RC230398 – Review of S42A recommendation

Density

1. I confirm my density assessment and assess that the minimum lot sizes comply with both the Operative District Plan and PC19 standards for subdivision. There is no methodology within the District Plan which requires that Lots 40 and 50 be excluded from the averaging calculation.

2. I do note that within the Rural Resource Areas, the District Plan caps the area within balance lots which may be used to calculate average lot sizes and, while I don't want presume that this is what Mr Hughes was referring to in his evidence, this capping approach might be reflective of his experience. There is no such area capping restriction to be applied within the Residential Resource Area [4].

3. I also agree with Mr Barr, in respect of the future development of Lot 50, in that there is no requirement for the future development of this lot to be included as part of this application.

Plan Change 19

4. I agree with Mr Barr in respect of the weighting to be given to Plan Change 19 and consider that greater weight can be given the provisions set out in the LLRZ section and Residential Zones Subdivision section of PC19. The appealed provisions are discussed in more detail below:

    - LLRZ-P6 – Precinct 1
    - LLRZ - P9 – Comprehensive development
    - LLRZ -R12 - Comprehensive Residential Development
    - LLRZ – S1 – Density
    - LLRZ-S4 – Building Coverage (Precinct 3 only)
    - SUB- P5 – Structure Plans
    - SUB – R5 - Subdivision of land where a land use consent has been obtained, or is applied for concurrently, under LLRZ-R12, LRZ-R16 or MRZ-R2.
    - SUB- R8 - Subdivision of Land within a Future Growth Overlay
    - SUB-S1 – Minimum Allotment size

5. I note that Objectives LLRZ-O1 and -O2, LLRZ -P1 and P2, SUB-O1 and SUB P1and P2 are the most relevant PC19 objectives and policies to this application and there are no appeals relating to any of these.

6. I note that the density standard LLRZ – S1 is under appeal, however, there is no land use application to establish residential units on the lots (beyond the application to establish buildings within the BLR under Rule 12.7.7 of the ODP). In this regard, LLRZ – S1 is not triggered by this application.

7. In terms of the appeal for SUB-S1 which also requires a minimum lot area of 1500m^2, it is my understanding that there are no appeals which seek a larger lot area for LLRZ

zoned land. As such, I am confident that a minimum lot area of at least 1500m^2 will be confirmed once the appeals are resolved.

8. LLRZ – P6 and SUB- P5 are not relevant to this application.

9. Rules LLRZ-R12 and SUB-R5 and Policy LLRZ - P9 are discussed further below.

10. Given the uncontested LLRZ re-zoning and the lack of appeals on the relevant LLRZ minimum lot area seeking smaller lot sizes rather than greater lots sizes, that greater weight should be given to the relevant PC19 provisions.

BLR and PC19

11. For completeness, I understand that this existing BLR fell outside of the scope of the PC19 as Section 12 of the ODP was not included as part of PC19, although I believe that new BLRs were created as part of the PC19 decisions. Therefore, I do not consider that the BLR line has been redrawn, rather it has simply been carried down over the new zoning, similar to other annotations such as a high voltage transmission line or hazard annotation.

12. I note the discussion which suggested that the BLR was increased or moved through the PC19 process. However, in my review of the 2008 paper maps of the ODP and the on-line maps, these appear to be fairly consistent.

Comprehensive Residential Development

13. Mr Barr at Paragraph 76 of his pre-circulated evidence lists a summary of rules under which resource consent required for this development. He included land use Rule LLRZ -R12 – comprehensive residential development and associated Subdivision Rule SUB-R5.

14. To clarify, Rule LLRZ – R12 takes an averaging approach for rather than adhering to a strict residential density and provides for a density across the site at one dwelling per 1500m^2 but, in conjunction with SUB-R5, allows for lots to be configured in a manner which provides for a variety of lot sizes and opportunities for a diversity of housing types. The activity status is restricted discretionary where the criteria are met and there are a number of matters of discretion. Both rules are under appeal.

15. The need for consent under LLRZ-R12 was subsequently clarified in the Memorandum of Counsel in response to Minute 9, resolving that consent is not required under these rules. However, at Paragraph 16, Counsel concludes that if the Commissioners determine that a consent under this rule is required then *"the Applicant considers that an application for LLRZ-R12 has in fact been made".* I disagree.

16. There are no details within the application regarding future housing options beyond the proposed building platforms in the BLR. There is no comprehensive development proposed as each lot will be developed individually by future owners.

17. I also disagree with Counsel at Paragraph 17 where Counsel states *that "all the information required by the Panel to assess an application under LLRZ-R12.. is before the Panel"*. In particular, I consider that the application does not include details:

- Regarding provision for housing diversity and choice.
- How any CRD development responds to the context, features and characteristics of the site.
- The extent to which any CRD development provides wider community benefits.
- How the CRD development will give effect to Policy LLRZ-P1 – Bult form.

18. In my opinion, the land use component as applied for does not include an application for comprehensive residential development across the wider site. I maintain that there is no application for land use consent under LLRZ- R12 and any consideration of LLRZ-R12 falls outside of the scope of this application.

19. In his Memorandum, Counsel asked whether I hold a view about whether Rule LLRZ-R12 is triggered by the Proposal. I note that each lot meets the minimum lot size of provided under both the operative District Plan and PC19 (as provided for SUB- R6) and each lot will be developed individually by future owners. As such, there is no need for a land use consent at this time beyond that applied for under Rule 12.7.7. I consider that the application can continue to be processed without reference to Rule LLRZ-R12 and, put simply, there is no CRD application before the Commissioners to consider.

NPSUD

20. At paragraph 119 of Mr Barr's evidence, he undertakes an assessment of the NPSUD. It is my understanding that, as currently calculated, the population of Cromwell and environs is not projected to reach a population of 10000 people for another 15 years and, therefore, is unlikely to be classified as "urban environment" at this time.

21. That said, I believe that the NPSUD was well traversed during the PC19 hearings and it was determined that the housing capacity created by PC19 was in line with NPSUD despite the population not meeting the "urban environment" criteria for a number of years. I also understand that with the advent of PC19, the housing supply potential far exceeds the projected demand. I consider that the NPSUD has little relevance to this subdivision consent.

Section 6 of the ODP

22. In my reading of Section 6 of the ODP, this provides strategic objectives and policies which the introduction of the section states *"provides the basis for the more specific provisions contained in Sections 7-11 of this plan"*. As such, I consider that the section 7 objectives and policies provide a finer grained approach which give effect to those strategic matters included in Section 6.

BLR

23. I note the definition of the BLR given in the District Plan but I also recognise that Rule 12.7.7 provides a consenting pathway to establish buildings within the BLR.

24. The reason for the Rule 12.7.7 is given in the District Plan as follows:

> *"Building line restrictions are a useful technique to protect amenity values and the safe and efficient operation of certain roads. They are also useful to avoid the effects of natural hazards on the built environment."*

25. In my reading of Rule 12.7.7, BLRs are not intended to protect wider landscape values beyond managing the effects on the natural character of water bodies and their margins and the effects on neighbourhood amenity and streetscape character.

26. I agree with Mr Milne that the BLR was likely established to prevent development from being visible from the Cromwell Basin and to protect views of the Bannockburn Inlet. However, in all actuality Rule 12.7.7. and its matters of discretion appears to fall short of this level of protection. It is the planning framework which we must work within.

27. I agree with Mr Barr that, given the matters of discretion set out in the District Plan relating to the BLR, consideration does not extend to integrity of the landform and landscape management. I also agree that there is no direct policy framework which relates to the BLR (beyond the Objectives and Policies of the underlying zoning) nor is there any updated analysis or rationale for the BLR which was included within the PC19 analysis or decisions.

28. At paragraph 39 of this planning evidence, Mr Murray accepts that the Central Otago District Plan provides limited guidance on the intended purpose of the BLR, beyond the definition, but allows that, as a first-generation plan, the Central Otago District Plan lacks the level of detail found in more recently developed planning documents. However, he also recognises at paragraph 32 that the BLR is not an outdated relic as it was re-affirmed in the new District Plan.

29. Mr Murray places significance on the Bannockburn Heritage Landscape Study (BHLS) which was commissioned by the Department of Conservation in 2004. This study was a pilot to test a methodology for researching heritage landscapes. Bannockburn was identified as the case study. The Cromwell Masterplan references the study but only with respect to setting the Local and Historical Context. The study and its recommendations do not seem to be given further consideration within the Cromwell Masterplan or PC19. I consider that little weight should be attributed to the BHLS and its recommendations in terms of the current planning framework.

30. Ultimately, building within a BLR is a restricted discretionary activity which signals that development may occur, provided the effects on the matters of discretion are appropriately avoided, remedies or mitigated. This activity status contrasts with an

application for example to build within an ONF in the Rural Resource Area which would be a non-complying activity[1] or within ONL which would be a discretionary activity[2].

31. The evidence from Mr Milne and Ms Pfluger concludes that the effects of development within the BLR are acceptable. In terms of the visual simulations and further assessment presented by the applicant's landscape architect, these have been reviewed by Ms Pfluger and I defer to her expertise in this instance. I note that she generally agrees with Mr Milne.

32. Ms Pfluger recommends two additional conditions to mitigate the effects on the natural character of Bannockburn Inlet and Kawarau River as set out in her review 24 February 2025 as summarised:

- for Lots 15-17 the built form to be no more than 8m in total height from lowest ground level to top roof level to avoid the appearance of three storey townhouses
- provide planting areas between and below sloping sites (Lots 15-20) similar to the planting within Lot 30. Planting does not need to be full screening of the buildings, rather a comprehensive structural planting area around the building platforms to avoid the built form appearing visually prominent on the open escarpment.

33. I support the inclusions of these conditions, in addition to (or as confirmed) in the design controls conditions set out Mr Barr's Appendix A which include conditions for the additional mitigation planting and measures recommended by Mr Milne in his evidence dated 27 September 2024.

34. To address the conflict of interest raised by Mr Olds with regard to the peer review undertaken by Ms Pfluger, I note that the feedback provided to the applicant by Ms Pfluger was as a peer review to the previous application RC190154. Ms Pfluger has not provided additional advice to the applicant, beyond the beyond feedback on the previous application and this is held as a matter of public record with CODC. Ms Pfluger did note in her assessment that the current application was an improvement on RC190154 and I consider this to be a fair observation.

35. In respect of the evidence of Ms Stevens, this extends to an assessment on the protection of the open natural character of skyline/ridgelines and prominent slopes, along with protection of open and natural rural landscape, visual amenity values from the Lake Dunstan Trail, effects on visitors and recreation users. Ms Stevens appears to correlate the BLR as having similar landscape objectives as the rural resource area. In my opinion, there is no such correlation to be made.

36. I consider that the matters of discretion set out in Rule 12.7.7 are clear and include the effects on neighbourhood amenity and streetscape character and the effects on the natural character of water bodies and their margins.

[1] Rule 4.7.5(vi)
[2] Rule 4.7.4(i)

37. While there are no directly related In terms of the assessment of the effects on neighbourhood amenity and streetscape character, guidance is given by the matters set out in LLR-P1 and SUB-P1, neither of which are under appeal. Landscape values do not feature as a matter to consider.

38. Further guidance can be taken from the Operative Plan where Objective 7.1.1 seeks to maintain the residential character, and Objective 7.1.2 seeks the protection of the living environment. Policy 7.2.1 sets out those matters which are considered pertinent to residential character and Policy 7.2.2 sets out those matters which are deemed to ensure residential amenity is not compromised. Again, landscape values do not feature as a matter to consider.

39. Policy 7.2.3 of the Operative Plan seeks to preserve environmental quality but the explanation of the policy states that:

> *"there are particular neighbourhoods and localities within the residential area that were specifically created by zones forming part of earlier planning instruments and which have the intention of achieving a certain environmental quality and density of development. Future subdivision and development in these areas must recognise this to the extent provided for in this district plan."*

I consider that the critical guidance there is "to the extent that the plan protects the environmental quality". When considering the environmental quality of Bannockburn, Policy 7.2.7 sets out a description of Bannockburn, although this is not particularly helpful in my opinion.

40. Policy 7.2.7 relates to the Residential Resource Areas (1)-(13). The replacement of the RRA[4] zoning is to be replaced by the LLRZ zoning and this is not under appeal. Policy 7.2.7 seeks to ensure that the subdivision and development complement the character and amenity of these areas and provide for the protection of significant landscape features, where such features are present. The explanation given for the RRA[4] area states that

> *"The area of land identified as Residential Resource Area (4) applies to Bannockburn, on the eastern side of Bannockburn Road and both sides of Hall Road west until just beyond Miners Terrace. The area is capable of accommodating low density residential development in a manner that provides privacy for the occupiers of dwelling houses and maintains the rural character of Bannockburn. An open form of development is promoted."*

41. In terms of Policy 7.2.8 - Management of Change, it is important to note that this relates to the management of change not the prevention or avoidance of change. Furthermore, guidance is given within the explanation for this policy, in that it states that it is a purpose of this plan to manage change at the interface between resource areas. The explanation notes that such change can be addressed through the resource consent process, where

conditions of consent may be applied, or through the plan change process. For completeness, I note that Lot 40, which evidence presented suggests is unsuitable for development, provides a buffer between the residential lots and the Rural Resource Area.

42. All that said, and beyond the BLR framework, I would be remiss not to remind the Commissioners of the subdivision matters of discretion set out in Rule 7.3.3(ii) (1-17) and repeated in SUB-R6 of which relevant matters of consideration include:

- **Rule 7.3.3(ii)(5)** Maintain and enhance amenity values.
- **Rule 7.3.3(ii)(7)** The provision of buffer zones adjacent to roads, network utilities or natural features.
- **Rule 7.3.3(ii)(8)** The protection of important landscape features, including significant rock outcrops and escarpments.
- **SUB-R6(g)(iv)** Maintain and enhance amenity values.
- **SUB-R6(i)** The provision of buffer zones adjacent to roads, network utilities or natural features.
- **SUB-R6(j)** The protection of important landscape features, including significant rock outcrops and escarpments.

43. I consider that the subdivision complies with the required lot sizes, which will enable an open form of development and, therefore, expected to maintain those amenity values identified for the zoning in the objectives and policies. The evidence presented also establishes a setback of 300m to the Bannockburn Inlet is achieved and the positioning of Lot 40 provides a further buffer at the interface between the residential development and the Rural Resource Area.

44. The main matter of contention would appear to be whether the subdivision itself provides for the protection of important landscape features, including the escarpment contained within the BLR. I note that the policy framework for the Residential Zones Subdivision section in PC19 does not provide further policy support for this matter of discretion. Notably, there are no avoid or other directive policies which one would normally expect for a matter of discretion where the protection of something is required. However, there is a good deal of landscape evidence available to the Commissioners which provides assistance in terms of the importance of the escarpment and the effects on development of this effects.

Hazards

45. Natural Hazards are not a matter of discretion under Rules 7.3.3(i) (ODP) and SUB-R6 (PC19) although hazards can be considered under s106 of the RMA.

46. I maintain my position that the application triggers Rule 7.3.4.(ii) as set out in my section 42A report, noting that while the site is not identified within a mapped hazard area and does not trigger the first limb of the rule, the application does include a geotechnical assessment which identifies a slope stability hazard risk and volunteers conditions of consent to mitigate the risk; including setback zones to be applied along the western crests of both Lot 1 and 9 and specific conditions for Lots 15, 18 and 19.

47. Any application which triggers Rule 7.4.4(ii) is required to include an assessment by a suitably qualified and experienced person which identifies any remedial action to be taken by the applicant. I do not consider that provision of the assessment by ENGEO negates the triggering of this rule.

48. SUB-R7 replicates Rule 7.3.4.(ii) but separates the mapped hazards trigger and the non-mapped hazards trigger into points 1 and 2 and does not specify that any application under this rule would need to be supported by an assessment by a suitably qualified and experienced person.

49. In my opinion, the ENGEO report identifies a slope stability hazard and identified mitigation by way of condition to be imposed on the affected lots. At paragraph 73 of Mr Barr's evidence he notes the ENGEO recommendations and concludes that:

> *"These measures will help ensure that the site is <u>not</u> likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source."*

50. Therefore, I consider it is reasonable to assume that without the practicable measures identified and recommended by ENGEO, some of the land could be subject to material damage arising from subsidence or slippage. The evidence of Mr Justice confirms the discussion and conditions set out in the s42A report to mitigate the land instability risk.

51. I acknowledge that my approach takes a more conservative position than the applicant and recognise that, should the Panel prefer the applicant's assessment, section 106 of the RMA also provides the Commissioners the ability to impose those volunteered conditions to mitigate the slope stability risk. I advise that if the Panel determine that Rule 7.3.4(ii) and SUB-R7 do not apply then the subdivision activity status would revert to a restricted discretionary activity rather than a discretionary activity.

52. Given the limited timeframe, I was only able to search applications where I was the processing officer. While the applications listed below are within the Rural Resource Area, Rule 4.7.7(ii)(d) duplicates Rule 7.3.4(ii) and so the approach taken is equivalent. The following applications relate to the second tranche of the rule where there is no formally mapped hazard:

- RC240169
- RC240134
- RC240111
- RC230386
- RC220453

Heritage

53. I recognise that Objective 6.3.5 seeks to recognise and protect the heritage values of the District's urban areas as discussed by Mr Murray. This objective is supported by Policy 6.4.3 which seeks to ensure heritage values are recognised and provided for in

the use and development of the natural and physical resources found within the District's urban areas.

54. The District Plan recognises and protects heritage values through Section 11 (as amended by PC20), Section 14 and Schedule 19.4. The proposal does not trigger any rules in those sections.

55. That said, I consider the evidence of Mr Sole demonstrates that the heritage values of the site have been recognised and, where appropriate, provided for. I also confirm that Heritage New Zealand were notified of this proposal but did not make a submission. I understand the Heritage New Zealand has been consulted in relation to this proposal.

56. I support an ADP condition for both the subdivision as a general condition and as a consent notice condition to be imposed on each lot as these are to be individually developed.

Earthworks

57. The application includes subdivisional earthworks, being those works required to create the roads, access and servicing. While it is understood that some of the lots will require earthworks in order to be developed, it would be premature to consider these earthworks prior to any house design. I consider it would be undesirable to require the building platforms to be established as part of the s224(c) certification, which may sit vacant and exposed for any number of years prior to any lots being on-sold. I note that the residential earthworks standard 7.3.6.x in the ODP is very permissive. This standard does not appear to have been carried over into the LLRZ provisions.

58. The application recognises consents for earthworks may need to be sought from ORC for the subdivision earthworks. It is uncertain whether development of all of the residential lots will trigger the thresholds for consent from ORC.

Acceptance of Lot 30 and Lot 40 as reserve

59. In his evidence at paras 153 – 155 page 32, Mr Ford raises concerns regarding the lack of certainty created by condition 6(p) regarding the vesting of Lot 30 and considers that this uncertainty could create issues at the time of 233 and 224 certification. I agree with the changes relating to Lot 30 as proposed by Mr Barr in his evidence (Conditions 6(o)-6(r)) and the introduction of the new advice note.

60. Council does not wish to accept Lot 40 as a reserve. Council has a duty to manage ratepayer money judiciously and, of the face of it, assuming on the management of Lot 40 is not deemed to be a good use of ratepayer money. The acceptance of a reserve is required to go through a separate Council process with no certainty of outcome. The Commissioners are aware that conditions should not be reliant on a separate legislative approval process.

Conditions

61. With regards to the revised suite of conditions submitted by Mr Barr, I have reviewed these and also discussed the changes to the engineering conditions with the CODC

Environmental Engineers. Should consent be granted, I have amended Mr Barr's Appendix A to reflect the conditions where there is disagreement. For clarity I have used Mr Barr's numbering which is only slightly complicated because I have inserted a new condition.

- **Condition 4(i)** – I have included a note advising that no heritage elements are to be passed over to Council ownership or administration without the agreement in writing of the Chief Executive Officer.
- **Condition 5(b)** - I support the insert to include the location of the building platforms as shown on the Landscape Masterplan, but note that this should be amended to include all lots within the BLR and, in particular, Lot 6.
- **Condition 6(g)** – This change is acceptable. Note: I have included a new condition 6(g) to capture the requirement to create a footpath within existing Terrace Street, which I understand is the applicant's intention.
- **Condition 6(h)** – This inserted condition is acceptable, except for 6(h)(ix) as the CODC standard requires a sealed footpath for Lot 100 and the Engineers confirm that this is the appropriate standard. The Engineers seek that a sealed footpath be imposed should consent be granted. I do not consider it appropriate to pass off modified heritage water races as public footpaths to be managed by Council.
- **Condition 6(i)** – This change is acceptable, except that I have added Lot 6.
- **Condition 6(j)** - This amended condition is largely acceptable, insofar as the conditions for ROWs serving between 2-4 lots can be merged into one condition. Minor wording changes are proposed to replace "serving two or more lots" to read "serving between 2-4 lots". However, with regard to Condition 6(j)(xii), this is not accepted, and I will discuss in more detail at the end of the condition review.
- **Condition 6(k)** - This change is generally acceptable, noting however, that it is important that the ROW not be carried down onto Lots 2 and 6 over Lot 3. If the ROW is not cancelled in respect of Lots 2 and 6, then the ROW must be upgraded to meet the standard set out in Condition 6(j). Condition 6(k) has been modified to reflect this.
- **Condition 6(m)** - This change is acceptable.
- **Condition 6(n)** - This change is acceptable, except that the street tree layout will need to be certified by the CODC Parks and Recreation Manager, at which time the maintenance time period can also be confirmed.
- **Condition 6(o)** - This change is acceptable, except that the landscaping will need to be certified by the CODC Parks and Recreation Manager, at which time the maintenance time period can also be confirmed.
- **Condition 6(p)** - This change is acceptable.
- **Condition 6(q)** - This change is acceptable.
- **Condition 6(r)** - This change is acceptable.
- **Condition 6(t)** - This change is acceptable.
- **Condition 6(u)** - This condition is ongoing and should be relocated to the general condition section. It should also be repeated as a consent notice condition as proposed by the conditions within the s42A Report .

- **Condition 7(a)** - This change is acceptable but should be expanded to include those other lots within the BLR including Lot 6
- **Condition 7(g)** - This change is acceptable.
- **Condition 7(j)** - This change is acceptable.
- **Condition 7(k)** - This inserted condition is acceptable.
- **Condition 7(l)** - This change is acceptable.
- **Condition 7(k)** - This change is acceptable, except to the reference to Rosebank Industrial Park and minor typos
- **Condition 7(m)** – As noted above, I recommend that an accidental discovery protocol also be imposed as a consent notice condition.

62. In addition, I note that there are conditions which have been offered by the applicant which I have not addressed. Currently, no conditions are proposed or current conditions need to be amended, to address exterior lighting, street lighting standard, hazards, heritage and the provision of public access through Lot 40 and 51. The conditions will also need to ensure those lots which do not have building platforms and which are within the BLR will need to be identified. Furthermore, the species diversity condition identified by Ms Stevens and accepted by Mr Milne will also need to be included. I will leave this to the applicant to address.

63. In addition Ms Pfluger, as part of her review, also recommends that no species listed as "high or moderate flammability" by FENZ[3] should be planted within at least 10m of residential buildings. Should fire risk in relation to planting be considered an important issue by the commissioners, she recommends a specialist fire assessment that takes into account landform and prevailing winds. This recommendation is not currently included as part of the revised draft conditions.

64. Circling back to Condition 6(j(xii), the original draft condition stated that if the maximum ROW gradient is proposed to be exceeded, then this may only occur with the approval of the CODC Infrastructure Manager.

65. The applicant seeks more certainty regarding the ROW gradients. This is understandable. However, Council's current urban standard provides a maximum gradient of 16%. In the discussion set out in the s42A report, the Engineers tentatively agreed to some leniency in this case by considering the 16.7% Rural standard.

66. Mr Ford identifies that a gradient of 20% would meet NZS 4404:2010 and the applicant seeks the ability to create a ROW with gradients up to 20%. He advises that if this gradient is refused by Council, the formation of the ROW at a reduced gradient will result in detrimental effects arising from the additional required earthworks.

67. The CODC Engineers note that they are moving towards engineering standards based on NZS4404:2010 but confirm that climatic conditions in Central Otago do not lend themselves to gradients of up to 20% and that a higher friction surfacing would not be

[3] https://www.checkitsalright.nz/reduce-your-risk/low-flammability-plants

sufficient mitigation. The Engineers note that in Queenstown, QLDC has modelled their engineering standards on NZS4404:2010 but have departed from the standard by reducing the urban gradient standard to 16%. The Engineers confirm that it is likely that the CODC standards once confirmed will generally align with the QLDC standards.

68. Overall, the Engineers are opposed to a gradient higher than the 16.7% but recognise that original condition provided the applicant some ability to increase the gradient where they can demonstrate this could be operated safely. That said, the Engineers expect there would be no amount of mitigation which would support a gradient of 20% or above. I have reverted back to the original draft condition but clarify that a 16.7% gradient could be accepted subject to good engineering design.

69. In terms of a separate land use consent, I consider the effects of building within the BLR are largely addressed through the building platforms and conditions of consent. If a land use condition is to be imposed then this should state that all buildings within the BLR must be contained within the building platform (as per draft condition 7(a)). Once titles are issued then development will need to occur within the consent notice conditions can be relied upon.

Conclusion

70. Subject to resolution regarding the ROW gradients, and when relying on the landscape evidence of Ms Pfluger and Mr Milne, I continue to recommend that the consent be granted subject to the revised draft conditions of consent as I have set out.