

SIMON JENKIN – Licensed Cadastral Surveyor

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9 April 2017

16S02rca3

The Subdivision Consents Officer
Dunedin City Council
PO Box 5045
DUNEDIN

Dear Sir

Re PROPOSED 2-LOT SUBDIVISION – 25 ASHTON STREET, MOSGIEL
LOT 1 DP 304960 – CR 20454

Please accept for consideration and consent under Sections 88 and 105 of the Resource Management Act 1991, the attached documentation relating to the proposed subdivision and land described below.

This proposal is for a non-complying subdivision within the Rural Zone of the Dunedin District plan, however, the non-compliance (area) does not compromise the aesthetics, the existing amenity or any neighbour. The protection of an existing heritage building is enhanced, therefore this proposal is considered to fall within the Category A subdivision activity category, the appropriate fee (deposit) of \$1800.00 is enclosed.

REASON FOR APPLICATION

This proposal is to facilitate the protection of a unique heritage building, being the Johnstone Farm Homestead, at 25 Ashton Street, Mosgiel. And in addition, around 6 ha of Rural land around the Homestead will be freed up for the agricultural/farming activity commensurate with the zone and the class A soils.

Subdivision is the appropriate legal mechanism to facilitate this intent. All subdivision is a discretionary restricted activity requiring a TA consent.

PROPOSAL SUMMARY

All of the land is held in a single certificate of title CR 20454, with existing fencing and land management for several areas, including the homestead, associated out-buildings and several paddocks. The homestead includes numerous mature, significant 'designated' trees and established garden, and it is appropriate for a suitably shaped curtilage to be associated with the historic home.

The proposal is therefore to identify that curtilage (as Lot 2) and for this area to be subject to certain, specific restrictions in relation to the heritage protection.

The access to the homestead block (proposed Lot 2) will be via the existing driveway using a right of way over the proposed Lot 1, with the balance parcel (Lot 1) of around 6 ha. Apart from the management/owner residence, the only activity on Lot 1 will be farming.

To facilitate sustainable land management a building platform is proposed for lot 1, and, with the exception of the undersized area, the proposed platform will meet all the other District Plan bulk and location requirements for the Rural Zone.

PROPERTY DESCRIPTION.

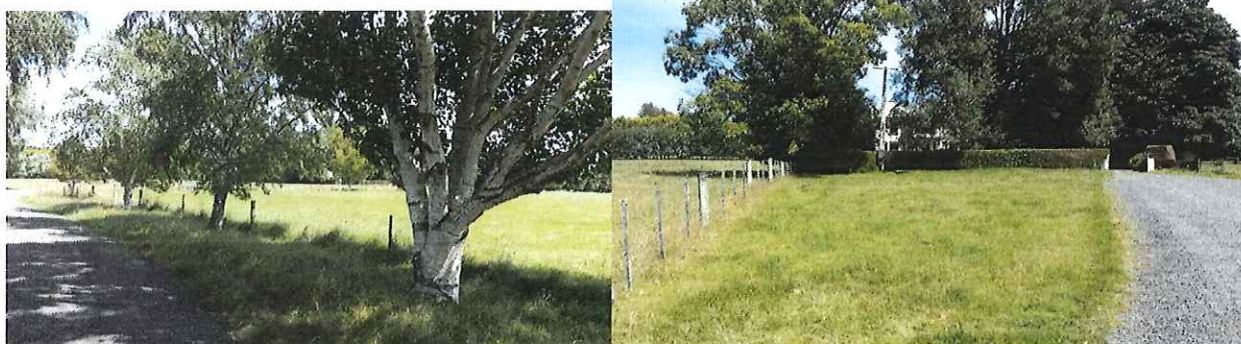
Please refer to the attached Scheme Plan 16S02_SPA, the aerial photograph and the location diagram.



The subject site is located at the south-western end of Ashton Street, Mosgiel. The entrance is shown in the above photograph, the proposed building platform is 50m beyond the tree on the left of the picture. The site is a flat rectangle of about 320m by 300m. All of the boundaries are fenced and the property is in excellent condition (maintenance of the fences, pasture and trees).

The southern boundary adjoins the Tranzrail corridor, the eastern boundary adjoins numerous residential properties, whilst the northern and western boundaries adjoin Rural land.

A leg-in driveway from Ashton Street leads to the single residential dwelling within the property, this dwelling, the Johnstone Homestead, is a Category 2 Heritage NZ building and is Designated in the District Plan (B633). The following photographs depict the driveway and the first views of the Homestead:





There are 7 designated trees on the property, all are within the driveway or within the immediate surrounds of the homestead (T's 095, 096, 097, 098, 099, 1209 & 1210).

The property is currently used for sheep farming.

The Johnstone Homestead is in above average condition and has been maintained in the original form. The servicing of the Homestead is existing and no change is proposed.



There are shelter belt plantings on most of the internal fencing.

Apart from those listed, there are no other known designated items and no significant or culturally important sites or items within the boundaries of this proposed subdivision site.

HAIL consideration

No landuse change is promoted, apart from the single new residential activity. One hectare of the land surrounding the homestead has been used for organic market gardening in the past. The only pesticide used on the property is herbicide to control thistles in the pasture.

This property has been in the same family ownership since 1910. To the best of the knowledge of the current family member (occupier), the area of the proposed building platform has never been used for market gardening, or any form of intensive horticulture production.

Therefore it is considered highly unlikely that any part of this proposal will result in any increased risk to human health, nevertheless, a PSI has been requested from Council.

PROPOSAL

This is a 2-lot subdivision as per the scheme plan 16S02_SP_C (note: all subject to survey). All site access is from the end of Ashton Street, with a proposed right of way to allow legal and physical access? to Lot 2 from Ashton Street.

This specific layout has been chosen because this is a “true exception” site. The primary goal in this proposal is the protection of the historic buildings and designated trees.

Lot 1 is to be 6.03ha (subject to survey), and contains the proposed building platform. The building platform is positioned to meet the side yard requirements of the Rural Zone. All access and servicing (power and phone) is to be via the driveway shown, the new dwelling will be serviced with a septic tank and collection tanks for rainwater. Excess rainwater is to drain to the Owhiro Stream which flows along the southern boundary adjoining the rail corridor. The balance of Lot 1 is to be utilised for farming (permitted Rural Zone) activities.

Lot 2, at 3.55ha (subject to survey) contains the existing designated items and the existing farm outbuildings. The existing dwelling is fully serviced, no change to that servicing is proposed. The physical ‘fenced’ width of the access driveway is to be increased to allow additional vegetation for the purposes of enhancing the Rural landscape visual amenity protection.

COMPLIANCE WITH THE DUNEDIN DISTRICT PLAN

All of the subdivision land is zoned Rural in the Dunedin District plan.

This proposal has been discussed at a pre-application meeting with Council’s senior Planner, Campbell Thomson. The Exceptional circumstances of this site (viz, the heritage items) was discussed and recognised. At that meeting Council viewed this proposal favourably.

The existing site land area is (CT area) 9.5836 ha, which means that there is existing area non-compliance. This proposal increases the degree of non-compliance for the existing residential activity, and proposes a new residential activity on 6.03 ha of land (the proposed Lot 1).

The homestead will retain 3.55ha, which is well below the 15ha minimum, however, the land associated with the historic dwelling is complimentary to the practical management of that existing residential activity.

The homestead retains complying side yards and height limits, but will have a non-complying area and non-complying access to Ashton Street (right of way).

Ashton Street is formed and sealed and has adequate capacity to cope with the expected additional 8 VPD with the proposed new residential activity on Lot 1.

2GP considerations:

From the 2GP

"The 2GP includes a series of significant changes to address these issues. These can perhaps be described as a "give and take", in that the 2GP is getting much tougher on subdivision that leads to conversion of rural land to rural residential land, but is more lenient on allowing many areas of land that are already 'fragmented' to have residential activity. The 2GP will also make it easier for surplus farm dwelling subdivisions and the building of workers accommodation through the family flat provisions."

The site is zoned Rural Taieri Plains in the 2GP, the minimum site area for residential activity is 40 ha. This proposal does not comply. However, the 'philosophy' of the 2GP (above in italics) recognises the existence of existing undersized Rural parcels, and that these undersized parcels can be sustainable and not detract from the existing Rural amenities.

The 2GP stated intent is to be tougher on any proposal changing rural land to rural residential land. However, in this case the land is already 'rural residential'. Whilst the scope and intensity is proposed to change, this site is a "true exception". The intent of this proposal is not to create a 'rural residential' site as that already exists. It is singularly to provide the best sustainable long-term protection for heritage items recognised in the Dunedin District Plan as being of high value to the City.

The residue land (Lot 1) can be managed by consent conditions to enhance the existing rural visual amenity by judicious vegetation management and prohibition of further fragmentation. In addition, by separating the management of the heritage site from the management of a rural site, the focus on the activities on Lot 1 will be solely rural/farming. This will be an improvement on the existing management situation, and is the preferred activity 'change' direction of both the Dunedin District Plan and the 2GP.

The layout is practical and sustainable, all the Issues, Policies and objectives of the District Plan are considered to be respected and the intent of the 2GP is respected.

However, this proposal is technically for a Non-Complying activity and should be processed accordingly.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

In terms of Section 88 and the Fourth Schedule of the Resource Management Act 1991, and in terms of the existing environment.

This proposal is primarily to facilitate a significant improvement in the property management for an existing heritage building. Isolating the designated building and trees within a specific 'managed' site is positive in terms of effects, and positive in terms of preserving the City's heritage.

Both the District Plan and the 2GP recognise the existence of and the practicalities of existing smaller Rural parcels, and that properly managed, the amenity of the Rural land is not compromised.

To that end, the essence of the Rural amenity is the openness of the vista and the absence of manmade structures. Johnstone Homestead has been present on the Taieri Plains for over 150 years, yet the majority of the public are not aware that it exists. It is a large two storied white

house, which enjoys a sunny outlook with expansive views across the Taieri Plains. The homestead does not feature in any view from any public viewing location because of the established large trees.

This is a fine example that judicious planting can eliminate the visual impact of a manmade structure.

The only additional element in the Rural landscape in this proposal is the proposed new dwelling. The external appearance and colours of that dwelling will be subject to Council's approval at the time of building consent application. In addition, it is proposed here that a vegetation planting/management plan be lodged for approval at the same time as the building consent. This is covered in the proposed consent conditions.

The proposed building platform meets all the yard (separation) requirements, which means that the undersized area does not force any unexpected activity 'proximity' in relation to the adjoining owners. That is, a new dwelling in excess of 40m from a residential boundary is anticipated by the District Plan as being an acceptable permitted Rural activity location.

The proposed layout allows for a more efficient management of the Homestead and curtilage, which means that the landscaping and ongoing development of the proposed Lot 2 will be an appreciating City asset.

The balance land (Lot 1), with the new residential activity, will exist as a large Rural lifestyle site. This is what is happening now, except the management of that land is shared between rural land management and heritage asset management. This proposal will allow the owner of Lot 1 to focus on the land management and not have to also maintain the heritage values. Therefore the existing Rural amenity, as perceived by the adjoining owners will not be compromised provided the vegetation management plan is actioned in conjunction with the new dwelling construction. In fact the rural amenity as perceived by the adjoining residential owners will likely improve.

FLOODING

The Owhiro Stream was re-routed along the southern (railway) boundary about 50 years ago. Parts of Lot 1 have shown surface water in heavy rainfall events, however, the Owhiro Stream has never overflowed its banks and the Homestead has never been flooded in living memory. Field drains have been constructed within Lot 1 to assist with water drainage to the Owhiro Stream.

A condition of consent is proposed that requires the floor level of any new dwelling to be at or higher than the ground floor level of the existing Homestead.

TRANSPORTATION

Ashton Street has adequate capacity for the additional 8 VPD expected with the new residential activity. The entranceway, including the proposed Right of Way entrance, is currently constructed with masonry walls and a cattle-stop (please refer to the first site picture). The driveway is metalled, in very good condition and is adequately drained. The cattle-stop provides the same, if not better efficiency in keeping driveway metal being tracked onto Ashton Street, and the cattle-stop construction completely eliminates the possibility of the Ashton Street seal edge being broken or damaged. No change is proposed to the cattle-stop or the entranceway as the Transportation Department minimum requirements under Section 18 in the District Plan are met.

SERVICES

The new dwelling will be obtaining power and telecommunication reticulation from Ashton Street. It is proposed that adequate rainwater storage tanks be part of any building consent application, to supply both domestic water and fire-fighting. Although, for fire-fighting purposes, a Fire Hydrant exists at the corner of Shaw and Ashton Streets, about 125m from the proposed building platform.

It is proposed that a new septic tank on-site disposal system be part of any building consent application, and that the surplus rainwater be piped to the Owhiro Stream.

This proposal will have significant positive effects in that the existing dwelling site, Lot 2, will be more easily managed and preserved. It will also mean that the balance land can be managed as a large rural lifestyle block rather than trying to manage a dual role of heritage and farming.

The overall density does not comply, however, the District plan and the 2GP recognise that these smaller sites can sustainably exist provided the potential for adverse effects (in this case visual only) can be adequately mitigated. The 'invisibility' of the existing homestead is proof that this can happen.

The positive effects relate to the preservation and protection of the heritage values, and the enhanced management of the balance land.

The only readily perceived changes will be a change to the VPD in Ashton Street, and a new dwelling within Rural land. However, that new dwelling position will not compromise the amenity or integrity of either the District Plan or the adjoining owners as the Rural side yards are satisfied and the visual impact can be mitigated.

PRECEDENT

This proposal is for significantly undersized Rural sites. It is acceptable planning practice to isolate and identify heritage, cultural, archaeological, significant or hazard sites. This site is undeniably significant in terms of the City's history and it has a high heritage value. There are no other even vaguely similar sites in the locality. Any claim of precedent would necessarily need to demonstrate the same or greater heritage values. The only other site in Dunedin with some similarities is 949 Highcliff Road and this site has a Consented undersized site specifically to protect a heritage building in the Rural zone.

Hence, overall the potential for adverse effects is considered less than minor.

AFFECTED PARTIES.

No residential neighbour has been approached as no member of the public can justifiably object to a new dwelling on the basis of visual or location effect. This is because of the proposed separation distances and proposed vegetation management. The proposed dwelling will have no greater visual effects than those predicted by the District Plan.

The only matter potentially giving rise to objections is the proposed land areas. This proposal has similar elements to the subdivision at 949 Highcliff Road where another heritage building (cheese factory) was isolated on a significantly undersized allotment within the Rural zone. The 949 Highcliff Road subdivision was approved by Council then taken to the Environment Court contesting that the heritage building was not sufficient grounds to justify the undersized parcel. The Court found that the Council decision was correct and rejected the appeal.

The Highcliff Road balance land did, and continued to comply with the Rural minimum area for residential activity.

The difference with this Ashton Street proposal is that the balance land (Lot 1) is undersized. However, it is pertinent that the site affected by this current proposal is already non-complying in terms of area and that a better outcome in terms of City Heritage protection, and improved Rural amenity is anticipated.

Accordingly no member of the immediate community or greater Dunedin Community has been approached as they are not considered as 'affected parties'.

In addition, we consider that the intent of the District Plan and the 2GP has not been compromised, in fact this proposal has the potential to enhance the very values espoused in those documents.

The proposed dwelling platform is 40m from the boundary common with the Railway Corridor. TRANZRAIL (KIWIRAIL) advises that they require a covenant registered on the title of any 'new' property where residential activity is proposed within 70m (for sound) and 100m (for vibration). The covenant prohibits the occupants objecting to any noise or vibration emanating from the KIWIRAIL operations. We are currently negotiating a letter of agreement from KIWIRAIL to demonstrate to Council that KIWIRAIL has no objection to this subdivision proposal.

We note that Rule 9.3 in the 2GP will be applicable when the 2GP becomes operative, and it is highly likely that the essence of the agreement between the applicant and KIWIRAIL will be a privately registered covenant requiring sound proofing (as per Table 9A in the 2GP) and specific conditions relating to any objections to the KIWIRAIL operations.

Hence, KiwiRail is particularly concerned with the reverse sensitivity issues relating to noise and vibration in relation to the proximity of the building platform. They have no interest in the allotment size. It is likely that their approval for this subdivision proposal will be forthcoming on the basis of a private restrictive covenant in perpetuity.

CONDITIONS OF CONSENT

1. That the subdivision be given 'effect to' generally in accordance with the details provided in the application and conditions of the consent.
2. That any service easements found to be necessary during the survey shall be granted or reserved and shall be shown in a Memorandum of Easements
3. That Right of Way (A) be granted or reserved and show in a Memorandum of Easements.
4. That Right of Way (A) be formed with an all weather surface and adequately drained.
5. That all the designated items within Lot 2 be located and identified on a plan, and that plan is to be attached to the consent notice 7b) below.
6. That a plan be prepared identifying the building platform within Lot 1 with adequate dimensions for the shape and position to be identified on the ground (see 8.b) below).
7. That a consent notice be attached to the Computer Register for Lot 2 requiring
 - a) That the legal owner is responsible for the maintenance and upkeep of the homestead, identified as B633 in the Dunedin District Plan.
 - b) That all designated trees identified on the attached plan are to be maintained by a suitably qualified person.
 - c) That further subdivision of Lot 2 is prohibited
8. That a consent notice be attached to Lot 1 requiring
 - a) That any building application be accompanied by a vegetation management plan specifically designed to visually soften or mitigate any potential for the new dwelling to become a feature of the open Rural environment.

- b) That any new dwelling within Lot 1 must be constructed with the building platform shown on the attached plan.
- c) That further subdivision of Lot 1 is prohibited.

CONCLUSION

This proposal is primarily to physically identify and protect several heritage items in the Dunedin City. Their value and contribution to the City will have the best chance of survival under this proposal.

This site is a true exception, no other site can claim the History, the heritage and the number of designated items. Protection of those identified values is important and no precedent is created.

The secondary benefit of this proposal is the opportunity for the best management and use of Class A soils within the Rural zone adjoining the Residential areas of Mosgiel township.

The physical layout of the proposal will mean that any physical change, specifically, a new residential dwelling, will be totally in accordance with the anticipated effects within the Rural zone, and will therefore have less than minor adverse effects.

The effects of the new dwelling can be easily managed and will have less than minor adverse effects for any neighbour or member of the community.

The proposal itself recognises the intent and integrity of the Dunedin District Plan as it recognises and protects items already identified as being important to the City, and it recognises and protects the existing Rural environment and amenity.

The site is already non-complying in terms of area, however, because of the existing vegetation and layout, this non-compliance does not compromise the Rural amenity. The layout of this proposal, including the conditions mitigating the only aesthetic change proposed, will have less than minor adverse effects on the existing environment.

This site easily qualifies as a 'True Exception', Council is therefore requested to process this application on a non-notified basis, and grant consent including the suggested conditions.

Thank you

Yours faithfully



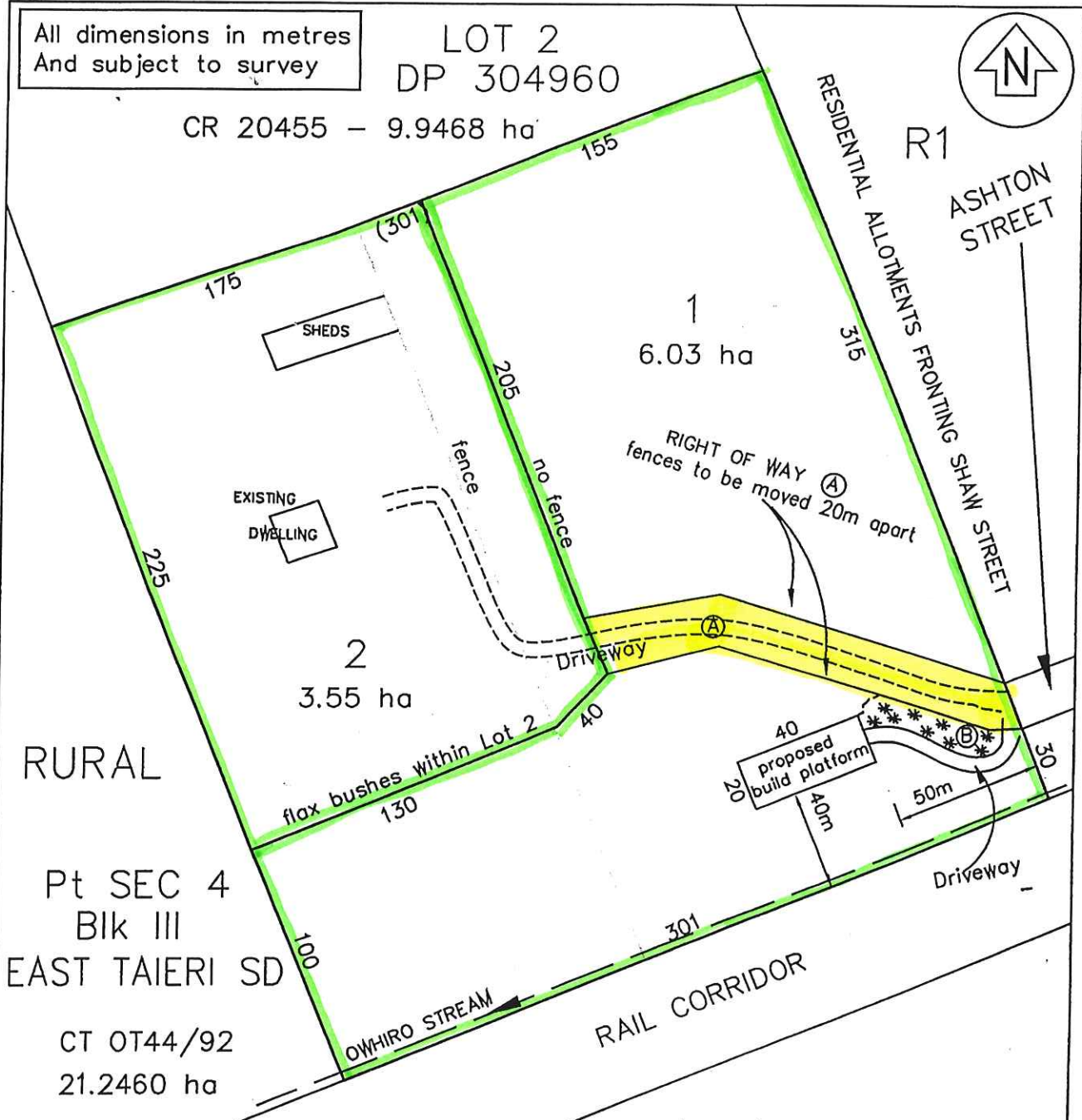
Simon Jenkin

Encl. coloured A4 Scheme Plan 16S02_SP_C
Copy of CFR 20454
Form 9
Chq for \$1800.00 (deposit).
Location Diagram.
Aerial Photograph.

All dimensions in metres
And subject to survey

LOT 2
DP 304960

CR 20455 - 9.9468 ha



RURAL

Pt SEC 4
Bik III
EAST TAIERI SD

CT OT44/92
21.2460 ha

PROPOSED EASEMENTS			
PURPOSE	SHOWN	SERV. TEN.	DOM. TEN.
Right of Way	(A)	LOT 2 hereon	LOTS 1 & 3 hereon

Note: Area (B) to be planted with suitably selected trees to visually shield house site from Ashton Street

All boundaries are fenced except where shown

PLAN OF LOTS 1 & 2 BEING PROPOSED SUBDIVISION OF LOT 1 DP 304960-CR 20454-25 ASHTON STREET MOSGIEL

SIMON JENKIN
Licensed Cadastral Surveyor
P.O. Box 5195 ph (03) 477 4940
DUNEDIN fox (03) 476 7329

Plan Prepared for
A Rutherford

SCALE 1:250
April 2017

16S02_SP_C

FORM 9

APPLICATION FOR RESOURCE CONSENT
Under Section 88 of the Resource Management Act 1991

To the:

City Planning Department
Dunedin City Council
P O Box 5045
DUNEDIN

I, A J Rutherford, 25 Ashton Street, Mosgiel

Address for service: % S Jenkin,
P.O. Box 5195
Dunedin

Apply for resource consent as described below:

1. The names and addresses of the owner and occupier (other than the applicant) of any land to which the application relates are as follows:

as above.

2. The location to which this application relates:

Address: *25 Ashton Street, Mosgiel.*

Legal Description: *Lot 1 DP 304960*

Computer Register *CR 20454*

Valuation Number *27911/14500*

Other relevant information which identifies location:

SW corner of Mosgiel township, adjoining residential properties in Shaw Street.

3. The type of resource consent(s) sought is/are:

Subdivision & Landuse

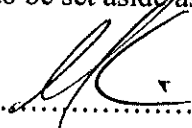
4. A description of the activity to which the application relates is:

Please refer to attached letter from Simon Jenkin.

5. The following additional resource consents are required as part of this proposal:

Nil

6. I attach an assessment of any effects that the proposed activity may have on the environment in accordance with the Fourth Schedule to the Act (this does not apply to a controlled activity unless otherwise specified).
7. I attach other information (if any), required to be included in the application by the district or regional plan or regulations.
8. I attach information in accordance with Section 219 of the Act sufficient to adequately define:
 - (a) The position of all new boundaries.
 - (b) The areas of all new allotments (not required for cross lease or Unit plans).
 - (c) The location and areas of new reserves to be created, including any esplanade reserves to be set aside on a survey plan under Section 230 of the Act.
 - (d) The location and areas of land below mean high water springs of the sea or of any part of the bed of a river or lake which is to be vested in the Crown under Section 235 of the Act
 - (e) The location and areas of land to be set aside as new road.

.....  on behalf of Applicant

..... 31-1-17 Date

Address for Service of Applicant:

Simon Jenkin,
P.O. Box 5195
DUNEDIN

Attn. Simon Jenkin

Telephone (03) 477 4940

e-mail stj@ihug.co.nz

Annexures

1. An assessment of the effects on the environment in accordance with the fourth Schedule to the Act (if required):
2. Any other information required by the District Plan or regional Plan or Act or Regulation to be included:
3. Other information in accordance with Section 219 of the Act (for subdivisions only).
4. Cheque for \$1800.00 (deposit) fee for a Category A subdivision application.



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



R. W. Muir
Registrar-General
of Land

Search Copy

Identifier 20454
Land Registration District Otago
Date Issued 04 February 2003

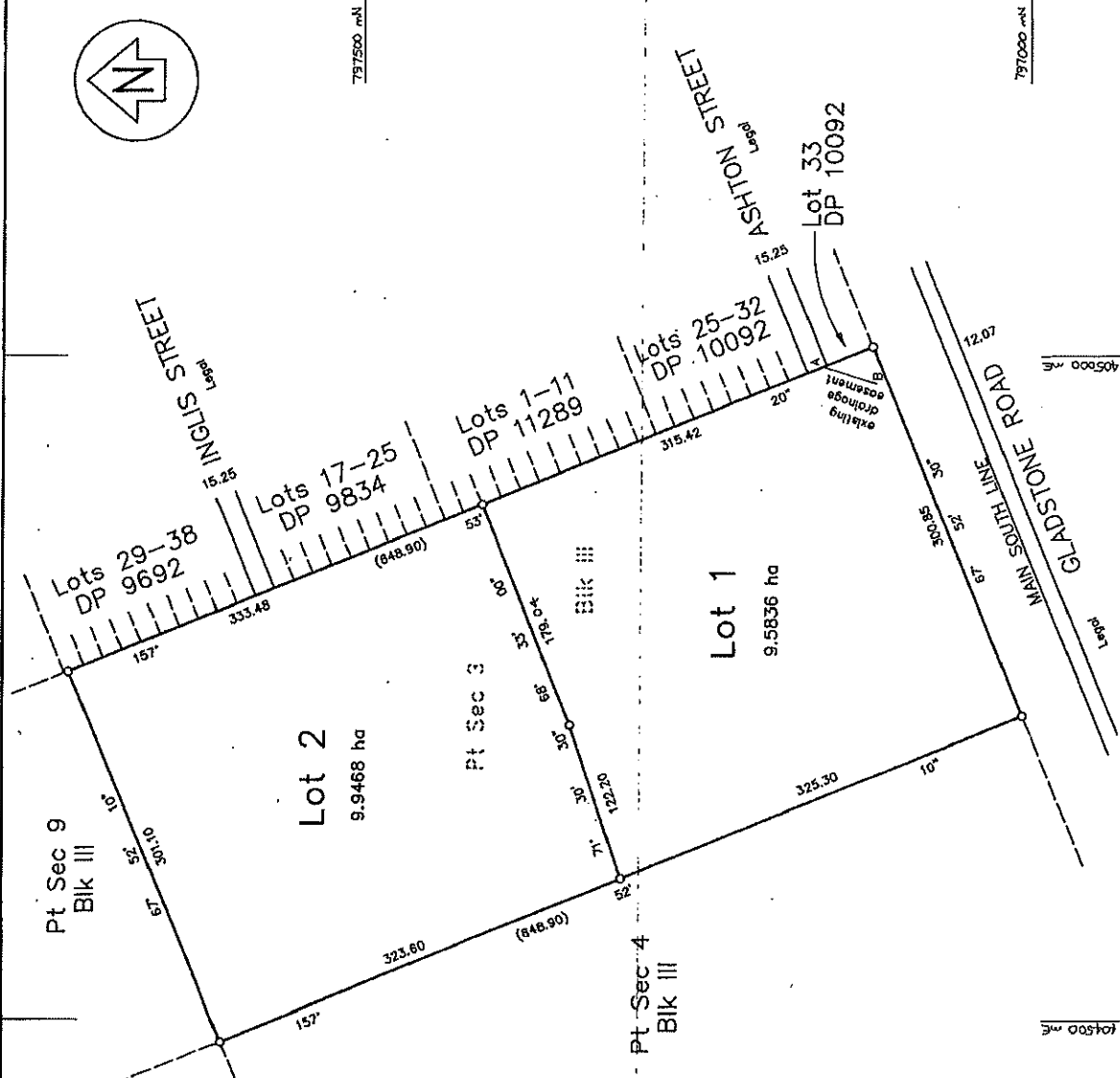
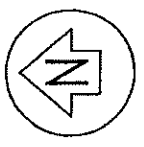
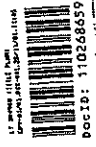
Prior References
OT198/202

Estate Fee Simple
Area 9.5836 hectares more or less
Legal Description Lot 1 Deposited Plan 304960

Proprietors
Alison Jane Rutherford

Interests

Together with such parts of the mines or coal or other minerals if any under the surface of other part of Section 3 Block III East Taieri Survey District as are not taken by Notification 1097 but are excepted thereout by law
Subject to a right to drain water in gross over part marked A-B on DP 304960 in favour of The Mosgiel Borough Council created by Transfer 683735 - 28.7.1987 at 2:45 pm
10344484.3 Mortgage to Westpac New Zealand Limited - 26.2.2016 at 2:47 pm
10386378.1 CAVEAT BY FINLAY TODD RUTHERFORD - 4.4.2016 at 4:42 pm



Approvals
A J Rutherford *[Signature]*

Registered Owner of CT 01198/202

I hereby certify that this plan was approved by the Dunedin City Council pursuant to Section 223 of the Resource Management Act 1991 on the 13th day of October 2001

Authorized Officer *[Signature]*

EXISTING SUBJECT EASEMENT	
Purpose	Shown
Right to Drain Storm Water	A-B Lot 1 T 683735

NEW CT ALLOCATION
LOT 1 2045L
LOT 2 20455

Survey Class: III
Total Area: 19.5304 ha
Comprised in: CT 01198/202 (b=1)

Simon Jenkin of Dunedin, being a person entitled to practice as a registered surveyor, certifies that (a) the survey to which this plan relates, and was undertaken by me or under my direction in accordance with the Survey Act 1986 and the Survey Regulations 1992; (b) this document is correct, and has been created in accordance with that Act and those Regulations.

[Signature] (Surveyor)
13/10/01 (Date)

Field Book: P Reverse Book: P
Reference Plane: P

Examined: Correct
Approved as to Survey

[Signature] Chief Surveyor

Deposited by Land Information NZ on 4/12/2003

File 00527
Received 25.11.2001
Instructions
DP 304960

Local Authority DUNEDIN CITY
Surveyed by S JENKIN
Scale: 1:2500 Date Sept 2001

LOTS 1 & 2 BEING SUBDIVISION OF PT SEC 3

Land District OTAGO
Survey Blk & Dist III East Taieri
NZMS 261 SHT Record Map No

20000473
20000507