the Business D Zone at Riverside, except in accordance with the Outline Development Plan attached in Appendix 5-3.	Does not comply: The proposed road is intended to provide access to the Business D Zone at Riverside and does not accord with the access routes shown in the Outline Development Plan.

Section 9: Subdivision

Relevant Rule	Compliance of proposed subdivision
Rule 9.7.6- (Non-complying Activity)	Non-complying activity The proposed subdivision in the Rural A zone falls to be a non-complying activity as it does not comply with all critical standards.
Rule 9.7.4 (Restricted discretionary Activity) b) Earthworks greater than 5,000m ³ on any one site per annum, in the Open Space Zones, Business Zones or for utilities.	Restricted discretionary activity
General Standard - 9.8.1(Esplanade Provision)	No esplanade reserve required.
General Standard – 9.8.2 (Property Numbering and Street Naming)	The name of the extension of Melrose Road will need to be determined.
General Standard – 9.8.3 – Allotment Dimensions	Not applicable.
General Standard 9.8.4 – Sanitary Sewage Disposal	Not applicable.
General Standard 9.8.5 – Earthworks	Complies.
Critical Standard- 9.9.1a (Allotment Size) Minimum net allotment area Rural A Zone: 8ha.	Does not comply: Proposed Lots 1 and 2 will be less than 8ha: <ul style="list-style-type: none"> - Lot 1 (Rugby Club) – 7.26ha - Lot 2 (Road and future development area) – 2.03ha

Allotments for access, utilities, roads or reserves are exempt.	Proposed Lot 2 will only be partly used for road purposes, with the remainder intended as a balance lot to be developed at a later stage. The part of Lot 2 intended for road widening will be vested as part of the future subdivision consent.
Critical Standard – 9.9.2 – (Boundary Adjustments)	Not applicable (an additional allotment is being created).
Critical Standard- 9.9.3 (Flooding and Overland Flow of Water)	The site is in a mapped flood zone, but it is not subject to ‘high hazard’ as it is located behind the stop bank adjacent to the Ashburton River.
Critical Standard- 9.9.4 (Water Supply)	Non-applicable in Rural Zones.
Critical Standard- 9.9.5 (Sanitary Sewage Disposal)	Non-applicable in Rural Zones.
Critical Standard – 9.9.6 – Indicative Plan	Does not comply No plan has been provided.
Critical Standard- 9.9.7 (Energy Supply and Telecommunications)	Non-applicable in Rural Zones.
Critical Standard – 9.9.8 - High Voltage Transmission Lines	No high voltage transmission lines nearby.
Critical Standard – 9.9.9 – Roads a) All new roads shall be vested with the Council on subdivision.	Does not comply The extended Melrose Road will be vested with the Council as part of a future subdivision application and won’t be vesting as part of this application.
Critical Standard- 9.9.10 (Open Spaces and Recreation)	Not applicable as no residential activities are proposed.

Section 10 Transport

Relevant Rule	Compliance of proposed subdivision
10.7.2 Restricted Discretionary Activities	Restricted Discretionary Activity The activity does not comply with site standard 10.9.1 and is specified as a restricted discretionary activity in 10.9.9.
Site standard – 10.9.1 – Roading a) All new roads shall be laid out and vested in the Council, in accordance with Standard NZS4404:2010, except where it is an arterial road. b) The carriageway of all new road transport networks laid out and vested in accordance with a) above shall be formed and sealed. c) Footpaths shall be constructed as a sealed strip of 1.5m width within the berm.	Does not comply The road will not be vested in Council as part of this subdivision application. It will be vested at the The road design will be for a collector road in accordance with NZS4404:2010. It will allow for future traffic volumes from adjoining land. It will be sealed. Footpaths will be constructed as per the requirements.

<p>d) All areas of berms not sealed in footpath are to be formed in grass.</p> <p>e) N/A</p> <p>f) N/A</p> <p>g) Within any new subdivision, provision shall be made for pedestrian and cycle access links, to a level appropriate to the scale and location of the development.</p> <p>h) Where a subdivision adjoins land not yet subdivided, provision shall be made for pedestrian, cyclist and vehicle access linkages between the areas.</p>	<p>Berms will be grassed</p> <p>Pedestrian and cycle access links will be provided, including provision of a shared path.</p> <p>The road design allows for future linkage beyond proposed Lot 2.</p>
<p>Site Standard 10.9.9 State Highway Access</p> <p>a) Any new subdivision or land use activity that would require direct access to a state highway at a location where there is currently no such direct access, or would require any alteration to, or increase in the use of an existing direct access to such a state highway, shall be a restricted discretionary activity.</p>	<p>Restricted discretionary activity</p> <p>NZTA have provided feedback (discussed further below).</p>
<p>Site Standard 10.9.10 Minimum Sight Distances from Intersections</p> <p>a) Unobstructed sight distances shall be available from all intersections, in accordance with the minimum sight distances specified in Table 10-11.</p>	<p>Complies</p>
<p>Site Standard 10.9.11 Spacing between Intersections</p> <p>a) All intersections shall be designed and located such that the minimum spacing between successive intersections is not less than the minimum distance specified in Table 10-12.</p>	<p>Complies</p>

2.2 NES Contaminated Soil

The sites subject to this application (Melrose Road and LOT 2 DP 382372) are not listed on the LLUR, and there is no evidence of HAIL activity in previous consent assessment. The NESCS therefore does not apply.

Other land use matters relating to the entire ODP/development area will be addressed with the future subdivision consent. These are likely to include:

- Earthworks for the formation of the widened and extended Melrose Road, and formation of the business allotments and stormwater areas
- Inconsistency with ODP
- Buildings within 100m of stopbank

SUB23/0066 LUC23/0121
21 Melrose Road, Ashburton
Notification Report

- Business/Industrial activities in Rural A Zone
- NES CS (land use and subdivision) for potentially contaminated site (Ashburton Clay Target Club)

Overall, the proposal falls to be assessed as a non-complying activity.

3.0 NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C-95D)

S95A Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

Step 1: mandatory public notification in certain circumstances

(2) Determine whether the application meets any of the criteria set out in subsection (3) and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, go to step 2. **No. Go to Step 2**

(3) The criteria for step 1 are as follows:

- (a) the applicant has requested that the application be publicly notified: **No**
- (b) public notification is required under section 95C: **No**
- (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977. **No**

Step 2: if not required by step 1, public notification precluded in certain circumstances

(4) Determine whether the application meets either of the criteria set out in subsection (5) and,—

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3. **No. Go to Step 3**

(5) The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification: **No**
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
 - (i) a controlled activity: **No**
 - (ii)[Repealed]
 - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity. **No**

Step 3: if not precluded by step 2, public notification required in certain circumstances

(7) Determine whether the application meets either of the criteria set out in subsection (8) and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, go to step 4. **No. Go to Step 4**

(8) The criteria for step 3 are as follows:

(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification: **No**

(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor. **No. Refer section 3.1 below.**

Step 4: public notification in special circumstances

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

(a) if the answer is yes, publicly notify the application **Yes. Refer step 4 assessment below.**

Step 4 assessment:

Special circumstances¹ apply for the following reasons:

- The access is provided where the ODP explicitly states that it shouldn't be provided.
- The development will be utilising Rural A zone land (subject to Scheduled Activity 16/Rugby Club overlay) as part of the road widening and the future business estate that was not included in the original ODP area.
- These aspects might be of interest to: the Ashburton District public as owners & stakeholders of the operative district plan; local residents and businesses who may live or work on or near Melrose Road and SH77; existing owners and occupants in the ODP area (e.g. the gun club); existing businesses in the Riverside industrial area (Range/Robinson Streets); Canterbury Regional Council and the Crown (who own property and assets in the vicinity); mountain bikers and users of the river access; Rugby Club and Motor Caravan Park users (although they could grant themselves written approval).
- Typically, this sort of misalignment with the District Plan zones and rules would be addressed through a plan change. This application instead seeks to address these matters through a resource consent pathway. In a plan change it would normally be publicly notified, particularly where a number of persons may be affected. The matters being addressed in this plan change are likely to be of interest to a number of stakeholders and the wider public as it will affect Business D land supply, trip generation on Melrose Road and surrounding road network, use of Rural A land for Business purposes, along with the matters to be addressed in subsequent consents (flood hazard, use of designated land, any further non-compliances with the ODP). It would likely be difficult to identify these persons on an individual basis for the purposes of notification.
- There has been a history of attempts to provide suitable access to the Riverside ODP area, some of which pre-dates the Operative District Plan. Not all of that history is documented, but it may become relevant to the consideration of the appropriateness of the proposed access route. Public notification may allow some of this historical context to be presented.

¹ Current case law has defined 'special circumstances' (in the context of decisions on public notification of resource consent applications) as those "outside the common run of things which is exceptional, abnormal or unusual, but they may be less than extraordinary or unique", <https://environment.govt.nz/publications/a-technical-guide-to-resource-consent-notification/> (MfE, 2017, p8)

3.1.0 Assessment of the Application for Public Notification Purposes (S95D)

3.1.1 Effects on the Environment to be disregarded (Section 95D(a))

- I. Effects on persons who own or occupy the land in, on, or over which the application relates, or land adjacent to that land



I have highlighted the subject and adjacent land with blue stars. Adverse effects on the owners and occupants of this land have been disregarded. This includes any adverse effects on the Allenton Rugby Football Club and the Motor Caravan Association (Rugby club site), the Ashburton District Council Roding Team (owners of Melrose Road), NZTA (owner of Alford Forest Road SH77), and any owners and occupants of the Ashburton River bed.

- II. Any effect on a person who has given written approval to the application

NZTA (as owners and managers of Alford Forest Road/SH77) have provided written approval to the application. Any adverse effects on NZTA have been disregarded.

3.1.2 Effects that may be disregarded – Permitted Baseline Assessment (Section 95D(b))

As a subdivision activity there is no applicable permitted baseline.

3.1.3 Adverse Effects Assessment (S95D)

Adverse effects on the environment of Melrose Road and the users of Melrose Road:

The Council Roding Team have reviewed the application and have agreed in principle some concept road cross sections. They consider the roading proposed will be appropriate. Melrose Road provides access to the Ashburton River bed where there are some mountain bike tracks. A shared path will be provided along one side of the upgraded Melrose Road. Currently Melrose Road is unsealed for much of its length. As part of this proposal it will be sealed. Adverse effects on users of the road (including those using it for River access) will be no more than minor.

Adverse effects on the users of Alford Forest Road/State Highway 77:

NZTA have agreed a number of intersection design requirements with the applicant. Adverse effects on users of Alford Forest Road will be no more than minor.

Adverse effects on the owners and occupants of the sites fronting Alford Forest Road near the intersection with Melrose Road (but not adjoining Melrose Road):

The use of Melrose Road for access to the Riverside Business D Zone will generate additional vehicle trips, including a greater number of heavy vehicles. However, this is in the context of the existing State Highway 77 and its function as an arterial road. Adverse amenity effects on the neighbouring sites resulting from the trip generation from this activity will therefore be no more than minor.

Adverse effects on Iwi:

Arowhenua have been consulted on the activity. A letter has been supplied from AEC Ltd that confirms that they do not have an issue with the proposal, but request that an accidental discovery condition is included in the consent. The applicant has agreed to include this. Adverse effects on Iwi will be no more than minor.

Adverse effects on highly productive land/productive activities:

The Rural A land subject to this application is not highly productive land as defined by the NPS Highly Productive Land. However, the activity will result in undersize Rural A sites. The subdivision will be for the purpose of widening and extending Melrose Road (the road portion of which will ultimately be subdivided off and vested as a utility lot). The remainder of the Rural A land will be used for (Lot 1) the Rugby club and (Lot 2) business estate (land use to be assessed in the future consent). The subdivision of Lot 1 will have no bearing on productive uses as this will continue to be used for the rugby club. The subdivision of Lot 2 will create a 2ha Rural A site. Lot 2 is currently owned by the rugby club and is subject to scheduled activity overlay S16 (Rugby Club), if not fully utilised by the club at the moment. Therefore the land is anticipated to be used by the rugby club activity and not necessarily productive activity under the operative plan. For these reasons I consider that adverse effects on the environment from the undersize Rural A allotments will be no more than minor.

Adverse effects on Canterbury Regional Council/flood hazard:

Canterbury Regional Council have an interest in designation D21, the mapped breakout area, and the stopbank by the Ashburton River. These are all located outside of the land subject to this application. However, the future applications to develop the balance of the business estate will need to consider effects on the Canterbury Regional Council and flood hazard. The widened Melrose Road will contain sufficient stormwater conveyance and disposal not to exacerbate flooding. Adverse effects on Canterbury Regional Council and flood hazard will be no more than minor.

Adverse effects on indigenous biodiversity:

The land subject to this application is not mapped as an Area of Significant Conservation Value in the District Plan. The land is highly modified and is largely grass playing fields owned by the Allenton Rugby Football Club. The land is not known to contain any indigenous vegetation. Erosion and sediment control

conditions will be included as part of the road upgrade to avoid sediment migration to the Ashburton River. Adverse effects on indigenous biodiversity will be no more than minor.

Adverse effects on all other persons and environments:

The access route proposed by this activity, and the inclusion of Rural A Zoned land, contradicts the ODP for the Riverside Business D Zone. This may be of some interest to persons in the District but is not likely to result in a more than minor adverse effect.

Overall, adverse effects on the environment will be no more than minor.

4.0 Conclusion

Public Notification

- Pursuant to section 95A(9), there are special circumstances that warrant public notification of the application. These special circumstances are detailed in Section 3.0.

7.0 Recommendation

Public Notification

That for the reasons set out below, this application be processed with public notification pursuant to Sections 95A-95F of the Resource Management Act 1991.

- i) There are special circumstances [s95a(9)]



Signed: _____
Nicholas Law
Reporting Planner

Date: 21/11/24

Decision:

The above applications SUB23/0066 LUC23/0121 have been considered under delegated authority and have been determined to be processed with public notice pursuant to sections 95A-95F of the Resource Management Act 1991.

Signed: _____
Brad Thomson
Planning Manager

Date: _____

Signed: _____
Ian Hyde
Group Manager Compliance & Development

Date: _____