

Before the Independent Hearing Commissioner
At Ashburton District Council

under: the Resource Management Act 1991

in the matter of: application LUC23/0109 to the Ashburton District Council relating to the proposed equestrian centre located on 279 Stranges Road, Ashburton

between: **Southern Parallel Equine Centre Limited**
Applicant

and: **Ashburton District Council**
Consent Authority

Statement of evidence of Kim Seaton

Dated: 20 March 2024

Reference: Jo Appleyard (jo.appleyard@chapmantripp.com)
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STATEMENT OF EVIDENCE OF KIM SEATON

INTRODUCTION

- 1 My full name is Kim Marie Seaton.
- 2 I hold the qualifications of a Bachelor of Arts and a Master of Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute. I have held accreditation as a Hearings Commissioner under the MfE Making Good Decisions programme since 2011 and have held endorsement as a Chair since 2014.
- 3 I have 30 years of experience as a resource management planner, with the last 22 years working as a consultant in Christchurch and more recently also in Queenstown Lakes District. I have particular experience in land use development planning, as a consultant to property owners, investors, developers and community organisations, and though processing consents for district councils.
- 4 I have been engaged by Southern Parallel Equine Centre Limited (*SPEC*) to provide expert evidence on planning matters in relation to its application for a resource consent (*Application*) to establish an equine centre in Lake Hood (the *Proposed Equine Centre*).
- 5 I prepared the Assessment of Effects on the Environment (*AEE*) that was submitted as part of the Application.

CODE OF CONDUCT

- 6 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

- 7 My evidence will deal with the following:
 - 7.1 A description of the Southern Parallel Equine Centre;
 - 7.2 Proposal revisions;
 - 7.3 Description of the Site and existing environment;
 - 7.4 A summary of the resource consents required under the Ashburton District Plan;

- 7.5 A summary of the actual and potential effects on the environment, including the permitted baseline;
 - 7.6 Assessment against the objectives and policies of the District Plan;
 - 7.7 Conclusions on Section 104D of the Resource Management Act (the *RMA*);
 - 7.8 Section 104 RMA matters;
 - 7.9 Response to issues raised by submitters;
 - 7.10 Conditions; and
 - 7.11 Conclusions.
- 8 In preparing my evidence, I have reviewed:
- 8.1 The Application, which I prepared other than those parts expressly prepared by other experts;
 - 8.2 Submissions on the Application;
 - 8.3 The section 42a report (the *Officer's Report*);
 - 8.4 The evidence of others for SPEC;
 - 8.5 The Ashburton District Plan (*the Plan*) (as relevant to this proposal);
 - 8.6 Other relevant statutory documents including the Canterbury Regional Policy Statement (as relevant to this proposal), the National Policy Statement for Highly Productive Land (NPS-HPL), the National Policy Statement for Indigenous Biodiversity (NPS-IB); the National Policy Statement on Freshwater Management;
 - 8.7 The Iwi Management Plan (of Kati Huirapa for the Area Rakaia to Waitaki, 1992).

SUMMARY OF EVIDENCE

- 9 The potential adverse effects of the proposal are considered to be less than minor, and positive effects will additionally arise. While the proposal will result in a change to the character and amenity of the site, it will remain rural and of a high quality. The proposal represents a rural productive use that will benefit from the highly productive soils on the site, while the built development and activities proposed therein are considered to be supporting activities, necessary for an equine centre of this scale and quality to operate effectively.

- 10 Conditions of consent are proposed that will further ensure the effects of the proposal are appropriately managed through construction and operation.

THE PROPOSAL

Description of the Southern Parallel Equine Centre Proposal

- 11 A full description of the proposal is provided in the application AEE, and is summarised in the Officer's Report. I will not repeat those descriptions, referring the Commissioner instead to those documents. To summarise however, the proposal provides for:
- i. Indoor Facilities:
 - A. Stables for 600 horses with an additional 58 stables for the Equine Veterinary Clinic;
 - B. An Equine Veterinary Clinic/Equine Breeding Services Centre;
 - C. A Stud Selling Centre, including meeting rooms and client entertainment area;
 - D. A covered walking circle;
 - E. Staff accommodation within the existing dwelling on site;
 - ii. Outdoor Facilities:
 - F. Grazing and pasture, with dual purpose as arenas and training fields;
 - G. Permanent parking facilities adjacent the Stud Selling Centre and the stables. Overflow parking on large event days (e.g. the annual sale) on grassed areas;
 - H. Principal vehicle access from Stranges Road, with a secondary access for staff and emergency access only from Huntingdon Avenue;
 - I. Five bridges and one culvert for crossing waterways on site;
 - iii. Other:
 - J. Servicing by way of reticulated water supply, wastewater treatment and discharge (either on site or to the reticulated system) and stormwater discharge to ground. Mr Mthamo's evidence sets out the site servicing in greater detail;

- K. Bulk earthworks for the establishment of paved and aggregate surfaces and burial of the BioGill tanks;
 - L. Waterway enhancement, including removal of pest species and replanting of riparian areas and provision for six bridge crossings;
 - M. Removal of existing culverts;
 - N. Comprehensive landscaping per the landscape plans and palettes attached as Appendix 6 to the application AEE;
 - O. Rural style fencing, including a deer-style fence on the southern boundary of the site;
 - P. Signage is not yet confirmed but for the purposes of this application is assumed to comply with the District Plan standards. Any signage that does not comply will be subject to a separate resource consent application;
 - Q. All lighting will be low level and for security purposes only. Traffic routes within the site will have bollard lighting that Ms Stuart advises will be switched off overnight. Security lighting will be present on the site buildings but will be motion-activated only. No flood lighting will be present on site.
- 12 In terms of events, the application AEE specifically noted an annual sales event, and smaller by-appointment visits. The Integrated Transport Assessment references a number of smaller sales events through the year additional to the annual sales event. Ms Stuart has clarified in her evidence that events of any size, including training competitions and sales, will be capped to a total of 25 days per calendar year¹.
- 13 In regard indigenous vegetation removal, the application document stated that no removal would be required. In part this is because there is very little in the way of indigenous vegetation on the site, with the majority of what is present being on the periphery of the site or in riparian areas where disturbance and removal will not be required for development (i.e. in areas where development is not proposed). It remains the applicant's intention to not remove indigenous vegetation if at all possible. However, in response to the Officer's Report comment regarding possible indigenous vegetation removal to make way for the bridge crossings (page 10), some further brief review of the bridge crossing locations indicates at least one native flax (albeit one that Ms Stuart advises was planted by the landowner) will require removal. I address this further in relation to resource consent requirements, below.

¹ Paragraph 31 of Ms Stuart's evidence.

- 14 A key point in regard the proposed development is that the site facilities will not be open to the general public. This includes any competition training events, that will be attended by prospective purchasers and their support staff only. The veterinary clinic will serve the on-site equine stud (and related visiting horses) only, it will not be open to other horse owners within the community.

Description of the Site and Environment

- 15 The site is described in detail in the AEE, as referenced in the Officer's Report. Mr Compton Moen goes into further detail in his evidence where he discusses the receiving environment in respect of rural character and values.
- 16 In summary, the site is 65ha and is located at 279 Stranges Road, Ashburton, with road frontage to both Stranges Road and Huntingdon Avenue. The site is rural in both character and zoning, and has been used for both vegetable growing and, currently, grazing. It contains two intersecting waterways (Lagmhor Creek and a northern branch of the same), a water race on the western boundary and a single dwelling located centrally. The site adjoins Lake Hood (to the east) and the Lake Hood settlement (to the northeast).

Ashburton District Plan

- 17 The site is zoned Rural B Zone in the Plan.
- 18 I agree with the Officer's Report that the proposal falls within the definition of both 'Farming Activities' (the equine facility generally) and 'Intensive Farming' (the majority of the stabling).
- 19 I also agree with the rule non-compliances noted in the Officer's Report, relating to site coverage, earthworks, intensive farming, works within 20m of a stream and farm buildings in excess of 500m² in area. The overall activity status for the proposal is non-complying, arising from Rule 3.8.6 as the proposal will not comply with Zone Standard 3.10.7 Intensive farming, as the majority of the stables fall within the definition of intensive farming and will be within 1500m of a Residential C Zone.
- 20 Two further potential non-compliances are raised in the Officer's Report, being Rule 3.9.11 Indigenous Vegetation Clearance and Rule 3.9.10 Retail Sales and Commercial Activities.
- 21 In regard Rule 3.9.11 Indigenous Vegetation Clearance, the rule states as follows:
- There shall be no clearance of indigenous vegetation on any sites in the Rural A and B Zones, except where it is planted in a domestic garden or used for shelter purposes.*
- 22 The application AEE states that no indigenous vegetation clearance will occur. This remains the intention and the general lack of

indigenous vegetation on the site per the evidence of Mr Taylor and Mr Compton Moen, makes me confident this rule will be able to be complied with for the vast majority of the development. However, I asked Ms Stuart to look again and take photographs of the locations of the proposed bridge crossings. One of those crossings was confirmed to be located where a single indigenous flax will likely need to be removed. I am advised that the flax was planted by the landowner, nevertheless Rule 3.9.11 does not distinguish between original and planted indigenous vegetation outside of a domestic garden or shelter situation. Therefore I can confirm that resource consent will be required under Rule 3.9.11. I agree with the Officer's Report that the activity status as a result of this non-compliance remains non-complying. I have suggested an amendment to the proposed conditions of the Officer's Report, where they address vegetation removal, and I discuss this further in the Conditions section below.

- 23 In regard Rule 3.9.10 Retail Sales and Commercial Activities, the Officer's Report spends some time discussing the definitions of these activities. I agree that the key matter for consideration is whether or not livestock fall within the retail definition of a "good", as they are not equipment or merchandise, or a service in respect of the commercial activities definition. In preparing the application AEE, I determined that livestock are not a "good" and that remains my opinion.
- 24 In large part that opinion is informed by previous interpretation of Rule 3.9.10 within Ashburton District², by my experience of dealing with resource consents in other Districts of the South Island (which have similar definitions to Ashburton District and in which I have not come across on-farm livestock sales being interpreted as retail or commercial activity), and by the impractical implications of on-farm livestock sales being deemed to be commercial or retail activity. I agree with the Officer's Report where it states that on-farm sales are typically considered part of the permitted activities of farming. On-farm sales of farm machinery (clearing sales) and stock such as sheep, cattle and deer are common in the rural areas, as evidenced by review of the Hazlett and PPG Wrightson sales calendars at any given time³. I also agree with the Officer's Report that if the on-farm sale of horse stock is deemed to be a retail or commercial activity, it would therefore have wider implications across the District than simply for this application. Finally, I agree with the Officer's Report that on-farm livestock sales typically occur in farm buildings that are also utilised for other purposes and that will be the case for the proposed Equine Centre also. Although the selling will occur within the "Selling Centre", that building will not be solely

² As informed by conversations with Planning Manager for Ashburton District, Mr Ian Hyde.

³ E.g. <https://www.hazlett.nz/whats-on/> , <https://www.agonline.co.nz/upcoming-sales>
Note these calendars include both on-farm and saleyard sales, and sales occurring outside Ashburton District.

for use for selling, it will also be utilised for purposes such as indoor training, per paragraphs 14 and 15 of Ms Stuart's evidence.

- 25 If the Commissioner considers that the on-farm sale of livestock is the sale of a good, the proposal would not comply with Rule 3.9.10(a) as the area for sales would not occur within a single retail outlet and the area of the sales would exceed 40m² and may occur in part outdoors (display of horses through competition for example). The proposal would comply with the remainder of Rule 3.9.10⁴. The non-compliance would not alter the overall non-complying status of the application.

Other Consents Required

- 26 Several resource consents are required from Environment Canterbury for the proposed development. The list contained in Section 4.2 of the Officer's Report is correct. If the Biochar waste plant proceeds, additional resource consents may be required for that and will be addressed separately. Mr Mthamo addresses the Environment Canterbury resource consents in his evidence.

Submissions

- 27 I accept and adopt the summary of submissions contained in the Officer's Report.
- 28 I will respond to submission points raised in further detail below.

ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT (S.104(1)(A))

- 29 I agree with the broad categories of issues the Officer's Report lists and for ease of reference I will adopt those same category headings in my assessment below.

Permitted Baseline

- 30 Section 7.3.2 of the Officer's Report addresses the permitted baseline assessment, under Section 104(2) of the RMA. The Officer's Report is correct that the AEE does not specifically address the permitted baseline as I consider that baseline is of limited assistance for an application that involves intensive farming (stabling), as there is no location on the site where it could occur as a permitted activity and stabling is integral to the proposed Equine Centre. In terms of permitted built form, the rules of the District Plan limit permitted farm buildings to a maximum floor area of

⁴ 3.9.10 Retail Sales and Commercial Activities a) Retail display and sales are limited to single retail outlets, not exceeding a gross floor area of 40m² and located within buildings. b) Group visits to sites used for farming or residential activities shall not result in the maximum number of vehicles visiting the site exceeding 3 buses per week and 25 cars per week. c) There shall be no lighting from external light sources at night (between one hour after sunset and one hour before sunrise) of any retail sales or commercial activity. d) Within the Mt Hutt ski-field Policy Area as shown on the Planning Maps, there shall be no lighting from external light sources at night (between sunset and sunrise) for recreational activities, other than lighting for snow grooming and ski field maintenance.

500m²⁵, with a maximum height of 20m⁶. The proposal is considerably in excess of 500m² floor area, but less than 20m in height. Site coverage for buildings and impervious surfaces is otherwise permitted to 5% of the net site area (3.25ha for this site)⁷, which the development exceeds.

Transport Effects

- 31 The transport effects of the proposal are addressed in section 7.3.6 of the Officer's Report. The Planning Officer is correct where he confirms that the Huntingdon Avenue access is to be used by staff and for emergency access only. All visitor access will be via the principal access at Stranges Road.
- 32 The transport effects of the proposal have also been addressed by Ms Williams in her evidence for the applicant. Ms Williams has generally concluded that the traffic effects of the proposal will be acceptable and that the access and parking areas will operate satisfactorily.
- 33 Specifically, Ms Williams confirms in her evidence:
- 33.1 There is ample parking to cater for regular day to day operations;
- 33.2 The day to day traffic generation, including service vehicle trips such as trucks for manure removal, can be readily accommodated on the surrounding road network;
- 33.3 Events will require a Traffic Management Plan (TMP). The TMP can be proportional to the scale of the event;
- 33.4 During large sales events, temporary parking will be provided on grass areas around the site and managed in accordance with the TMP.
- 34 She concludes that the transport effects of the proposal are able to be appropriately managed and she supports the application from a transport perspective. I accept Ms Williams' advice and on that basis consider the potential adverse transport effects of the proposal to be less than minor. I do consider the proposed annual sales event draft condition, per the Officer's Report, would benefit from further clarification and I discuss this in the Conditions section below.

Visual, Landscape, Rural and Natural Character Effects

- 35 The visual, landscape, rural and natural character effects of the proposal are addressed in Section 7.3.7 of the Officer's Report. The

⁵ Per the definition of Farming Activity.

⁶ Rule 3.9.3.

⁷ Rule 3.9.2.

opinions expressed, being that there will be a change in openness of views experienced by adjacent rural properties but that due to distance and intervening vegetation and the high level of built form amenity any adverse effects are considered to be less than minor, and that natural character impacts are considered to be positive, are supported by the views expressed by Mr Compton Moen in his evidence.

36 Mr Compton Moen summarises his evidence as follows:

'In terms of landscape character (including natural character) and values of the area, subject to the mitigation measures proposed, the Proposed Equine Centre will result in a very low magnitude of change (less than minor effects) on the existing rural landscape character and values. The existing character of the site is already highly modified and with the proposed mitigation measures both protecting and enhancing existing waterways, the proposal will retain existing natural features.

In terms of visual amenity, the adjacent rural properties will experience a very low magnitude of change (less than minor effects) in the openness of views across the space. Nearby residential properties, current and future, overlooking the site have a mix of open, partial, and screened views of future development. The changes in the landscape experienced by these residents are considered low to very low (less than minor effects) given the nature of the proposal is rural, albeit with a larger scale of rural building than is found in the immediate area at present.'
(paragraphs 10-11)

37 I accept Mr Compton Moen's opinion and similarly conclude that the effects of the proposal on rural character, visual amenity and landscape will be less than minor in scale, and positive in respect of natural character.

Amenity (Construction, Noise and Lighting) Effects

38 In addition to visual amenity, adverse amenity effects can arise from noise (construction and operation) and light pollution.

39 In regard to noise, the evidence of Ms Satory confirms that the proposal will comply with both construction noise standards and District Plan operational noise standards. I agree that it is appropriate that the proposal be subject to a condition of consent specifying NZS 6803:1999 Acoustics – Construction Noise be complied with. On that basis, and on the advice of Ms Satory that the proposal will comply with the Plan noise standards during operation, I agree with the Officer's Report that the potential adverse noise effects of the proposal will be less than minor and, in respect of construction noise, temporary.

40 In regard lighting, Ms Stuart has advised me that the only lighting occurring on site overnight will be motion activated security lighting

around the buildings. That lighting will be designed to comply with Rule 3.10.9 of the District Plan, being directed away from adjacent properties and roads and angled below the horizontal, and not producing light spill in excess of 3 lux at residential zone boundaries (noting the buildings are all considerably distant from property boundaries). Potential adverse light effects are therefore in my opinion likely to be negligible.

Intensive Farming and Odour Effects

- 41 A key issue for the proposal is the location of the stables 600m from the nearest Residential C Zone boundary, as compared to the 1,500m separation distance Rule 3.10.7 requires for intensive farming. It is this non-compliance that results in the non-complying activity status of the proposal. In respect of stables, the principal issues arising from this type of intensive farming are adverse visual effects (addressed above) and nuisance or offensive odour, particularly from effluent (horse manure).
- 42 Ms Stuart has confirmed in her evidence that the applicant is investigating several options for dealing with horse manure on the site, including spreading on a local farm property, and/or removing to an off-site composter (Intelligro), and/or establishment of a Biochar plant. The latter may require a separate resource consent process to be undertaken. Therefore, whilst the Biochar plant is a favourable option for the applicant, for the purposes of this consent application I do not rely on that option and note only that the commitment for this application is to remove all manure from the site on a daily basis and that that is achievable.
- 43 Mr Cudmore has addressed the potential for odour effects in his evidence, on the basis that manure is being removed daily. He concludes that with good management practices, the potential for odour effects from the operation of the waste treatment plant, stables and related activities on site are likely to be less than minor. I note that Mr Cudmore has recommended that an odour management plan be prepared for the ongoing management of the wastewater treatment plant (BioGill). I address this in the Conditions section below.
- 44 I accept Mr Cudmore's opinion and on that basis conclude that potential adverse odour effects will be less than minor.
- 45 I note that the Officer's Report recommends a review condition to address odour should the need arise. I will also address this in my section discussing conditions below.

Ecological Effects

- 46 The Officer's Report observes that beyond the riparian areas, the balance of the site has been cultivated over a number of years and represents improved pasture of little ecological value. Mr Taylor's evidence confirms this to be the case, with much of the site recently having been cultivated for potatoes. Mr Taylor has confirmed the

site does not contain any vegetation of significance, and his assessment made in the application AEE makes a number of recommendations to manage ecological effects during construction, as listed in Section 7.3.10 of the Officer's Report. Mr Taylor's evidence addresses these recommendations again. In respect of the TSS/turbidity recording, Mr Taylor expects that Rule 5.167 of the Canterbury Land and Water Regional Plan will be complied with. That rule specifies permitted levels of TSS where vegetation removal is occurring around waterways and I agree that the compliance with Rule 5.167 should be sufficient to ensure water quality within the Lagmhor Creek is maintained at an appropriate level.

- 47 In regard draft conditions, I am recommending an additional condition for planting within riparian areas and I discuss this further below. The condition I recommend includes reference to ecologist input into riparian planting plans, consistent with Mr Taylor's evidence.
- 48 Mr Taylor concludes that he considers that the adverse ecological effects of this proposal will be less than minor, and the potential of ecological improvement is high. I accept that opinion and consider that on balance, and subject to the draft conditions set out in Appendix 1 of my evidence, the potential ecological effects will be both less than minor in respect of adverse effects, and positive, in respect of riparian enhancement.

Cultural Effects

- 49 As the Officer's Report notes, the applicant has engaged with Te Rūnanga o Arowhenua via Aoraki Environmental Consultancy Ltd, receiving formal feedback on 14 November 2023. Arowhenua confirmed they have no specific concerns with the application. They have requested consideration of several matters, which I address below:
- 49.1 Consult Rūnanga prior to works if the works will interfere with the flow of water within the creek – I understand that no works are proposed that would interfere with the flow of the creeks on site, noting all earthworks will occur beyond the banks and only removal of pest plant species and replanting will occur on the banks of the creeks;
- 49.2 A minimum of 20m setback from Lagmhor Creek for all activities and is planted with indigenous species – this request is consistent with what is proposed by the applicant;
- 49.3 Confirmation that the proposed development will not adversely impact the water quality within the creek – it has been confirmed by Mr Mthamo that nutrient discharges across the site are anticipated to improve and I would therefore expect that, in conjunction with appropriate sediment and erosion control and proposed riparian planting, water quality across the site is likely to improve. Any adverse effects on

water quality (if there are any), for example through removal of pest species and replanting on the banks, would be minimal (within any sediment discharge levels permitted or consented under the Canterbury Land and Water Regional Plan) and temporary only;

49.4 Accidental discovery – this is a matter that is typically addressed through a condition of consent and I agree that it would be appropriate to have such a condition on this consent. Refer my discussion of conditions below;

49.5 Arowhenua Rūnanga would also welcome the opportunity to discuss the opportunity to showcase manawhenua arts and replant indigenous plants traditionally found in the area within the site designs and/or landscaping regime – this is a matter that will be discussed in future directly with the applicant.

50 Overall, I agree with the Officer's Report that, on the basis of the Arowhenua feedback, there will be no adverse cultural effects arising from the proposal.

Earthworks and Servicing

51 With respect of earthworks, while there are bulk earthworks required to establish building foundations and vehicle routes, I agree with the Officer's Report that potential adverse effects from those works, being dust and potential sediment and erosion, can be adequately controlled through a sediment and erosion control plan (ESCP), and a dust management plan (DMP). The DMP is a requirement of the Canterbury Air Regional Plan for land development of this size, and both the ESCP and DMP are standard requirements for large areas of land development and earthworks. All earthworks effects will be temporary only, being for the duration of construction work and I consider any adverse effects associated with the earthworks to be minimal and, as the earthworks will be distant from neighbouring properties, less than minor in scale.

52 In regard servicing, Mr Mthamo and, with respect of wastewater, Ms Stuart, have addressed these matters in their evidence. Mr Mthamo confirms that stormwater is able to be disposed of on site as a permitted activity. In regard water supply, Mr Mthamo has confirmed that the water supply volumes available for the site from Ashburton District Council supply, are more than sufficient for the proposal.

53 In regard wastewater, the principal option for which resource consent is being sought from Environment Canterbury is the BioGill system. Both Mr Mthamo and Ms Stuart address this proposal in their evidence. I do not intend to address the benefits or feasibility of the BioGill system and refer instead to Mr Mthamo's evidence. The key point from my perspective is that there are two options available for dealing with wastewater – the BioGill option (subject to resource consent for discharge of the treated effluent), and a

second option of treatment via BioGill and discharge to the Council reticulated system. I understand from Mr Mthamo and Ms Stuart's evidence that the second option is viable (both physically and financially). I therefore agree with the Officer's Report that there are options available to the applicant to ensure that the wastewater from the proposal can be adequately treated and disposed of, either on or off site.

Positive Effects

- 54 Multiple positive effects are anticipated to arise from the proposed development. This includes:
- 54.1 economic benefits from employment (both during construction and operational) and export revenue per Ms Stuart's evidence (paragraphs 43 and 44);
 - 54.2 reduced nutrient losses (nitrogen and phosphorus) when compared to the current arable farming system on site, per Mr Mthamo's evidence (paragraph 99.3);
 - 54.3 increased biodiversity and improved creek bank stabilisation as a result of extensive planting across the site and riparian enhancement.

Conclusion

- 55 Overall, the potential adverse effects of the proposal are considered to be less than minor, and positive effects are also expected to result.

**OBJECTIVES AND POLICIES OF THE DISTRICT PLAN
(S104(1)(B))**

- 56 Relevant objectives and policies are contained in Sections 2 (Takata Whenua), 3 (Rural), 10 (Transport), 11 (Noise) and 14 (Utilities, Energy and Designations) of the Plan. The relevant objectives and policies of these chapters are addressed in the AEE and I refer the Commissioner to that assessment.
- 57 In regard the transport objectives and policies (Section 10), I additionally concur with the Officer's Report that the effects on transport are acceptable. Relying on Ms Williams' assessment, I consider the proposal is consistent with the objectives and policies of the Transport section.
- 58 In regard Takata Whenua (Section 2), I rely on Arowhenua's advice that they have no particular concerns about the proposal, to consider the proposal is consistent with the objectives and policies of Section 2.
- 59 In regard to noise (Section 11), I rely on Ms Satory's advice regarding the compliance of the proposal with the Plan noise standards, and the proposed condition regarding construction noise,

and therefore agree with the Officer's Report's conclusion that the proposal meets the policy expectations of this section.

- 60 In regard to utilities, for the reasons set out above and in Mr Mthamo and Ms Stuart's evidence, the proposal is able to be appropriately serviced and any effects of installing and operating those services can be avoided, remedied or mitigated. I therefore agree with the Officer's Report that the proposal is consistent with the objectives and policies of Section 14.
- 61 I turn now to Section 3 Rural, which is the principal focus for my assessment and which contains the critical objectives and policies in respect of this proposal.
- 62 Objective 3.1 and relevant supporting policies are listed in the Officer's Report, which I consider the proposal is consistent with, noting the majority of soils on the site will remain in productive use for grazing (Policy 3.1E), potential adverse effects will be managed (Objective 3.1), and the extent of structures and hard surfaces, whilst larger than permitted, remains only a small portion of the site and as much as necessary to enable the operation of the Equine Centre (Policy 3.1A).
- 63 Policy 3.1C was omitted from the application AEE assessment. It states:
- 'Avoid the establishment or expansion of intensive farming or other rural activities in close proximity to settlement boundaries and residential activities; to manage any adverse effects created by such activities for example noise, odour and dust.'*
- 64 Whilst the 1,500m setback referenced in Rule 3.10.7 is accepted as an appropriate trigger for consenting and further assessment of intensive farming operations, addressing as the rule does a wide range of types of intensive farms including chicken and pigs, I do not consider it is necessarily the point beyond which Policy 3.1C considers a farm is in "close proximity" to a settlement. Mr Cudmore, in his evidence, has confirmed that a 500m setback from residential zone or settlement boundaries is an appropriate setback to manage potential adverse odour effects from horse stabling of the scale proposed by the applicant. Based on Mr Cudmore's advice, I would consider stabling closer than 500m to be in "close proximity" to a settlement boundary. The applicant's stables are in excess of that distance.
- 65 Further, Chapman Tripp lawyers for the applicant have provided me with advice in respect of the recent Supreme Court decision *Port Otago Ltd v Environmental Defence Society Inc.*⁸, which contains guidance on avoidance policies, in addition to the earlier King Salmon caselaw. Whilst the Port Otago decision guidance is provided

⁸ *Port Otago Ltd v Environmental Defence Society Inc* [2023] NZSC 112

in the context of the New Zealand Coastal Policy Statement (NZCPS), it is also helpful in this context, where the District Plan contains an “avoid” policy for intensive farming.

- 66 The Supreme Court confirmed that the avoidance policies in the NZCPS must be interpreted in light of what is sought to be protected, including the relevant values and areas and, when considering any development, whether measures can be put in place to avoid material harm to those values and areas:⁹

[68] All of the above means that the avoidance policies in the NZCPS must be interpreted in light of what is sought to be protected including the relevant values and areas and, when considering any development, whether measures can be put in place to avoid material harm to those values and areas.

- 67 In the case of Policy 3.1C, the policy indicates that residential amenity values that could be harmed by adverse effects such as noise, odour and dust, are what the policy is seeking to protect. The evidence of Mr Cudmore and Ms Satory have made clear that the location of the stabling will be adequately distant to ensure material harm will not be caused to the amenity values of residential areas/the Residential C Zone, and the Lake Hood settlement generally, as a result of the proposed stabling. As I have also noted above, dust from earthworks can be appropriately managed, and I understand the stables are not an otherwise inherently dusty activity.
- 68 For these reasons, I concur with the Officer’s Report that the proposal is not contrary to Policy 3.1C.
- 69 In regard Objective 3.2 biodiversity and supporting policies, I agree with the Officer’s Report that the proposal is consistent with this objective and policies for the reasons set out in paragraph 100 of the application AEE, including:
- 69.1 The site does not contain any significant nature conservation values;
 - 69.2 An effective on-site effluent treatment and disposal system is proposed, to protect ground and surface water quality;
 - 69.3 Waterways on the site are to be enhanced, including with indigenous planting;
 - 69.4 The biodiversity and ecosystem values of the site are anticipated to improve, even with the proposed built and hard surfacing elements of the proposal.

⁹ Ibid, At [68].

- 70 In regard Objective 3.4 and supporting policies addressing natural character, for the reasons I set out above in regard natural character including the proposal to enhance riparian areas within the site and the setback of buildings from waterway edges, the proposal is consistent with this objective and policies.
- 71 Objective 3.5 and supporting policies address rural character and amenity.
- 72 Objective 3.5 seeks to *'protect and maintain the character and amenity values of the District's rural areas, considering its productive uses whilst providing for non-rural activities that meet the needs of local and regional communities and the nation'*. The proposal supports this objective by providing for productive use of the site as an equine centre whilst maintaining the character and amenity values of the area, albeit with some change to that character as discussed by Mr Compton Moen in his evidence. In particular, potential adverse effects on character and amenity will be managed through maintenance of extensive areas of open space, clustering of built development centrally within the site and provision for extensive areas of landscaping and landscape mitigation. I therefore agree with the Officer's Report that the proposal is consistent with this objective.
- 73 Supporting Policy 3.5A seeks to *'...maintain clear distinctions between urban and rural areas and avoid the dispersal of residential activities throughout the rural areas...'* The proposal will achieve this policy with the clustering of farm buildings centrally within the site and maintenance of pasture elsewhere on the site, including adjoining the Lake Hood settlement boundary. No new residential units are being introduced to the site. The proposal is therefore consistent with this policy.
- 74 Policy 3.5E seeks to *'Retain an open and spacious character to the rural areas of the District, with a dominance of open space and plantings over buildings.'* This is to be achieved by ensuring that the scale and siting of farm buildings:
- 74.1 will not unreasonably detract from the privacy or outlook of neighbouring properties;
 - 74.2 will be clustered such that the site overall will remain open and with a rural character as viewed from roads and other publicly accessible places; and
 - 74.3 the character and scale of buildings is compatible with the surrounding rural area, albeit larger than permitted for farming activities.
- 75 For these reasons, I consider the proposal is consistent with Policy 3.5E.

- 76 Overall, I consider the proposal is consistent with, and not contrary to, the objectives and policies of the Rural section, and the Ashburton District Plan more generally.

OTHER RELEVANT PLANNING INSTRUMENTS (S104(1)(B))

- 77 Other relevant planning instruments include:
- 77.1 the National Policy Statement for Highly Productive Land (NPS-HPL);
 - 77.2 the National Policy Statement on Freshwater Management (NPS-FM);
 - 77.3 the National Policy Statement for Indigenous Biodiversity (NPS-IB);
 - 77.4 the National Environmental Standard for Assessment and Managing Contaminants in Soil to Protect Human Health (NES-Contam);
 - 77.5 the Canterbury Regional Policy Statement (2013) (CRPS);
and
 - 77.6 the Canterbury Land and Water Regional Plan.
- 78 I addressed all of these documents in detail in the application AEE and I refer the Commissioner to that document. In broad summary, my assessment aligns with that of the Officer's Report.
- 79 Of particular note in the context of this proposal, and where the Planning Officer and myself have both focused our policy assessment, is in regard to the NPS-HPL. The Officer's Report and myself agree that the site meets the transition definition of highly productive land, being currently classified predominantly as Land Use Capability Class (LUC) 1, with smaller areas of LUC 2 and LUC 3. This is not a matter of dispute.
- 80 It is also not disputed that the objective of the NPS-HPL seeks that *'highly productive land is protected for use in land-based primary production, both now and for future generations.'* As noted in the Officer's Report, *'land-based primary production'* is defined in the NPS-HPL as meaning *'production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land'*. Equine breeding and raising is a pastoral activity that is reliant on the soil resource. This is confirmed in the evidence of Dr Waldron, who notes the importance of soil structure and quality of pasture for horses, and the relationship and value of high quality

soils in achieving good pasture. She specifically notes that the soil types on the site are ideal for horse pasture¹⁰.

- 81 Clause 3.9(2) of the NPS-HPL clarifies that the use of highly productive land is inappropriate except where a number of subclauses apply, one of which is the provision for supporting activities on the land. 'Supporting Activities' is defined as '*in relation to highly productive land, means those activities reasonably necessary to support land-based primary production on that land (such as on-site processing and packing, equipment storage, and animal housing).*' The necessity for the supporting built facilities on the site, including the selling centre, the extensive stabling, and the veterinary clinic, have been addressed by Mr Hansen in his evidence. Mr Hansen confirms these supporting activities are integral to an equine centre of the quality and size sought by the applicant. The pasture, the breeding centre and the supporting facilities are all interlinked and necessary to produce the very high quality of sport horses the applicant seeks to produce.
- 82 In my view, the evidence of Mr Hansen, and supported by the evidence of Ms Stuart and Dr Waldron, confirms that all of the proposed built activity on site is reasonably necessary to support the equine centre as a land-based primary production activity. My views again align with those expressed in the Officer's Report in this regard, and I concur that the proposal is consistent with the NPS-HPL.

SECTION 104(1)(C) MATTERS

- 83 The Officer's Report provides commentary in regard the Iwi Management Plan and precedent and plan integrity. I concur with those statements, including that the Proposal is not contrary to the objectives and policies of the Plan and the issue of plan precedent and integrity should not therefore arise, and the proposal is consistent with the provisions of the Iwi Management Plan.

SECTION 104D

- 84 The Officer's Report sets out the two arms of the Section 104D test in paragraph 7.10 of the report. In my view, the application achieves both tests, as I do not consider the adverse effects of the proposal to be more than minor, and the Proposal is not contrary to the objectives and policies of the Plan. The Officer's Report concurs with this opinion and we are therefore both in agreement that consent may be granted under Section 104D.

RESPONSE TO ISSUES RAISED BY SUBMITTERS

- 85 Submitters have raised a range of issues, which I have covered in my assessment above. For completeness, matters relating to the

¹⁰ Dr Lucy Waldron, paragraph 30.

quality of wastewater disposal and monitoring are for Environment Canterbury to address via the wastewater discharge consent application. It is sufficient for the purposes of this consent hearing to confirm that there are two options available for adequate disposal of wastewater, one of which I understand is not reliant on a separate resource consent process (disposal to the Council reticulated system).

- 86 In regard nutrient run-off, I defer to Mr Mthamo's evidence, which confirms that nutrient discharges will notably reduce as a result of the proposed development, when compared to historic agricultural uses of the land.
- 87 In regard possible future development of the site, the application at issue today is that which was publicly notified. Any future development that may or may not occur on the site, would be subject to a separate approvals process and assessed on its own merits. The granting of this resource consent would not pre-determine the outcome of any future consent application, should further application be made.

CONDITIONS

- 88 The Officer's Report recommends conditions to be imposed on the application should it be granted. I generally concur with those conditions, but recommend some amendments for clarity and certainty, as set out in **Appendix 1**. I also include some additional conditions to ensure consistency with the recommendations of experts. In summary, the changes I recommend are:

Events – Conditions 9 and 10 and a new condition

- 89 In discussions with Ms Williams, it has become clear that traffic management plans are likely to be warranted for smaller sales events and related training competitions, not just the large annual sales. I am also cognisant of Ms Stuart's commitment to there being no more than 25 days per year when elevated visitor numbers may occur as a result of competition and sales events. In order to make that 25 day limit clear, and to clarify the point at which visitor numbers may reach a level where they can be considered to be an "event" (i.e. to differentiate from normal day to day visitors or training), I have recommended a new Condition 9 that states:

'Sales and related events where in excess of 50 visitors per day are anticipated to attend the event, shall be held on site a maximum of 25 days per annum. The events may be attended by prospective purchasers and their support staff and shall not be open to the general public.'

- 90 Ms Williams has confirmed in her evidence that she is confident that "event" numbers below this can be safely accommodated from a

transport perspective and dealt with as part of normal day to day operations.

Ecology and Landscape

- 91 I have recommended an amendment to the draft condition 12 (Officer's Report numbering), which addresses indigenous vegetation removal, to allow for the possible removal of a very small amount of vegetation for the construction of bridges, as follows (additions underlined):

'All existing indigenous vegetation within the waterways and riparian areas is to be retained as far as practicable'

- 92 I also recommend two new conditions, addressing the need for landscape planting plans for riparian areas, and the need for landscaping to be retained. Both are fairly standard conditions in my experience, where landscape planting is required in a land use consent:

'A landscape planting plan, including a schedule with plan numbers, sizes and spacings, shall be prepared for land within 5m of the banks of the Laghmor Creek (north branch and main stem). The plan shall be prepared in consultation with a suitably qualified and experienced ecologist and shall be submitted to Ashburton District Council for certification prior to any vegetation clearance work beginning within the riparian areas.

'All landscaping required for this consent shall be maintained. Any dead, diseased, or damaged landscaping shall be replaced by the consent holder within the following planting season (extending from 1 April to 30 September) with trees/shrubs of similar species.'

Odour

- 93 I have recommended three new conditions to address odour management. The first of those conditions simply reinforces what has already been made clear in the application, that horse manure will be cleared from the site daily. The remaining two conditions arise from the recommendations of Mr Cudmore that an Odour Management Plan be prepared. Those conditions are as follows:

'All horse manure and soiled bedding shall be cleaned out from the stable areas and disposed off site daily. No manure shall be stored outside the stables.

An odour management plan (OMP) shall be prepared by a suitably qualified and experienced person, and submitted to and approved by Ashburton District Council prior to the operation of a wastewater treatment plant on the site. The

OMP shall set out regular and contingency odour management procedures for the plant, to ensure that objectionable or offensive odour from the plant is not experienced beyond the boundary of the site.

A copy of the OMP approved under Condition 24 shall be held on site and shall be adhered to at all times that the wastewater treatment plant is operational.'

Review Condition

- 94 I agree with the Officer's Report that a review condition is warranted for this proposal. However, I consider that unlimited review potential is not justified. Instead, I recommend that the condition should relate specifically to transport and odour effects, being the two areas where either there is some potential for an unforeseen scale of effects that could impact on persons beyond the application site (traffic), or where the issue is of particular concern to neighbours (odour). I therefore recommend the review condition be amended as follows:

'That the conditions of this consent may be reviewed annually by the Ashburton District Council in accordance with section 128 of the Resource Management Act 1991 for the purpose of addressing any transport or odour adverse effects on the environment that may arise from the exercise of this consent.'

RESPONSE TO OFFICER'S REPORT

- 95 I have commented on various aspects of the Officer's Report in my evidence above, where relevant. In summary, there are no matters of disagreement between the Planning Officer and myself.

PART II OF THE RMA

- 96 An assessment of the Proposal against Part II of the Resource Management Act is set out on page 30 of the AEE and I adopt that assessment here. I also concur with the Officer's Report, where it states that the application is considered to meet the relevant provisions of Part 2 of the RMA and achieves the purpose of the RMA being sustainable management of natural and physical resources.

CONCLUSIONS

- 97 Overall, I consider that the proposal is not contrary to the relevant objectives and policies of the Plan, and that it will have actual or potential effects on the environment that are acceptable, and at the most, not more than minor. Notable positive effects are anticipated to arise from the proposal.
- 98 The proposal is consistent with the purpose and principles of the RMA in that it enables people to provide for their economic and

social well-being, while maintaining and enhancing the quality and amenity of the local environment and avoiding significant adverse effects.

- 99 I therefore consider that consent can and ought to be granted in accordance with sections 104, 104B and 104D of the Act, subject to the conditions recommended in Appendix 1.

Dated: 20 March 2024

Kim Seaton

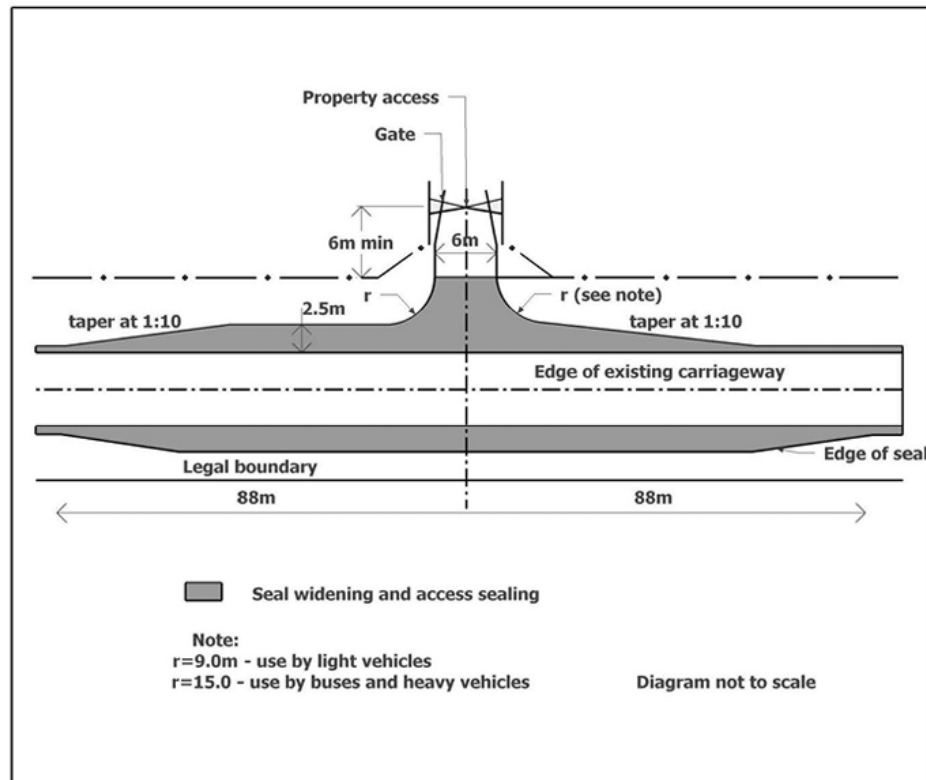
Appendix 1: Draft Conditions (changes underlined or struck through)

General Conditions

1. That the activity proceed in accordance with the plans and details submitted with the application prepared by Novo Group Ltd dated 6 November 2023, except where amended by the further information provided on 14 December 2023 and any requirements set out in the conditions below. Approved plans are attached and entered into Council records as Ref LUC23-0109.

Vehicle Crossings

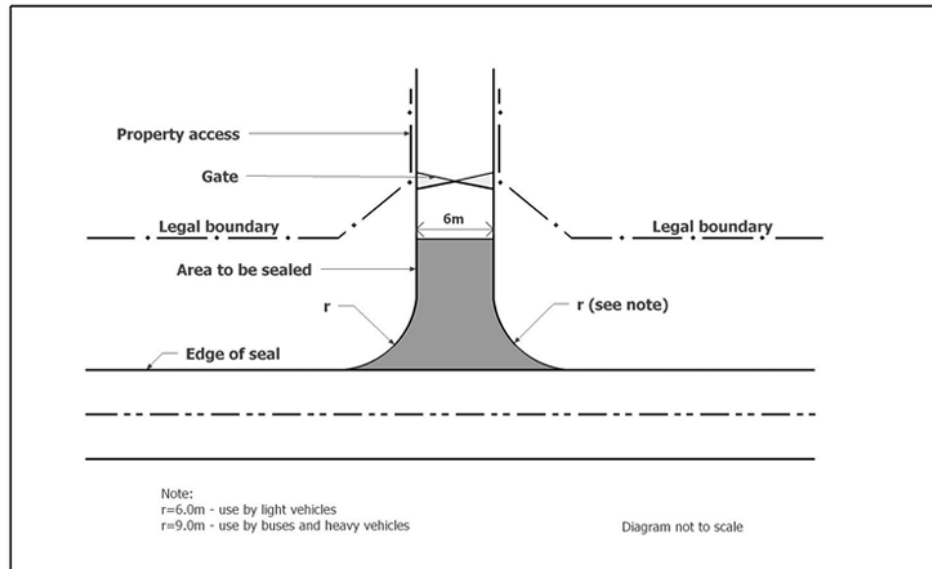
2. The vehicle crossing onto Stranges Road shall be formed and sealed in accordance with Appendix 10-8 of the District Plan and otherwise be constructed in accordance with the approved Engineering Plans. The culvert diameter crossing the water race shall be approved by Council.



3. The Consent Holder shall remove the current entranceway including removal of associated culverts, remediation of the water race, to the

requirements of the Engineering Code of Practice and engineering approval.

4. The vehicle crossing onto Huntingdon Avenue shall be formed and sealed in accordance with Appendix 10-7 of the District Plan and otherwise be constructed in accordance with the approved Engineering Plans.



5. The use of the Huntingdon Avenue access to the site shall be limited to staff use for operational purposes, except in the case of emergency.

6. The Consent Holder shall submit to the Ashburton District Council Infrastructure Manager Roading plans and specifications of the vehicle access crossings and removal of the existing crossing for engineering approval prior to construction. Engineering approval of complying documents shall be given in writing and work shall not commence until this has been received from the Council. Any subsequent amendments to the plans and/or specifications shall be submitted to Council for approval.

Water Supply

7. The Consent Holder shall provide accurate 'as built' plans of the extension to Council services to the satisfaction of the Council. All assets being vested in Council shall be provided in an appropriate electronic format for integration into Council's systems. Actual costs involved in provision and transfer of this data to Councils systems shall be borne by the Consent Holder.

8. That confirmation of the adequacy of the supply for firefighting purposes be provided to the Council prior to construction of buildings commencing.

Annual Events

9. Sales and related events where in excess of 50 visitors per day are anticipated to attend the event, shall be held on site a maximum of 25

days per annum. The events may be attended by prospective purchasers and their support staff and shall not be open to the general public.

9.10. A TMP shall be provided to the Council for approval prior to the commencement of any ~~annual sales~~ event listed in Condition 9 on site. The TMP shall be approved by the Council within 10 working days of receipt.

~~1011.~~ No ~~annual sales~~ events shall commence until a Traffic Management Plan (TMP) has been implemented on site. The TMP must be held on site at all times and made available to the Council on request.

Accidental Discovery Protocol

~~1112.~~ In the event of the discovery/disturbance of any archaeological material or sites, including taonga (treasured artefacts) and koiwi tangata (human remains), the consent holder shall immediately:

- a) Cease earthmoving operations in the affected area of the site; and
- b) Advise the Council and appropriate agencies, including Heritage New Zealand Pouhere Taonga and the local Mana Whenua of the disturbance.

Ecology and Landscape

~~1213.~~ All existing indigenous vegetation within the waterways and riparian areas is to be retained as far as practicable.

~~1314.~~ In summer, a herpetologist shall survey the bridge locations for lizards and consider mitigation options if found.

~~1415.~~ Haul Road and bridge placement shall be undertaken following the bird breeding season (i.e., February to June). Should construction works extend beyond June, then a survey shall firstly be conducted to locate any nesting birds around the bridge construction sites. All works shall avoid nesting birds.

~~1516.~~ Stormwater runoff from the Haul Road and vehicle car park areas, shall be treated before discharge to waterways, possibly by ground infiltration.

17. A landscape planting plan, including a schedule with plan numbers, sizes and spacings, shall be prepared for land within 5m of the banks of the Laghmoor Creek (north branch and main stem). The plan shall be prepared in consultation with a suitably qualified and experienced ecologist and shall be submitted to Ashburton District Council for certification prior to any vegetation clearance work beginning within the riparian areas.

18. All landscaping required for this consent shall be maintained. Any dead, diseased, or damaged landscaping shall be replaced by the consent

holder within the following planting season (extending from 1 April to 30 September) with trees/shrubs of similar species.

Construction

~~16.~~ 19. All earthworks shall be carried out in accordance with the supplied Erosion and Sediment Control Plan (ESCP), which follows the best practice principles, techniques, inspections and monitoring for erosion and sediment control contained in Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury <http://esc Canterbury.co.nz/>. The ESCP must be held on site at all times and made available to the Council on request.

~~17~~20. No earthworks shall commence until the ESCP has been implemented on site. The ESCP measures shall be maintained over the period of the construction phase, until the site is stabilised (i.e. no longer producing dust or water-borne sediment). The ESCP shall be improved if initial and/or standard measures are found to be inadequate. All disturbed surfaces shall be adequately topsoiled and vegetated or otherwise stabilised as soon as possible to limit sediment mobilisation.

~~18~~21. A copy of the ESCP shall be provided to the Council for approval prior to the commencement of any earthworks on site. The ESCP shall be approved by the Council within 10 working days of receipt.

~~19~~22. Construction noise shall be measured and assessed in accordance with New Zealand Standard NZS 6803:1999 "Acoustics - Construction Noise" (Rule 11.8.3). As the construction period is longer than 20 weeks, the long-term limits apply. Construction noise limits of 70 dB LAeq and 85

dB LAmax shall apply during the daytime period of 07:00 – 18:00, Monday to Saturday.

~~2023~~. Prior to the issue of building consent, the Consent Holder shall lodge with the Environmental Services Department of the Council a Construction Noise Management Plan (CNMP) which:

- a) Describes the relevant noise standards from NZS 6803:1999 and other appropriate guidance;
- b) Identifies and adopts the best practicable option (BPO) for the management of construction noise;
- c) Identifies high noise construction activities where there is a risk of non-compliance;
- d) Defines the procedures to be followed when construction activities cannot comply with the noise standards;
- e) Informs the duration, frequency, and timing of works to manage disruption; and
- f) Requires engagement with affected receivers and timely management of complaints, this shall include:

- i. Developing and maintaining a complaints management procedure which shall be in place at the commencement of works and remain until construction works are completed onsite. The procedure shall ensure that neighbours and other parties are provided with an up to date and monitored phone number so that they may communicate with the consent holders representative during the construction phase of the project. ii.

- ii. Complaints received regarding activities on the site shall be recorded along with action taken in response. A copy of the complaints register and recorded actions shall be provided to the Council upon request.

Odour

24. All horse manure and soiled bedding shall be cleaned out from the stable areas and disposed off site daily. No manure shall be stored outside the stables.

25. An odour management plan (OMP) shall be prepared by a suitably qualified and experienced person, and submitted to and approved by Ashburton District Council prior to the operation of a wastewater treatment plant on the site. The OMP shall set out regular and contingency odour management procedures for the plant, to ensure that objectionable or

offensive odour from the plant is not experienced beyond the boundary of the site.

26. A copy of the OMP approved under Condition 25 shall be held on site and shall be adhered to at all times that the wastewater treatment plant is operational.

Administration

~~21~~26. That the conditions of this consent may be reviewed annually by the Ashburton District Council in accordance with section 128 of the Resource Management Act 1991 for the purpose of addressing any transport or odour adverse effects on the environment that may arise from the exercise of this consent.

~~22~~27. That a monitoring fee for the actual and reasonable costs of conducting any monitoring shall be payable by the consent holder and shall be in accordance with fees adopted for the purpose by the Ashburton District Council.