

798 LONGBEACH RD

RESOURCE CONSENT APPLICATION BY GRAHAM AND JENNY OSBORNE

1. This report is in support of a resource consent application by Jenny and Graham Osborne to convert the former Longbeach Scout Hall at 798 Longbeach Rd into a residential dwelling.

Application site and surrounding environment

Address	798 Longbeach Rd
Legal Description	Lot 1 Deposited Plan 23186
Area	1667 square metres

Description of the proposed activity

2. This is an application to convert an existing and currently disused Scout Hall into a dwelling. The main building is old and rather dilapidated. The only external alterations proposed are to replace existing windows with modern joinery and repair or replace any existing building fabric as required. There will be no external extensions. Internally the existing hall is proposed to be converted into a 2 bedroom dwelling. An existing attached double garage building is to be retained. Shelter belts and mature vegetation on all four sides of the property will be retained.

Surrounding area

3. The surrounding area is almost entirely actively farmed, mostly in very large farms of up to 200 ha, which are grazed or cropped. The closest dwellings are across the road at 12 Bells Rd at approximately 120 metres distant and 19 Bells Rd at 160 metres and there are other well-spaced dwellings along Longbeach Rd.

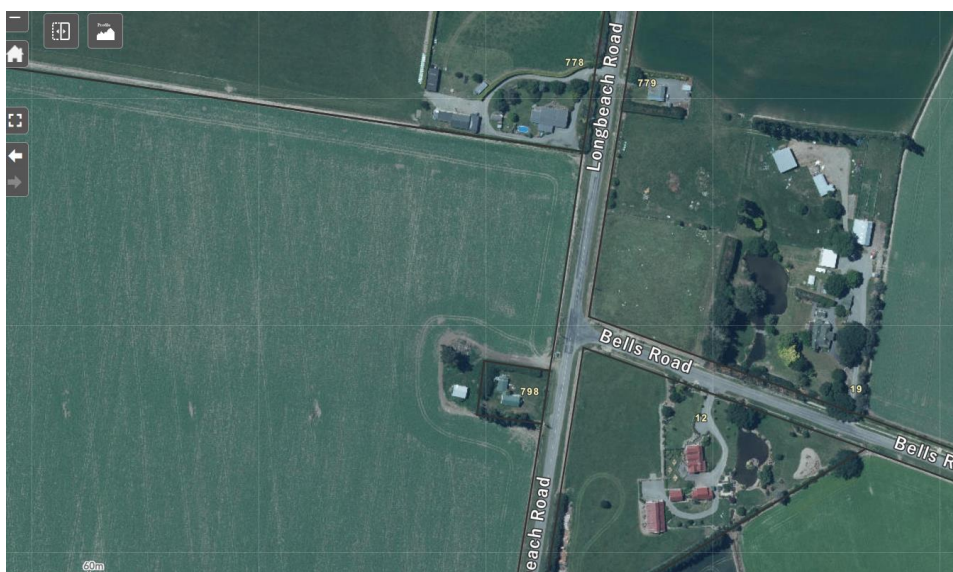


Figure 1 – Application site and immediately surrounding area, Source Canterbury Maps

Servicing

4. A water tank and a septic tank will be installed. A resource consent is held from Environment Canterbury for the septic tank.

Landscaping

5. The site is surrounded by shelter belts and other dense plantings which are to be retained other than at the accessway to Longbeach Rd. No other landscaping is proposed.

Access and Parking

6. Vehicle and other access are to Longbeach Rd. Vehicle parking will be on site.

Natural Hazards

7. The site is flat and surrounded by flat farm lands. It is not close to any waterways. It is close to but not within the flood risk area associated with the Hinds River on Flood Map F06 in the district plan. No natural hazards are anticipated other than those which would affect the entire district such as earthquakes or extreme weather events.

Earthworks

8. Earthworks will be minimal, largely for the installation of the septic tank and water tank, and possible maintenance of the driveway.

Subdivision

9. No subdivision is proposed.

Planning framework

10. The site is zoned Rural B in the operative Ashburton District Plan. The activity status is non complying under Rule 3.8.6

a) Any Activity which does not comply with any one or more of the relevant Zone Standards.

11. The activity does not comply with zone standard 3.10.1

3.10.1 Residential Density

a) Minimum net area for any one residential unit shall be:

- *8ha Rural A*
- *50ha Rural B and Rural C*

Except that the minimum net area for one residential unit on any allotment existing at the time of decisions on this Plan shall be 2ha, subject to compliance with all the relevant rules and standards in the District Plan.

b) There shall be only one residential unit on any land comprised in a separate site of less than 8ha in area.

12. At 0.1666 ha the site does comply with clause a) of this zone standard.
13. The proposal also does not comply with the following site standards under Rule 3.9.
- Under rule 3.9.2 site coverage in the Rural B zone is limited to 5%. The buildings comprise 111m², which amounts to 10.5% of the 1667m² site.
 - Under rule 3.9.5 separation from neighbours is to be not less than 20 metres. The Scout Hall building is 9.5m from the southern side boundary and 15 m from the eastern rear boundary.
14. By themselves, breaches of site standards would result in the proposal being a restricted discretionary activity. However, the zone standard prevails and the whole activity should be bundled and treated as a non complying activity.

Assessment of relevant objectives and policies of the district plan

15. The Zone statement for the Rural B zone sets out that the main purpose of the Rural B zone is to provide for agricultural and horticultural activities. It recognises that adverse effects can arise from this such as noise, dust and odours, including at night and early in the morning, and that there are likely to be large vehicles on the roads.¹
16. Relevant Objectives and policies of the district plan that address this purpose include the following.

Objective 3.1:

Rural Primary Production To enable primary production to function efficiently and effectively in the Rural A and B Zones, through the protection and use of highly versatile and/or productive soils and the management of potential adverse effects.

Comment.

17. Under Objective 3.1, although the site is located on potentially productive soils, it is a very small property and could not practically be used productively except together with the adjacent property. The cost of acquiring and clearing the property may make this uneconomic or unviable. Even if acquired and converted in this way its economic return would likely be negligible.

Policy 3.1A

Provide for the continued productive use through farming activities and protection of highly productive and/or versatile soils, and their associated irrigation resources, by ensuring that such land is not developed for intensive residential activity and/or non-rural activities and the extent of coverage by structures or hard surfaces is limited.

Comment

18. The land is already developed for non-residential activities and there would be a cost to converting it back. The extent of structures and hard surfaces is very small.

¹ At Clause 3.3.2

Policy 3.1D

Avoid the establishment of residential activities or the expansion of urban boundaries in close proximity to intensive farming or other rural activities, to manage reverse sensitivity effects that can be created by such activities i.e. noise, odour and dust.

Comment

19. Policy 3.1D is particularly relevant to this application in regard to reverse sensitivity and is discussed below.

Assessment of environmental effects

20. It is considered that there are only negligible direct adverse effects arising directly from the proposed conversion and restoration of the buildings.

Visual and landscape.

21. The visual appearance of the site will be enhanced by the restoration and repair of the dilapidated buildings on the site. The boundary plantings are attractive and fully compatible with the surrounding rural area, which is mostly held in large, open agricultural and cropping farms. Shelter belts are a common and accepted feature in the Rural B zone. There is an existing small rural cottage with a similar appearance to the subject site approximately 500 metres to the south on Longbeach Rd which appears to be on part of the surrounding large farm. There is a dwelling almost opposite at the intersection of Longbeach Rd and Bells Rd from which the site is visible, although the buildings and any activities on the site are partially screened from this dwelling by the frontage planting on the site.

Transport

22. Access to the site will be almost exclusively by vehicle due to the distance from any other options. Longbeach Rd is sealed with two lanes and wide grass verges and a speed limit of 100km/hour. The road is straight for almost 2 kilometres to the north and 0.5km to the south. There is an intersection to the north with Bells Rd, on the opposite side approximately 65 metres from the accessway.
23. The land is flat all around and visibility is excellent in all directions, for drivers on Longbeach Rd and Bells Rd and for drivers entering and leaving the site. Traffic levels on Longbeach Rd are light. Traffic safety issues are expected to be negligible and similar to those arising from existing dwellings along this road and in similar situations all over the rural plains.

Reverse Sensitivity

24. Reverse sensitivity on surrounding rural operations is expected to be the only potential effect of concern related to this proposal. Reverse sensitivity has been defined as *A key consideration when preparing a plan is reverse sensitivity: the introduction of sensitive activities (e.g. residential activities) within the vicinity of existing activities (e.g. rural or*

industrial sites) which may lead to restraints or demands for restraints on those existing activities.²

25. The surrounding rural area is extensively used for agriculture in the form of large scale pastoral farming and cropping. There is the potential for adverse effects to arise at the application site from these activities, particularly from cropping and harvesting, including noise and dust, as well as odours from farmed animals, the production and storage of silage, and from spray drift. Operations such as harvesting may occur during very early or during night time hours.
26. There is a large pump station on the road frontage of the neighbouring property immediately adjacent to the southern boundary of the site. This has the potential to result in noise issues on the subject site.
27. There is therefore the potential for occupants of the proposed dwelling to be adversely affected by adjacent rural activities.
28. Most of the adverse effects described above would be relatively short term, intermittent or occasional, and seasonal, lasting for a few days or less on each occasion. The majority of time no such effects would not occur at all, although it is likely that the pump station would operate more regularly for irrigation and other purposes.

Proposed Mitigation

29. The applicant proposes that a restrictive covenant be placed on the record of title for the property preventing the owners from lodging complaints to the Council or Environment Canterbury about effects arising from grazing or cropping activities on adjacent or nearby sites.
30. It is not considered that this covenant should refer to intensive farming such as pig or poultry farming as there are no such operations currently close to the site and ample room on the surrounding sites for such operations to be established sufficiently away from the site to preclude or reduce odours at the site.
31. Windows and any glazed doors should also be double-glazed to reduce noise transmission.
32. Conditions of consent should be imposed for these matters.
33. If necessary, an acoustic fence could be constructed along the southern boundary of the site to reduce the noise levels from the pump. This could be a condition of consent, although it could also be left to the discretion of the owners should they consider it necessary. An advice note to this effect has been included in the suggested conditions below.
34. Noise and dust would also be reduced at the subject site by the shelter belts, particularly when these are in leaf, which is when most of the activities of concern would be taking place.

² In the Environment Guide, an online publication of the Environment Foundation, at [Resource Management Act 1991 • Environment Guide](#)

Positive effects

35. A positive effect of the proposal would be the restoration of the Scout Hall building which is becoming dilapidated and unsightly, and the property which, is becoming overgrown.
36. Another positive effect would be the retention of a building with some heritage value, being a longstanding community building in the area, although not listed in the district plan. There is another more significant heritage site, Longbeach Estate, at the far end of Longbeach Rd, which originally stretched from the coast to State Highway 1 and from the Ashburton to the Hinds Rivers.

Assessment Matters of the District Plan

37. Rule 3.11 contains assessment matters which are to be considered for all resource consents. The following matters are relevant and briefly discussed.

3.11.1 Residential Density and Building Coverage

a) The degree to which the residential density or building coverage has an adverse effect on the open character of the site and the surrounding area, in particular:

- *in the Rural A and B Zones the extent to which building coverage on the site would visually dominate a site which would be out of character with the local environment*

b) The degree to which residential density or building coverage shall compromise the productivity of Land Capability Classes I and II (New Zealand Land Resource Inventory) in the Rural A and B Zones.

c) The necessity for a residential unit on a site with a smaller area in order to provide management, supervision or security for a permitted rural activity

38. At 10% site coverage and with the wide open nature of all the surrounding properties, there is minimal effect on the open space character of the site and surrounding area and no visual domination. The appearance of the site is little or no different from the appearance of the built sections of surrounding farms.
39. Because of the small size of the site in comparison with the whole Rural B zone, and because it is already not in production there would be only minimal effect on the overall productive value of the surrounding area.
40. The proposal is not necessary to provide management, supervision or security for a permitted rural activity.

3.11.2 Building Height and 3.11.3 Road Boundary setback

41. As the buildings are compliant for height and road boundary setback these assessment matters are not applicable.

3.11.4 Setback from Neighbours

a) The extent to which the intrusion towards the internal boundary is necessary to enable more efficient, practical and/or pleasant use of the remainder of the site.

42. The buildings are existing. Their location does provide a wide central area of open space on the site for the use and enjoyment of the site.

b) The extent to which alternative practical locations are available for the building.

43. The buildings are existing and are not proposed to be relocated, so the question of alternative siting is not applicable.

c) Any adverse effects of the proximity or bulk of the building, in terms of visual dominance by buildings of the outlook from adjoining sites and buildings, which is out of character with the local environment.

44. The distance of the buildings from buildings on adjoining sites means there is no visual dominance.

d) Any adverse effects on adjoining sites of the proximity of the building, in terms of reduced privacy through being overlooked from or being in close proximity to neighbouring buildings, to an extent which is inconsistent with the surrounding environment.

45. The distance of the buildings from buildings on adjoining sites means there is no reduction in privacy due to proximity of neighbouring buildings.

e) Any adverse effects of the proximity or bulk of the building in terms of loss of access to daylight on adjoining sites.

There would be no shading cast by the buildings on adjoining sites because the existing shelter belts, which are a permitted activity, would cast longer shadows

f) The ability to provide adequate opportunities for garden and tree plantings around buildings.

There are already ample tree and shrub plantings along all the boundaries of the site and ample opportunity for more if the owners wish to provide them.

g) Any adverse effects of the proximity of the building in terms of difficulty of access to the building or to adjoining rear sites.

46. There are no difficulties with access and no adjoining rear sites requiring access.

h) The extent to which the use of the proposed building will detract from the pleasantness or amenity of adjoining sites, in terms of such matters as noise, smell, dust, glare or vibration.

47. The small scale residential use of the site and distance to other dwellings means there will be little or no such nuisance effects.

i) Any adverse effects of the proximity of buildings housing animals in terms of noise, smell, flies or vermin on adjoining sites.

48. There are no housed animals in the vicinity on surrounding sites and any proposal to create such buildings would be subject to the district plan which require generous 80 metre setbacks to avoid such effects under site standard 3.9.5

j) The ability to mitigate any adverse effects of the proposal on adjoining sites, including through the provision of landscape plantings.

49. The existing boundary plantings already mitigate any effects of the proposal on adjoining sites.

50. The remaining assessment matters are not relevant to this proposal.

Conclusion as to effects

51. It is considered that there are only negligible direct adverse effects arising directly from the proposed conversion and restoration of the buildings. Positive effects will include restoration of a community building with some heritage value and visual improvement of an unkempt site. The only potential adverse effect of concern is reverse sensitivity. Because of the very limited amount of time when most potential adverse effects can be expected to occur, and the mitigation proposed, the effects of this application will be less than minor.

Statutory framework

Part 2 of the Resource Management Act (the RMA)

52. Taking guidance from recent case law³, the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Ashburton District. It was competently prepared in a manner that appropriately reflects the provisions of Part 2. In particular the objectives and policies discussed above clearly reflect and give effect to Part 2. Considering the significance of this application in the context of the Ashburton District and in particular the Rural B zone, accordingly no further assessment against Part 2 is considered necessary.

53. Section 104 of the RMA sets out the requirements for considering a resource consent application. Relevant provisions include:

(a) any actual and potential effects on the environment of allowing the activity; and.....

(b) any relevant provisions of—

.....

(iii) a national policy statement:.....

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

54. Of these matters for consideration, the effects on the environment have been considered above, as have the provisions of the district plan. The Canterbury Regional Policy Statement and the National Policy Statement for Highly Productive Land are also relevant.

The National Policy Statement for Highly Productive land (the NPSHPL).

55. The NPSHPL contains policies that are very similar to the District Plan provisions, although it is noted that this was prepared after the district plan.

³ *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316

Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.

Policy 8: Highly productive land is protected from inappropriate use and development.

56. The National Policy Statement for Highly Productive Land (NPS-HPL) is a potentially relevant national policy statement to consider under s104(1)(b)(iii). The interim definition of 'highly productive land' currently applies pursuant to cl. 3.5(7), as the Canterbury Regional Policy Statement does not yet map highly productive land in accordance with the NPS-HPL. The Site is zoned in a general rural zone (Rural B), is entirely LUC Class 2 land and is not subject to the exemptions in cl. 3.5(7)(b). However, cl. 3.9(2) of the NPS-HPL allows for appropriate use and this includes use for a small-scale activity that has no impact on the productive capacity of the land (cl. 3.9(2)(g)). Given the proposal will result only in the change in use of an existing building on a 1667m² site already used for non-rural purposes, there will be no loss of highly productive land. On this basis, the proposal is considered to be consistent with the objectives and policies of the NPS-HPL.

The Canterbury Regional Policy Statement (the CRPS)

57. Chapter 15 of the CRPS deals with soils. However the only issues discussed are Soil Degradation and Soil Erosion, and there is nothing specific in relation to protection of highly productive land. That is likely to change if or when the Regional Council acts to implement the NPSHPL but at present the CRPS appears to contain nothing of direct relevance to this application, and the topic is dealt with more specifically in the NPS and the District Plan. In addition, the site of this application is insignificant in a regional context. Therefore there is no need to consider the CRPS any further.

Section 104D

58. This section provides that:

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.

59. Subclauses (a) and (b) contain alternative preliminary tests. If the application passes either, it may proceed and be considered on its merits. If it passes neither it cannot proceed. In this case, as discussed above, the effects of the proposal would be minor or less, so subclause (a) is satisfied and the application can proceed.

Precedent

60. Because this is a non-complying activity, it is appropriate to consider precedent. Situations similar to this are likely to be rare. For precedent to be relevant there would have to be a small, disused former community building, on its own separate small title, in an expansive Rural B or C zoned area, relatively distanced from any settlement, surrounded by large farms and on a lightly travelled local road. Such examples are likely to be rare, and could legitimately considered on their own merits.

Notification Issues – Public notification

61. Section 95A of the RMA provides a 4 step process to determine if an application should be publicly notified.

Step 1 – mandatory public notification

- a) The applicant does not request public notification.
- b) The criteria in section 95C which relates to further information being refused does not apply.
- c) The application is not a joint one with an application under the Reserves Act.

62. Therefore public notification is not mandatory.

Step 2- public notification precluded

- a) There is no rule which precludes limited notification.
- b) The activity is not a controlled, restricted discretionary, discretionary or non-complying activity that is exclusively a boundary activity.

63. Therefore public notification is not precluded.

Step 3 -public notification is required

- a) There is no rule which requires public notification.
- b) The effects are not more than minor.

64. Therefore public notification is not required.

Step 4: public notification in special circumstances

- a) There are no special circumstances exist in relation to the application that warrant the application being publicly notified .

Limited notification

65. Section 95B of the RMA provides a 4 step process to determine if an application should be limited notified.

Step 1: certain affected groups and affected persons who must be notified

b) There are no affected customary rights groups; or statutory acknowledgement parties as defined in s95 (2) and 95A(3) who must be notified.

66. Therefore limited notification is not mandatory.

Step 2 limited notification precluded in certain circumstances

a) There are no rules or national environmental standards that preclude limited notification for this activity.

b) The application is not a controlled activity

67. Therefore limited notification is not precluded.

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

a) The application is not for a boundary activity and therefore there are no owners of infringed boundaries.

b) Because the effects would be less than minor there would be no affected persons under section 95E.

Step 4: further notification in special circumstances

a) There are no special circumstances applying to this site.

68. Therefore the application need not be limited notified.

Conclusion

69. With the proposed mitigation, the effects of the proposal would be less than minor, and there is no requirement for public or limited notification.

70. The proposal satisfies the requirements of the Resource Management Act and is consistent with the objectives and policies of the district plan.

71. It is considered that the application can be considered and granted on a non-notified basis, subject to the conditions set out in Appendix 4..

Appendix 1: Records of title

Appendix 2: Site Plan

Appendix 3: Site photographs

Appendix 4: suggested Conditions of Consent

Appendix 5; Email correspondence with Council regarding Plans

Appendix 1: Record of Title

Appendix 2; Site Plan

Appendix 3: Site photographs

Appendix 4: Suggested Conditions of Consent and Advice Note