

DECISION ON RESOURCE CONSENTS - LUC23/0010 & SUB23/0003

A J DEVELOPMENTS (2016) LIMITED

Statute:	Resource Management Act 1991
District Plan:	Ashburton District Plan
Proposal/consents:	<b>Subdivision of the site (creating 8 lots) which contains a listed heritage item</b> <b>Land use consent for demolition of three accessory buildings on the site</b> <b>Land use consent to enable residential use of 7 lots</b>
Applicant:	<b>A J Developments (2016) Limited</b>
Application Site:	4 Wilkin Street, Tinwald, Ashburton RT 135/34, Lots 441-444 DP 91
Notification:	Public notification on 4 May 2023. Three submissions were received.
Hearing:	No hearing was held
Commissioner:	Patricia Harte
Date:	<b>3 November 2023</b>
Decision:	<b>Consent is granted</b>

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A THE APPLICATION

1. This application seeks consent to remove three outbuildings associated with the historic villa on the site and to subdivide the site into 8 lots. The villa will remain on the central lot 4. Lots 1 ,2 and 3 are to the west of the villa site and front both SH1 (Archibald Street) and Wilkin Street. Vehicle access to these three lots will be from Wilkin Street. Lots 5-8 are to the east of the Villa site. Lots 6,7 and 8 will gain access from McMurdo Street while Lot 5 will gain access from Wilkin Street. As part of the proposal consent is also sought to erect houses on Lots 1-3

and 5-8 as the site as a whole is listed in the heritage schedule. Specific house designs for houses were provided with the application, however these have been amended and now apply only to the immediately adjoining lots 1 and 5.

2. The three submissions to the applications are as follows:

- Waka Kotahi: Generally neutral regarding the proposal but request a condition on dwellings adjoining SH 1 (Lots 1-3) requiring house designs to achieve a specified indoor level to avoid noise annoyance
- Bruce Taylor of 42 McMurdo Street - supports the proposal but is concerned that 2-storyed dwellings could be erected on lots 6 & 8 which could limit sunshine on his property.
- Historic Places – Mid-Canterbury raise the following matters and concerns in their submission:
  - The quality and visual character of new dwellings on the adjoining sites will significantly impact the setting of the listed property and therefore architectural design of new buildings and landscaping of these sites should be considered.
  - Need a detailed landscaping plan for the historic site.
  - Original “cottage” should be refurbished.
  - Possible option to move the cottage further north closer to Archibald Street

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## B STATUS OF THE APPLICATION

3. I agree with the Council Planning Report prepared by Stewart Fletcher (attached to this Decision as Appendix A) that :

- Subdivision of land containing or affecting any listed heritage item (Group a and B) is a **discretionary** activity under Subdivision rule 12.7.4(a)
- Land use for demolition of Group B listed buildings is a **Discretionary** Activity Rule 12.7.4 (c)

In addition consent is required as a **Restricted Discretionary** activity 12.7.3 (c) (see below) for the new houses and accessory buildings that are to be constructed on Lots 1-3 and 5-8. (see below)

*12.7.3.(c) The construction of a new building or any addition to a non-heritage building within any defined setting of a listed heritage building / item (Group A & B);*

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## C PROCESSING OF APPLICATION

4. It is my understanding that the applicant and his planner (David Harford), Council’s consultant planner (Stewart Fletcher) and heritage advisor (Arlene Baird) and Historic Places Mid Canterbury (Nigel Gilkison) have been discussing the proposal over a period of time and have come to a series of agreements regarding obligations and conditions of consent. Following these discussions the Council section 42A Assessment report was prepared with an extensive set of conditions, dated 25 September 2023 which I assume have been agreed by the parties. The elements/requirements within these conditions which are **additional** to the original application are set out below:

### a) Heritage Building

- Shall be reroofed prior to s224 approval under the supervision of a suitably qualified heritage architect
- Consent notice over lot 4 (containing the heritage building) requiring:
  - a) Repiling and underfloor insulation to be installed within 2 years of title being issued (if not completed to a suitable standard Council can undertake the works at the landowners cost

- b) External cladding, flashings and window frames to be repaired or replaced with 3 years of title issuing

**b) Landscaping**

- Landscape plan to be submitted for Lot 4 and prepared by a suitably qualified landscape architect in consultation with a suitably qualified heritage architect (or other nominee approved by the District Planning Manager) . This landscaping is to be established within 3 years of title issuing and shall be maintained.
- A plan identifying hedging of the roadside perimeter of the whole property is to be approved by Council and then established on all the properties. Maintaining of the hedge will be required through a consent notice on all the titles.

**c) No-build areas**

- Consent notice on Lots 4-6 preventing buildings or structures within an identified no building area to the north and west of the historic villa

**d) Building design on Lots 1 and 5**

- Consent notice requiring new dwellings to have a design and appearance the complements the historic villa design. All designs will need to be submitted to Council for approval.
5. In response to the s42A report and various communications between the parties I issued a Memorandum on 17 October 2021. I noted that I was general supportive of the parties working together addressing the issues raised by parties but I raised several issues regarding this approach and the “agreed” conditions.
  6. All the parties advised that they did not want to proceed to a hearing as there was agreement on the proposed conditions of consent. I accept that there is sufficient information and assessment undertaken by the parties such that a hearing is not necessary.

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**D STATUTORY ASSESSMENT**

7. I agree and accept the Planning Officer’s report dated 25 September 2023 with regard to assessment of the proposal in relation to Part 2 of the RMA and objectives and policies of the CRPS and the Ashburton District Plan. This report is attached as **Annexure A** to this Decision. In particular I agree that there is a difficult balance between losing the three historic outbuildings and achieving improvements of the dwelling. It is acknowledged that the potential income from the subdivision will assist in enabling at least partial restoration of the building which in turn will extend its life and encourage occupation. For these reasons I agree that overall the proposal is not contrary to the heritage provisions of the District Plan.
  8. With regard to the assessment of effects I agree with the overall conclusion of the Planning Officer that the proposed subdivision will have minor adverse effects on the environment.
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**E CONDITIONS**

9. A lengthy set of conditions have been worked through over time and I understand agreed by the parties. These are contained in Stewart Fletcher's planning report and in subsequent emails from the parties. I have commented on some of these conditions in my Memorandum to the parties. I consider these conditions are generally necessary to achieve suitable protection of the heritage values and provide an appropriate balance of development enabling at least partial restoration of the heritage building. In addition the controls over houses on the adjoining sites will assist in avoiding development that could compromise the values of the heritage site.
10. I do however, still have doubts as to the merits of the hedging around the original site as it would seem very unlikely that the proposed perimeter hedging will be recognised by the general public as marking the extent of the original site. The condition would therefore create an obligation for landowners for no robust reason. I also note that as the requirement is proposed to be in the form of a consent notice the Council would be responsible to enforce these requirements. In that regard I consider the conditions relating to landscaping and hedging are complex and therefore difficult to interpret. I agree with Planning Report which considers the matter of appropriate landscaping is best addressed through the requirement of landscaping plan for the heritage site, that is, Lot 4.
11. With regard to lapsing of consent it is considered that the effective period of 8 years is sufficient for the subdivision. However I consider that there should be an additional 2 year period for the land use consent which provides for houses on the new lots.

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**F CONCLUSION**

12. I consider that these applications should be granted to provide for at least some restoration of the heritage dwelling. Unfortunately this is at the cost of losing three historic outbuildings which are part of the story of this unique site. In addition, the setting of the heritage buildings will be significantly altered taking on the urban grid pattern of Tinwald.

## **DECISION - SUB23/0003 & LUC23/0010**

**SUB23/0003** The application of AJ Developments (2016) Limited to subdivide 4 Wilkin Street, Tinwald, Ashburton legally described as Lots 441-444 DP 91, Record of Title CB135/34 into 8 lots is **GRANTED** subject to the conditions set out below.

**LUC23/23/0010** The application of AJ Developments (2016) Limited to remove three Category B heritage listed ancillary buildings from 4 Wilkin Street and to establish a dwelling and accessory buildings on Lots 1 to 3 and 5 to 8 created by SUB23.0003 is GRANTED subject to the conditions below.

### **Subdivision – SUB23/0003**

#### General

1. The subdivision shall be carried out in accordance with the plans and all information submitted with the application, being:
  - Application Form and Assessment of Effects prepared by David Harford Consulting Ltd, Reference 20 – 108 and dated January 2023;
  - The plans named “Lots 1 – 10 Being Proposed Subdivision of Lots 441 – 444 DP91” and referenced by Council as SUB23/0003 Sheet 1-1; and
  - The plans named “AJ Developments Limited (Project Number 1619)” and referenced by Council as LUC23/0010 Sheets 1-7;
  - House sketches received as further information, and dated 15 August 2023;
  - Building Condition report received as further information, and dated 04 September 2023; and
  - Further information received from the applicant by way of email dated 24 October 2023 including updated building and scheme plan.

As part of the resource consent process, information has been updated and plans refined. Accordingly, resource consent has been granted on the basis of the most recent documentation referred to as part of the above.

#### Staging

2. Resource consent has been granted for the subdivision to be carried out in two stages as follows:
  - Stage 1 - Lots 4 – 8 & 10.
  - Stage 2 - Lots 1 – 3 & 9.

The application of the below conditions shall be carried out, as appropriate for the different stages of the subdivision.

#### Easements

3. All proposed easements shall be granted or reserved.
4. Where sewer mains (size 150mm and above) are required in the right of way, easements in gross in favour of Council shall be provided.
5. Lot 10 shall be vested as road reserve in the Ashburton District Council as part of Stage 1 of the approved subdivision.
6. Lot 9 shall be vested as road reserve in the Ashburton District Council as part of Stage 2 of the approved subdivision.

#### Site Preparation

7. Prior to the commencement of works on site detailed photographic records shall be taken of all buildings on site, including those approved to be demolished. Photographs of the buildings shall be both internally and externally. A copy of the records shall be provided to Council within three months of the work commencing.
8. No part of the heritage dwelling shall be removed or demolished as part of the consented activity. Demolition is limited to the three separate outbuildings on the site.

#### Heritage Building

9. Prior to section 224 approval the consent holder shall reroof the heritage dwelling including any flashings or other roof related components necessary to ensure the building is weather tight. The reroofing of the building shall utilise materials consistent with the age and character of the building. All works, and selection of building materials, shall be undertaken under the supervision of a suitably qualified heritage architect (or other nominee approved by the District Planning Manager).
10. Prior to the commencement of reroofing the consent holder shall submit a reroofing plan for the approval of Council. The reroofing plan shall include a requirement that new materials, works or reconstructed elements shall be recorded and date stamped to indicate the time of their installation and that a digital photographic record of the affected areas of the heritage item is to be undertaken before, during, and after the completion of the works. The record must be lodged with Council for their records within three months of the completion of the work.
11. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over Lot 4 specifying the following:

*This allotment contains a heritage building which has been identified as such in the Ashburton District Plan. Resource consent SUB23/0023 approved the subdivision of the wider property subject to works being undertaken to the heritage building to both restore the building and ensure its' longevity. This includes a requirement that works are undertaken by the landowner within a specified timeframe as follows:*

- i. Within two years of the record of title being issued for Lot 4 the entire building shall be repiled and underfloor insulation shall be installed. The repiling of the building shall utilise materials consistent with the age and character of the building. All works, and selection of building materials, shall be undertaken under the supervision of a suitably qualified heritage architect (or other nominee approved by the District Planning Manager).*
- ii. Within the two year period the property owner shall provide written and photographic evidence that the works have been completed, as required by (i), to the Ashburton District Council.*
- iii. If the works required in (i) have not been completed, or have not been completed to a suitable standard, the Ashburton District Council has the right to enter the landowners property and undertake the necessary works to fulfill the requirements of (i), at the landowners cost, including the right to register any claim of costs against the record of title for the allotment.*
- iv. Within three years of the record of title being issued for Lot 4 the external cladding, flashings and window frames shall be repaired or replaced. The works of the building shall utilise materials consistent with the age and character of the building. All works, and selection of building materials, shall be undertaken under the supervision of a suitably qualified heritage architect (or other nominee approved by the District Planning Manager).*

- v. *Within the three year period the property owner shall provide written and photographic evidence that the works have been completed, as required by (iv), to the Ashburton District Council.*
- vi. *If the works required in (iv) have not been completed, or have not been completed to a suitable standard, the Ashburton District Council has the right to enter the landowners property and undertake the necessary works to fulfill the requirements of (iv), at the landowners cost, including the right to register any claim of costs against the record of title for the allotment.*

#### Landscape Plan

12. Prior to section 224 approval the consent holder shall submit a landscape plan for the approval of Council. The landscape plan shall identify existing and proposed landscaping for Lot 4 including the identification of existing landscaping to be retained and structural landscaping to be establishment to complement the character of the building. Pathways, vehicle access and fencing shall be identified as part of the plan. The landscape plan shall be prepared by a suitably qualified landscape architect in consultation with a suitably qualified heritage architect (or other nominee approved by the District Planning Manager).
13. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over Lot 4 specifying the following:

*This allotment contains a heritage building which has been identified as such in the Ashburton District Plan. Resource consent SUB23/0023 approved the subdivision of the wider property subject to landscaping being established and certain existing landscaping being maintained. This includes a requirement that landscaping is established within a specified timeframe as follows:*

- i. *Upon the immediate issue of the record of title for Lot 4 the landowner of this allotment is required to maintain existing landscaping which has been identified on the approved landscape plan, as per condition 13 of resource consent SUB23/0003. If any tree or plant should become diseased or die it shall be replaced within the next planting season with a tree or plant of the same or similar species.*
- ii. *Within three years of the record of title being issued for Lot 4 all proposed landscaping on Lot 4, which has been identified on the approved landscape plan, as per condition 13 of resource consent SUB23/0003 shall have been established and maintained. If any tree or plant should become diseased or die it shall be replaced within the next planting season with a tree or plant of the same or similar species.*

#### No Build Areas

14. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over Lots 4 - 6 specifying the following:

*Lot 4 contains a heritage building which has been identified as such in the Ashburton District Plan. Resource consent SUB23/0023 approved the subdivision of the wider property subject to an adequate amount of open space being provided between the building and road and also to the south east of the building. On this basis it is not permitted to construct any building or structure within that area identified as a no build zone on those plans approved as part of resource consent SUB23/0003 excluding boundary fencing up to 1.8m in height on the internal boundary between Lots 4 - 6.*

### Building Design

15. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over Lots 1 & 5 specifying the following:

*Lot 4 contains a heritage building which has been identified as such in the Ashburton District Plan. Resource consent SUB23/0023 approved the subdivision of the wider property subject to any dwelling erected on Lots 1 & 5 being of a design and appearance that complements the heritage building on Lot 4 and in doing so the Lots 1 & 5 buildings incorporate heritage design elements. Accordingly, prior to the erection of any building or structure on Lots 1 and 5 the following requirements must be met:*

- i. Prior to the construction or erection of any building or structure on the allotment the design of any building erected on Lots 1 & 5 shall be prepared by a suitably qualified architect in consultation with a suitably qualified heritage architect (or other nominee approved by the District Planning Manager) and submitted for the approval of Council and approved.*
- ii. The design of the building shall incorporate those elements from the sketch plans submitted as part of resource consent SUB23/0003 and shall also complement the heritage building on Lot 4 including the incorporation of heritage design elements.*
- iii. Any building erected on the allotment shall be consistent with the plans approved by Council as required by (i).*

### Temporary Protection

16. At least 10 days prior to the commencement of works, the applicant shall provide Council with a Temporary Protection Plan (TPP) for the works, for certification.
17. Prior to commencement of works associated with this resource consent a site briefing of all lead contractors and supervising staff will be held to communicate the significance of the building, the consent conditions and the Temporary Protection Plan (TPP). The consent holder shall notify Council of the date and time of the meeting at least three working days before the meeting.
18. The consent holder, and all persons exercising this consent, shall ensure that all personnel undertaking activities authorised by this consent are made aware of, and have access to, the conditions of this consent decision and the TPP, prior to the commencement and for the duration of the works. A copy of these documents shall remain on-site at all times.

### Road noise reduction

19. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over Lots 1 to 8 specifying the following:

*Any new dwelling or other noise sensitive activity on the site in or partly within 80 metres of the edge of State Highway 1 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.*

### Engineering

20. That two copies of the plans and specifications of all works, including water, sewer, roading and storm water shall be submitted to the Council for approval. Council approval of complying documents shall be given in writing prior to any physical work being undertaken. Any subsequent amendments to the plans and specifications shall be submitted to Council for approval. No works may proceed prior to Engineering Approval being granted.
21. That accurate 'as built' plans relating to the stage(s) under consideration shall be provided to the satisfaction of the Assets Manager. All assets being vested in Council shall be provided in an appropriate format for integration into the Council's electronic operational systems. The actual costs involved in the provision of this data shall be borne by the consent holder.



22. Where the subdivision results in any assets being vested in Council, a comprehensive electronic schedule of these shall be provided to Council's Asset Manager prior to S224(c) approval. The schedule shall include, but not be limited to, installed material unit costs, type, diameter, class, quantity etc. and shall include summary detail.

Power and Telephone

23. Prior to 224(c) approval the consent holder shall provide evidence in writing from the relevant authorities that electrical and telephone service connections are able to be connected to the allotments in accordance with the standards of the relevant network utility operator.

Water

24. The allotments shall be provided with a connection to a Council reticulated water supply. Lateral lines (water) are to be laid 600mm inside the boundary and/or within the net area of each lot. Each lateral shall be fitted with a water manifold and smart meter in accordance with Council Policy, the approved Engineering Plans and subsequent amendments to both documents. The water manifold shall be installed in the road reserve only.

25. New connections for water supply shall be at least 20mm internal diameter for each allotment. .

Waste Water

26. The allotments shall be provided with a piped gravity sewage outfall for disposing of sanitary sewage to a reticulated system, laid at least 600mm into the net area of each allotment. Connections for sewage disposal shall be 100mm internal diameter.

Stormwater

27. There is no public stormwater network available for the disposal of stormwater for each allotment. Stormwater from each allotment may not be directed to the kerb and channel / road side drainage. Stormwater for each allotment must be disposed on site to the satisfaction of Environment Canterbury.

Roading

28. All vehicle crossings from sealed roads to vehicular accesses shall be sealed for the full berm width of the adjoining road.
29. Council approval of documentation shall be given in writing prior to any physical work being undertaken. Any subsequent amendments to the plans and specifications shall be submitted to Council for approval. No works may proceed prior to Engineering Approval being granted.

Financial Contributions

30. A payment in total of \$45,030.00 (GST inclusive) shall be made to Ashburton District Council for the reserve contribution of the subdivision, assessed on an average lot value of \$111,875.00. This calculation includes a reduction of one allotment. On the basis of the subdivision being undertaken on a staged basis, the contribution is broken into two parts as follows:
- |                      |             |
|----------------------|-------------|
| Stage 1 (Lots 4-8) - | \$28,143.75 |
| Stage 2 (Lots 1-3 -  | \$16,886.25 |

Note:

*No work shall be undertaken on site until such a time as an archaeological authority approval is provided from Heritage New Zealand Pouhere Taonga. Written confirmation of the obtaining of approval shall be provided to Council, as consenting authority, a minimum of one week prior to the commencement of works.*

## **Land-Use – LUC23/0010**

### **General**

1. The subdivision shall be carried out in accordance with the plans and all information submitted with the application, being:
  - Application Form and Assessment of Effects prepared by David Harford Consulting Ltd, Reference 20 – 108 and dated January 2023;
  - The plan named “Lots 1 – 10 Being Proposed Subdivision of Lots 441 – 444 DP91 (File 2146 V5)” and referenced by Council as SUB23/0003 Sheet 1-1;
  - The plans named “AJ Developments Limited (Project Number 1619)” and referenced by Council as LUC23/0010 Sheets 1-7;
  - House sketches received as further information, and dated 15 August 2023;
  - Building Condition report received as further information, and dated 04 September 2023; and
  - Further information received from the applicant by way of email dated 24 October 2023 including updated building and scheme plan.

It is noted that as part of the resource consent process, information has been updated and plans refined. Accordingly, resource consent has been granted on the basis of the most recent documentation referred to as part of the above.

2. All new dwellings and accessory buildings on Lots 1-3 and 5-8 shall comply with the relevant District Plan requirements or otherwise obtain resource consent.
3. No work or removal of the three separate outbuildings shall be undertaken on site until such a time as an archaeological authority approval is provided from Heritage New Zealand Pouhere Taonga. Written confirmation of the obtaining of approval shall be provided to Council, as consenting authority, a minimum of one week prior to the commencement of works.
4. Prior to the removal of the three separate outbuildings commencing detailed photographic records shall be taken of all buildings on site, including those approved to be demolished. Photographs of the buildings shall be both internally and externally. A copy of the records shall be provided to Council within three months of the work commencing.
5. No part of the heritage dwelling shall be removed or demolished as part of the consented activity. Demolition is limited to the three separate outbuildings on the site.
6. This consent shall lapse 10 years after the date of the commencement of this consent.
7. Pursuant to section 128 of the RMA the conditions of this consent may be reviewed by the Council at the consent holder's cost at any time to
  - a. To deal with any adverse effect on the environment which may arise or potentially arise from the exercise of the consent and which it is appropriate to deal with at a later stage.
  - b. At any time, if it is found that the information made available to council in the application contained inaccuracies which materially influenced the decision and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

**Note:**

*No work shall be undertaken on site until such a time as an archaeological authority approval is provided from Heritage New Zealand Pouhere Taonga. Written confirmation of the obtaining of approval shall be provided to Council, as consenting authority, a minimum of one week prior to the commencement of works.*

A handwritten signature in blue ink, appearing to read "P. Harte". The signature is written in a cursive, flowing style.

**Patricia Harte**  
**Hearing Commissioner**  
**3 November 2023**

## ANNEXURE A – PLANNING officer report

### Report on an application for resource consent

under section 88 of the Resource Management Act 1991



**TO:** Resource Consent Hearings Commissioners

**FROM:** Stewart Fletcher

**DATE:** 25 September 2023

**NOTE: This report sets out the advice of the reporting planner. This report has yet to be considered by the Panel of Commissioners delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Commissioners have considered the application and heard the applicant and any submitters.**

#### APPLICATION DESCRIPTION

#### Application and Property Details

<b>Application number(s):</b>	LUC23/0010 & SUB23/0003
<b>Reporting officer:</b>	Stewart Fletcher
<b>Site address:</b>	4 Wilkin Street, TINWALD
<b>Applicant's name:</b>	AJ Developments (2016) Limited
<b>Lodgement date:</b>	22 February 2023
<b>Notification date:</b>	4 May 2023
<b>Submissions closed date:</b>	2 June 2023
<b>Number of submissions received:</b>	1 neutral. 1 support 1 opposition

Locality Plan



Figure 1: Location Plan

Application Documents (Plans and Reference Documents)

The list of application documents and plans is set out in Appendix 1 of this report.

Adequacy of Information

It is considered that the information submitted by the applicant is sufficiently comprehensive to enable the consideration of the following matters on an informed basis:

- The nature and scope of the proposed activity as it relates to the national environmental standards, regional plans and district plans.
- The extent and scale of any adverse effects on the environment.
- Persons who may be adversely affected.
- The requirements of the relevant legislation.

EXECUTIVE SUMMARY

AJ Developments (2016) Limited (the Applicant) have sought resource consent to subdivide a property into a total of eight residential allotments at 4 Wilkin Street in Tinwald. The application site is 4,047m<sup>2</sup> in area and contains an existing dwelling and associated

outbuildings. The buildings have been identified as having a heritage classification in the Ashburton District Plan. As part of the proposal land use consent is also sought to enable the removal of the outbuildings and redevelopment of the site. The existing dwelling on the site will be retained.

A discretionary activity land use consent and a discretionary subdivision consent is required. The Ashburton District Plan provides for residential subdivision as a Restricted Discretionary Activity but due to the heritage building on the site a fully Discretionary activity consent is required for both the subdivision and landuse activity.

It has been assessed that a minor amendment to the proposal will be required to enable vehicle access to the rear of Lot 4 but beyond this the potential effects of the proposal will be no more than minor and the proposal will be consistent with the objectives and policies of the Ashburton District Plan.

Subject to new or contrary evidence it is recommended that resource consent is granted, on the basis of the imposition of conditions.

## THE PROPOSAL, SITE AND LOCALITY DESCRIPTION

### Proposal

Resource consent is sought to subdivide a property into a total of eight residential allotments at 4 Wilkin Street in Tinwald.

The application site is 4,047m<sup>2</sup> in area and contains an existing dwelling and associated outbuildings. The buildings have been identified as having a heritage classification in the Ashburton District Plan.

The proposed subdivision seeks to create a total of eight residential allotments. The existing dwelling would be located within proposed Lot 4 which is 1,060m<sup>2</sup> in size. The remainder of the residential allotments will vary in size between 362m<sup>2</sup> and 506m<sup>2</sup>. In addition, it is proposed to create two allotments for corner splays (Lots 9 & 10).

As part of the proposal land use consent is also sought to enable the removal of the outbuildings and redevelopment of the site. The existing dwelling on the site will be retained.

The resource consent application has been processed on a full notification process. Following the closure of the submission period for the application the applicant has refined the resource consent application to address various queries, as follows:

- The subdivision application will now be carried out on a staged basis. Stage 1 will consist of proposed lots 4 – 8 & 10 and stage 2 will consist of lots 1 – 3 & 9.
- A landscape plan has been submitted which includes the establishment of hedging around the roadside perimeter of the site which will be protected by way of consent notice.
- No build areas will be established between the heritage dwelling and the Wilkins Road frontage and also on the eastern side of the heritage dwelling.
- The applicant has volunteered to reroof the building and for the reroofing to be completed prior to the issue of section 224 approval for the first stage of the subdivision of the site.

It is also noted that the relocation of the southeastern boundary of lot 4 has been discussed with the applicant in order to ensure vehicle access to the rear of the site. The applicant has acknowledged that there may be a need to undertake this but the application has not been updated to reflect this.

In addition to the above information, the applicant commissioned a building report. The purpose of the report was to ascertain what works should be prioritised for any restoration of the building. The report has been considered on that basis and has led to the applicant volunteering to replace the roof of the dwelling. It is noted the report goes beyond this and provides feedback on other matters beyond the intended scope. Those parts of the report outside of the intended scope are not considered relevant in assessing the application.

A copy of the original application, updates and report are appended to this report.

### **Site, Locality, Catchment and Environs Description**

The site is a large rectangular corner residential property fronting onto State Highway 1 and has three road boundaries onto State Highway 1, Wilkin Street and McMurdo Street. The site contains one dwelling, positioned centrally on the site and three ancillary buildings positioned to the south and south-east of the dwelling. The site has remained virtually unchanged since at least the 1940s. The site is 4047m<sup>2</sup> and is legally described as Lot 441 – 444 DP 91 (Record of Title CB135/34).

The site is located within an established residential area with residential properties directly adjoining the south west boundary of the site. On the opposite corner from the site is a commercial property and on the opposite side of State Highway 1 is a railway line.

### **Other Consents**

No other resource consents are required or sought as part of the proposed activity.

## **REASONS FOR THE APPLICATION**

Resource consent is required under the provisions of the following District Plan.

### **Ashburton Operative District Plan 2014**

The site is zoned Residential C in the Ashburton District Plan and has also been identified as containing a Heritage Listing (H72). State Highway 1 has been identified as designated and the railway line on the opposite side of the road is also designated.





Figure 2: District Plan Zone Map

Listing H72 is identified in the District Plan as a House and has a Group B classification. The site is not identified as being categorised or registered with the NZHPT (now referred to as Heritage New Zealand Pouhere Taonga).

It is noted that the listing refers to 'House' and as such consideration has been given to whether the listing also applies to the outbuildings on the site. In reviewing the process to include the site within the heritage listings in the District Plan, reference has been made to the documentation prepared in that analysis. A factor in the analysis of the site was the large section associated with the dwelling and it is assumed that with reference to section size it is assumed consideration was given to all buildings within the section which provide an overall context to the historic nature of the property. It is therefore assumed that the relevant heritage rules apply for both the dwelling and outbuildings.

Resource consent is required for the following reasons:

Subdivision:

- Rule 9.7.4 (Restricted Discretionary Activities) specifies that any subdivision in a Residential Zones is a Restricted Discretionary Activity. Discretion is restricted to



those matters specified under the rule and also those matters specified in section 9.7.3.

- Rule 12.7.4(a) (Discretionary Activities) specifies that the subdivision of land containing or affecting any listed heritage building / item (Group A & B) is a discretionary activity.

Landuse:

- Rule 12.7.4(c) (Discretionary Activities) specifies that the partial demolition or demolition of a Group B listed heritage building / item is a discretionary activity.

As discussed earlier, it may be proposed to amend the location of the southeast boundary of Lot 4 to enable vehicular access to the rear of the allotment but the applicant is yet to confirm this. If the boundary was to be shifted this may generate an additional noncompliance with outdoor living space requirements for Lots 5 & 6 (Site Standard 4.9.7(c)). If this additional non-compliance was to arise this is not considered to be of significant impact due to effects of the noncompliance being internalised, but it may be necessary to identify the additional non-compliance as part of any final determination.

Overall, it is considered that a discretionary land use consent and a discretionary subdivision consent is required.

**Status of the Application**

Overall, the application is considered to be a discretionary land use and a discretionary subdivision activity.

**NOTIFICATION AND SUBMISSIONS**

**Notification**

The application was publicly notified on 4 May 2023 following the determination on notification in accordance with s95A(2)(a) of the RMA 1991. All matters required to be assessed in terms of sections 95 to 95F, of the RMA have been addressed in the notification determination report.

**Submissions**

At the close of the submission period, 3 submissions were received. One submission was in support, one in opposition and one neutral.

A summary of the issues raised in submissions together with the relief sought by the submitters is set out as follows:

Name	Address & Heard at	Submission Points	Relief Sought
Bruce Taylor	42 McMurdo Street, Tinwald	Supports Proposal  Concerned that if two storey dwellings erected	Not stated but as per submission point it is assumed that it is sought that only single storey

	Does not wish to be heard.	on Lots 6 & 8 it would effect sunshine on submitters property.	dwellings are erected on Lots 6 & 8.
Waka Kotahi NZ Transport Agency	120 Hereford Street, Christchurch  Does wish to be heard.	Neutral Submission  Potential reverse sensitivity effects on the State Highway should be suitably addressed.	That a condition is imposed that addresses potential reverse sensitivity effects resulting from the normal operation of State Highway 1. The condition should require that any dwelling or other noise sensitive activity within 80 metres of the edge of the State Highway be designed, constructed and maintained to achieve. an indoor design noise level of 40 dB LAeq(24hr).
Historic Places Mid Canterbury	6 Westpark Close, Ashburton  Not stated but, on basis of submission content, assumed wish to be heard depending on revision of proposal.	Seeks amendments to proposal to include:  - The detailed design proposals for the new proposed buildings and the landscaping of the new lots be submitted for assessment and approval as part of this RC application. - The form of the new buildings should take its design cues from the existing listed buildings on site (similar or smaller scale; similar materials and colours; similar roof and building forms) and demonstrate that they are designed to be subservient to and reflective of the original listed cottage. - A detailed landscaping plan (including the design of all driveways, paths and boundary treatments) be submitted for all	That the proposal is amended to include the submitters recommendations regarding proposed dwellings, landscaping and refurbishing of the existing building.

		<p>proposed lots, including for the landscaping design on the curtilage of the listed cottage.</p> <p>- The original cottage, which is proposed to be retained, should be refurbished as part of the development proposal.</p>	
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Please note that the above table and summary is only a summary of the key issues raised in the submissions. Please refer to the full submissions as required.

**Written Approvals**

No written approvals have been submitted as part of the resource consent application.

**CONSIDERATION OF APPLICATION**

**Statutory Considerations**

When considering an application for a discretionary activity the consent authority must have regard to Part 2 of the RMA (“Purposes and Principles” – sections 5 to 8), and sections 104, 104B, and where relevant section 108 of the RMA.

Subject to Part 2 of the RMA, when considering an application for resource consent and any submissions received a council must, in accordance with s104(1) of the RMA have regard to:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of a NES, other regulations, national policy statement, a New Zealand Coastal Policy Statement; a regional policy statement or proposed regional policy statement; a plan or proposed plan; and
- any other matter a council considers relevant and reasonably necessary to determine the application.

Section 104(2) allows any effects that may arise from permitted activities set out in a NES or a plan to be excluded from the assessment of effects related to the resource consent. This is known as the permitted baseline test. The ‘baseline’ constitutes the existing environment (excluding existing use rights) against which a proposed activity’s degree of adverse effect is assessed. Generally it is only the adverse effects over and above those forming the baseline that are relevant when considering whether the effects are minor. It is at the Council’s discretion whether to apply the assessment of the permitted baseline to any proposal. Essentially, the consent authority may disregard an adverse effect of any activity

on the environment if a NES or an operative plan (or an operative rule in a proposed plan) permits an activity with that effect.

When considering an application for resource consent, the consent authority must not have regard to trade competition or the effects of trade competition [s104(3)(a)(i)] or any effect on a person who has given their written approval to the application [s104(3)(a)(ii)].

Under s104B a consent authority may grant or refuse consent for a discretionary activity or non complying activity and, if it grants the application, may impose conditions under s108 of the RMA.

Section 108 provides for consent to be granted subject to conditions and sets out the kind of conditions that may be imposed.

All considerations are subject to Part 2 of the RMA, which sets out the purpose and principles that guide this legislation. This means the matters in Part 2 prevail over other provisions of the RMA or provisions in planning instruments (e.g. regional plans) in the event of a conflict. S5 states the purpose of the RMA and sections 6, 7 and 8 are principles intended to provide additional guidance as to the way in which the purpose is to be achieved.

The application of s5 involves an overall broad judgement of whether a proposal will promote the sustainable management of natural and physical resources. The RMA's use of the terms "*use, development and protection*" are a general indication that all resources are to be managed in a sustainable way, or at a rate which enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, safeguarding the life-supporting capacity of air, water, soil and ecosystems, and avoiding, remedying and mitigating any adverse effects of activities on the environment. The enabling and management functions found in s5(2) should be considered of equal importance and taken as a whole.

Sections 6, 7 and 8 of the RMA provide further context and guidance to the constraints found in s5(2)(a),(b) and (c). The commencing words to these sections differ, thereby laying down the relative weight to be given to each section.

Section 7 of the RMA requires the consent authority to give particular regard to those matters listed in the section. Section 7 matters are not expressly ranked in order of priority. Therefore, all aspects of this section are to be considered equally. In the case of this particular proposal the maintenance and enhancement of amenity values, intrinsic values of ecosystems, maintenance and enhancement of the quality of the environment and any finite characteristics of natural and physical resources are considered relevant. Relevant matters are considered in the evaluation section of this report.

## **Section 104(1)(a) Actual and Potential Effects on the Environment**

### Effects that must be disregarded

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

Pursuant to section 104(3)(a)(ii), when forming an opinion for the purposes of section 104B a council must not have regard to any effect on a person who has given written approval to the proposal. No written approvals have been submitted as part of the resource consent application.

#### Effects that may be disregarded – Permitted Baseline assessment

Section 104(2) of the Resource Management Act 1991 specifies that when forming an opinion of any actual and potential effects on the environment of allowing the activity a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the District Plan permits an activity with that effect.

In this case, due to the heritage classification of the site it is a restricted discretionary activity to construct a new building or add to a non-heritage building within any defined setting of a listed heritage building, ie the application site (Rule 12.7.3). In addition, the subdivision of the site is a discretionary activity due to containing a heritage structure (Rule 12.7.4).

On the basis of the restrictions imposed due to the heritage building on the site it is not considered that there is a relevant permitted baseline to take into account in assessing the potential effects of the proposed activity.

#### Assessment of Effects

Having regard to the above and after analysis of the application (including any proposed mitigation measures), undertaking a site visit, reviewing Council records and reviewing the submissions received and reviewing expert reports the following effects that require specific consideration in respect to this application have been identified.

As a discretionary activity, the full range of adverse effects must be considered.

#### Services

Comment has been obtained from the Ashburton District Council engineering team who have confirmed that the proposed subdivision can be suitably serviced subject to the imposition of appropriate conditions. This includes connections to the Council reticulated infrastructure networks. On this basis it is not considered that the servicing of the proposed subdivision will give rise to adverse effects.

#### Transport

Again, feedback has been obtained from the Council engineering team who have not raised any transport related concerns subject to the imposition of appropriate conditions. It was noted that corner splays are being provided as part of the subdivision which was considered positive.

One of the submissions is from Waka Kotahi NZ Transport Agency who have sought that potential reverse sensitivity effects are addressed due to the site adjoining State Highway 1. A condition has been suggested by the submitter that dwellings meet acoustic requirements where they are within 80 metres of the highway.

It is noted that the site adjoins a 50km/hr speed zone such that issues like reverse sensitivity will be more limited but it is recognised that such an issue can arise from time to time and as such it is appropriate to impose such a condition, as suggested by the submitter. The one point to note is that currently the wording of the condition would require the existing heritage dwelling to also be upgraded to comply with the consent notice. It is not considered appropriate to impose such a requirement on the existing building and as such it is considered appropriate to include the condition subject to a minor amendment to refer to new dwellings. The suggested wording is as follows:

*Any new dwelling or other noise sensitive activity on the site in or partly within 80 metres of the edge of State Highway 1 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.*

### Amenity

Resource consent is sought to form a residential subdivision within a residentially zoned area and the proposed allotments will comply with minimum allotment size requirements. On this basis it is considered that the proposal will be consistent with the anticipated amenity and character of the area, as provided for in the District Plan.

It is noted that a submitter, being an adjoining landowner, submitted in concern that dwellings erected on the site could shade their property. The Ashburton District Plan includes rules regarding height and also height in relation to boundary, which seek to minimise impacts, including shading, on adjoining properties. The applicant has not sought resource consent to contravene these requirements and as such any building erected on the allotments will be required to comply with height requirements. On this basis it is not considered that the proposed development would result in a shading effect greater than what is provided for in the zone. I also note that the applicant has verbally suggested an intention to construct single storey dwellings, on the allotments, and plans submitted to date reflect this which would further address the submitters concerns, but this cannot be required as part of the resource consent nor is it proposed as part of the resource consent application.

In addition to the above, in addressing various heritage concerns the applicant has indicated they may amend the south east boundary of Lot 4 to include adequate space between the dwelling and boundary for a vehicle to pass. The impact of this could be that the outdoor living space available for lots 5 & 6 will reduce and be non-compliant with District Plan requirements. The effects of this are considered to be internalised and adequate outdoor living space will still be provided for each of the allotments.

### Heritage

Resource consent is sought to subdivide a site containing a heritage building and to demolish outbuildings. In assessing the heritage related effects of the proposal a detailed assessment has been prepared for Council by Ms Arlene Baird and a copy of the original assessment is appended to this report.

Since the closure of the notification period for the application the applicant has amended the proposal including the following;

- The subdivision application will now be carried out on a staged basis. Stage 1 will consist of proposed lots 4 – 8 & 10 and stage 2 will consist of lots 1 – 3 & 9.
- A landscape plan has been submitted which includes the establishment of hedging around the roadside perimeter of the site which will be protected by way of consent notice.
- No build areas will be established between the heritage dwelling and the Wilkins Road frontage and also on the south eastern side of the heritage dwelling.
- The applicant has volunteered to reroof the building and for the reroofing to be completed prior to the issue of section 224 approval for the first stage of the subdivision of the site.

On the basis of the amendments to the proposal further comment has been provided by Ms Baird which is also attached to this report. That feedback is agreed with and relied upon as part of this assessment rather than repeating the same information here. Key points are:

- The subdivision of a wider site can often provide necessary funds which can go some way to ensuring the future of the heritage structure. The applicant accepts the principle of retaining and restoring the heritage building but does not wish to undertake the work themselves. As the building will not be in the applicant's ownership when the surrounding land is developed this emphasises the need to adequately secure the future of the heritage building. The applicant has now volunteered to reroof the building prior to section 224 approval. This is considered a positive first step but it is considered necessary to include further controls to ensure the building is restored in an appropriate and timely manner.
- The updated application now proposes a no-build zone between the heritage building and the road and a 5m no-build zone between new dwellings 3 and 4 and the heritage lot boundary. This is considered appropriate as it will ensure that no inappropriate structures will be erected that could adversely affect the setting of the heritage building. It is recommended that the subdivision plan is updated to include areas subject to controls, such as the no build zone, so that they are accurately defined.
- The proposed hedging planting around the outside of the overall site and between the heritage lot and the new development. This will soften the impact of the development and provide a buffer for the heritage building but also provide continuity around the whole boundary of the site. Ms Baird has suggested further hedging could be established and this may be appropriate, but it is suggested that this should be considered as part of an overall landscape plan for the heritage building site (Lot 4).
- During discussions with the applicant, it was highlighted that the position of the south east boundary for Lot 4 may need to be shifted slightly to enable a combination of landscaping and vehicle access to the rear of the property. This issue still needs to be addressed and it is suggested that the applicant still needs to take the opportunity to do so.
- With regards to the design of dwellings on the proposed allotments, the proposed elevation sketches reflect many of the recommendations from discussions and, as stated by Ms Baird, although perhaps not executed in a particularly clear manner. On the basis of proposed allotments 1 and 5 being within the same visual catchment it is considered appropriate to impose a condition requiring the detailed design of

any building to be erected on these two allotments to incorporate specific architectural elements and to be submitted to Council for approval.

In general terms it is recognised that the proposed subdivision will have an impact on the heritage character of the site through a reduction in the size of the property, but it is considered that without the subdivision of the site there is little motivation to facilitate the maintaining and restoration of the heritage building. The proposal enables the building to be maintained and restored but it is also recognised that controls need to be put in place to ensure this is the case, including a robust set of conditions. The proposal is of a design that the heritage character of the building can be retained, including an appropriate setting, provided an amendment to the south east boundary location of Lot 4 is made, and it is considered that the amendment and conditions will ensure that any potential effects of the proposal will be no more than minor.

### **Summary**

In summary, having assessed the adverse effects of the activity on the environment, I consider that the activity will overall have a minor adverse effect on the environment.

### **Section 104(1)(b)(i) and (ii) Relevant Provisions of National Environmental Standards and Other Regulations**

There are no other standards or regulations considered relevant in assessing the application.

### **Section 104(1)(b)(iii) Relevant Provisions of National Policy Statements**

There are no National Policy Statements relevant to this application.

### **Section 104(1)(b)(iv) Relevant Provisions of the New Zealand Coastal Policy Statement (NZCPS)**

The NZCPS is not applicable to this application.

### **Section 104(1)(b)(v) Relevant Provisions of the Canterbury Regional Policy Statement**

The Canterbury Regional Policy Statement ("**CRPS**") is a strategic document which sets out the direction of managing the use, development and protection of the natural and physical resources of the Canterbury region. This document became operative in 2013.

The strategic objectives and policies of the CRPS provide a framework to achieve the integrated, consistent and co-ordinated management of the Region's resources.

Under the CRPS, matters related to environmental protection, such as the coastal environment, water quality, water conservation and allocation and air quality have specific objectives, policies and methods to achieve sustainable and integrated management of major natural and physical resources in the Region.

The relevant provisions of the CRPS have been considered and generally it is considered the provisions of the Ashburton District Plan align with the CRPS. Relevant objectives in the CRPS include the following:



### **13.2.1 Identification and protection of significant historic heritage**

*Identification and protection of significant historic heritage items, places and areas, and their particular values that contribute to Canterbury's distinctive character and sense of identity from inappropriate subdivision, use and development.*

### **13.2.3 Repair, reconstruction, seismic strengthening, on-going conservation and maintenance of built historic heritage**

*The importance of enabling the repair, reconstruction, seismic strengthening, and on-going conservation and maintenance of historic heritage and the economic costs associated with these matters is recognised.*

In consideration of the above it is considered that the site has been identified and protected through the Ashburton District Plan and the proposed subdivision will enable the repair and ongoing maintenance of the heritage building. For these reasons it is considered that the proposal is consistent with the above objectives of the CRPS.

## **Section 104(1)(b)(vi) Relevant Provisions of the District Plan Objectives, Policies and Rules**

The rules applying to this proposal are set out in Section 4 above.

### Relevant Objectives and Policies

The site is located within a Residential C zone but given that the fundamental issues with the proposal relate to heritage it is considered that the objectives and policies of Section 12 of the Ashburton District Plan (Historic Heritage Values and Protected Trees) are of the greatest relevance. Accordingly, relevant provisions of section 12 of the District Plan have been considered as follows:

#### **Objective 12.1: Historic Heritage**

*To protect significant historic heritage in the District, including historic buildings, places and areas, waahi tapu sites and areas and archaeological sites, from adverse effects of subdivision, land-use and development.*

#### **Policy 12.1A**

*To identify and record, in consultation with the Historic Places Trust, Arowhenua Runaka, historical societies within the District and the local community, significant historic heritage items in the District Plan.*

#### **Policy 12.1B**

*In determining items to record, the District Council will have regard to whether the site or item:*

- *is identified on the NZHPT register of historic places as a Category I or II historic place, historic area, wahi tapu or wahi tapu historic area;*

- *has an historic association with a person or event of note, has strong public association for any reason, or provides a focus of community or local identity or sense of place;*
- *has value as a local landmark over a length of time;*
- *reflects past skills, style or workmanship which would make it of educational, historical or architectural value;*
- *has the potential to provide scientific information about the history of the area;*
- *is unique or rare, or a work of art;*
- *retains integrity or significant features from its time of construction or later periods when important alterations were carried out;*
- *forms part of a precinct or area of historic heritage value;*
- *is representative of its class in relation to design, type, technology, use, or similar;*
- *contributes to the distinctive characteristics of a way of life, philosophy, religion or other belief and/or is held in high esteem by a particular group or community;*
- *is of importance to the Takata Whenua, and the appropriateness of making this information available to the general public;*
- *has the potential to contribute information about the human history of the area or provides archaeological information.*

**Policy 12.1C**

*To use methods and rules in the District Plan to protect historic heritage listed in the heritage schedule from adverse effects of land-use, subdivision and development.*

**Policy 12.1D**

*To recognise and protect sites of significance to Takata Whenua, in a manner which respects and accommodates tikanga Maori.*

**Policy 12.1E**

*To encourage the use of protected buildings while ensuring that their valued features are not impaired or destroyed.*

**Policy 12.1F**

*To promote public awareness and support for the conservation of historic heritage in the District.*

**Policy 12.1G**

*To encourage owners to retain historic heritage values through considering a range of mechanisms, including opportunities for alternative uses of the site or building, provision of development incentives or reductions in rating for properties where historic heritage values are protected through a legal mechanism.*

**Policy 12.1H**

*To ensure the protection of heritage items listed in the schedule which are under threat from demolition, removal or major modification by the use of Heritage Protection Orders, as necessary, and in conjunction with other agencies where appropriate.*

**Policy 12.1I**

*To recognise the NZHPT as a consenting authority for all pre-1900 archaeological sites.*

The above provisions provide guidance as to both the identification of heritage features, including landscapes, and their protection. On the basis of the report by Ms Baird regarding the historic association of the building and site to the area, there is clear reasoning as to why the site and building was given a heritage classification, as per Policy 12.1B.

Policy 12.1E encourages the use of protected buildings and it is considered that unless some restoration of the building occurs it would be difficult to encourage the use of the building and Policy 12.1G encourages landowners to retain historic heritage.

In reference to the above provisions some conflict exists as the larger size of the property combined with the dwelling and outbuildings provides character and context to the site, which the above provisions seek to retain. That said, it is considered more feasible to ensure the restoration of the building, and its long term protection, if the property is subdivided. On this basis it is considered the proposal is not strictly aligning with the above objectives and policies but neither is it contrary or repugnant to the provisions.

While the subdivision of the site is not ideal, it has been assessed that the effects will be minor and the proposal will enable the continued protection of a historic building.

**Summary**

Overall, it is concluded that the proposal is not contrary to the key relevant provisions of the Ashburton District Plan.

**Section 104(1)(c): Any Other Matters Considered Relevant and Reasonably Necessary to Determine the Application**

No other matters are considered relevant in the determination of the application.

## **Consideration of Part 2 (Purpose and Principles) of the RMA**

The purpose of the RMA under section 5 is the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out a number of matters of national importance which need to be recognised and provided for and includes the protection of historic heritage from inappropriate subdivision, use and development.

Section 7 identifies a number of “other matters” to be given particular regard by a council in the consideration of any assessment for resource consent and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

Section 8 requires the taking into account the principles of the Treaty of Waitangi.

With reference to section 6 it is considered that the subdivision of the site is enabling the protection of the heritage building and this is what makes the subdivision appropriate. If the repair of the building was not proposed, included suggested conditions of consent, such that the protection of the building was not being enabled, then a different determination may have been concluded.

For these reasons it is considered that the purpose of the Act would be better given effect to by granting resource consent.

Overall, the application is considered to meet the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose of the RMA being sustainable management of natural and physical resources.

## **Lapsing of Consent**

Section 125 of the RMA provides that if a resource consent is not given effect to within five years of the date of the commencement (or any other time as specified) it automatically lapses unless the consent authority has granted an extension. In this case, it is considered five years is an appropriate period for the consent holder to implement the consent due to the nature and scale of the proposal.

## **Review of Consent Conditions**

Section 128 of the RMA provides for the Council to review the conditions of a resource consent at any time specified for that purpose in the consent. A consent may specify a time for review of the conditions of a consent for the following purposes:

- to deal with any adverse effects on the environment which may arise from the exercise of consent and which are appropriate to deal with at a later stage, or

- to require holders of discharge permits or coastal permits which could otherwise contravene ss15 or 15B of the Act to adopt the best practicable option to remove or reduce any adverse effect on the environment, or
- for any other purpose

### Duration of Consent

It is considered appropriate to set a standard term of 5 years for the resource consent to be given effect to as there are no unique reasons for a different period to be applied.

### Conclusion

Overall, resource consent is sought to subdivide a property into a total of eight residential allotments including the demolition of outbuildings. An existing heritage building will be retained as part of the proposal. It is considered that any potential effects from the proposed activity will be no more than minor and that the proposal will not be contrary to the Objectives and Policies of the Ashburton District Plan. In assessing the proposal it is considered that the purpose of the Resource Management Act 1991 would be better given effect to through the granting of the resource consent application.

## RECOMMENDATION AND CONDITIONS

### Recommendation

Subject to new or contrary evidence being presented, it is recommended that under sections 104, 104B and 108 of the RMA, consent is **granted** to the discretionary activity application by AJ Developments (2016) Limited to subdivide 4 Wilkin Street into a total of ten allotments (Resource Consents SUC23/0003 & LUC23/0010) subject to conditions.

The reasons for this decision are as follows:

- a) The proposal has been assessed as not being contrary to the objectives and policies of the Ashburton District Plan and the adverse effects are deemed to be minor. The application merits granting of a resource consent pursuant to Sections 104 and 104B of the Resource Management Act 1991.