



## NOTICE OF DECISION

Resource Management Act 1991 (RMA)

|                             |  |
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| <b>Application Number:</b>  | SU-2022-1874-00 & LU-2022-1875-00  |
| <b>Applicant:</b>           | Vicarage Views Limited   |
| <b>Consent Sought:</b>      | Subdivision & Land Use   |
| <b>Address of Activity:</b> | 2 Mt Fyffe Road, Kaikōura<br><br>PT SEC 34 BLK X MT FYFFE SD & PT SEC 198 KAIKŌURA |
| <b>Legal Description:</b>   | SUBURBAN RD Lot 1 DP 575959  |
| <b>Valuation Number:</b>    | 2107031900 & 2107031902  |
| <b>Application Number:</b>  | SU-2022-1874-00 & LU-2022-1875-00  |

### REASONS FOR DECISION:

- Resource consent is required under the Kaikōura District Plan for a **Restricted Discretionary** activity.
- The application has been processed on a **non-notified** basis under Section 95 of the RMA.
- It is considered that the application is consistent with the policy and objectives of the Kaikōura District Plan.
- It is considered that the application is consistent with and does not contravene the Purpose the Resource Management Act 1991 (section 5). It is considered that the application is consistent with the Principles of the Resource Management Act 1991 (sections 6, 7 and 8). The activity is therefore assessed as being consistent with, and not contravening Part II of the Act.
- Council may grant or refuse this consent under sections 104 and 104C of the RMA and may set conditions under matters it's restricted it control to under section 108 of the RMA.

### DECISION: GRANTED

Consent is granted pursuant to section 104, 104C, 106 and 108 of the Resource Management Act 1991 to subdivide PT SEC 34 BLK X MT FYFFE SD & PT SEC 198 KAIKŌURA SUBURBAN RD Lot 1 DP 575959 into 72 lots as set out in the application SU-2022-1874-00 & LU-2022-1875-00 subject to the conditions in Appendix I.

Signed:



Date: 22/05/2023

**Commissioner Graham Taylor**

Signed:



Date: 22/05/2023

**Commissioner Mā-rea Clayton**

Signed:



Date: 22/05/2023

**Commissioner Ted Howard**

*All acting under delegated authority by the Kaikōura District Council*

PLEASE NOTE: THAT IT IS YOUR RESPONSIBILITY TO ENSURE THAT ALL CONTRACTORS ARE PROVIDED WITH A COPY THE ABOVE RESOURCE CONSENT, CONDITIONS AND UNDERSTAND THE ACCIDENTAL DISCOVERY PROTOCOL. SEE APPENDIX III.

## **Appendix I Conditions**

### **Subdivision: General Conditions**

1. The proposal shall proceed in general accordance with application and the accompanying site plan titles stamped Plan Approval 1874 held at Kaikōura District Council with the exception with compliance to the conditions below.  
*Advice Note: If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail*
2. In accordance with section 128 of the Resource Management Act 1991, the Kaikōura District Council may review any or all of the conditions of this consent by giving notice of review during June in any year after granting consent for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this consent, which were not foreseen at the time of application or where it was not appropriate to deal with at that time.
3. The consent holder shall meet all actual and reasonable costs incurred by this Council in monitoring, enforcement and administration of this consent.
4. All services (water, stormwater, sewer, electricity, communications) traversing lots other than those being served by the service and not situated within a public road, shall be protected by easements. All such easements, including any amendments found necessary during the final engineering design shall be granted and reserved.
5. A Memorandum of Easement for Rights of Way shall be registered as per the Scheme Plan.
6. Except as provided by Condition 7 below, all Council utility schemes (water, stormwater, sewer) existing or created located within the proposed lots shall be protected by an easement in gross in favour of the Kaikōura District Council of no less than 3m wide. All such easements must be accessible by legal road or local purpose reserve.
7. A Right to Drain Water shall be registered in favour of the Kaikōura District Council as Easement In Gross along the southern boundary of Lots 1-25, connecting to the Local Purpose Reserves. The easement shall be no less than 3m wide on Lots 1-21 and no less than 2m wide on Lots 22-25.  
*Advice note: The Consent Holder has volunteered this condition.*
8. A "No Complaint" Covenant be registered on the titles of those lots within the 100m setback from the Railway line.  
*Advice note: The Consent Holder has volunteered this condition.*
9. A "No Complaint" Covenant in relation to farming activities in favour of Section 27 Block X Mt Fyffe Survey District (being part RT MB5A/1012) shall be registered on Lots 1-25.  
*Advice note: The Consent Holder has volunteered this condition.*

### **Accidental Discovery Protocol**

10. The Accidental Discovery Protocol set out in Appendix 3 to the decision shall be followed at all times. The consent holder is responsible to ensure that all contractors are aware of and follow the Accidental Discovery Protocol.

### **As-Builts**

11. The consent holder shall submit to Council as-built drawings of all new Council Services, Rights of Way and Roads created.
12. As Built plans shall be electronic files (e.g. .dwg or .dxf files) showing all works and information as detailed in NZS 4404:2010 Schedule 1D
13. Plans shall be certified by a suitably-qualified person stating that they are a true and accurate record
14. Where the new services connect with the existing services the location, depth and orientation of the existing services shall be confirmed on the as-built plans.
15. Above ground existing services shall also be identified on the As-built plans. Where known, the location of existing underground service shall also be shown.

### **Water and Sewer Connections**

16. The Consent Holder shall provide connections to Kaikōura District Council's water and sewer systems to the boundary or net of each allotment
17. No construction of water or sewer connections shall begin prior to written approval by the Kaikōura District Council.

*Advice Note: To obtain approval to form water and sewer connections, the consent holder shall submit the form Application for Change to Water Levels of Service to the Kaikōura District Council. Only contractors approved by Council may perform the final tapping into live mains*

#### **Engineering Standards**

18. The consent holder shall ensure that all engineering works for the subdivision conform to NZ4404:2010 *Standards for Land Development and Subdivision Engineering* or any subsequent amendment to this standard.

*Advice note: Two sets of Engineering Plans may be issued should the Consent Holder wish to separate the works to upgrade Mt Fyffe Road as required by required in Condition 31.*

*Advice Note: The Consent Holder has volunteered to provide a copy of the approved Engineering plans to KiwiRail for their information*

19. Prior to any construction work being undertaken, the consent holder must obtain written approval by the Kaikōura District Council for any variation from NZ4404:2010 *Standards for Land Development and Subdivision Engineering* or any subsequent amendment to this standard
20. The Consent Holder shall provide to the Council a copy of the Discharge to Air, the Construction Stormwater Discharge Consents and the Operational Stormwater Discharge Application or Consents with the Engineering Plans so Council can confirm compliance with the same. Where any modification to the Application is required by the Operational Stormwater Discharge Consent Decision, the Consent Holder must re-submit amended Engineering Plans for Council approval.

*Advice note: The Consent Holder has volunteered this condition.*

21. Engineering plans shall include a copy of the Dust Management Plan, ECSP and Construction Management Plan.

*Advice note: The Consent Holder has volunteered to provide a copy of the Plans to Ministry of Education and Mr Margetts for their information*

#### **Telecom and Power Connection**

22. The 11kVa and 33kVa electricity lines shall be undergrounded through the subject property.
23. Provision shall be made for Electricity and Communications to the boundary or net of each allotment. Letters confirming provision has been made shall be provided from the Service Providers
24. A 3m wide Right to Convey Electricity in favour of Mainpower Ltd shall be registered as Easement In Gross on Lot 96

#### **Road Cutting**

25. The consent holder shall not undertake physical works on Mt Fyffe legal road without prior written approval of the Kaikōura District Council.

*Advice Note: To obtain written approval to undertake work on a legal road, the consent holder shall submit the application form for Road Crossing/cutting to the Kaikōura District Council for approval*

#### **Stormwater Management**

26. Prior to the commencement of preparation earthworks, the Consent Holder, at their own expense, shall supply to the Council a consent from Environment Canterbury for the management of construction-phase discharges.

*Advice note: Preparation Earthworks includes non-construction based earthworks such as sediment controls and stormwater diversion and treatment within the application site.*

27. The Consent Holder, at their own expense, shall supply to the Council one of the following prior to the commencement of any construction earthworks within the application site:

EITHER

a) A variation to Kaikōura District Council's existing global stormwater discharge consent from Environment Canterbury (CRC144682), to include the subject site;

OR

b) A stormwater discharge consent for Operational discharge specific to the site location from Environment Canterbury.

*Advice note: Construction Earthworks includes construction of reticulated services and roading within the application site.*

28. The Consent Holder shall install the stormwater system approved in Conditions 18 and 27 and shall provide connections to stormwater system to the boundary or net of each allotment

#### **Utility Reserve**

29. Lots 93-96 shall vest as Local Purpose Reserves

#### **Roading**

30. Lot 97 shall vest as Legal Road.

31. Mt Fyffe Road shall be upgraded to an 8m width south of the overbridge, and a Flag Light shall be installed at the intersection with Ludstone Road

32. Lot 97 shall be formed to be in general accordance with NZS4404 with an 8m wide carriageway and a 2m wide footpath as shown on the Engineering plans in Appendix C of the application.

33. Street Lighting in Lot 97 shall be installed as shown on the Engineering Plans in Appendix G of the application

34. Landscaping and street furniture shall be installed as per the Landscape concept plans in Appendix J of the application

35. Mt Fyffe Road (south) and the internal roads shall have a posted speed limit of 30km/h

#### **Rights of Way**

36. Rights of Way A and B shall have a minimum legal width of 4m and be formed 3.5m wide in general accordance with NZS4404 to the net of each allotment served with an exception that there is no turning area within the formation

#### **Vehicle Crossings**

37. Vehicle Crossings between 3m and 6m shall be formed and sealed to the boundary of Lots 28 and 92.

#### **Construction**

38. Construction activities shall occur between 7:00 am and 6:00 pm during weekdays and 7:30 am and 5:00 pm on Saturdays

39. Construction activities shall comply with noise standards as per NZS 6803:1999 Acoustics – Construction noise

40. Construction traffic shall adhere to the following:

a) heavy vehicles shall not use the Ludstone Road route to and from the site between 8.15 – 9.15am and 2.45 – 3.25pm. During those times, heavy vehicles are to use an alternative route; and

b) All traffic users are to recognise the posted speed limits through the school zone of 160m west and 180m east of Rorrison's Road.

*Advice note: The Consent Holder has volunteered this condition.*

41. All earthworks involving filling will be carried out in accordance with the standards in NZS4431:2022 Code of Practice for Earth Fill for Residential Development. A GeoProfessional will certify that those lots which have had earth fill placed on them and any retaining structures, are suitable for residential development in accordance with Appendix 2 of that standard.

42. A GeoProfessional shall confirm that each residential allotment has an area suitable for the construction of residential buildings in accordance with NZS 4404:2010 Land development and subdivision infrastructure - Schedule 2A

43. The Consent Holder shall construct a new fence along the southern boundary of the application site. The fence shall be a high quality post and rail stock proof fence with two electric hot wires installed on the side of Section 27 Block X Mt Fyffe Survey District (being part RT MB5A/1012).

*Advice note: The Consent Holder has volunteered this condition*

#### **Consent Notices**

44. A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered at the Consent Holder's expense against Lots 1-65 to address the non-compliance with density standards. The consent notice shall be worded as follows:

- a) Only one (1) dwelling shall be located on each lot.
- b) The maximum site coverage shall not exceed 35% on each lot.
- c) No lot shall be further subdivided, except that this consent notice does not apply to subdivision constituting a boundary adjustment where it does not result in the creation of additional Records of Title or is for the provision of a utility site, or where it is allowed as a permitted or controlled activity under the relevant Resource Management Plan.
- d) The construction of any dwelling shall comply with the requirements of land use consent LU-2023-1875 or subsequent consent.
- e) Where the allotment has two road frontages, the vehicle crossing shall be on the lower volume road.

45. A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered at the Consent Holder's expense against Lots 91-92 to address non-compliance of density standards. The consent notice shall be worded as follows:

- a) A density of one (1) residential unit per 300m<sup>2</sup> or up to 10 residential units, shall be located on each of Lots 91 & 92.
- b) The maximum building height shall be 5.5m above finished ground level.  
*Advice note: The Consent Holder has volunteered this condition.*
- c) The maximum site coverage shall not exceed 35% on each lot.
- d) The construction of any dwelling shall comply with the requirements of land use consent LU-2023-1875 or subsequent consent.
- e) The access may serve up to 10 residential units, and the driveway shall be formed and sealed to a 5.5m width.
- f) At the time of Building Consent on the lots, the proprietor shall demonstrate turning room, so vehicles exit the site in a forward direction.

46. A copy of the "No Complaint" covenant in relation to the effects of the Railway Line registered against those lots within 100m of the railway line shall be provided to Council for their information.

*Advice note: The Consent Holder has volunteered this condition*

47. A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered at the Consent Holder's expense against Lots 21-39 (within 40m of the Railway Noise buffer), to address the Railway Noise buffer. The consent notice shall be worded as follows:

- a) New buildings or alterations to existing buildings containing noise sensitive activities, must be designed, constructed and maintained to achieve train-traffic vibration levels complying with class C of Norwegian Standard NS 8176.E:2005 "Vibration and Shock – Measurement of vibration in buildings from land based transport and guidance to evaluation of its effects on human beings";
- b) Indoor design noise level as a result from Rail traffic must not exceed the following levels:
  - i. Bedrooms: 35dB<sub>L<sub>Aeq</sub>(1h)</sub>;
  - ii. Other habitable spaces: 40dB<sub>L<sub>Aeq</sub>(1h)</sub>;
  - iii. If windows must be closed to achieve the design noise levels in above, the building must be ventilated to meet clause G4 of the Building Code (Schedule 1).

*Advice note: The Consent Holder has volunteered this condition.*

48. A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered at the Consent Holder's expense against all the allotments to set out any limitations identified in Schedule 2A, outlined in Condition 42.
49. A copy of the covenant in relation to maintaining a post and rail stock proof fence in good working order along the southern boundary along Lots 1 – 25 whilst Section 27 Block X Mt Fyffe Survey District operates as a farm shall be provided to Council for their information.  
*Advice note: The Consent Holder has volunteered this condition.*

## **Land Use:**

### **General Conditions**

1. The proposal shall proceed in general accordance with application and the accompanying site plan titles stamped Plan Approval 1875 held at Kaikōura District Council with the exception with compliance to the conditions below:  
*Advice Note: If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail*
2. In accordance with section 128 of the Resource Management Act 1991, the Kaikōura District Council may review any or all of the conditions of this consent by giving notice of review during June in any year after granting consent for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this consent, which were not foreseen at the time of application or where it was not appropriate to deal with at that time.
3. The consent holder shall meet all actual and reasonable costs incurred by this Council in monitoring, enforcement and administration of this consent.
4. In accordance with section 35 of the Resource Management Act, monitoring of compliance with the consent will be undertaken by a council officer within six months of the date that the consent is given effect to.
5. This consent shall not commence until the Records of Title are issued for subdivision SU-2023-1874-00.  
*Advice note: The Consent Holder has volunteered this condition.*

### **Lots 1-65**

6. There shall be a maximum of one residential unit on Lots 1-65.
7. There shall be a maximum site coverage of 35% on Lots 1-65.
8. Buildings on Lots 1, 2, 16, 17, 39, 31, 47 and shall be set back at least 1m from Local Purpose Reserves.
9. Buildings on Lots 27, 29, 42, 45, 58 and 59 shall be set back at least 1m from neighbouring accessways
10. At the time of seeking Building Consent on the lots served by Rights of Way, the proprietor shall demonstrate turning room, so vehicles exit the Right of Way in a forwards direction.
11. At the time of actioning the Building Consent, the proprietor shall form and seal a vehicle crossing to the boundary to Council standards and a minimum width of 3m.  
*Advice Note: The proprietor shall submit an application, and obtain written approval, to undertake work on a legal road for Road Crossing from the Kaikōura District Council.*
12. Habitable buildings within 40m Railway Noise Buffer, as shown on the Land Use Plan attached as Sheet 2 in Appendix C of the application with the following requirements:
  - a) New buildings or alterations to existing buildings containing noise sensitive activities, must be designed, constructed and maintained to achieve train-traffic vibration levels complying with class C of Norwegian Standard NS 8176.E:2005 "Vibration and Shock – Measurement of vibration in buildings from land based transport and guidance to evaluation of its effects on human beings";
  - b) Indoor design noise level as a result from Rail traffic must not exceed the following levels:
    - i. Bedrooms: 35dB<sub>L<sub>Aeq</sub>(1h)</sub>;
    - ii. Other habitable spaces: 40dB<sub>L<sub>Aeq</sub>(1h)</sub>;

- iii. If windows must be closed to achieve the design noise levels in above, the building must be ventilated to meet clause G4 of the Building Code (Schedule 1).

*Advice note: The Consent Holder has volunteered this condition*

#### **Lots 91-92**

13. A density of one (1) residential unit per 300m<sup>2</sup>, up to a maximum of 10 residential units, shall be located on each of Lots 91 & 92.
14. Buildings shall have a maximum height of 5.5m above finished ground level on each of Lots 91 & 92.

*Advice note: The Consent Holder has volunteered this condition*

15. There shall be a maximum site coverage of 35% on each of Lots 91 & 92.
16. Buildings on Lots 91 and 92 shall be set back at least 1m from neighbouring boundaries (Lots 50-65).
17. Outdoor living spaces on Lots 91 and 92 shall comply with the following requirements:
  - a) Minimum area 10m<sup>2</sup> with 2m minimum diameter for a 1 bedroom unit;
  - b) Minimum area 20m<sup>2</sup> with a 3m minimum diameter for a 2 bedroom unit;
  - c) Minimum area 30m<sup>2</sup> with a 4m minimum diameter for a 3 bedroom unit;
  - d) Up to 5m<sup>2</sup> of outdoor living space may be roofed and one side may be enclosed to provide a sheltered area.

*Advice note: The Consent Holder has volunteered this condition.*

18. A minimum of one on-site carpark is required per residential unit.
19. One on-site, dedicated visitor carpark is to be provided for every 5 residential units.

*Advice note: The Consent Holder has volunteered this condition.*

20. All parking and access areas are to be sealed.
21. The access may serve up to 10 residential units, and the driveway shall be formed and sealed to a minimum of width of 4m.

*Advice Note: Physical width shall increase as number of units increases on access, to a maximum width of 5.5m.*

22. At the time of Building Consent being sought on the lots, the proprietor shall demonstrate turning room, so vehicles exit the site in a forwards direction.
23. All waste which is stored outside shall be screened from public view and adjacent residential properties.

#### **Advice Notes:**

*Kaikōura Council has expressed its continued advocacy and support for the Kaikōura International Dark Skies working group (KIDS) as it strives to achieve International Dark Skies Accreditation for the District and reduce light pollution and protect the environment from the nuisance of unnecessary lighting. To ensure that your lighting is appropriate please see the Responsible Lighting Guidelines for Kaikōura which can be found at <https://Kaikouradarksky.nz/>*

*You have the right of objection to the consent authority pursuant to section 357 of the Resource Management Act 1991 in respect to the above decision within fifteen working days of receipt of this decision. Should you wish to object to this decision please advise Kaikōura District Council in writing, setting out the reasons for your objections, within the above time limit.*

*Pursuant to section 125 of the Resource Management Act 1991 these consents will lapse on the expiry of 5 years after date of commencement of the consent, or such other date as provided for in the consent, unless:*

- *The consent is given effect to or;*
- *Application for an extension of time is made within 3 months after expiry of that period.*

*In accordance with section 127 of the Resource Management Act 1991, the consent holder at any time prior to the issue of a section 224 certificate may apply for the change or cancellation of any of the conditions of this consent.*



*Application forms for service connections and access are to be lodged with KDC and service approval fees paid prior to physical works commencing  
This is not a building consent. You are still required to obtain a building consent before any building work commences.*