

05 March 2021

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RC Campbell  
C/- Mark Lile  
Landmark Lile Ltd  
PO Box 343  
Nelson 7040

Resource Consent Number: SH195015  
Contact: Vince Matschke  
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Dear Mark

### **SH195015: DECISION ON NON-NOTIFIED RESOURCE CONSENT**

Pursuant to Section 36 of the Housing Accords and Special Housing Areas Act 2013 ("the Act"), please find enclosed a copy of the Council's decision on your application for resource consent.

**You may commence your activity immediately unless you lodge an objection or appeal to this decision. However, it is important that you check the conditions of your consent carefully as some of them may require you to carry out specific actions before you may commence your activity. In some cases you may also require other permits or building consents for your activity and these must be obtained before you can commence your activity.**

Please note that under Section 51 of the HASHAA, your consent will lapse in **five years** unless you have given effect to it before then.

In the case of subdivisions, the consent is given effect to when you have submitted a survey plan to the Council for the subdivision under Section 223 of the Act. Once the survey plan has been approved by the Council under Section 223 of the Act, the consent lapses three years thereafter unless it has been deposited with the District Land Registrar as outlined in Section 224 of the Act.

Please feel free to contact me if you have any questions regarding any aspect of your consent or its conditions. My contact details are listed at the top of this letter.

Yours faithfully

Vince Matschke  
**Senior Planner**

## RESOURCE CONSENT DECISION

### Resource Consent number: SH195015

Pursuant to section 36 of the Housing Accords Special Housing Areas Act 2013 (HASHAA) the Nelson City Council ("the Council") hereby **grants** resource consent to:

RC Campbell

### The activity to which this decision relates:

Application for a Qualifying Development under the Housing Accords and Special Housing Areas Act 2013 (HASHAA).

*This decision must be read in conjunction with RM205175.*

### Location details:

Name of Special Housing Area in which qualifying development is located:

Address of property: 3D Hill Street, Nelson

Legal description: Lot 304 DP 548277 and Section 20 Survey Office Plan 543926 (Formerly Pt Lot 1 DP 8212)

Certificate of title: 937998 (formerly NL8C/678)

### CONDITIONS

Under sections 37 and 38 of HASHAA, this consent is granted subject to the following conditions:

1. The activity shall be carried out in general accordance with the application lodged with Council on 12 September 2019, the further information received being but not limited to:
  - a) Davis Ogilvie & Partners Ltd. 3D Hill Street Limited Scheme Plan, Dwg 01 Rev B received by Council 8 December 2020.
  - b) Davis Ogilvie & Partners Ltd. 3D Hill Street Limited Stormwater, Wastewater and Watermain Plan, Dwg 03 received by Council 8 December 2020.
  - c) CGW Consulting Engineers Ltd., RE: 3D Hill Street, Nelson Stormwater Management, dated 18 June 2018 along with the email from Carlson-McColl, D of Flow Environments dated 27 October 2020.
  - d) Obd Landscape Architecture, Landscape Plan Set, dated 23 September 2020;
  - e) Terra Firma Engineering Ltd., *Geotechnical Assessment Report 3D Hill Street, Stoke*, dated 12 December 2019;
  - f) Terra Firma Engineering Ltd., *Response to RFI: 3D Hill Street, Stoke RC 195015*, dated 16 April 2020;
  - g) Newton Survey, *Proposed subdivision – Earthworks 3D Hill Street, Richmond, dated 15 November 2019* (Note: the allotment layout has been amended in which there will be some slight amendments to earthworks extent)

the plans contained in Appendix A labelled SH195015 A to N and the following conditions of consent.

Where there is any apparent conflict between the application and consent conditions, the consent conditions shall prevail.

## Land Development & Construction

### Construction & Environmental Management Plan (CEMP)

2. No less than 5 working days prior to the commencement of any site development works, the consent holder shall provide a CEMP which includes a Dust Erosion Sedimentation Control Plan (DESCP) to Council's Monitoring Officer for the acceptance of the Manager Consents and Compliance. The purpose of the CEMP is to ensure construction effects including noise, dust and sediment control, and vehicle traffic are effectively managed. The CEMP shall be prepared by a suitably qualified expert(s) and address the following (at the minimum) and clearly referring to the numbering below within the CEMP:

- a) measures to manage construction vehicle traffic and parking;
- b) details of on-site access, turning and manoeuvring for heavy vehicles;
- c) the location and content of any construction signage;
- d) description of the works, laydown areas, anticipated equipment and processes;
- e) anticipated duration of earthworks in a stage;
- f) erosion and sediment control measures including (but not limited to);
  - i. measures to prevent fugitive dust and windblown sediment beyond the site boundary;
  - ii. measures to manage sediment content in construction stormwater and to avoid sediment entering surface water bodies adjacent to the site;
  - iii. details of any measures to control mud and detritus from vehicles onto the surrounding road network or adjoining land; and
  - iv. description of the methods proposed for the stabilisation of bare soil surfaces;
  - v. description of the equipment that will be available on site during the works for the purposes of minimising dust emissions;
- g) How the staging of the earthworks will minimise the extent of exposed soil at any given time;
- h) How the contaminated site remediation of RM205175 will incorporate into the staging and overall site management plan including the DESCP;
- i) Rainfall response and contingency measures including inspection measures and timing, procedures to minimise adverse effects in the event of significant rainfall events and/or the failure of any key erosion and sediment control structures;
- j) methodology for the timing and staging of site earthworks including details of stormwater control diversion drains design in accordance with the Nelson Tasman Erosion and Sediment Control Guidelines 2019.
- k) Procedure for reporting any incidents resulting from a significant rainfall event to the Council's Monitoring Officer;

**Note:** For the purposes of this criterion, a significant rainfall events is 60 mm or more over a 24-hour period or 20mm/hr over the catchment as measured at either Nelson Airport or the Tasman District Council/Nelson City Council rainfall recording site at Princes Drive.

- l) maintenance of local drainage paths from adjoining properties;
- m) procedures for the management of construction stormwater;
- n) Details of how the performance of control measures shall be measured and responded to on-site, including;
  - i. processes to be adopted in the event of any control measures failing; and

- ii. timeframes and reporting responsibilities for notifying the Council in writing of all incidences where control measures failed, and the remedial measures taken.
- o) Methodology to minimise adverse vibration and noise effects (such as appropriate mufflers or digital reverse beepers) on adjacent residential properties.
- p) protocols to be adopted for the discovery of any unrecorded archaeological site;
- q) Details relating to the Storage of fuel and/or lubricants and any handling procedures along with contingency plans (including use of spill kits);
- r) contact details for site manager;
- s) complaints procedures and register; and
- t) Procedures for the monitoring, audit and review of the CEMP.

**Note:** *The Manager Consents and Compliance will either accept, or refuse to accept, the CEMP within 5 working days of receipt. Should the Manager Consents and Compliance refuse to accept the CEMP, then the Manager Consents and Compliance will provide a letter outlining why acceptance is refused based on the parameters contained in this condition. Provided that the information requirements are addressed by the CEMP, acceptance will not be withheld.*

3. Should the Manager Consents and Compliance refuse to accept the CEMP, the Consent Holder shall submit a revised CEMP to the Manager Consents and Compliance for acceptance. The acceptance process shall follow the same procedure and requirements as outlined in conditions 2. No construction or earthworks activities shall commence on the site prior to the CEMP being accepted.
4. All construction works on the site shall be carried out in general accordance with the accepted CEMP other than the DESC which may be amended to ensure all practical measures are taken to mitigate adverse erosion and sedimentation effects on Saxton Creek and on any adjacent property.
5. The CEMP may be amended at any time by the Consent Holder. Any amendments to the CEMP shall be submitted by the Consent Holder to the Monitoring Officer for the acceptance of the Manager Consents and Compliance. If the amended CEMP is accepted, then it becomes the accepted plan for the purposes of condition 2. Any amendments to the CEMP shall be:
  - a) for the purposes of improving the measures outlined in the CEMP for achieving the CEMP purpose (see condition 2);
  - b) consistent with the conditions of this resource consent; and
  - c) prepared by a suitably qualified expert or experts.
6. Each stage of earthworks shall not exceed 0.5ha in area and the Consent Holder shall not undertake earthworks in any other stage unless the previous stage has been stabilised by mulching, seeding and mulching, metalling or otherwise covering any exposed ground so as to minimise the risk of dust, erosion and sedimentation effects.

### **Remediation of Lots 1 & 2**

7. Stage one of the earthworks shall include the remediation of the contaminated soils subject to RM205175 and prior to section 223 approval the area of contamination of RM205175 shall be remediated for residential purposes with confirmation provided to Council in the Site Validation Report required by condition 22 of RM205175.

## Construction

8. Hours of operation shall be limited to between 7.00am to 6.00pm Monday to Friday and 8:00am to 5:00pm on Saturdays including machinery warm up. No earthworks shall take place on Sundays or Public Holidays.
9. Construction noise from earthworks, building and service installation activities shall not exceed the recommended upper limits set out in Table 2 of New Zealand Standard NZS 6803:1999 *Acoustics – Construction Noise* when measured at, or within, the boundary of any site within the Residential Zone. Any measurements and assessments shall be in accordance with NZS 6803:1999.

## Maori Archaeological Sites

10. In the event of Maori archaeological sites (e.g. shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall then notify the iwi of Te Tau Ihu and Heritage New Zealand Pouhere Taonga Central Regional Office (phone 04 494 8320), and shall not recommence works in the area of the discovery until the relevant approvals to damage, destroy or modify such sites have been obtained.

**Note:** *The discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Heritage New Zealand Pouhere Taonga Act 2014 needs an application to Heritage New Zealand Pouhere Taonga for an authority to damage, destroy or modify the site.*

*If the site is of Maori origin, the Site Manager or Consent Holder shall notify the Heritage New Zealand Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, and shall ensure all statutory requirements under legislation are met (including Heritage New Zealand Pouhere Taonga Act 2014, and Protected Objects Act 1975). It is not Council's role to decide which iwi groups are considered to be mana whenua.*

## Prior to approval of the Survey Plan pursuant to Section 223 of the RMA (in accordance with Section 45 HASHAA)

### Easements

11. All necessary easements as required for right of way, right to drain water and sewage and right to convey water, telecommunications, computer media and electricity shall be shown under a Memorandum of Easements on the Survey Plan submitted for the purposes of section 223 of the Act. All documentation for the registration of the easements shall be prepared at the Consent Holder's expense.
12. For the Council's reticulated water, wastewater and stormwater services, these shall be easements in gross in favour of Nelson City Council. The easement in gross in favour of Nelson City Council shall be registered on the title of Lots 1, 10, 15 and 16. The width of the easements shall be in accordance with the attached approved plan Davis Ogilvie & Partners Ltd. *3D Hill Street Limited Stormwater, Wastewater and Watermain Plan, Dwg 03* received by Council 8 December 2020.
13. All documentation for the registration of the easements shall be prepared at the Consent Holder's expense.

## **Certification**

14. Prior to the approval of the Survey Plan under Section 223, the Consent Holder shall provide written certification from a Registered Professional Surveyor that the stormwater, wastewater and water services are located within the respective easement areas shown on the Title Plan.

## **Road Vesting**

15. That Lot 301 on the Davis Ogilvie & Partners Ltd. *3D Hill Street Limited Scheme Plan, Dwg 01 Rev B* received by Council 8 December 2020 attached as approved plan SH195015 A shall vest in the Nelson City Council as Road.

## **Reserve Vesting**

16. That Lots 203 to Lot 204 shall vest in the Nelson City Council as Neighbourhood Reserve.

## **Stormwater**

17. Prior to submitting a section 223 Survey plan the consent holder shall submit a detailed design guide created by an appropriate design professional that outlines the volumes and system designs of the proposed detention tank systems that will mitigate the post development flows from rooftop stormwater of future residential dwellings (including garages) for the approval of Group Manager Infrastructure. The approved Design Guide shall be complied with and placed on the respective titles as Consent Notice pursuant to section 44 of HASHAA subject to condition 47a).

## **Prior to the Issuing of a Certificate Pursuant to Section 46 of the HASHAA (Section 224(c) of the RMA)**

18. Prior to the issue of Section 224, the construction works of Stage 3C of the Saxton Creek upgrade being RM185013 shall have been completed.

**Note:** *Construction works shall not mean the landscaping required under RM185013.*

## **Engineering Design and Construction**

19. All of the works in Conditions 23-32, 34 to 36 and 42, shall be shown on "Design" engineering drawings to the requirements of the NTLDM 2019, except as required by any specific condition of consent.
20. The "Design" engineering drawings shall be submitted to the Council's Group Manager Infrastructure for approval. No works shall commence until the "Design" engineering drawings have been approved.
21. All works in Conditions 23-32, 34 to 36 and 42 shall be completed by the Consent Holder in accordance with the approved design drawings to the satisfaction of the Council's Group Manager Infrastructure prior to the issue of a Section 224(c) Certificate.

## **As-built plans**

22. All of the works in Conditions 23-32, 34 to 36 and 42 shall be shown on "As-built" engineering drawings to the requirements of the NTLDM 2019 or 2020, and to the satisfaction of the Council's Group Manager Infrastructure.



## Right of Ways

23. The right of ways (three in total) shall be constructed generally in accordance with the attached approved plans (with regard to plans A to C), the NTLDM and to the satisfaction of the Council's Group Manager Infrastructure.

## Roading

24. The roads within Lot 301 as shown on approved plans A and I shall be constructed and formed in accordance with the NTLDM 2019 or 2020.

25. The crossing entrance on Lot 301 with Ara o Ngati Koata shall be constructed in general accordance with approved plan N option 2 with a corner radius of a minimum of 6.0m with a full height kerb.

26. The Consent Holder shall install all road marking, street signs, street lighting for the new roads and rights of way in the subdivision in accordance with NTLDM 2019 and at the Consent Holders cost.

27. All footpaths located within Lot 301 shall be constructed in general accordance with the approved plans A, G and I. However, the footpath shall be increased in width to 1.65m where there is an obstruction to one side.

**Note:** *Obstructions are objects such as the entrance signs to the development, streetlights, power boxes etc.*

28. Street tree planting methodology shall be undertaken in accordance with section 4.15.4 of the NTLDM with regard to sections 4.15.6 and 4.15.8.

29. The entrance signs shall not be at a height greater than 0.9m and shall be located in the location shown in approved plan I. They shall not be located over services and shall be of a permanent type of material non-painted.

30. A permanent sealed turning head shall be constructed at the terminating end of Lot 301 of the development. The turning head shall be constructed in accordance with the NTLDM 2019 or 2020.

## Water

31. The consent holder shall connect to the consented Council water main within Ara o Ngati Koata and a water connection shall be provided to the boundary of each lot. A Council approved water meter shall be installed in accordance with the requirements of the NTLDM 2019 or 2020.

32. The Consent Holder shall also connect to the Council water main at the boundary with Lot 2 DP 507574 (Summerset) which shall extend through Lot 10 and connect into the water main in Lot 301.

33. The location and details of the water meters shall be recorded on Council's Water Meter Location Form which shall be submitted to Council for approval prior to the issue of a Section 224(c) Certificate.

## Wastewater

34. A wastewater drain lateral, which drains directly to the Council's reticulated wastewater system in Lot 2 DP 507574 (Summerset Village) shall be provided to the boundary of each residential lot in general accordance with approved plan B.

## Stormwater

35. A stormwater drain lateral, which drains directly to Council's reticulated stormwater network as a part of the Stage 3C Saxton Creek upgrade and Ngati Rarua Street shall be provided to the boundary of all residential lots.

## Telecommunications/Electrical Cabling

36. Telephone and electric power connections shall be provided to the boundary of all residential lots. All cabling shall be underground. Cabling shall be installed in accordance with Chapter 8 and 9 of the NTLDM.
37. Confirmation of the above from the supply authority and a copy of the service provider's Certificate of Compliance shall be provided to the Council prior to the issue of a Section 224(c) Certificate. Certification shall be in accordance with Section 9.11.3 of the NTLDM.

## Engineering Certification

38. Prior to the issue of a Section 224(c) Certificate a suitably qualified chartered professional engineer or registered professional surveyor shall provide written certification that all works have been completed in accordance with the requirements of the conditions of this consent and the NTLDM 2019.

This written certification shall be on the prescribed form "Certificate Upon Completion of Subdivisional Work" contained in Appendix D of Section 2 of the NTLDM.

## Building Site/Geotechnical Certification

39. Certification that the proposed residential lots contain an accessible site suitable for the erection of a residential building shall be submitted to Council by a chartered professional engineer practising in geotechnical engineering or from an experienced engineering geologist. This shall verify that all fills were certified in accordance with NZS4431:1989 *Earthfill for Residential Development*.

- (a) The certification shall define the area within proposed Lots 1 to 20 that is suitable for building on, and shall list development conditions pertaining to the site and the lot generally.

**Note:** *The building site shall be defined with respect to boundary pegs and/or survey co-ordinates, the latter to be provided by a registered surveyor.*

- (b) Should any mitigation measures be required as part of the building site certification then these shall be designed and constructed under the supervision of the certifier of the building site. Any mitigation measures that require either ongoing monitoring or maintenance shall be subject to a **consent notice** on the title of the relevant Lots.
- (c) A Section 224(c) Certificate will not be granted if a suitable building site is not defined.



40. Prior to Section 224 (S46 HASAA) certificate being issued for the subdivision, the Consent Holder shall lodge with Council a geotechnical statement of suitability for residential development complete with specific development recommendations for each of the proposed building sites and an accompanying subdivision geotechnical completion report. The geotechnical statements and reporting shall comply with the requirements of NZS4404: 2010 and are to clearly state that the subdivision building sites have a low risk of being affected by a natural hazard as defined under Section 106 of the RMA.
41. Prior to Section 224 (S46 HASAA) certificate being issued for the subdivision the developer shall lodge with Council certification from the chartered professional engineer practicing in geotechnical engineering for any retaining structures constructed as part of subdivision development stating that the retaining structures comply with the Building Code.

### **Landscaping**

42. Prior to section 224 certification, the landscaping shall be undertaken in general accordance with the Obd Landscape Architecture, *Landscape Plan Set*, dated 23 September 2020 or the Consent Holder shall meet the requirements of Section 224(c)(i) or (ii). All landscape planting subject to this condition shall be planted within a planting season (being 1 May – 30 September).

### **Maintenance Performance Bond**

43. The Consent Holder shall provide the Council with a performance bond in accordance with Section 1.4 of Appendix 1 (Legal) of the NTLDM. The amount of the bond shall be \$1,500 per lot (to a maximum of \$30,000, plus a \$150 bond administration fee) and shall run for a period of two years from the date of issue of a Section 224(c) Certificate for the last stage of the subdivision.
44. The bond shall provide that fair wear and tear and damage by third parties will be accepted. Provision shall be made for resolution of disputes which is satisfactory to both parties.
45. The Consent Holder shall enter into a Maintenance Contract with Council to give effect to condition 43.

### **Consent Notices/Ongoing Conditions**

46. The following conditions shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to Section 221 of the Act. The Consent Notice(s) documentation shall be prepared by the Consent Holder's Solicitor and all costs associated with the approval and registration of the Consent Notice(s) shall be met by the Consent Holder.
- (a) At the time of lodging a building consent for a residential dwelling on all lots, stormwater detention tank plans shall be provided to Council designed by a suitably experienced professional with PS1 certification with the capacity of no less than volume approved under the design guide requested by condition 17 of SH195015 attached to this Consent Notice. The detention tank design shall be installed onsite at the time of constructing a residential unit and connected to Council's reticulated stormwater network. All costs relating to the design, installation, operation and ongoing maintenance requirements shall be met by the owner of lot.

- (b) For the avoidance of doubt, all lot owners shall ensure the detention tanks subject to a) above, shall be maintained in perpetuity in accordance with the maintenance requirements.
- (c) Lots 1, 15 -17 and 20 that share a boundary with the Neighbourhood Reserve shall not have a fence greater than 1.2m in height within 1.5m of the shared boundary. Where board paling fences are used, structural railings shall not face the reserve and the timber on the reserve side of the fence shall be left with a natural finish.
- (d) Lots 1, 15 -17 and 20 that share a boundary with a Neighbourhood Reserve shall enter into fencing covenant with Council that stipulates the construction costs of any fence shall be met by the lot landowner with no cost to Council.
- (e) All lots shall not be subject to the Rural Zone rules of the NRMP rather they shall be subject to the residential rules provided in the operative district plan at the time of applying for building consent. If at the time of applying for building consent, the site is rezoned as residential those relevant new residential zone provisions shall apply to the development of the site.

### **ADVICE NOTE(S)**

1. This is not a building consent, and the Consent Holder shall meet the requirements of the Council for all Bylaws, Regulations and Acts.
2. This resource consent authorises only the activity described above. Any matters or activities not consented to by this consent or covered by the conditions above must either:
  - (a) comply with all the criteria of a relevant permitted activity in the Nelson Resource Management Plan (NRMP); or
  - (b) be allowed by the Resource Management Act 1991; or
  - (c) be authorised by a separate resource consent.
3. This consent is granted to the Consent Holder, but Section 134 of the Act states that such land use consent "attach to the land", and accordingly, may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to "Consent Holder" in any conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.
4. The Consent Holder should note that this resource consent does not override any registered interest on the property title.

### **Advice Notes for Subdivisions**

#### **Development Contributions**

5. The Consent Holder shall pay a Development Contribution for Lots 1 to 20 in accordance with the Council's Policy on Development Contributions Policy 2018 which can be viewed on Council's website.
  - (a) The Development Contribution shall be paid prior to the issuing of a Section 224(c) Certificate for the subdivision.

- (b) Under Section 208(a) (i) of the Local Government Act 2002, the Council may withhold the issuing of the Section 224(c) Certificate if the Development Contribution is not paid.
- (c) Should a Building Consent be issued for any dwelling on Lots 1 to 20 before a Section 224(c) Certificate is issued, any Development Contributions paid under the Building Consent will be deducted from the required amounts.
- (d) The Development Contribution for community infrastructure and reserves shall be calculated in accordance with Section 7.4 of the Council's Development Contributions Policy 2018, and Section 203 (1) of the Local Government Act 2002. Where the Neighbourhood Reserve Land cash contribution is required, a valuation based on local land values is to be provided by a suitably qualified professional at the time of application for 224(c).
- (e) Section 7.4 of the Council's Development Contributions Policy 2018 states "*The Neighbourhood Reserve Land contribution may be paid as cash or by provision of land.*" The Consent Holder has vested Lots 203 and 204 to be vested to Council as Neighbourhood Reserve towards the 40m<sup>2</sup>/HUD reserves contribution. This has been accepted by Council's Principal Parks and Facilities Activity Planner.

### **Street Naming**

- 6. Roads to Vest in Council – under the Council's Road Naming Procedure, the Developer is asked to submit three names for each road to vest. The names will be considered by the Council's Hearings Panel. The full road naming policy and guidelines are available on request from Council officers. The Developer is encouraged to liaise with iwi regarding appropriate names. Iwi contact details are available from the Administrator, Consents and Compliance.
- 7. Any application for street naming should be submitted at the time the 223 application is submitted, or at any time before that. If more than one street is to be named, the application should include all the roads to be named (including names for roads to vest at later stages), so that the Hearings Panel can consider the names as a group.

### **Naming of Private Ways**

- 8. Land Information New Zealand (LINZ) requires that in the case of any right of way or jointly owned access lot that serves more than 5 lots, the properties on the Right of Way must receive whole numbers, or alternatively the Right of Way may be named as a private way.

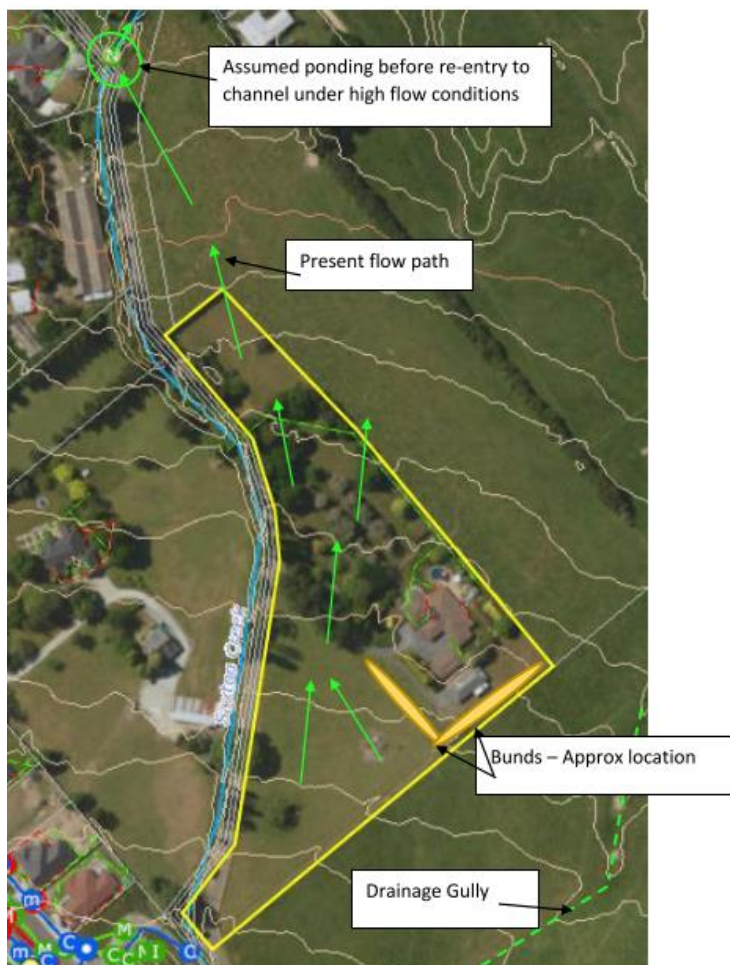
### **Easements over Reserve Land**

- 9. If any easement is to be registered over reserve land that is to vest in Council, full Council approval is required, as set out in the Minister's delegations of the Reserves Act 1977. This requires Council Officers to present a paper to the relevant Committee and then to a meeting of full Council. Depending on timing and the Committee schedule this may take one to three months. Please take this into consideration when providing Nelson City Council with easement documentation for signing over reserve land.

## DESCRIPTION OF THE APPLICATION SITE

The Nelson City Council signed a Housing Accord with the Government on 11 June 2015. Under section 10 & 11 of HASHAA, the Accord established Nelson City Council as an authorised agency under the HASHAA, and outlines the necessary and desirable ways in which the Nelson City Council will achieve the purpose of HASHAA, and increase housing supply and affordability over the next three years.

On 20 March 2018 the Council approved for recommendation to the Minister of Housing and Urban Development - the Richmond (3D Hill Street) Housing Area (SHA) as shown in Schedule 7AAB of the Housing Accords and Special Housing Areas (Nelson) Order 2019. The 3D Hill Street SHA (henceforth referred to in this application as 'the SHA') at the time of application was located at 3D Hill Street legally described as Part Lot 1 DP 8212 comprised in the title NL8C/678.



Since the time of application, the site has undergone a transition from Council's upgrading of Saxton Creek. Council acquired land from 3D Hill Street under the Public Works Act which resulted in land within the SHA adjacent Saxton Creek to be taken as esplanade reserve reducing the total site area to 1.6029 ha. In addition, the previous access to the site has changed from the Hill Street right of way to a vehicle crossing from a cul de sac off of Ngati Rarua Street. The applicant has extinguished all right of way easements over the Hill Street right of way at the same time.

As a part of SH195007V1 (3B & 3C Hill Street or the Ngati Rarua SHA) a lot (Lot 304) was to be amalgamated with the application site (being Pt Lot 1

DP 8212 the SHA) as provision for legal and physical access for the proposed development. This lot has now been amalgamated and forms a part of the application site with the legal reference being Lot 304 DP 548277 and Section 20 Survey Office Plan 543926.

The SHA is a part of three Special Housing Areas located on Hill Street that were or are under consideration by Council. All three were subject to conditions of coordination under the Urban Design Panel process. Along the southwestern boundary at 3D Hill Street, a proposal for 65 residential lots (SH195007V1) has been granted by Council and was

completely reliant on the extension of the Ngati Rarua Bridge as a part of the Nelson City Council Saxton Creek upgrade works, Stage 3A consented under RM175439. Since the time of application, this bridge has been constructed and has the status of legal road. The other residential development is the property to the south of the Ngati Rarua SHA at 3A Hill Street which proposes a 21 Lot subdivision. Recently to the north, at 1A Hill Street within rural zoned land, a comprehensive housing development was consented for 310 residential units, a rest home and community development centre (Summerset Retirement Village). The SHA lies within the Rural High Density Small Holdings Area of the Nelson Resource Management Plan (NRMP) Planning Maps 2004. The site is surrounded by rural land to the northeast, east with Higher Density Small Holdings Areas to the immediate southeast, south and along the northwestern boundary. The remaining land to the west and north is comprised of residential development.

The site is mainly flat land with a slight decline to the north which is the direction of the current flow patterns. There is a flood path that exists on the site that extends from the top of the natural bank of the Creek to a point 15m on either side of the Creek.

There is an existing dwelling located on the 3D SHA. However, this will be removed to make way for the proposed development.

The land also contains a piece of land<sup>1</sup> as identified under the Hazardous Activities and Industries List (HAIL) as seen below.

The applicant is seeking consent for a subdivision of a piece of land under Regulation 10(2)(b) of the NESCS 2011 and to disturb the soil of the piece of land which will likely involve greater than 25m<sup>3</sup>, and may require the removal of more than 5m<sup>3</sup> of soil to be taken away to a facility authorised to receive soil of that kind. All activities beyond the permitted standards of the NESCS.

Earthworks are proposed to allow for the formation of road, right of ways and some platform levelling. However, these earthworks fall within the permitted standards of RUr.27.1 Earthworks by being less than 1.2m in depth. The earthworks will be subject to an Erosion and Sedimentation Control Plan (ESCP) to be provided by the applicant prior to earthworks commencing.

The applications under the NESCS was applied for after the disestablishment of the SHA, and therefore is required to be processed under the Resource Management Act 1991.

A qualifying development in the SHA is a development that will be predominately residential, that contains no fewer than 15 dwellings to be built, and that does not involve the construction of buildings that will be higher than 2 storeys and 7.5 metres.

The proposal is a qualifying development under section 14 of the HASHAA because it:

- (a) is entirely a residential development;
- (b) involves the creation of 20 residential lots, which is more than the prescribed minimum of 15 required in this SHA; and

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<sup>1</sup> The NES applies to the piece of land on which hazardous activities are being, have been, or are more likely than not to have been undertaken, rather than the whole property parcel. If the hazardous activity occurred on only part of the property parcel, then that is the piece of land to which the NES applies. If the precise location of the hazardous activity is not known, then the NES will apply to the piece of the land where it is more likely than not to have occurred.



- (c) results in additional Esplanade Reserve to be vested to Council beyond the requirements of the NRMP and one lot as road to vest to Council.

At the time of this assessment, the proposed scheme plan has changed from the plan approved by the Urban Design Panel slightly. The changes will be addressed in the UDP assessment area of this report. For the purpose of this assessment, the proposed development will connect to existing and future consented three water services. The SHA will have direct connection to legal road from Ara o Ngati Koata (Road 2) of the Ngati Rarua SHA. The main road within the SHA will be designed to meet the standards of a residential lane with two right of ways each serving no more than four residential units.

This application meets the requirements of a Qualifying Development under section 14 of HASHAA. As such HASHAA has been used to make this decision otherwise subject to the Resource Management Act 1991, and the applicant has requested this pursuant to Section 20 of HASHAA.

## **JURISDICTION**

Sections 34 and 35 of HASHAA provide the statutory framework for consideration of any application for a qualifying development within a Special Housing Area.

Section 34(1) details the matters the council must have regard to when considering applications for resource consent applications.

In summary the key considerations are:

- (a) The purpose of HASHAA;
- (b) Part 2 of the RMA;
- (c) Any relevant proposed plan;
- (d) Any relevant consideration arising under sections 104 to 104F RMA (were the application being considered under that Act);
- (e) Any relevant provision or any relevant other Act;
- (f) The key qualities set out in the Ministry for the Environment's "Urban Design Protocol".
- (g) In addition to and notwithstanding the above, the section prohibits the decision maker from granting consent to any application unless it is satisfied that sufficient and appropriate infrastructure "will be" provided to support the Qualifying Development.

For the purposes of this decision the above matters are addressed individually below – with the weighting exercise of the relevant findings, following the weighting hierarchy required under HASHAA.



## REASONS FOR THE DECISION

Under section 39 of HASHAA the reasons for this decision are:

### The Purpose of HASHAA

The purpose of the HASHAA is enhance housing affordability by facilitating an increase in land and housing supply. This proposal is to increase land supply to facilitate an increase in the supply of housing by the addition of 20 residential allotments. I concur that the proposal meets the purpose of the HASHAA.

### Part 2 of the RMA

Section 5 sets out the purpose of the RMA, and requires a broad judgement as to whether a proposal promotes the sustainable management of natural and physical resources. This exercise of this judgement is informed by the principles in sections 6 to 8, and considered in light of the particular circumstances of each application.

In respect to this application it involves managing the use, development and protection of these resources in order to enable people and communities to provide for their social, economic and cultural well-being and for their health and safety, while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;*
- (b) safeguarding the life supporting capacity of air, water, soil and ecosystems;*  
*and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In terms of section 7 of the RMA, the following matters are relevant:

- (b) the efficient use and development of natural and physical resources;*
- (c) the maintenance and enhancement of amenity values; and*
- (f) maintenance and enhancement of the quality of the environment.*

Part 2 of the RMA is the broad overall and holistic view of the proposal and how the use, development, and protection of natural and physical resources subject to this proposal can be managed sustainably in a way which enables people and communities to provide for their social, economic, and cultural well-being as well as for their health and safety.

The proposal occurs on rurally zoned land immediately adjacent the consented development SH195007 the Ngat Rarua SHA. The assessment of effects on the amenity and character of the rural zone can also be applied on this site. I have adopted them for the purpose of this assessment below;

*The proposal will result in adverse effects to the character and amenity of the rural zone under the NRMP 2004. However, the National Policy Statement for Urban Development Capacity (NPSUDC) which recognises matters of national significance requires local authorities with high or medium growth urban areas to carry out evidence and monitoring of urban capacity which will inform planning decisions. In addition, the NPSUDC requires local authorities as mentioned above, to undertake a Future Development Strategy (FDS). The Saxton Area as a whole has been identified in the Nelson Tasman FDS ('the NTFDS') as an area of urban expansion in the medium term or Decade 2 (2029-2038). The NPSUDC requires the NTFDS to be informed by the relevant Long Term Plan (LTP). The proposed subdivision development of the [sic] 3D Hill Street*

*SHA has been identified in Nelson City Council's (NCC) Long Term Plan 2018 for residential development.*

*The NPSUDC under Policy PA4 requires that decision makers when considering the effects of urban development shall take into consideration the "benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and the benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects." The shortage of affordable housing within the Nelson and Tasman regions is well known and results in adverse social and economic effects to the residents of Nelson.*

*This proposal will use flat rural land that has historically only been used for pastoral grazing recognised as the rural greenbelt around Nelson city for the purpose of urban expansion. It is considered that the adverse effects as a result of this proposal are anticipated through the publicly known processes of the LTP, the gazettal under HASHAA, the NTFDS. The supply of land will result in a benefit of providing more housing for Nelson city at a time of high demand that have led to adverse social and economic effects upon the residents. Therefore on balance, the adverse effects under the NRMP can be considered acceptable when considered against the purpose of HASHAA and the RMA.*

*Part 2 also provides under Section 6 matters of national importance in which all persons exercising functions and powers under it are required to recognise and provide for. These matters are considered within the application in context of arriving at an overall decision. Specifically the relevant matter to this application is;*

- the management of significant risks from natural hazards.*

Effects from the proposed earthworks were considered and it is assessed that the potential adverse effects from erosion and sedimentation will be mitigated and that the water quality of Saxton Creek will be maintained.

Other actual and potential adverse effects on Council services will either be mitigated or are considered to be in accordance with the minimum standards of the Nelson Tasman Land Development Manual and are therefore assessed as being less than minor.

It is considered that there will be potential for adverse construction effects from noise. However, the duration of the earthworks will be brief in nature (6 to 8 weeks) and will only occur within daytime hours and will comply with the national Construction Noise Standards (NZS 6803:1999). This is assessed as having no more than a minor adverse effects.

This assessment of the effects of the remediation of the contaminated soils subject to RM205175 considered under the RMA has been used in combination to assist in forming the basis of the overall decision of this application as they are intricately tied to one another. The conclusion of RM205175 is that the actual and potential adverse effects on the wider environment will be less than minor.

This application did not provide any site specific flooding information other than a reference to the flood models undertaken for Council's upgrading of Saxton Creek. The application has stated that due to the upgrading of Saxton Creek that the risk of the site from flood risk will be mitigated as the Saxton Creek upgrade has been designed to accommodate a 1% AEP rain event, concluding there will be no potential adverse effects from flooding on the residential development.

Council's Senior Engineering Officer – Land Development Mr Shane Overend has agreed that the upgrading of Saxton Creek has been designed to accommodate a 1% AEP flood event within its banks.

The esplanade reserve to vest to Council is additional to the requirements set out under Appendix 6 *Riparian and Coastal Margin Overlays* of the NRMP. The actual esplanade reserve requirements were taken by Council under the Public Works Act. Therefore, this proposal has shown further regard and provision for the maintenance and enhancement of public access to and along Saxton Creek.

The SHA does not contain any outstanding natural features or landscapes or areas of significant indigenous vegetation or habitats of indigenous fauna. The site is not known to contain any cultural or heritage values. Notwithstanding this, the proposal has shown regard for kaitiakitanga, the efficient use and development of natural and physical resources and the maintenance and enhancement of amenity values by the extra provision of esplanade reserve. The controls provided to ensure land disturbance does not result in any adverse effects to Saxton Creek ensure that the intrinsic values of ecosystems are maintained as well as the quality of the environment.

Section 8 of the RMA states all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). I have been contacted by the previous entity Tiakina te Taiao and Ngati Tama on the proposed activities. Details of the applications were provided for feedback, however no further comments were provided to Council.

The extensive works adjacent Saxton Creek are being undertaken by Council and have been considered on their impact on Saxton Creek. These works have resulted in a highly modified stream channel and riparian environment from its natural state which was highly degraded. This proposal has shown that it will not adversely impact on Saxton Creek including post development stormwater flows. Earthworks will not occur within the Riparian Overlay setbacks.

Based on the above, it is considered that the application has had regard for and provided for the matters set out in section 6, 7 of the RMA in this proposal in achieving the purpose of the RMA as set out in section 5.

### **Proposed Plan Change 27**

At the time of application the NRMP was in the midst of a Plan Change (#27). This plan change was to accommodate the adoption of the Nelson Tasman Land Development Manual 2019 engineering and development standards to supersede the former standards referred to in the Land Development Manual 2010. Plan Change 27 was notified on 15 July 2019 with four submissions received unrelated to the reasons for the plan change. These submission were withdrawn 9 September 2019 and the Plan Change was treated as operative from this date. This application was lodged and formally received after this date. Therefore, there is no proposed plan change to consider.

On a side note, the applicant was aware of the new engineering standards and has designed the proposed subdivision to meet the new standards.

### **Other Matters that Arise for Consideration under Sections 104 to 104F of the RMA**

The matters of section 104 to 104F are a direct result of a regional or district plan under the guidance of:

- The Regional Policy Statement;
- National Policy Statements;
- The New Zealand Coastal Policy Statement;
- National Environment Standards that creates a minimum standards to achieve the purpose of the RMA.

The rules of the operative plan present the baseline effects of activities regulated under the RMA. Therefore, to determine an understanding of the proposal and its effects, the information provided in the application must be in direct relevance to why consent is sought, under which rules, and how what issues are to be considered as a result. For the purpose of this assessment it is to understand whether notifying the persons listed in [(a-d)] above will provide any further information that is not already understood to enable a decision under section 34 are considered in the assessment below.

Persons/parties considered to meet the limits of sec29(3) of HASHAA

- a) In using the definition of adjacent land owners there are two properties that share a boundary with the SHA. These are as follows;
- 3B & 3C Hill Street (Lot 2 DP8212 and Lot 1 DP526524) otherwise known as the Ngati Rarua SHA; and
  - 3A Hill Street also known as the 3A Hill Street SHA (share a right of way)
  - Lot 2 DP 5057574 (Summerset Retirement Village)
- There are properties that lie near the SHA that are not adjoining but that are considered lying near or close to the SHA site being;
- 467 Suffolk Road (Lot 1 DP 507574 & Pt Lot 1 DP 5053); and
  - 25 Hill Street;
  - 21 to 29 Mako Street
- b) The SHA site lies entirely within the authority of Nelson City Council (NCC). NCC is a unitary council regulating both district and regional functions. As NCC is the authorised agency exercising this application under HASHAA the information on the application has been reviewed by NCC and it is not considered that notification would provide any further values as NCC has already provided information from the review.
- c) The SHA site is rural land that does not contain any existing services by Council's reticulated networks. All other services are managed on the SHA site for private residential use other than electricity, telecommunications and computer media which have been relocated as a part of the Saxton Creek upgrade. The proposed connections are fully capable of being connected. There are no electricity pylons that traverse the site.
- d) The land is not subject to any designations.

**Actual and potential effects of the proposal:**

*RUr.85.3 Services Overlay Subdivision*

Subdivision is not a permitted activity in the rural zone. The proposal will result in allotment areas well below the controlled standards of a 1 ha. average area with a 5000m<sup>2</sup> minimum area for the Higher Density Small Holdings Area with lot sizes with an average area of 647m<sup>2</sup> with a maximum size of 898m<sup>2</sup> and a minimum size of 529m<sup>2</sup>. Therefore, consent is sought as a Discretionary Activity.

**Issues**

The key issues I have considered in respect to this application are;

*Effects on Rural Character and Amenity*

*Effects on the loss of potential range of rural uses and productive values*

*Effects in respect to Flood Hazards*

*Potential Effects to the residential development from Geological Natural Hazards*

*Potential Effects in respect to Services*

*Effects on the Safety, Efficiency and Function of Council's Transport system*

*Potential Effects on the Natural Environment including Erosion and Sedimentation Effects & Effects on Freshwater Resources of Saxton Creek*

*Effects from construction*

*Cultural Effects*

I have considered the adverse effects at the subject site in the assessment that follows. In doing so I have been informed by the AEE and the following material/inputs:

- a) the several specific technical reports provided by the applicant as attachments to the AEE<sup>2</sup>, including, but not limited to:
  - *3D Hill Street SHA Residential Development – Hill Street—Nelson City Transportation Impact Report*, Traffic Concepts Ltd. dated 23 August 2019.
  - *Stormwater Affects and Management Assessment 3D Hill Limited*, Flow Environments, dated 7 April 2020 and CGW Consulting Engineers *RE: 3D Hill Street, Nelson Stormwater Management* dated 18 June 2018.
  - *Geotechnical Assessment Report 3D Hill Street, Stoke*, Terra Firma Engineering Ltd., dated 12 December 2019.
  - *Dust, Erosion and Sediment Control Plan 3D Hill Limited*, Flow Environments, dated 25 October 2019.
  - *3D Hill Street*, Landscape plan set, Obd landscape architecture, dated 23 September 2020.

As stated previously, this SHA lies in-between the Ngati Rarua SHA and the residential zone. I was the reporting officer of the Ngati Rarua SHA and I consider that both applications and their effects on rural uses, productive values, character and amenity are almost identical with this site being considerably less in area<sup>3</sup>. Given this, I have provided the same assessments below under a summary as that as SH195007, the Ngati Rarua SHA.

#### ***Effects on Rural Character and Amenity***

- *As mentioned in the introduction, land to the northeast within the rural zone has already undergone transformation to a comprehensive residential development and the land surrounding the application site to the north and to the south also have application under HASHAA to create residential allotments.*
- *It is considered that there is no information from any of these owners of properties that is not already known and that they are all well aware of the activities with legal agreements in place between them all to facilitate this proposal.*
- *The transition of the land from rural to residential will lose rural amenity values on a broad scale.*
- *The land around the SHA has been identified in the Future Development Strategy formally adopted by Council for urban expansion in 2029-2038. Council's Long Term Plan 2018 signalled this area for development under the area name 26C with an estimated lot yield of 350 residential units. Therefore land owners and*

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<sup>2</sup> Application for Resource Consent for a Qualifying Development under Section 25 of the Housing Accords and Special Housing Areas Act 2013 (HASHAA).

<sup>3</sup> Ngati Rarua SHA 5.66 ha.



*the wider public could know this land is intended for residential development. It is considered that the LTP and FDS are to be considered as other matters but are supportive in making the assessment that while rural amenity values would be lost, various strategic documents have included this area as being suitable for urban expansion of the residential zone.*

- In summary, I consider that there will be an adverse effect that is considered more than minor to the character and amenity of the Rural Zone. These effects will be encroachment of residential noise, loss of privacy anticipated in the rural zone, and modification of the land which is recognised as the greenbelt of Nelson City*

#### **Effects on the loss of potential range of rural uses and productive values**

- Hill Street is anticipated to be a buffer space between the rural and residential areas.*
- It is clear that the limits of productive use are hallmarks of being subject to the Higher Density Small Holdings overlay as this was the key reason that parts of Marsden Valley and Enner Glynn were subject to this zoning.*
- Since the 1940's the land has been solely used for grazing and pasture with no evidence of horticultural activities ever occurring onsite. The grazing of stock is also the current use of the land.*
- Residential development is occurring to the north within rural zone land and to the west within rural zoned land within the Nelson City and Tasman District Council areas. Although the NRMP may not have fully envisioned this land being strictly used for residential, I would concur that its productive potential is limited as highlighted in the NTFDS.*
- It is considered that the permanent loss of rural land and the potential use of that land for rural uses will have an adverse effect that is more than minor.*

#### **Effects in respect to Flood Hazards**

The application site does not lie within a flood overlay but lies within a flood path not identified within the Planning maps of the NRMP. As the site does not lie within a Flood Overlay the application of rural rule RUR.82 Subdivision within a natural hazard overlay does not apply. However, it is clear that to meet the requirements of Section 106 of the RMA and the matters of Part 2, the potential adverse effects from flood risk on the future residential development must be assessed.

The applicant has provided that the upgrade of Saxton Creek by the Council (specifically RM185013) Stage 3C will increase the width of the creek channel to accommodate the 1% AEP flood event with 500mm of freeboard. Once the Saxton Creek upgrade is complete, it is considered that the Creek will have the capacity to ensure that the 1%AEP flood event will have no impact on the residential development.

Council's Senior Engineering Officer accepts this assessment based on the development not receiving Section 224 certification (titles) until Stage 3C of the Saxton Creek upgrade is complete as a condition of consent. I concur with his assessment and will place a condition on a consent if granted to ensure potential adverse effects from flooding are avoided.

Given the above, the potential adverse effects from flooding will be less than minor

#### **Potential Effects on the residential development from Geological Natural Hazards**

The application was supported by a Geotechnical Assessment Report (GAR) that considered the surface and sub-surface characteristics in respect to seismic risks from fault rupture, liquefaction and lateral spreading, and overall stability. The conclusion of



the GAR is that the site is suitable for residential development subject to geotechnical review and building site certification which has been placed as a condition on this consent.

Council's Geotechnical Advisor has reviewed the GAR and concluded that sufficient information from a geotechnical perspective has been provided to grant the subdivision with recommendation which include further geotechnical investigation and certification of suitable building sites prior to section 224 certification. Any potential geotechnical matters requiring ongoing maintenance will be subject to a Consent Notice placed on the titles of the respective lots. I accept the advice of Council's Geotechnical Advisor and consider that the potential geotechnical adverse effects on the future residential development will be less than minor as the recommendations have been placed as conditions of consent.

***Potential Effects in respect to Services on the future residential development and on Saxton Creek flow capacity.***

*The application has stated that "This development can readily be accommodated on site, with infrastructure available to meet the needs of the development. The wastewater services will be laid in close proximity to the stormwater services and as discussed above, the water supply has been secured with the necessary legal instruments. The applicant has confirmed with Council that there is sufficient capacity in the wastewater and water supply networks to service the development."*

Council's Senior Engineering Officer has agreed that the existing connection within Lot 2 DP 507574 (Summerset Village) that extends into proposed Lot 2 of this development is able to accommodate the wastewater servicing needs of this development.

Also, a connection to the proposed Council water supply that will be installed under SH195007V1 the Ngati Rarua SHA will be able to provide sufficient supply to the proposed residential development.

As for stormwater effects, the residential development proposes to provide a lateral that will connect to the reticulated network to vest to Council which will all lead to a proposed stormwater outfall that is a part of the Saxton Creek Stage 3C upgrade works. Council's Senior Engineering Officer has agreed to this proposal based on ensuring that section 224 certification is precluded as a condition of consent until Stage 3C is complete. I accept this advice and agree with the condition to be placed on a consent if granted.

To ensure there are no adverse post development stormwater flow effects on Saxton Creek and therefore potentially exacerbate adverse flooding effects on downstream properties, the applicant has proposed to attenuate post development flows from the capture of rooftop stormwater to detention tanks that will be designed and installed at the time of building consent from the placement of a Consent Notice condition on all lots.

Council's Senior Engineering Officer is satisfied with this methodology proposed to mitigate post development stormwater flows onsite. Given his expert advice, I accept that this proposed Consent Notice condition will ensure that any potential adverse effects on Saxton Creek and downstream properties will be less than minor.

***Effects on the Safety, Efficiency and Function of Council's Transport system***

The application provided a Transportation Impact Report (TIR) which provided an assessment of the proposed roading infrastructure including walkways against the Appendix 10 Parking and Loading standards of the NRMP and the Nelson Tasman Land Development Manual 2019. The TIR assessed that the proposed roading, access and overall land transport network of the subdivision will meet the minimum standards of the NTLDM.

As a result of the amalgamation of Lot 304 of the Ngati Rarua SHA to the application site for legal and physical access, it was noted that the entrance from the Ngati Rarua SHA to the Residential lane did not have sufficient turning radius for a rigid truck and the correct kerb cutdown. The small non-compliance was resolved with plans accepted by Council's Senior Engineer Mr Shane Overend and Council's Traffic Engineer Ms Sue McAuley and the plans form a part of a legal agreement with the Ngati Rarua SHA. The accepted entrance plan will form a part of the approved plans of the consent. Further to this Mr Overend recommended conditions that:

- ensure footpaths will be increased to 1.65m where there is an obstruction located to one side; and
- the entrance sign for the development will not obstruct sightlines or occur over Council services; and
- the entrance sign will need to be constructed of non-permanent materials. The applicant agreed to these as conditions to be placed on a consent.

These matters relate to internal effects except the small non-compliance with the entrance from the Ngati Rarua SHA. The actual and potential adverse effects associated with the small non-compliance is considered to be less than minor.

### ***Potential Effects on the Natural Environment including Erosion and Sedimentation Effects & Effects on Freshwater Resources of Saxton Creek***

The application has demonstrated that it is able to comply with RUr.27 Earthworks under the NRMP as cuts and fills are not to exceed 1.2m in height and no earthworks are to occur within the Riparian Overlay. However, the earthworks which will involve ground disturbance of the majority of the site from the stripping of the topsoil. The geotechnical report had shown that the subsurface soil characteristics were of the Stoke Fan Gravels of a high clay content.

As the earthworks will comply with the permitted standards above section 104(2) of the RMA states if a rule permits an activity with that effect, the adverse effects of that activity may be disregarded. I have chosen not to disregard any potential adverse effect as a result of the proposed earthworks due to the proximity to the sensitive receiving area of Saxton Creek, the nature of the substrate, and the potential area of exposure.

The application had stated that it could comply with freshwater rule FWr.25 General Discharges to land where it may enter water. To ensure compliance with this rule, the applicant had provided an indicative erosion and sediment control plan design considerations with some proposed added controls to ensure potential adverse erosion and sedimentation effects are mitigated from adversely affecting the freshwater resources of Saxton Creek. I concur with the recommendations however, the ESCP drawing provided should not be referenced due to inconsistencies with best practice. Rather it is agreed that a detailed ESCP be provided to Council's Monitoring Officer prior to works commencing and to reduce potential risk, the earthworks are to be staged and expose no more than 0.5ha at any one time. This is considered acceptable without the use of sedimentation storage structures under industry best practice standards.

The measures to control erosion and sedimentation are to be in accordance with best practice using the Nelson Tasman Erosion and Sedimentation Control Guidelines 2019. The entire earthworks are anticipated to take an overall duration of 6 to 8 weeks to complete, thus each stage of exposed ground will likely take two to three weeks each prior to stabilisation.

In summary, the reduced areas, the brief duration and flat topography make the use of perimeter controls such as silt fences, diversion drains, bunds as suitable control measures. The use of a sediment retention pond is considered unnecessary based on the above matters in accordance with the best practice principles of the NTESCG. I assess with the above recommendations placed as conditions on this consent, the

potential adverse effects from erosion and sedimentation on the wider environment and the freshwater resources of Saxton Creek will be less than minor.

### **Construction Effects**

The applicant has identified temporary adverse effects from construction such as

- Noise
- Construction vehicle traffic

The applicant has agreed that a Construction Environmental Management Plan (CEMP) provided to council as a conditions of consent to manage these effects. This includes an adherence with volunteered working hours of 7am to 6pm on weekdays and 8am to 5pm on Saturdays, with no work on Sundays or public holidays. The CEMP will also detail how the applicant will comply with the construction noise standard NZS6803:1999 'Acoustics - Construction Noise' a nationally recognised standard for controlling the effects of construction noise.

The effects of construction are well known and will be temporary, the brief duration for earthworks will reduce the significance of any adverse effects of construction noise on the surrounding area in which the adverse effects are considered to be less than minor.

### **Cultural Effects**

The application site is not within a Statutory Acknowledgement Area or near any recorded archaeological sites. I was contacted by the previous entity Tiakina te Taiao and Ngati Tama on the proposed activities. Details of the applications were provided for feedback, however no further comments were provided back to Council. The applicant has volunteered an accidental discovery protocol condition just to ensure any objects of cultural value are discovered.

The proposal will not adversely affect freshwater resources in which high cultural values are placed. In light of the above, any potential for adverse cultural effects to occur are assessed as less than minor.

### **Positive Effects**

In terms of positive effects this development will result in the increase of land for housing supply at a time of housing shortages in the district.

The applicant has also created additional neighbourhood reserve to vest to Council which will provide greater accessibility of the public to the margin of Saxton Creek for recreation, amenity and allow for future connectivity.

Council's Senior Engineering Officer Mr Shane Overend noted that an existing connection point near the boundary with the Summerset retirement village previously provided to 3D Hill Street under strategic planning alongside the previous owner of 3D Hill Street would not have a connection. By not having a connection, the water within the pipe is not able to circulate and can become unsanitary for uses of the supply.

The applicant has agreed to provide a connection to this watermain which in the opinion of Council's Senior Activity Engineer Water Supply will resolve future potential for an adverse effects on water quality and builds resilience into the overall system. This is considered a positive effect as the proposed development is not required to connect to the watermain. This watermain will be protected by an easement in gross in favour of Council.

## Other Relevant Statutory Instruments

In terms of consistency with higher planning documents and relevant objectives and policies of the Nelson Resource Management Plan, I agree with the assessment of the applicant as detailed on page 35 of the AEE if the development were to occur on residentially zoned land. However, the SHA occurs on rural zone land and therefore the assessment seems misplaced.

As noted in the assessment of effects on rural character and amenity, the proposal will have adverse effects on the rural land as it will forever transform into a residential environment. It is an interesting aspect that the application that if it were not in the Services Overlay of the NRMP, the activity status of the application would be non-complying and not discretionary. Regardless, the proposal is contrary to Objective RU2 rural character, RU3 protection of amenity and all the policies within these objectives.

In respect to district wide objective and policies, the proposal is consistent with DO2 Natural Hazards, DO13 Soil erosion and sedimentation, DO14 subdivision and development, policies DO19.7 effect of land use activities on surface water bodies and DO19.1.10 new development. This proposal has direct connotations with Objective DO15 Peripheral urban expansion.

DO15.i provides that *'expansion around the periphery of the current urban area may have adverse effects on amenity values (particularly visual and recreational values), and tends to use the land resource and provide for infrastructure inefficiently. Expansion of the urban area tends to diminish the ecological and recreational values of the district (for example by reducing the habitat available for wildlife) and to increase dependency on private cars (and thus increase use of fossil fuels) for travel. Existing urban areas should generally be developed in preference to rural areas. There is considerable scope for intensification of development within existing urban zones. However, some development on the periphery of the existing urban area may be appropriate and should be provided for'*.

This land as previously stated will be situated in-between an already transforming area of residential expansion, and actually will provide some consistency in type of development rather than leaving a large swathe of remnant rural land within the confines of residential living.

The NRMP gives effect to the NRPS 1997 and it is considered that the proposal is contrary to the NRPS in respect to urban expansion and the loss of rural amenity as well as a loss of a soil resource.

The proposal is also a result of the Council's obligations under the National Policy Statement on Urban Development Capacity (NPSUDC) 2016 as an area signalled for urban development expansion under the Council's Future Development Strategy. Therefore, it is inevitable and considered well known that this land was to transform from its rural character.

The proposed activity is subject to assessment against the National Policy Statement on Freshwater Management (NPS-FM). At the time of application, the NPS-FM 2014 was in effect. The NPS-FM was replaced by the NPS-FM 2020 which took effect 3 September 2020. It is assessed that this application meets the Objectives and Policies of both.

The adverse effects described and the associated degree of inconsistency with the objectives and policies of the NRMP is not considered unacceptable given the process in which this proposal has come together.

Overall, the proposal is only contrary to the objectives and policies of the rural zone in which has already undergone transformation in this location. Therefore, the remainder of the proposal is considered consistent with the relevant statutory considerations that

give effect to the purpose of the RMA and are therefore considered overall consistent with Part 2.

### **National Environmental Standard for Assessing Contaminants in the Soil to Protect Human Health 2011**

The effects of the change of use to residential land and the disturbance of the soil within the piece of land under the NESCS was assessed under RM205175. The conclusion of that assessment was that the potential adverse effects will be less than minor.

### **Key Urban Design Qualities (s34(1)(e))**

The Urban Design Protocol identifies seven essential design qualities that together create quality urban design, being:

- *Context – Seeing buildings, places, and spaces as part of whole towns and cities*
- *Character – Reflecting and enhancing the distinctive character, heritage and identity of our urban environment*
- *Choice – Ensuring diversity and choice for people*
- *Connections – Enhancing how different networks link together for people*
- *Creativity – Encouraging innovative and imaginative solutions*
- *Custodianship – Ensuring design is environmentally sustainable, safe and healthy*
- *Collaboration – Communications and sharing knowledge across sectors, professions and with communities*

The final Urban Design Panel review report dated 22 July 2019 supported the intention of the high quality development and the positive interaction with Saxton Creek and the inclusion of the amenity spaces at the creek edge. This report noted some matters that needed further resolution.

- A more landscape responsive approach;
- Lot boundary alignment with the Ngati Rarua SHA;
- Connection to the South east and potential connection to the west;

The SHA was able to attain approval from the UDP on 21 August 2019 for the scheme plan used in the initial application that had provided the connections, boundary alignment, and landscape responsiveness to Saxton Creek.

Some of the recommendations of the UDP requested of the applicant were considered unnecessary by Council's infrastructure team these were:

- This was the construction of the walkway along Saxton Creek. Council's Team Leader Parks and Facilities Activity Management Mr Paul Harrington preferred this space left in a vegetated state to allow Council to design the alignment of the walkway.

- A recommendation for plans to show the location of key servicing infrastructure in the streetscape such as electricity transformers and telecommunication switchboxes. This level of information was considered unnecessary and could await detailed design approval;
- A recommendation that the stormwater from the residential development be treated to avoid contaminants entering the waterway. This is due to the residential development meeting the residential stormwater quality requirements of the NTLDM 2019.

### **Adequate Infrastructure**

Resource consent cannot be granted unless there is sufficient and appropriate infrastructure provided to support the qualifying development (s34(2)-(3)). It is considered that the proposal contains sufficient and appropriate infrastructure to support the qualifying development upon the completion of the Saxton Creek upgrade. The proposal cannot receive Section 224 certification as a condition of consent until this upgrade is complete with anticipation dates of completion to occur in June 2021 (3 months from now).

### **Other Relevant Sections**

#### **Matters Relating to Subdivisions (s106 RMA)**

The proposed subdivision will not be affected or at risk from any natural hazard and sufficient provision has been made for legal and physical access to each allotment created by the subdivision. Therefore, I consider that Council may grant the subdivision subject to the conditions that require the Saxton Creek upgrade to be complete allowing the channel upgrades to convey a 1% AEP rain event.

**Reporting Officer:** Vince Matschke

Position: **Senior Planner**

Signed



Date 05/03/2021

Therefore taking the above matters into consideration it is decided that this application is **granted** on 05 March 2021 under delegated authority from Nelson City Council by:



Adrian Ramage

**Team Leader Resource Consents**

Adrian Ramage  
Resource Consents Unit  
Nelson City Council  
(Authorised Officer Pursuant to  
Delegation)