

1st March 2022



Stephanie Frame
Manager, Fast-track Consenting Team
Ministry for the Environment
Via Email: fasttrackconsenting@mfe.govt.nz

Dear Stephanie,

RE: RFI RESPONSE – WHISPER CREEK RESIDENTIAL DEVELOPMENT, CHRISTCHURCH

Thank you for your Request for Further Information ('RFI') dated 28th January 2022 regarding a new residential subdivision proposed for Christchurch. Please find below the response to the matters raised, in the order they appeared in the RFI.

In preparing this response, the applicant has consulted with the planning policy and consent team leaders of the Christchurch City Council on 9th February. A separate meeting was also held on 22nd February with the policy and consent team leaders of the Canterbury Regional Council (with CCC policy team leader also in attendance). These two meetings were to both familiarise the respective Councils with the project, and also to help inform the below response to matters such as s104D assessments and Council perspectives regarding how best to hold the recreational land.

- 1. In your application it is noted that 'the project will be broken into five stages that may be constructed individually or in tranches to meet market demand.' For the purposes of your application under the FTCA, please provide a description of the activities, and timeline for development intended for each of the stages. Further, please confirm that the project is for both subdivision and development and advise of the number of lots and residential units, and intended compliance with density and bulk and location requirements under the relevant planning framework.*

Staging: The reference to staging is more in relation to marketing and section release. Following approval of the necessary consents, construction staging involves an initial stage of bulk earthworks, followed by the installation of in-ground services such as three-waters infrastructure, and then the formation of internal roading and associated soft infrastructure such as street tree, boundary, and reserve area plantings. Subdivision of the site into individual lots then occurs and follows the standard s223 and 224 RMA subdivision processes for having subdivision conditions confirmed and LINZ processes for the issuing of individual titles initiated.

In terms of timing, following the issuing of consents, the time frames for tendering and then construction of civil infrastructure for subdivisions of this size typically take up to one year. House building then typically occurs in year two, once subdivision consent conditions have been met and titles issued.

The rate at which the site is then on-sold and developed will be dependent on market take-up (as is the case with all large residential developments), however given that the infrastructure installation will have been undertaken in a comprehensive manner, in combination with the significant housing shortage currently being experienced in the Christchurch housing market, it is anticipated that sell-down and subsequent house construction will occur rapidly.

Consent scope: The fast-track application is for the full suite of land use, subdivision, and regional consents necessary to enable a residential development to proceed in a timely manner.

Unit numbers and density: The application is for 188 lots. Of these, 187 lots are for individual houses. A large 1.46ha lot is identified as being suitable for a higher density housing development. Due to the need to design high density housing in an integrated manner, with unit titling to follow dwelling construction, it is necessary to consent this block as a single site initially. A further 30 dwellings are expected to be realised for this lot, providing 217 dwellings in total.

For the Resort Zone, density is controlled via rules that set a cap on the number of units and hotel/ resort bedrooms across the site, rather than rules controlling minimum site sizes.

Compliance with bulk and location rules: The Resort Zone provisions have a reasonably short list of bulk and location rules, reflecting the site's separation from existing residential neighbours and the anticipated integrated nature of the development. The bulk and location rules are primarily focussed on the management of building size and location around the external site boundaries i.e. the interface with adjacent public roads and existing lifestyle block neighbours.

In summary the key built form rules are as follows:

Site coverage	5.5% measured across the entire zone
Roof reflectivity	To be less than 35%
Building size	No dwelling to be larger than 400m ²
Recession planes	Applies to internal boundaries and is measured from 2.3m above ground level, with angles dependant on solar orientation as set out in Appendix 14.16.2
Road boundary setbacks	100m from Turners, Spencerville and Teapes Roads. No setbacks are required from new internal subdivision roads.
Internal boundary setbacks	20m from external Rural Zone boundaries. No setbacks are required from new internal boundaries within the subdivision. Units are to be setback a minimum of 15m from the Lower Styx Ponding Area.
Height	8m

The design of the proposed subdivision layout has been cognisant of these built form rules, and in particular the need for larger building setbacks relative to external roads and Rural Zoned neighbours. As such the proposal locates large lots around the site periphery, with more intensive subdivision proposed further within the site.

The combination of careful subdivision design and external interface focus of the built form rules means that the applicant is confident that the construction of subsequent dwellings will be able to be undertaken

as permitted activities and do not require detailed house plans to be developed and consented at this point in the process.

2. *Provide details on any upgrades to infrastructure required to service the development and, if necessary, include details of how these upgrades are to be serviced, including by whom.*

A key staging rule for the Resort Zone relates to the need to upgrade and signalise the Styx Road/ Marshlands Road intersection. These works have now been undertaken and the upgrade completed. The site is able to be serviced by reticulated water through the extension of the existing reticulated network from Spencerville. The extension of the water supply from the existing Spencerville connection will be funded by the developer. Sewer is able to connect directly into the Council's reticulated network with the existing adjacent network, with the wider network having sufficient capacity to accommodate the proposed discharges. Internal reticulated pipework within the site will be constructed by the developer, along with the necessary laterals to connect to the Council reticulated systems which are located in the perimeter road network. Stormwater is to be discharged to ground via the proposed recreated wetland system with any secondary flows to existing Council-controlled waterways.

3. *Provide details on any land interests on the project site and confirm whether any interests may delay or prevent timely project delivery.*

The site is contained on Title CB1B/387 which notes the following interests:

- A drainage easement and encumbrance
- A building line restriction notice

These interests are considered individually below.

Drainage easement and encumbrance: The easement is an easement in gross in favour of the Christchurch City Council, granting the Council the right to use a drain on the site as a public drain (as marked in pink below, with private drains marked in white).



The encumbrance is a drainage encumbrance registered over four titles (CB21F/246, 805786, CB1B/387, and 805784) for the benefit of the Christchurch City Council. The encumbrance requires the applicant to, at its cost, clean, maintain and keep open all ditches and drains on its land leading into the pumps on land contained in title 805784, with the exception of drains recorded and maintained by the Council as public

drains (i.e. those shown in pink above). It also requires the applicant to pay one fifth of all costs, charges and expenses of installing, maintaining, running and repairing the said pumps and ancillary equipment.

These drains have been provided for and are shown in the proposed subdivision plan for the site. It is notable that the drains are located within the wetland and ponding management areas for the site.

Encumbrance obligations run with the land and will therefore be binding on all future owners of the land (in other words, the encumbrance will drop down and be registered on all new subdivided titles).

The applicant has a number of options available to them as to how the encumbrance might be dealt with for future owners of the land. For example, the applicant will be able to, with Council's input and consent, apply to partially discharge the encumbrance from the titles that do not contain the relevant ditches and drains.

However the applicant chooses to deal with the encumbrance, the existence of the easement and encumbrance does not delay or prevent timely project delivery.

Building line restriction notice: The building restriction notice records that no building shall be erected on the western side of the road along the Styx River within a distance of 41 feet (12.5m) from the Western boundary of the said portion of road.

In other words, the applicant is not allowed to build within 12.5 metres of the south-eastern boundary of the property along the Styx River. That part of the site is proposed to be a "Golf Course or extensive open space recreation and wetland restoration" area and therefore this building line restriction notice will be complied with and its existence does not prevent or delay timely project delivery.

- 4. Please expand on, and provide the framework on, the non-complying matters regarding staging and use of a golf course and provide an analysis on how you anticipate the project passing the 'gateway' test required for non-complying activities under s104D of the Resource Management Act 1991.*

Residential activities are permitted up to 150 units, with no more than one unit per site, and no building is to be erected in the Resort Community Areas before planting along all zone boundaries is completed (Rule 13.9.5.1.1 (P10)). Where activities do not comply with P10 they become non-complying under Rule 13.9.5.1.5(e).

The proposal only covers half of the Resort Zone, and therefore whilst boundary planting along the external boundaries of the application site is proposed in accordance with the District Plan requirements, planting around the full extent of the zone boundaries is not possible because the balance of the site is in different ownership. The application likewise proposes in excess of 150 units, and the medium density comprehensive lot will result in more than one unit on a site (at least until the apartments are unit-titled following building commitment). The proposal therefore triggers this non-complying activity standard.

Up to 380 bedrooms are permitted in the form of resort apartments, and no more than 170 resort apartment bedrooms are to be constructed prior to the completion of the golf course and the construction of the golf academy building (Rule 13.9.5.1.1(P9)). Activities that do not comply with P9 become non-complying under Rule 13.9.5.1.5(d). No resort apartments are proposed, and therefore P9 is not in play. There is therefore no requirement for the golf course to be constructed as a staging rule in relation to the application which is for residential units only.

A third non-complying trigger is the establishment of any activities prior to the signalisation of the Marshlands/Lower Styx Road intersection under Rule 13.9.5.3.1(b) and Rule 13.9.5.1.5 (NC3). The upgrading and associated signalisation of this intersection has recently been completed and therefore this

non-complying rule is not triggered by the application as the intersection upgrade requirement has been met.

In summary, non-complying activity status is triggered by the number of residential units exceeding 150, provision for comprehensive medium density housing on a single lot, and planting not extending along the full extent of the zone boundary. For completeness, the activity does not trigger any non-complying activity status rules for either subdivision or regional consents.

When considering non-complying resource consent applications, the s104D 'threshold test' includes two limbs, namely whether the adverse effects of the proposal are less than minor, and secondly whether the proposal is contrary to the relevant District Plan objectives and policies. To proceed to a wider consideration under s104(1) an application need only pass one of the two 'tests'.

Less than minor adverse effects: A full assessment of effects will be undertaken as part of the substantive resource consent documentation. In summary, the effects that trigger non-complying activity status turn on some 220 units being proposed compared with 150 units being permitted. The effects of these additional units have been internalised within the site through the retention of large lots around the site periphery, confirmation that the additional units can be adequately serviced by three waters and roading infrastructure, and the non-development of the permitted resort apartments and associated hotel and student dormitory facilities. In short, the massing and servicing effects of the permitted hotel and international student accommodation elements are being exchanged for additional housing. The implementation of a site boundary planting plan for the portion of the site under the applicant's control is likewise proposed and will provide landscape screening of the portion of the site that is to be developed. It is therefore considered that the first threshold test is able to be met.

Not contrary to objectives and policies: The second test requires an assessment of the applicable policy framework. It is noted that case law has clarified that 'contrary to' is a high bar that is analogous with a proposal being repugnant to the policy direction. As with the assessment of effects, the resource consent documentation will contain a fulsome assessment of the proposal against the applicable objectives and policies. The Resort Zone outcomes are set out through a single objective and four supporting policies.

Objective 13.9.2.1 seeks to provide golfing and associated resort facilities of international standard to bring economic and social benefits to the City and to provide other recreational opportunities and limited residential development, set within an extensive open space and lake or riparian settings, with no significant adverse effects on the natural or adjoining rural environments.

The proposal is clearly no longer providing a golf resort and therefore sits uneasily against the first limb of the objective. The proposal nonetheless will deliver significant economic and social benefits to the City through the provision of additional housing to meet a diverse range of housing needs. It likewise is consistent with the latter outcomes sought in the objective whereby development is set within an extensive open space setting with recreated wetlands and restored riparian margins and where a range of recreational opportunities are provided. As set out above, the proposal is not considered to result in any significant adverse effects on either the natural environment or adjoining rural landholdings. The application is therefore inconsistent with some elements of the objective, but conversely also achieves other elements of objective for the Resort Zone.

The objective is then supported by four policies. **Policy 13.9.2.1.1** seeks to reinforce the need for development to generate economic and social benefits for the community, with development to "*assist in enabling the potential benefits of these resorts for ecological restoration, public access to streams and rivers, and recreation for the wider community, including local community, to be realised*". The proposal is considered to be consistent with this policy outcome and will deliver the benefits sought in the policy.

Policy 13.9.2.1.2 sets out the limits to the scale and type of development. It seeks to limit urban development that is in a location that is detached from the remainder of the Christchurch urban area by ensuring that the hotel, residential and commercial development is complementary and subsidiary to the primary recreational function of the resort. A clear distinction between resort hotel and residential development is also sought.

The limits on the scale and type of development are delivered through a combination of built form and activity rules. Built development is limited to no more than 5.5% site coverage across the entire zone. The proposal readily complies with this requirement given the extensive areas of the site set aside for open space, in combination with the location of larger lots around the site's external boundaries. Proportionately, the proposed residential area will likewise remain subordinate to the extensive parts of the site set aside for open space and recreation activities. The application does propose an increase in the number of residential units beyond that permitted by the rule framework and no longer proposes the development of resort hotel facilities and therefore is inconsistent with elements of this policy and consistent with others.

Policy 13.9.2.1.3 seeks to *"ensure that built development is well integrated visually into the open rural environments within which each golf resort sits, and that there is adequate separation distance from activities in adjacent zones so as to mitigate potential adverse effects of the resorts such as noise and traffic"*. The application has been designed to sit comfortably within its rural setting. The combination of large boundary lots and extensive wetland restoration and open space deliver a built form of a small village set within an extensive landscaped setting. Potential effects such as noise and traffic are likely to be less with a residential development than a hotel development, with generous setbacks to boundaries further reinforcing an acceptable amenity outcome along the site interface. The proposal is considered to be consistent with this policy.

The final **Policy 13.9.2.1.4** addresses the need for the careful design of earthworks and building siting to manage liquefaction and flood risk. The proposal has been carefully designed to locate buildings clear of the Lower Styx Ponding Area. New dwellings and bulk earthworks will be designed to mitigate liquefaction risk and will achieve the minimum floor levels required by Council modelling to ensure internal habitable space is clear of the 1 in 200 year flood event. The proposal is considered to be consistent with this policy.

Overall, the proposal generally achieves and is consistent with the District Plan's policy direction for the Resort Zone. The application is inconsistent with those aspects of the policy framework that seek the delivery of golf and hotel elements, however it will nonetheless deliver significant economic and social benefits to the City through the delivery of a diverse range of homes, construction-phase employment opportunities, and long-term public access, recreation, and ecological restoration benefits. Whilst the proposal is inconsistent with elements of the policy framework, overall it is not considered to be contrary to this framework and therefore the second leg of the s104D test is also able to be met.

5. In your application it is noted that 'a large portion of the zone will remain as open space and could support a range of recreational activities'. Please provide details on any anticipated recreational activities that will occur on the project site and associated public benefit, as well as clarification on whether any additional resource consents will be required.

There are a wide range of recreational opportunities or activities that could be undertaken on the proposed open space area. The final mix of activities will depend to a certain extent of how this part of the site is ultimately held i.e. vested with council or privately held with public access easements (discussed in more detail below). The options include:

- A golf course is not precluded by this application, and could be established should the southern balance of the site be developed for golf-related activities;
- Passive recreational opportunities such as mountain biking and walking;
- Equestrian activities and horse trekking;
- Active sports fields (should Council preference be that the land vests in Council);
- Examples of sports available at Clearwater Golf Resort (the other site in Christchurch with a Specific Purpose Golf Resort zoning) include: golf, rugby/ sports fields, archery, tennis, and fly fishing.

Both the 'establishment and maintenance of wetlands' and 'outdoor recreation activity other than golf and associated facilities' are permitted activities under the site zoning (Rules 13.9.5.1.1 P2 & P3). No resource consents are therefore needed for these activities. Any ancillary earthworks associated with the formation of walking/cycle trails are either permitted (up to certain volumes/depths) or can be readily incorporated into the consents covering the bulk earthworks associated with the subdivision civil works.

Should any recreational activities require bespoke facilities such as club houses or changing rooms, then depending on specific design and location of these facilities additional consents might be required. Such consents will not however be able to be determined until specific recreational users have been confirmed. There is however a ready consenting pathway available for recreational activities should such ever be necessary.

6. In your application it is noted that 'public pedestrian and cycle access to ... open space is proposed to be secured via an easement in favour of the Christchurch City Council'. Please provide details on any correspondence had with Christchurch City Council pertaining to this matter, and confirm whether any open space is intended to be vested as public space.

The long-term ownership of the open space areas was discussed with Council at the recent meeting. The Council planning officers undertook to consult internally with their colleagues in Council's parks and asset teams. At the time of writing we are yet to hear back from Council but understand that internal discussions are progressing. In essence there are three options for how the open space land could be held long-term:

- 1) The recreated wetlands that have a primary stormwater management function vest in Council as stormwater assets (rather than open space); and
- 2) The balance open space area vest with Council as open space reserve; OR
- 3) The balance open space area remains in private ownership and is maintained through a body corporate or similar mechanism applied across the development area, and access to the general public is secured via easements in favour of the Council.

Whilst the final land ownership of the open space area is yet to be resolved, what is clear is the applicant's intent that the open space be publicly accessible and the application is made on the basis that public access benefits will be secured through this development. There are a number of procedural options available to ensure that these benefits are realised.

Please feel free to contact me on 964-4630 if you would like to discuss any of the above in more detail.

Yours faithfully

PLANZ CONSULTANTS LTD



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