

IN THE MATTER OF

The Resource Management Act 1991 (the RMA)

AND

IN THE MATTER OF

Applications LU16/0067 and LU17/0211 by Rangitata

Diversion Race Management Ltd (RDML)

**TABLED AT HEARING**

Application: .....

Date: 14 May 2018

**SUPPLEMENTARY SECTION 42A PLANNING REPORT OF NICHOLAS (NICK) BRIAN BOYES  
ON BEHALF OF THE ASHBURTON DISTRICT COUNCIL**

**INTRODUCTION**

1. My qualifications and experience are set out in my original report, these are not repeated.

**PURPOSE OF THIS REPORT**

2. The purpose of this supplementary report is to address matters raised during the course of the hearing. For the most part these relate to matters of clarification as opposed to new information.

**ISSUES**

3. The matters covered in this supplementary report, include:
  - Geoconservation Site;
  - Visual Effects & Section 104D
  - Construction effects
  - White Water Course/Wave Feature;
  - Conditions (including bonding and roading conditions); and
  - Lapse Period.

**GEOCONSERVATION SITE**

4. The matter of the proposed fish screen and return being within a geoconservation site is addressed in paragraphs 75, 250 and 262 of my original section 42A report.
5. My interpretation of the Ashburton District Plan is that geoconservation sites are identified due to their "*distinctly glacial features*" and "*highly legible*

*geomorphological features*<sup>1</sup>. The policies in the District Plan recognise that geoconservation sites are an important element of natural character. The explanation and reasons to Policy 3.6D states *"In many cases the controls over the planting of trees and earthworks that apply to these areas are sufficient to also protect sites of geoconservation value"*.

6. As set out in paragraph 75 of my section 42A, geoconservation site G21 refers to *"a very legible flight of seven terraces cut into outwash gravel"*. Given the description included in the District Plan, consideration of the effects of the fish screen within site G21 in my view includes both landscape (legibility) and geomorphic aspects. My understanding of the evidence presented is that the location of the proposed fish screen is such that it will not affect the legibility of those terraces and therefore will not have any significant impact on the geoconservation site. On that basis the proposal is in my view consistent with policy 3.6D.

#### **VISUAL EFFECTS**

7. Mr Brown has described the visual effects from Mt Peel as moderate and Ms Pfluger agrees with that assessment. In planning terms, I consider that effects as described by the landscape architects as being something 'more than minor' from this particular viewpoint. The significance of this is that it means that the proposal cannot in my view pass the first limb of the section 104D 'threshold test' for a non-complying activity. I mention this as I did not make this explicit in the discussion set out in paragraphs 283 to 288 of my original section 42A report. I note that this finding does not make any change to the overall conclusion (having regard to the section 104 matters) that the effects of the land use proposal are acceptable, and consents should be approved.
8. The other visual effect that was raised in the section 42A report was the use of excess spoil on the embankments to reduce their batter slope and soften their appearance. Particularly those on the north and east side of the facility that can be viewed from adjoining roads. This was discussed by Mr Brown, but once again no firm proposal to implement such mitigation has been put forward by the Applicant. I also note that Mr Brown attributed the suggestion for such mitigation to Ms Pfluger. That was not the case, I was not relying on the expert findings of Ms Pfluger, but rather my experience of involvement in the Central Plains Water

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<sup>1</sup> Ashburton District Plan, Section 3.1 Rural Zone Introduction.

(CPW) Sheffield storage pond consent process. I should also add that given the findings of Ms Pfluger I don't see this matter as fundamental to the decision whether to grant or decline land use consent. It is a suggestion in order to both deal with the excess soil material that would have to otherwise be deposited in the vicinity of the proposed storage facility, and to improve the 'engineered' visual impression of the embankment when viewed by those living in the immediate vicinity and passers-by on adjoining roads. My section 42A report noted that any such change would have to be subject to engineering considerations (paragraph 189). However, the CPW Sheffield Pond would appear to indicate engineering is not a particular impediment.

### **CONSTRUCTION EFFECTS**

9. My original section 42A report raised the concerns with the shorter term construction effects, which I still consider to be a live issue. Given the length of the construction period and the proximity of the staging areas to nearby dwellings I am concerned about the amenity effects at those dwellings during the construction period. The section 42A report set out some potential mitigation options in this regard, including additional landscaping and/or bunding and reconfiguration of the staging areas (paragraph 172). These have been discussed, but I am not aware of any firm proposal by the Applicant to implement such mitigation.

### **WHITEWATER COURSE/STANDING WAVE FEATURE**

10. I would just like to clarify or make clear that whilst this is an obvious positive benefit of the proposal, in the context of the resource consents required from the Ashburton District Council this was not relied upon in order to reach the recommendation to grant consents set out in my section 42A report.

### **CONDITIONS**

11. The circulated conditions are largely agreed, some minor changes have been made to address a point made by the Chair at the commencement of the hearing regarding works within the Council road reserve. The amendments relate to the inclusion of a 'Corridor Access Request' (CAR) being lodged with the District Council for each separate project being undertaken in the Council's road corridor. A specific Traffic Management Plan (TMP) is required as a component of a CAR. These are at a level where they sit under the overall Construction Traffic Management Plan currently included in the conditions. The other 'new'

conditions added refer to engineering plan approval by the ADC for all road upgrades; and 'as-built' plans of Council assets being provided to Council.

12. District Council roading staff have sought a bond for roading in relation to damage to the roading asset through the construction period. In my view such a bond is appropriate given the scale and spatial extent of the construction period. This would also negate any differences in opinion as to the source of any damage highlighted by the pre and post construction surveys already included in the conditions.
13. In terms of an overall bond, i.e., a bond that sits alongside the public liability insurance. I am aware of such bonds being included in the examples of the CPW scheme and also the Commissioners Decision on the Waimakariri Irrigation Ltd (WIL) proposal (subsequently appealed). I can provide copies of those decisions to the Panel. A bond for the construction, operation, maintenance and remediation does appear to be a common practice on storage facilities of a larger scale. Off-setting the need for any bond are the matters set out in Mr Greaves supplementary planning evidence.
14. In this instance, I am not aware of any distinguishing features of this proposal different of those to CPW and WIL that would mean a bond wouldn't be appropriate.
15. The Commissioners will be aware that there is some duplication of conditions between the District Council consents and those of Environment Canterbury. Where there is such duplication the intention is for the condition wording to be exactly the same. Any minor differences that have arisen through the various iterations simply require an update to the corresponding set.
16. In summary, aside from the matter of a bond, there is a final set of land use consent conditions agreed between the Applicant and District Council.

#### **LAPSE PERIOD**

17. The lapse period was discussed in paragraphs 277 to 282 of the section 42A report. This included a recommendation of a 10-year lapse period for the land use consents. It was my understanding that the timeframe set out in the RMA could be no more than doubled (section 37A). If that does not apply in this case, then an extension to a 15 year lapse period for the land use consent could be considered.

18. Given the scale of the project and the detailed design work involved in the subsequent building consent process in relation to the storage facility, I can support a 15-year period (subject to the legal ability to do so).

**SUMMARY**

19. Aside from the comments made above, the opinions and conclusions reached in my original section 42A remain unchanged.

**Nick Boyes**

Planz Consultants Ltd

4 May 2018