

**LAND USE CONSENT APPLICATION**

**PREPARED FOR:**

**J Latham**

**107 Bradleys Road, Ohoka**



Limitations:

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Document Date: 26 March 2024

Document version/status: Final

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Form 9

Section 88 Resource Management Act 1991

To Waimakariri District Council

**We:** **J Latham** ('the applicant') apply for the Land Use Consent described below.

1. The activity to which the application relates (the proposed activity) is as follows:

Land Use consent is sought to locate a dwelling on a lot of less than 4 hectares in the Rural Zone. Cancellation of a covenant preventing the use of the site or buildings for residential use is also required.

Section 9:	Land use consent is sought to locate a dwelling on a lot of less than 4ha in the Rural Zone and to breach boundary setbacks, being Lot 1 DP 303902 at 107 Bradleys Road, Ohoka.
Section 108:	Cancellation of covenant

3. The site at which the proposed activity is to occur is as follows:

Address:	107 Bradleys Road, Ohoka
Legal description:	Lot 1 DP 303902. See Appendix 2 for the relevant Computer Freehold Title.
Area of land:	0.15ha

4. The full name and address of each owner or occupier (other than the applicant) of the site to which this application relates are as follows:

NA

5. There are no other activities that are part of the proposal to which this application relates.

6. No additional consents are required at this time in relation to this proposal.

7. Attached is an assessment of the proposed activities effect on the environment that:

- (a) Includes the information required by clause 6 of Schedule 4 of the Resource Management Act 1991; and
- (b) Addresses the matters specified in clause 7 of Schedule 4 of the Resource Management Act 1991; and
- (c) Includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

8. Attached is an assessment of the proposed activity against the matters set out in Part 2 of the Resource Management Act 1991.

9. Attached is an assessment of the proposed activity against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including information required by clause 2(2) of schedule 4 of that Act.
10. Attached is an assessment of the proposed activity against the resource management matters set out in the relevant planning documents.
11. Attached is all necessary information required to be included in this application by the District Plan, any relevant Regional Plan, the Resource Management Act 1991, or any regulations made under that Act

Garry Blay  
26 March 2024



Signature of person authorised to sign on behalf of the applicant

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## **Assessment of Effects on the Environment (AEE)**

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## 1. INTRODUCTION

1.1 This application has been prepared in accordance with Section 88 and the Fourth Schedule of the Resource Management Act 1991 (RMA). It provides a description of the site and the proposal, an assessment of actual and potential effects that may arise from the proposal, and an assessment of the proposal against the relevant statutory framework.

Appendices 1 to 3 are attached in support of, and form part of, this application.

## 2. PROPOSAL DESCRIPTION

2.1 This application seeks land use consent to locate a dwelling on a site of less than 4 hectares in the Rural Zone.

2.2 The proposed dwelling is a new build to be located adjacent to the south-west boundary of the site, as shown in Figure 1. Full plans are provided in Appendix 1. The site currently contains a small shed previously used as an Olive processing facility which is to be retained as a shed only. An existing vehicle crossing provides access to and from Bradleys Road and is shown in Figure 2.

Figure 1: Site plan

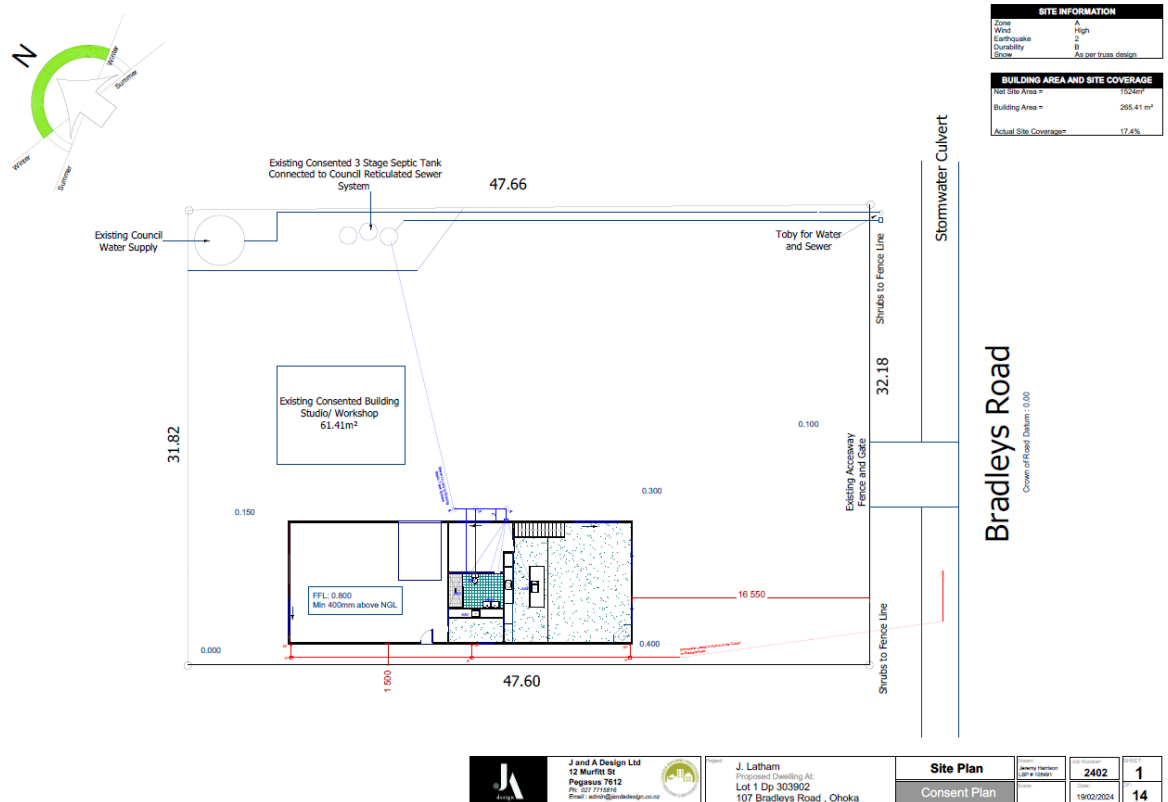


Figure 2: Existing vehicle crossing



- 2.3 Total site coverage including the existing shed will be approximately 17.4% with the proposed dwelling having boundary setbacks of 1.5 metres from the south-west boundary, 16.5 metres from the road boundary, 6.5 metres from the northern boundary and 22 metres from the north-east boundary.
- 2.4 The site is currently serviced with reticulated wastewater and water and these are to be utilised to service the dwelling.



### 3. ENVIRONMENTAL SETTING

#### 3.1 The site and surrounding environment

The site is an existing 0.15 hectare lot with shed located to the rear of the site (Figure 3). Access is established from Bradleys Road via an existing crossing. The intersection of Modena Place and Bradleys Road is located directly opposite the application site. The crossing passes over a relatively deep drain and is constructed accordingly with culvert, concrete side walls and fenced sides. The access within the site is currently formed up to the shed with a shingle surface. Bradleys Road carries a local road status.

Figure 3: Site overview



The site is flat and contains no topographical features of any note. Vegetation within the site consists mainly of grass, with large hedges along the rear, south-west sides. A recently planted hedge and fence is located along the Bradleys Road boundary. The north-east boundary is largely open.

While the area surrounding the application site is Rural Zone, surrounding lots are rural residential style lots typically of about 1.2 to 1.6 hectares, although a notable exception is the lot to the immediate north-east which is about 0.56 hectares in area. All of the surrounding lots have dwellings located on them. These lots and dwellings were established under subdivision and land use consent, with the zone subsequently not being changed to one better reflecting the established land use. The surrounding environment is shown in Figure 4.

Figure 4: The application site and surrounding area



With regard to natural hazards, the site is not located within an area known to be susceptible to liquefaction, being outside the liquefaction susceptibility area, and the site is not affected by flooding in a 0.5%AEP flood event, as shown in Figure 5.



Figure 5: 0.5% AEP flood hazard



### 3.2 Planning history

The application site was established as a separate lot under resource consent RC055518, with the purpose being to create a separate lot to locate a building within which an olive press was to be located. The site is no longer used for this purpose. This approval required connection of the lot to the reticulated water and wastewater services and a consent notice to be registered on the Record of Title prohibiting the erection of a dwelling on the lot. However, in place of the consent notice a covenant was entered into which prevented the erection of any residential buildings or use of any buildings on the site for residential purposes. This covenant will need to be cancelled pursuant to Section 108(7) of the Resource Management Act 1991 prior to location of a dwelling within the site and it is requested that the Council initiate this process following approval of this application. A copy of the covenant is included in Appendix 3.

## 4. **RESOURCE CONSENT REQUIREMENTS**

### 4.1 **Operative Waimakariri District Plan activity status**

4.1.1 The site is Rural Zone. An assessment of the proposal against the Operative Waimakariri District Plan rules is set out in Appendix 3. The outcome of that assessment is that the proposal results in a non-complying activity status.

### 4.2 **Other consents and approvals required**

No resource consents from other consenting authorities are required.

### 4.3 **Weight to be afforded to the Operative and Proposed Plans**

The Proposed District Plan (PDP) was notified on 18<sup>th</sup> September 2021 and is currently at the hearings stage. Objectives and Policies of the proposed District Plan are therefore required to be taken into account in any assessment. Rules relevant to this proposal have not been given immediate legal effect from the date of notification and therefore no rules in the PDP are relevant when determining the activity status of this application.

## 5. **ASSESSMENT OF ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT**

The following actual and potential effects have been identified and are considered below:

- Positive effects
- Character and amenity
- Access
- Noise

### 5.1 **Positive effects**

The proposed activity will provide a suitable land use for the site following the abandonment of the olive processing activity and provide an efficient use of the site for the current and future owners consistent with that occurring on surrounding sites.

### 5.2 **Character and amenity**

Character can be broadly described as the physical attributes of an area. In this case the lot exists and has a building located within it. While it is proposed to locate a dwelling within the site where permitted boundary setbacks from front, rear and one side boundary will not be provided, this is consistent with activity and setbacks on surrounding lots, all of which are substantially lesser in area than the Rural Zone minimum of 4 hectares and extend for some

distance surrounding the application site. The site and surrounding area therefore has an existing character more consistent with a rural residential setting, within which the proposed use of the site for residential purposes will sit comfortably. Established plantings surrounding the site also prevent direct views into the site, and this is not to change in the foreseeable future. The contribution of plantings to the character of the area will therefore not be interfered with. It is therefore considered that the proposed land use will result in adverse effects to the existing character that are less than minor.

Amenity, on the other hand, can be described as the qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. In this case the land use will become residential, as is the case on all surrounding lots. With regard to activity levels, the proposed residential use of the site is likely to result in lower activity levels than that which could reasonably be assumed in association with a commercial activity such as the approved olive pressing use. Activity levels occurring in association with the proposed residential use will also be consistent with that established in the immediately surrounding area. I note that the written affected party consent of all direct neighbours has been provided and therefore that no potential effects on those parties can be taken into account. It is therefore considered that any adverse effects to amenity will be less than minor.

Overall, it is considered existing character and amenity will be maintained and therefore that any related adverse effects will be less than minor.

### **5.3 Access**

The existing access to the site has been previously approved for a commercial activity and has been constructed to a high standard with good sight lines. It is therefore considered potential adverse effects associated with access will be less than minor.

### **5.4 Noise**

With regards to noise, the proposed residential use is likely to result in a lower noise environment than the previously approved olive processing use and will be consistent with noise generated from surrounding residential uses.

It is therefore considered any noise related adverse effects on neighbouring sites will be less than minor.

## 5.5 Conclusion

In conclusion, it is considered the potential adverse effects resulting from the proposed activity will be less than minor.

## 6. STATUTORY ASSESSMENT

### 6.1 RMA Section 104

Section 104 of the RMA sets out the matters to which a consent authority must have regard to, subject to Part 2 of the RMA, when considering an application for resource consent. These are:

- Any actual and potential effects on the environment of allowing the activity (refer Section 5 above);
- Any relevant provisions of:
  - a national environmental standard;
  - other regulations;
  - a national policy statement;
  - a New Zealand coastal policy statement;
  - a regional policy statement or proposed regional policy statement;
  - a plan or proposed plan; and
- Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Relevant documents and provisions are considered in the following sections.

### 6.2 Part 2 of the RMA

6.2.1 Part 2 of the RMA contains the purpose and principles of the Act. When considering an application for resource consent, a consent authority must take into consideration the purpose and principles of the Act.

6.2.2 Section 5 states the purpose of the Act as being the promotion of sustainable management of natural and physical resources. Sustainable management is further defined as the management of;

*'the use, development, and protection of natural and physical resources in a way, or at a rate, which enables 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 (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- I avoiding, remedying, or mitigating any adverse effects of activities on the environment’.*

6.2.3 Section 6 requires that in achieving the purpose of the Act, listed Matters of National Importance must be recognised and provided for. None of the matters listed are relevant to this proposal.

6.2.4 Section 7 of the RMA lists ‘other matters’ to which particular regard must be given in the consideration of managing the use, development and protection of natural and physical resources. The matters relevant to this application include:

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

6.2.5 For the reasons set out above it is considered the proposed residential use of this site will maintain amenity values and the quality of the existing environment. It will also provide for a use of the site that is efficient in the context of the surrounding land use.

6.2.6 Section 8 requires the ‘principles of the treaty of Waitangi’ to be taken into account. In this case the principles of the Treaty of Waitangi are not considered relevant.

6.2.7 Overall the proposal is considered to be consistent with Part 2 of the Act.

### **6.3 National Environmental Standards**

6.3.1 There are no National Environmental Standards relevant to this proposal.

### **6.4 Regional Policy Statement**

6.4.1 The Canterbury Regional Policy Statement (CRPS) was made operative on 15 January 2013. The CRPS gives an overview of the significant resource management issues facing the region and sets out objectives and policies to resolve those issues. The Canterbury Regional Council and territorial authorities are required to give effect to the CRPS through their regional and district plans.

6.4.2 The Objectives and Policies of relevance to this proposal are located in Chapters 5 (Land Use and Infrastructure), 6 (Recovery and Rebuilding of Greater Christchurch) and 11 (Natural Hazards). In summary the objectives of these chapters are to ensure that all sites are serviced with appropriate infrastructure considering the proposed use, that residential development only occurs in areas that have existing residential development or are identified for residential development and that the effects of natural hazards are managed, with the preference being avoidance. In this case the site is provided with reticulated water and wastewater services, the site is surrounded by existing residential development and the site is not impacted on by natural hazards to any more than a very minor degree. Overall, the proposal does not therefore raise any potential issues that would result in inconsistency with the outcome sought by the Canterbury Regional Policy Statement.

## 6.5 Operative Waimakariri District Plan

6.5.1 The proposal has been assessed against the Objectives and Policies of the Waimakariri District Plan. The relevant Objectives and Policies are considered below:

<b>Chapter 11 – Utilities and Traffic management</b>
<b>Objective 11.1.1</b> <i>Utilities that maintain or enhance the community's social, economic and cultural wellbeing, and its health and safety.</i>
<b>Policy 11.1.1.6</b> <i>Every site should have access that provides safe entry and exit for vehicles to and from the site to a road without compromising the safety or efficiency of the road or road network. Where a site has two or more road frontages access should be from the lowest road classification within the road hierarchy.</i>
<b>Assessment:</b> <p>The activity has established access from Bradleys Road via a constructed vehicle crossing suitable for the proposed residential use. The access has good site lines and the number of vehicle movements associated with residential use is low. Safe entry and exit from the site will therefore be provided for, while also not resulting in compromise of safety or efficiency of Bradleys Road.</p> <p>Overall, it is considered the proposal will result in outcomes sought by these Objectives and Policies, with the relevant expected environmental outcomes achieved.</p>



## **Chapter 12 – Health Safety and Wellbeing**

### **Objective 12.1.1**

*Maintain the amenity values and a quality of environment appropriate for different parts of the District which protects the health, safety and wellbeing of present and future generations, and ensure that any potential adverse environmental effects from buildings and structures, signs, glare, noise and hazardous substances are avoided or mitigated.*

### **Structures**

#### **Policy 12.1.1.5**

*In the Rural Zones maintain the amenity values of the environment by ensuring that the land is not dominated by dwellinghouses.*

### **Assessment:**

The location of a dwelling on the application site will not increase the overall density of dwellings in the area to any noticeable degree due to the already increase density relative to that expected in the Rural Zone and the central location of the application site within the existing higher density development. The proposal will therefore not result in any potential undermining of the existing amenity values of the area.

## **Chapter 14 – Rural Zones**

### **Objective 14.1.1**

*Maintain and enhance both rural production and the rural character of the Rural Zones, which is characterised by:*

- *the dominant effect of paddocks, trees, natural features, and agricultural, pastoral or horticultural activities;*
- *separation between dwellinghouses to maintain privacy and a sense of openness;*
- *a dwellinghouse clustered with ancillary buildings and structures on the same site;*
- *farm buildings and structures close to lot boundaries including roads;*
- *generally quiet – but with some significant intermittent and/or seasonal noise from farming activities;*
- *clean air – but with some significant short term and/or seasonal smells associated with farming activities; and*
- *limited signage in the Rural Zone.*

#### **Policy 14.1.1.2**

*Maintain the continued domination of the Rural Zones by intensive and extensive agricultural, pastoral and horticultural land use activities.*

#### **Policy 14.1.1.3**

*Maintain and enhance the environmental qualities such as natural features, air and noise levels, including limited signage and rural retail activities that contribute to the distinctive character of the Rural Zones, consistent with a rural working environment.*

### **Assessment**

The proposed activity will change the use of the site to residential from a commercial activity associated with a former horticultural use. However, it will not undermine the characteristics listed in Objective 14.1.1 due to the extent of development in the area that already does not maintain the outcomes sought and the siting of the application site internally within that development. The site is also existing and no change to the area of the lot is proposed.

The proposal is therefore not consistent with the outcomes sought by the relevant Objectives and Policies in Chapter 15, however neither is the existing development in the surrounding area and the proposal is therefore not considered to be contrary to the outcomes sought.

### **6.5.2 Conclusion**

Overall, it is considered the proposed activity will result in an outcome that is not entirely consistent with the relevant Objectives and Policies of the Operative Waimakariri District Plan. However, neither is the proposal considered to be contrary to those Objectives and Policies.

## **6.6 Proposed Waimakariri District Plan**

### **Transport**

#### **Objectives**

#### ***TRAN-O4 – Effects of activities on the transport system***

*Adverse effects on the District's transport system from activities, including reverse sensitivity, are avoided, remedied or mitigated.*

#### **Policies**

#### ***TRAN-P4 - New activities***

##### *New activities:*

- 1. locate on or establish primary access to the classification of road within the District Plan road hierarchy best able to accommodate the level and type of traffic generated;*
- 2. provide safe entry and exit for vehicles to and from a site to a road without compromising the safety or efficiency of the road corridor or rail corridor;*
- 3. where a site has two or more road frontages, provide access from the classification of road within the District Plan road hierarchy best able to accommodate the level and type of traffic generated;*
- 4. provide safe and efficient access, including ease of access by service and emergency service vehicles; and*

5. *provide facilities for safe active transport, including through marked on-road cycle lanes, separated cycle lane, sealed road shoulders with sufficient width to safely accommodate cyclists, off-road formed cycle paths, cycling end-of-journey facilities for staff, shared use path and footpaths.*

**Assessment:**

The activity has established access from Bradleys Road via a constructed vehicle crossing suitable for the proposed residential use. The access has good site lines and the number of vehicle movements associated with residential use is low. Safe entry and exit from the site will therefore be provided for, while also not resulting in compromise of safety or efficiency of Bradleys Road.

Overall, it is considered the proposal will result in outcomes sought by these Objectives and Policies, with the relevant expected environmental outcomes achieved.

**Rural Lifestyle Zone**

**Objectives**

**RLZ-O1 Purpose of the Rural Lifestyle Zone**

Primary production activities and activities reliant on the natural and physical resources of the rural environment occur while recognising that the predominant character is small rural sites with a more intensive pattern of land use and buildings than the General Rural Zone.

**Policies**

**RLZ-P1 Character of the Rural Lifestyle Zone**

Maintain the character in the Rural Lifestyle Zone which comprises:

1. a highly modified landscape strongly influenced by fine grained patterns and processes of human induced activity, including a predominance of small rural lots with a resulting pattern of residential units, buildings, fencing, amenity and domestic planting mixed with smaller scale primary production activities;
2. a dominance of human modified open space and vegetation, including paddocks and trees over buildings; and
3. a zone supporting activities reliant on the natural and physical resources of the Rural Lifestyle Zone.

**RLZ-P2 Activities in the Rural Lifestyle Zone**

Retain opportunities for land within the zone to be used for primary production activities while maintaining the predominant character of small rural lots by avoiding new sites being created, or residential units being erected on sites, that are less than 4ha, unless:

1. associated with the development of infrastructure which reduces the size of the balance lot or site to below 4ha;
2. associated with the establishment of a bonus residential unit or creation of a bonus allotment;

3. the erection of a residential unit is protected by a legacy provision in this Plan; and
4. is the establishment of a minor residential unit, where the site containing a residential unit is 4ha or greater, or is protected by a legacy provision in this Plan.

### **Assessment**

The proposal will not provide for primary production or activities reliant on the natural and physical resources of the rural environment. However, it will be a land use consistent with the area surrounding the site and the site does not lend itself to primary production activities currently due to its small area. The proposal will therefore maintain the existing character and reflect the existing activities surrounding the application site. Therefore, while not consistent with the outcomes sought by this, the proposal is not considered to be contrary to the outcomes sought.

## **6.7 OTHER MATTERS**

### **6.7.1 SECTION 104(D)**

Section 104(D) of the Resource Management Act 1991 sets out the requirements to be met before consent can be granted for a non-complying activity. Section 104(D) states:

#### ***104D Particular restrictions for non-complying activities***

- (1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
  - (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
  - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
    - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
    - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
    - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*

In this case the assessment above has shown that adverse effects will be less than minor and that the proposal will result in outcomes that are not contrary to those sought by the relevant Objectives and Policies of the District Plan. The application can therefore be granted.

## **7. NOTIFICATION**

### **7.1 Public notification**

Section 95A of the RMA is relevant when a consent authority is considering whether a consent application should be considered with or without public notification. Section 95A identifies a

four-step process to determine whether public notification is required. Having regard to the steps in section 95A, the following points are noted:

Step 1 (mandatory public notification pursuant to section 95A(2)):

- The applicant does not request public notification of the application; and
- The application is/is not made jointly with an application to exchange recreation reserve land.

Public notification is therefore not mandatory.

Step 2 (public notification precluded pursuant to section 95A(4)):

- There is no rule or national environmental standard that precludes public notification of this application; and
- The application is for a discretionary activity but does not involve a boundary activity.

Public notification is not precluded.

Step 3 (public notification required pursuant to section 95A(7)):

- There is no rule or national environmental standard that requires public notification of this application; and
- The adverse effects on the environment are less than minor in accordance with section 95D.

Public notification is not required.

Step 4 (public notification in special circumstances pursuant to section 95A(9)):

- No special circumstances are considered to exist in relation to the application.

Public notification under special circumstances is not required.

Based on the assessment provided in the sections above, it is considered that this proposal meets the tests of the RMA to be processed without public notification.

## 7.2 Limited notification

For applications that are not publicly notified the consent authority must, under section 95B, determine whether to make limited notification of an application to any affected parties. Section 95B identifies a four-step process. Having regard to the steps in section 95B, the following points are noted:

Step 1 (certain affected groups and affected persons must be notified)

- There are no affected protected customary rights groups; and
- The activity is not on land, or adjacent to land, subject to a statutory acknowledgement.

Step 2 (limited notification precluded in certain circumstances)

- There are no applicable rules or national environmental standards precluding limited notification;
- The application is not for a controlled activity; and

Limited notification is not precluded.

Step 3 (if not precluded by step 2, certain other affected persons must be notified)

- The application is not for a boundary activity; and
- Section 95E states that a consent authority must consider a person to be an affected person if the activity's adverse effects on the person are minor or more than minor (but not less than minor). As adverse effects have been determined to be less than minor, limited notification is not required. Written affected party consent has been obtained from all direct neighbours and therefore any potential effects on these parties cannot be taken into account.

No affected persons must be notified.

Step 4 (further notification in special circumstances)

- No special circumstances are considered to exist in relation to the application.

Having regard to these requirements, and as the adverse effects of the proposal are less than minor, it is considered there is no requirement for limited notification of the proposal.

### 7.3 **Section 95 conclusions**

Following the steps set out in sections 95A and 95B, it is considered the application can be processed without public or limited notification.

## 8. **ASSESSMENT OF ALTERNATIVES**

The activity is site specific and adverse effects associated with it have been determined to be less than minor. No assessment of alternatives is therefore required.

## 9. **CONSULTATION**

The applicant has consulted with neighbours, with all immediately adjacent neighbours providing written approval for the proposal.

## 10. CONCLUSION

J Latham is applying for land use consent to locate a dwelling at 107 Bradleys Road, Ohoka, being a site of less than 4 hectares in the Rural Zone and where boundary setbacks for a structure will be breached. A covenant recorded on the Record of Title will also require cancellation to enable the residential use.

The activity is to be assessed as a non-complying activity under the Operative District Plan.

Overall, the proposal is considered to result in adverse effects that are less than minor and will result in an outcome that is not contrary to that sought by the relevant Objectives and Policies of both the Operative and Proposed District Plans.

As the effects of the proposal are considered to be less than minor, public or limited notification of the application is not required. Written affected party consent has been obtained from all direct neighbours and therefore any potential effects on these parties cannot be taken into account.

On the basis of this assessment, it is considered the application for land use consent can be granted under Section 104 of the Resource Management Act 1991.