



Otago Daily Times

Published on *Otago Daily Times Online News* (<http://www.odt.co.nz>)

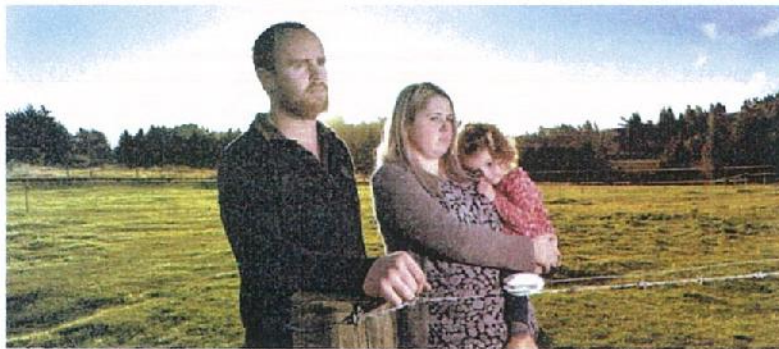
Home plans spoiled as subdivision declined

By Shawn McAvinue
Created 20/04/16

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David Griffiths with fiancée Megan Macaulay and their daughter Quinn on land where they planned to build in Halfway Bush. Photo: Peter McIntosh

A Dunedin family are "gutted" the consent for a controversial subdivision has been declined and shattered their dream of owning a new home.

David Griffiths and his fiancée Megan Macaulay and children Liam (9) and Quinn (1) were shocked the Dunedin City Council's hearings committee declined a consent application to subdivide 16ha of land, despite a council planner recommending its approval.

The 34-lot subdivision was proposed for Dalziel Rd, Halfway Bush.

The Griffiths family had outgrown their 80sq m Helensburgh house and had paid a deposit on the 2000sq m of land.

The family had a pre-approved mortgage and building plans.

"We were ready to go," Mr Griffiths said.

The committee declining the consent was a shock because council planner Lianne Darby had recommended the committee grant consent.

Mr Griffiths and Miss Macaulay still wanted to build a new home and feared they would have to build in Abbotsford or Mosgiel to realise their dream and be further away from their parents, who lived either side of Halfway Bush.



THE PROPOSED
**SECOND
GENERATION
DISTRICT PLAN**

Dunedin City Council, 50 The Octagon, Dunedin 9016
PO Box 5045, Moray Place, Dunedin 9058
Website: 2gp.dunedin.govt.nz

**AMENDED HEARING SCHEDULE
As at 1 August 201**

Hearing Topic	Date	New hearing date
Commercial and Mixed Use Zones	August 3, 4, 5, 10, 11, 12	August 3, 4, 5, 9, 10, 11, 12
Rural Residential Zones	August 18, 19, 24, 25, 26	August 24, 25, 26, 31 September 1, 2
Earthworks	September 7, 8, 9	September 14, 15, 16
Major Facilities (without Port and Mercy Hospital)	September 14, 15, 16	September 21, 22, 23
Heritage	September 21, 22, 23, 28, 29	October 6, 7, 12, 13, 14
Mercy Hospital	October 26	Week beginning Oct 31 (1 day)*
Residential Zones	October 6, 7, 12, 13, 14, 19, 20, 21	Week beginning Oct 31 (2 days)* Week beginning Nov 7 (3 days)* Week beginning Nov 14 (3 days)*
Transportation	October 27, 28 November 2, 3	Week beginning Dec 5 (3 days)* Week beginning Dec 12 (1 day)*
Public Health and Safety	March 2017	Week beginning Jan 23 (3 days)*
Rural Zones	November 9, 10, 11, 16, 17, 18, 23, 24	Rural and Natural Environment hearings to be combined together
Natural Environment	November 30 December 1, 2, 7, 8, 9, 14, 15, 16 -	Week beginning Jan 30 (3 days)* Week beginning Feb 6 (3 days)* Week beginning Feb 13 (3 days)* Week beginning Feb 20 (3 days)* Week beginning Feb 27 (3 days)*
 Urban Land Supply	Late February 2017	Week beginning March 15 (3 days)* Week beginning March 20 (3 days)*
Natural Hazards	January 25, 26, 27, February 1, 2, 3, 8, 9, 10 2017	Week beginning April 10 (2 days)* Week beginning April 17 (3 days)* Week beginning April 24 (3 days)*
Port Zone	Late February 2017 (2 days)	Week beginning May 15 (2 days)*

* Dates to be confirmed once post-election Council Meetings are set.

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated.

DATE: 14 - 5 - 2012

VENDOR: RPR Properties Limited

PURCHASER: Christopher William RIETVELD and Alice Mary WOUTERS

PROPERTY

Address: 31 Dalziel Road, Halfway Bush, Dunedin 9010

Estate: FEE SIMPLE LEASEHOLD CROSSLEASE (FEE SIMPLE) CROSSLEASE (LEASEHOLD)
STRATUM IN FREEHOLD STRATUM IN LEASEHOLD (If none is deleted fee simple)

Legal Description:

Area (more or less):

Lot/Flat/Unit:

DP:

Unique Identifier or CT:

2.0 HA Lot 1 of a proposed subdivision of Lot 2 DP 348982, Lots 1-10 and Part Lots 13 & 19 Deed 4, Part Sections 21, 26, 28, 32, 34, 36 & 38 Wakari S.D.

PAYMENT OF PURCHASE PRICE

Purchase price: \$550,000.00

(five hundred and fifty thousand dollars)

Plus GST (if any) OR inclusive of GST (if any).

If neither is deleted the purchase price includes GST (if any).

GST date (refer clause 13.0):

Deposit (clause 2.0): \$555,000 (fifty five thousand dollars) payable to Marks & Worth Solicitors Trust Account (see further terms of sale 15.4)

Balance of purchase price to be paid or satisfied as follows:

(1) By payment in cleared funds on the settlement date which is Ten (10) working days from the date of the issue of title

OR

(2) in the manner described in the Further Terms of Sale.

Interest rate for late settlement: 12 % p.a.

POSSESSION

Possession date (clause 3.0): Settlement Date

CONDITIONS (clause 9.0)

Finance condition

LIM required:

Yes/No

Lender:

Amount required:

OIA Consent required:

Yes/No

Finance date:

Land Act/OIA date:

TENANCIES (if any)

Name of tenant:

Vacant possession

Bond:

Rent:

Term:

Right of renewal:

SALE BY:

TOM RICHARDSON.
HEARTLAND REALTY
JOHN KING REAL ESTATE LTD P.O. Box 1221
INVERCARGILL.

Licensed Real Estate Agent

It is agreed that the vendor sells and the purchaser purchases the property, and the chattels listed in Schedule 1, on the terms set out above and in the General Terms of Sale and any Further Terms of Sale.

GENERAL TERMS OF SALE

1.0 Definitions, notices and interpretation

1.1 Definitions

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.
- (2) "Agreement" means this document including the front page, these General Terms of Sale, any Further Terms of Sale and any schedules and attachments.
- (3) "Building Act" means the Building Act 1991 and/or the Building Act 2004.
- (4) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.
- (5) "Cleared funds" means:
 - (a) cash; or
 - (b) a bank cheque; or
 - (c) an electronic transfer of funds that has been made pursuant to a protocol agreed between the parties.
- (6) "Default GST" means any interest, or late payment penalty, or shortfall penalty, or other sum imposed on the vendor under the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor by reason of a default by the vendor after payment of the GST to the vendor by the purchaser.
- (7) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (8) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.
- (9) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (10) "LIM" means a land information memorandum issued pursuant to the Local Government Official Information and Meetings Act 1987.
- (11) "LINZ" means Land Information New Zealand.
- (12) "Local authority" means a territorial authority or a regional council.
- (13) "OIA Consent" means consent to purchase the property under the Overseas Investment Act 2005.
- (14) "Property" means the property described in this agreement.
- (15) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.
- (16) "Regional council" means a regional council within the meaning of the Local Government Act 2002.
- (17) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser paying the moneys due and payable on the settlement date directly into a bank account nominated by the vendor, in consideration of the vendor agreeing to meet the vendor's obligations under clause 3.7(2), pursuant to a protocol agreed by the parties.
- (18) "Settlement date" means the date specified as such in this agreement or, if no such date is specified, the possession date. Where the day nominated for settlement is not a working day the settlement date shall be the last working day before the day so nominated.
- (19) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomes and outgoings apportioned at the possession date.
- (20) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
- (21) "Unit title" means a unit title under the Unit Titles Act 2010.
- (22) The terms "principal unit", "accessory unit", "unit plan" and "unit" have the meanings ascribed to those terms in the Unit Titles Act 2010.
- (23) The term "rules" includes both body corporate rules under the Unit Titles Act 1972 and body corporate operational rules under the Unit Titles Act 2010.
- (24) The terms "building", "building consent", "code compliance certificate", "compliance schedule", "household unit" and "residential property developer" have the meanings ascribed to those terms in the Building Act.
- (25) The term "file" includes where appropriate a computer register within the meaning of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (26) The terms "going concern", "registered person", "supply" and "taxable activity" have the meanings ascribed to those terms in the GST Act.
- (27) "Working day" means any day of the week other than:
 - (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day, and
 - (b) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive; and
 - (c) the day observed as the anniversary of any province in which the property is situated.
 A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.
- (28) Any act done pursuant to this agreement by a party after 5.00 pm on a working day, or on a day which is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- (29) Where two or more acts (including service of notices) done pursuant to this agreement are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 1.1(28).
- (30) Unless a contrary intention appears on the front page or elsewhere in this agreement:
 - (a) the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable;
 - (b) a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.2 Notices

The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:

- (1) All notices must be served in writing.
- (2) Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property, must be served in accordance with section 353 of that Act.
- (3) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
 - (a) on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
 - (b) on the party or on the party's lawyer:
 - (i) by personal delivery; or
 - (ii) by posting by ordinary mail; or
 - (iii) by facsimile, or by email; or
 - (iv) in the case of the party's lawyer only, by sending by document exchange.
- (4) In respect of the means of service specified in subclause 1.2(3)(b), a notice is deemed to have been served:
 - (a) in the case of personal delivery, when received by the party or at the lawyer's office;
 - (b) in the case of posting by ordinary mail, on the second working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;
 - (c) in the case of facsimile transmission, when sent to the facsimile number notified in writing by the party or to the facsimile number of the lawyer's office;
 - (d) in the case of email, when acknowledged by the party or by the lawyer orally or by return email or otherwise in writing;
 - (e) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office.
- (5) Notice served by a party after 5.00 pm on a working day, or on a day which is not a working day, shall be deemed to have been served by that party at 9.00 am on the next succeeding working day.
- (6) Where two or more notices are deemed to have been served at the same time, they shall take effect in the order in which they would have been served but for subclause 1.2(5).
- (7) Any period of notice required to be given under this agreement shall be computed by excluding the day of service.

1.3 Interpretation

- (1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
- (2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
- (3) If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale the inserted term shall prevail.

(4) Headings are for information only and do not form part of this agreement.

2.0 Deposit

- 2.1 The purchaser shall pay the deposit to the vendor or the vendor's agent immediately upon execution of this agreement by both parties and/or at such other time as is specified in this agreement.
- 2.2 If the deposit is not paid on the due date for payment, the vendor may at any time thereafter serve on the purchaser notice requiring payment. If the purchaser fails to pay the deposit on or before the third working day after service of the notice, time being of the essence, the vendor may cancel this agreement by serving notice of cancellation on the purchaser. No notice of cancellation shall be effective if the deposit has been paid before the notice of cancellation is served.
- 2.3 The deposit shall be in part payment of the purchase price.
- 2.4 The person to whom the deposit is paid shall hold it as a stakeholder until:
- (1) the requisition procedure under clause 5.0 is completed without either party cancelling this agreement; and
 - (2) where this agreement is entered into subject to any condition(s) expressed in this agreement, each such condition has been fulfilled or waived; or
 - (3) this agreement is cancelled pursuant to subclause 5.2(3)(c) or avoided pursuant to subclause 9.7(5).

3.0 Possession and Settlement

Possession

- 3.1 Unless particulars of a tenancy are included in this agreement the property is sold with vacant possession and the vendor shall so yield the property on the possession date.
- 3.2 If the property is sold with vacant possession the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:
- (1) to enter the property on one occasion prior to the possession date for the purpose of examining the property, chattels and fixtures which are included in the sale; and
 - (2) to re-enter the property on or before the possession date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property and the chattels and fixtures.
- 3.3 Possession shall be given and taken on the possession date. Outgoings and incomings in respect of the possession date are the responsibility of and belong to the vendor.
- 3.4 On the possession date the vendor shall make available to the purchaser keys to all exterior doors, electronic door openers relating to the property and the keys and/or security codes to any alarms which may be situated on the property. The vendor does not have to make available keys, electronic door openers and security codes where the property is tenanted and these are held by the tenant.

Settlement

- 3.5 The purchaser shall prepare, at the purchaser's own expense, a transfer instrument in respect of the property, executed by the purchaser if necessary. The purchaser shall tender the transfer instrument to the vendor or the vendor's lawyer a reasonable time prior to the settlement date.
- 3.6 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date.
- 3.7 On the settlement date:
- (1) The balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 3.12 or 3.13);
 - (2) The vendor shall concurrently hand to the purchaser:
 - (a) the transfer instrument in respect of the property provided by the purchaser under subclause 3.5, in registrable form;
 - (b) all other instruments in registrable form required for the purpose of registering the transfer instrument and conferring title on the purchaser in terms of the vendor's obligations under this agreement; and
 - (c) LINZ registration fees on each of the instruments referred to in subclause 3.7(2)(b) and the purchaser's lawyer's reasonable agency registration fees.
- 3.8 All obligations under subclause 3.7 are interdependent.

Electronic Instruments

- 3.9 Where the instruments conferring title on the purchaser in terms of the vendor's obligations under this agreement must be registered as electronic instruments then:
- (1) the purchaser's obligations under subclause 3.5 shall be satisfied by the purchaser's lawyer preparing, certifying and signing within a reasonable time prior to the settlement date the transfer instrument in the Landonline Workspace created for the transaction by the purchaser's lawyer; and
 - (2) the vendor's obligation under subclause 3.7(2) shall be satisfied:
 - (a) by the vendor's lawyer preparing in such Landonline Workspace all other instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement and having those instruments and the transfer instrument certified, signed and pre-validated on or before the settlement date and having them released upon settlement so that the purchaser's lawyer can then submit them as soon as possible after settlement for registration; and
 - (b) by the vendor's lawyer paying the LINZ registration fees on all of the instruments mentioned in subclause 3.9(2)(a), except for the transfer instrument.

- 3.10 The vendor and the purchaser may agree to complete settlement by way of remote settlement.

Last Minute Settlement

- 3.11 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last minute settlement"), the purchaser shall pay the vendor:
- (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last minute settlement; and
 - (2) if the day following the last minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

- 3.12 If the vendor is not in default and if any portion of the purchase price is not paid upon the due date for payment:
- (1) The purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly.
 - (2) The vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:
 - (a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or
 - (b) retain such incomings in lieu of receiving interest from the purchaser pursuant to subclause 3.12(1).

Vendor Default: Late Settlement or Failure to give Possession

- 3.13 (1) For the purposes of this subclause 3.13:
- (a) the default period means:
 - (i) in subclause 3.13(2), the period from the possession date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and
 - (ii) in subclause 3.13(3), the period from the date the purchaser takes possession until the date when settlement occurs; and
 - (iii) in subclause 3.13(5), the period from the possession date until the date when settlement occurs; and
 - (b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.
- (2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the possession date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:
- (a) the vendor shall pay the purchaser, at the purchaser's election, either:
 - (i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or
 - (ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and
 - (b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the possession date but remains unpaid during the default period less:
 - (i) any withholding tax; and
 - (ii) any bank or legal administration fees and commission charges; and
 - (iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.

- (3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the possession date, then, provided the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period. A purchaser in possession under this subclause 3.13(3) is a licensee only.
- (4) Notwithstanding the provisions of subclause 3.13(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of subclause 3.13(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the possession date.
- (5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomes which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomes, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in subclause 3.13(2)(b) during the default period.
- (6) The provisions of this subclause 3.13 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.
- (7) Where the parties are unable to agree upon any amount payable under this subclause 3.13:
- An interim amount shall on settlement be paid to a stakeholder by the party against whom it is claimed until the amount payable is determined.
 - The interim amount shall be the lower of:
 - the amount claimed; or
 - an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the possession date.
 - Any interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount.
 - The amount determined to be payable shall not be limited by the interim amount.
 - If the parties cannot agree on a stakeholder the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society.

Deferment of Settlement and Possession

3.14 If -

- this is an agreement for the sale by a residential property developer of a household unit; and
 - a code compliance certificate has not been issued by the possession date or the settlement date in relation to the household unit -
- then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form prescribed by the Building (Forms) Regulations 2004) the possession date and/or the settlement date, as the case may be, shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).
- 3.15 In every case, if neither party is ready, willing and able to settle on the settlement date, the settlement date (and the possession date if the possession date is the same date) shall be deferred to the second working day following the date upon which one of the parties gives notice it has become ready, willing and able to settle.

New Title Provision

3.16 (1) Where -

- the transfer of the property is to be registered against a new title yet to be issued; and
 - a search copy, as defined in section 172A of the Land Transfer Act 1952, of that title is not obtainable by the fifth working day prior to the settlement date -
- then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the fifth working day following the later of the date on which:
- the vendor has given the purchaser notice that a search copy is obtainable; or
 - the requisitions procedure under clause 5.0 is complete.
- (2) This subclause shall not apply where it is necessary to register the transfer of the property to enable a plan to deposit and title to the property to issue.
- (3) Deferment of the settlement date under this subclause shall not constitute deferment of the possession date unless the parties so agree.

4.0 Risk and Insurance

- 4.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.
- 4.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the possession date, then the following provisions shall apply:
- If the destruction or damage has been sufficient to render the property untenable and it is untenable on the possession date the purchaser may:
 - complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or
 - cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation.
 - If the property is not untenable on the possession date the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property.
 - In the case of a property zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenable where the diminution in value of the property exceeds an amount equal to 20% of the purchase price.
- 4.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

5.0 Title, boundaries and requisitions

- 5.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the possession date.
- 5.2 (1) The purchaser is deemed to have accepted the vendor's title except as to objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the earlier of:
- the fifth working day after the date of this agreement; or
 - the possession date; or
 - the settlement date.
- (2) If a plan has been or is to be submitted to LINZ for deposit in respect of the property, then in respect of objections or requisitions arising out of the plan, the purchaser is deemed to have accepted the title except as to such objections or requisitions which the purchaser is entitled to make and notice of which the purchaser serves on the vendor on or before the fifth working day following the date the vendor has given the purchaser:
- notice that the plan has been deposited; or
 - notice that (where a new title is to issue for the property) the title has issued and a search copy of it as defined in section 172A of the Land Transfer Act 1952 is obtainable.
- (3) If the vendor is unable or unwilling to remove or comply with any objection or requisition as to title, notice of which has been served on the vendor by the purchaser, then the following provisions will apply:
- The vendor shall notify the purchaser ("a vendor's notice") of such inability or unwillingness on or before the fifth working day after the date of service of the purchaser's notice.
 - If the vendor does not give a vendor's notice the vendor shall be deemed to have accepted the objection or requisition and it shall be a requirement of settlement that such objection or requisition shall be complied with before settlement.
 - If the purchaser does not on or before the fifth working day after service of a vendor's notice notify the vendor that the purchaser waives the objection or requisition, either the vendor or the purchaser may (notwithstanding any intermediate negotiations) by notice to the other, cancel this agreement.
- (4) In the event of cancellation under subclause 5.2(3), the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid under this agreement by the purchaser and neither party shall have any right or claim against the other arising from this agreement or its cancellation. In particular, the purchaser shall not be entitled to any interest or to the expense of investigating the title or to any compensation whatever.

- 5.3 (1) If the title to the property being sold is a cross lease title or a unit title and there are:
- (a) in the case of a cross lease title:
 - (i) alterations to the external dimensions of any leased structure; or
 - (ii) buildings or structures not intended for common use which are situated on any part of the land that is not subject to a restricted user covenant;
 - (b) in the case of a unit title, encroachments out of the principal unit or accessory unit title space (as the case may be):

the purchaser may requisition the title under subclause 5.2 requiring the vendor:

 - (i) in the case of a cross lease title, to deposit a new plan depicting the buildings or structures and register a new cross lease or cross leases (as the case may be) and any other ancillary dealings in order to convey good title; or
 - (ii) in the case of a unit title, to deposit an amendment to the unit plan, a redevelopment plan or new unit plan (as the case may be) depicting the principal and/or accessory units and register such transfers and any other ancillary dealings in order to convey good title.
- (2) The words "alterations to the external dimensions of any leased structure" shall only mean alterations which are attached to the leased structure and enclosed.
- 5.4 Except as provided by section 7 of the Contractual Remedies Act 1979, no error, omission or misdescription of the property or the title shall enable the purchaser to cancel the agreement but compensation, if claimed by notice before settlement in accordance with subclause 7.1 but not otherwise, shall be made or given as the case may require.
- 5.5 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

6.0 Vendor's warranties and undertakings

- 6.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- (1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
 - (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991; or
 - (c) from any tenant of the property; or
 - (d) from any other party; or
 - (2) given any consent or waiver -- which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.
- 6.2 The vendor warrants and undertakes that at the giving and taking of possession:
- (1) The chattels are delivered to the purchaser in their state of repair as at the date of this agreement (fair wear and tear excepted) but failure so to deliver the chattels shall only create a right of compensation.
 - (2) All electrical and other installations on the property are free of any charge whatsoever.
 - (3) There are no arrears of rates, water rates or charges outstanding on the property.
 - (4) Where an allowance has been made by the vendor in the settlement statement for incomes receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.
 - (5) Where the vendor has done or caused or permitted to be done on the property any works:
 - (a) any permit, resource consent or building consent required by law was obtained; and
 - (b) the works were completed in compliance with those permits or consents; and
 - (c) where appropriate, a code compliance certificate was issued for those works.
 - (6) Where under the Building Act, any building on the property sold requires a compliance schedule:
 - (a) the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
 - (b) the building has a current building warrant of fitness; and
 - (c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.
- 6.3 The vendor warrants and undertakes that at settlement:
- (1) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.
 - (2) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:
 - (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991; or
 - (c) from any tenant of the property; or
 - (d) from any other party -

has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.
 - (3) Any chattels included in the sale are the unencumbered property of the vendor.
- 6.4 The vendor warrants and undertakes that on or immediately after possession:
- (1) If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings the water and wastewater charges shall be apportioned.
 - (2) Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after the possession date.
 - (3) The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.
 - (4) Where the property comprises a stratum estate, the vendor will notify the secretary of the body corporate in writing of the transfer of the property and the name and address of the purchaser.
- 6.5 If the purchaser has not validly cancelled the agreement, the breach of any warranty or undertaking contained in this agreement does not defer the obligation to settle but that obligation shall be subject to the rights of the purchaser at law or in equity, including any rights under subclause 6.4 and any right of equitable set-off.

7.0 Claims for compensation

- 7.1 If the purchaser claims a right to compensation either under subclause 5.4 or for an equitable set-off:
- (1) The purchaser must serve notice of the claim on the vendor before settlement; and
 - (2) The notice must:
 - (a) in the case of a claim for compensation under clause 5.4, state the particular error, omission or misdescription of the property or title in respect of which compensation is claimed;
 - (b) in the case of a claim to an equitable set-off, state the particular matters in respect of which compensation is claimed;
 - (c) comprise a genuine pre-estimate of the loss suffered by the purchaser; and
 - (d) be particularised and quantified to the extent reasonably possible as at the date of the notice.
- 7.2 For the purposes of subclause 7.1(1), "settlement" means the date for settlement fixed by the agreement unless, by reason of the conduct or omission of the vendor, the purchaser is unable to give notice by that date, in which case notice may be given by the date for settlement fixed by a valid settlement notice served by either party pursuant to subclause 10.1.
- 7.3 If the amount of compensation is agreed, it shall be deducted on settlement.
- 7.4 If the amount of compensation is disputed:
- (1) An interim amount shall be deducted on settlement and paid by the purchaser to a stakeholder until the amount of the compensation is determined.
 - (2) The interim amount must be a reasonable sum having regard to all of the circumstances.
 - (3) If the parties cannot agree on the interim amount, it shall be determined by an experienced property lawyer appointed by the parties. The appointee's costs shall be met equally by the parties. If the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president for the time being of the New Zealand Law Society.
 - (4) The stakeholder shall lodge the interim amount on interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser.
 - (5) The interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount.

- (6) The amount of compensation determined to be payable shall not be limited by the interim amount.
- (7) If the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president for the time being of the New Zealand Law Society.
- 7.5 The procedures prescribed in subclauses 7.1 to 7.4 shall not prevent either party taking proceedings for the specific performance of the contract.

8.0 Unit title and cross lease provisions

Unit Titles

- 8.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act 2010 ("the Act") require the vendor to provide to the purchaser a pre-contract disclosure statement, a pre-settlement disclosure statement and, if so requested by the purchaser, an additional disclosure statement.
- 8.2 If the property is a unit title, the vendor warrants and undertakes as follows:
- (1) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate that have not been disclosed in writing to the purchaser.
 - (2) Not less than five working days before the settlement date the vendor will provide:
 - (a) a copy of all insurance policies or certificates effected by the body corporate under the provisions of section 135 of the Act; and
 - (b) a pre-settlement disclosure statement from the body corporate under section 147 of the Act. Any periodic contributions shown in that pre-settlement disclosure statement shall be apportioned.
 - (3) There are no other amounts owing by the owner under any provision of the Act or the Unit Titles Act 1972.
 - (4) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.
 - (5) No order or declaration has been made by any Court against the body corporate or the owner under any provision of the Act or the Unit Titles Act 1972.
 - (6) The vendor has no knowledge or notice of any fact which might give rise to or indicate the possibility of:
 - (a) the owner or the purchaser incurring any other liability under any provision of the Act or the Unit Titles Act 1972; or
 - (b) any proceedings being instituted by or against the body corporate; or
 - (c) any order or declaration being sought against the body corporate or the owner under any provision of the Act or the Unit Titles Act 1972.
 - (7) The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules which have not been disclosed in writing to the purchaser.
 - (8) No lease, licence, easement or special privilege has been granted by the body corporate in respect of any part of the common property which has not been disclosed in writing to the purchaser.
 - (9) No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:
 - (a) the transfer of the whole or any part of the common property;
 - (b) the addition of any land to the common property;
 - (c) the cancellation of the unit plan; or
 - (d) the deposit of an amendment to the unit plan, a redevelopment plan or a new unit plan in substitution for the existing unit plan which has not been disclosed in writing to the purchaser.
 - (10) As at the giving and taking of possession, all contributions and other moneys payable by the vendor to the body corporate have been paid in full.
- 8.3 If the property is a unit title, in addition to the purchaser's rights under sections 149 and 150 of the Act, if the vendor does not provide a copy of all insurance policies or certificates and the pre-settlement disclosure statement under section 147 in accordance with the requirements of subclause 8.2(2):
- (1) The purchaser may postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser.
 - (2) The purchaser may elect that settlement shall still take place on the settlement date, such election not being a waiver of any rights under subclause 8.2(2)(b) to a proper apportionment of outgoings.
 - (3) Postponement of the settlement date under this subclause or sections 149 or 150 of the Act shall not constitute postponement of the possession date unless the purchaser so elects.

Unauthorized structures - Cross leases and unit titles

- 8.4 (1) Where structures (not stated in clause 5 to be requisitionable) have been erected on the property without:
- (a) in the case of a cross lease title any required lessors' consent; or
 - (b) in the case of a unit title any required body corporate consent -
- the purchaser may demand within the period expiring on the earlier of:
- (i) the tenth working day after the date of this agreement; or
 - (ii) the possession date; or
 - (iii) the settlement date -
- that the vendor obtain the written consent of the current lessors or the body corporate (as the case may be) to such improvements ("a current consent") and provide the purchaser with a copy of such consent on or before the settlement date.
- (2) Should the vendor be unwilling or unable to obtain a current consent then the procedure set out in subclauses 5.2(3) and 5.2(4) shall apply with the purchaser's demand under subclause 8.4(1) being deemed to be an objection and requisition.

9.0 Conditions and mortgage terms

Particular conditions

- 9.1 If particulars of any finance condition(s) are inserted on the front page of this agreement, this agreement is conditional upon the purchaser arranging finance in terms of those particulars on or before the finance date.
- 9.2 (1) If the purchaser has indicated on the front page of this agreement that a LIM is required:
- (a) that LIM is to be obtained by the purchaser at the purchaser's cost; and
 - (b) the purchaser is to request the LIM on or before the fifth working day after the date of this agreement; and
 - (c) this agreement is conditional, upon the purchaser approving that LIM provided that such approval must not be unreasonably or arbitrarily withheld.
- (2) If, on reasonable grounds, the purchaser does not approve the LIM, the purchaser shall give notice to the vendor ("the purchaser's notice") on or before the fifteenth working day after the date of this agreement stating the particular matters in respect of which approval is withheld and, if those matters are capable of remedy, what the purchaser reasonably requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice the purchaser shall be deemed to have approved the LIM. If through no fault of the purchaser the LIM is not available on or before the fifteenth working day after the date of this agreement and the vendor does not give an extension when requested, this condition shall not have been fulfilled and the provisions of subclause 9.7(5) shall apply.
- (3) The vendor shall give notice to the purchaser ("the vendor's notice") on or before the fifth working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.
- (4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the tenth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the LIM, this condition shall not have been fulfilled and the provisions of subclause 9.7(5) shall apply.
- (5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled and it shall be a requirement of settlement that the purchaser's notice shall be complied with, and also, if the vendor must carry out work on the property, that the vendor shall obtain the approval of the territorial authority to the work done, both before settlement.
- 9.3 (1) If the purchaser has indicated on the front page of this agreement that OIA Consent is not required then the purchaser warrants that the purchaser does not require OIA Consent.
- (2) If the purchaser has indicated on the front page of this agreement that OIA Consent is required, this agreement is conditional upon OIA Consent being obtained on or before the Land Act/OIA date shown on the front page of this agreement, the purchaser being responsible for payment of the application fee.
- 9.4 If this agreement relates to a transaction to which the Land Act 1948 applies, this agreement is subject to the vendor obtaining the necessary consent by the Land Act/OIA date shown on the front page of this agreement.
- 9.5 If the Land Act/OIA date is not shown on the front page of this agreement that date shall be the possession date or a date two months from the date of this agreement whichever is the sooner.
- 9.6 If this agreement relates to a transaction to which section 225 of the Resource Management Act 1991 applies then this agreement is subject to the appropriate condition(s) imposed by that section.

Operation of conditions

- 9.7 If this agreement is expressed to be subject either to the above or to any other condition(s), then in relation to each such condition the following shall apply unless otherwise expressly provided:
- (1) The condition shall be a condition subsequent.
 - (2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfillment.

- (3) Time for fulfillment of any condition and any extended time for fulfillment to a fixed date shall be of the essence.
- (4) The condition shall be deemed to be not fulfilled until notice of fulfillment has been served by one party on the other party.
- (5) If the condition is not fulfilled by the date for fulfillment, either party may at any time before the condition is fulfilled or waived avoid this agreement by giving notice to the other. Upon avoidance of this agreement the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser under this agreement and neither party shall have any right or claim against the other arising from this agreement or its termination.
- (6) At any time before this agreement is avoided the purchaser may waive any finance condition and either party may waive any other condition which is for the sole benefit of that party. Any waiver shall be by notice.

Mortgage terms

- 9.8 Any mortgage to be arranged pursuant to a finance condition shall be upon and subject to the terms and conditions currently being required by the lender in respect of loans of a similar nature.
- 9.9 If the vendor is to advance mortgage moneys to the purchaser then, unless otherwise stated, the mortgage shall be in the appropriate "fixed sum" form currently being published by the Auckland District Law Society Incorporated.

10.0 Notice to complete and remedies on default

- 10.1 (1) If the sale is not settled on the settlement date either party may at any time thereafter serve on the other party a settlement notice; but
(2) The settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready able and willing to proceed to settle in accordance with the agreement or is not so ready able and willing to settle only by reason of the default or omission of the other party.
(3) If the purchaser is in possession the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 10.2 Subject to clause 10.1(3), upon service of the settlement notice the party on whom the notice is served shall settle:
(1) on or before the twelfth working day after the date of service of the notice; or
(2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive –
time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 10.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
(2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 10.1.
(3) The vendor may give a settlement notice with a notice under this subclause.
(4) For the purpose of this subclause a deposit is not an instalment.
- 10.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to clause 10.1(3):
(1) Without prejudice to any other rights or remedies available to the vendor at law or in equity the vendor may:
(a) sue the purchaser for specific performance; or
(b) cancel this agreement by notice and pursue either or both of the following remedies namely:
(i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
(ii) sue the purchaser for damages.
(2) Where the vendor is entitled to cancel this agreement the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
(3) The damages claimable by the vendor under subclause 10.4 (1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
(a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
(b) all costs and expenses reasonably incurred in any resale or attempted resale; and
(c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
(4) Any surplus money arising from a resale as aforesaid shall be retained by the vendor.
- 10.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser then without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
(1) sue the vendor for specific performance; or
(2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date of payment by the purchaser until repayment.
- 10.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 10.7 Nothing in this clause shall preclude a party from suing for specific performance without giving a settlement notice.
- 10.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

11.0 Non-merger

- 11.1 The obligations and warranties of the parties in this agreement shall not merge with:
(1) the giving and taking of possession;
(2) settlement;
(3) the transfer of title to the property;
(4) delivery of the chattels (if any); or
(5) registration of the transfer of title to the property.

12.0 Agent

- 12.1 If the name of a licensed real estate agent is recorded on this agreement it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor appoints as the vendor's agent to effect the sale. The vendor shall pay the agent's charges including GST for effecting such sale.

13.0 Goods and Services Tax

- 13.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement then:
(1) The purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date.
(2) Where the GST date has not been inserted on the front page of this agreement the GST date shall be the possession date.
(3) Where any GST is not so paid to the vendor the purchaser shall pay to the vendor:
(a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
(b) any default GST.
(4) It shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act.
(5) Any sum referred to in this clause is included in the purchase price, interest and other moneys, if any, referred to in subclause 3.7.
- 13.2 If the supply under this agreement is a taxable supply the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.
- 13.3 The vendor warrants that any dwelling and curtilage or part thereof supplied on sale of the property are not a supply to which section 5(16) of the GST Act applies.
- 13.4 (1) Without prejudice to the vendor's rights and remedies under clause 13.1, where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
(2) The date of service of the notice under this subclause shall be deemed the settlement date for the purposes of subclause 10.1.
(3) The vendor may give a settlement notice under subclause 10.1 with a notice under this subclause.

14.0 Zero-rating

- 14.1 The parties warrant that the particulars stated in Schedule 2 are correct at the date of this agreement.
- 14.2 Where the particulars stated in Schedule 2 indicate that at settlement:
- (1) The vendor is a registered person or will be a registered person;
 - (2) The recipient is a registered person or will be a registered person;
 - (3) The recipient intends to use the goods supplied under this agreement for making taxable supplies; and
 - (4) The recipient does not intend to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act -
- GST will be chargeable on the supply under this agreement at zero per cent pursuant to section 11(1)(mb) of the GST Act.
- 14.3 If GST is chargeable on the supply under this agreement at zero per cent pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's registration number if it is not included in Schedule 2.
- 14.4 If any of the particulars stated by the purchaser in Schedule 2 should alter between the date of this agreement and settlement, the purchaser shall notify the vendor of the altered particulars as soon as practicable and in any event no later than two working days before settlement. The purchaser warrants that any altered particulars will be correct as at the date of the purchaser's notification. If the GST treatment of the supply under this agreement should be altered as a result of the altered particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.
- 14.5 Unless the context otherwise requires, words and phrases used in subclauses 14.1 to 14.4 and in Schedule 2 shall have the same meaning as those words and phrases have in the GST Act.

15.0 Supply of a Going Concern

- 15.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated herein:
- (1) Each party warrants that it is a registered person or will be so by the date of the supply;
 - (2) Each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;
 - (3) The parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and
 - (4) The parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at zero per cent.
- 15.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 13.0 of this agreement shall apply.

16.0 Limitation of Liability

- 16.1 If any person enters into this agreement as trustee of a trust, then:
- (1) That person warrants that:
 - (a) that person has power to enter into this agreement under the terms of the trust;
 - (b) that person has properly signed this agreement in accordance with the terms of the trust;
 - (c) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this agreement; and
 - (d) all of the persons who are trustees of the trust have approved entry into this agreement.
 - (2) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

17.0 Counterparts

- 17.1 This agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same agreement. A party may enter into this agreement by signing a counterpart copy and sending it to the other party, including by facsimile or e-mail.

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June 2005

SCHEDULE 2 (GST Information)

1. The vendor is registered under the GST Act or will be so registered at settlement.	Yes/No ☒
2. The vendor's registration number (if already registered):	
3. The purchaser is registered under the GST Act or will be so registered at settlement.	Yes/No ☒
4. The purchaser's registration number (if already registered):	
5. The purchaser's full name:	
6. The purchaser's address:	
7. The purchaser intends at settlement to use the goods supplied under this agreement for making taxable supplies.	Yes/No
8. The purchaser intends at settlement to use the property as a principal place of residence by the purchaser or a person associated with the purchaser under section 2A(1)(c) of the GST Act.	Yes/No
9. The purchaser intends to direct the vendor to transfer title to the property to another party ("nominee")	Yes/No
10. If the answer to question 9 is "Yes": (a) The nominee is registered under the GST Act or is expected by the purchaser to be so registered at settlement. (b) The nominee's registration number (if already registered):	Yes/No
(c) The nominee's full name:	
(d) The nominee's address:	
(e) The purchaser expects the nominee to intend at settlement to use the goods supplied under this agreement for making taxable supplies.	Yes/No
(f) The purchaser expects the nominee to intend at settlement to use the property as a principal place of residence by the nominee or a person associated with the nominee under section 2A(1)(c) of the GST Act.	Yes/No

WARNING (This warning does not form part of this agreement)

This is a binding contract. Read the information set out on the back page before signing.

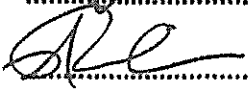
Acknowledgements

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Agents Authority.

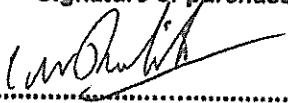
Where this agreement relates to the sale of a unit title property, the parties acknowledge that the purchaser has been given a pre-contract disclosure statement under section 146 of the Unit Titles Act 2010.

Signature of vendor(s)

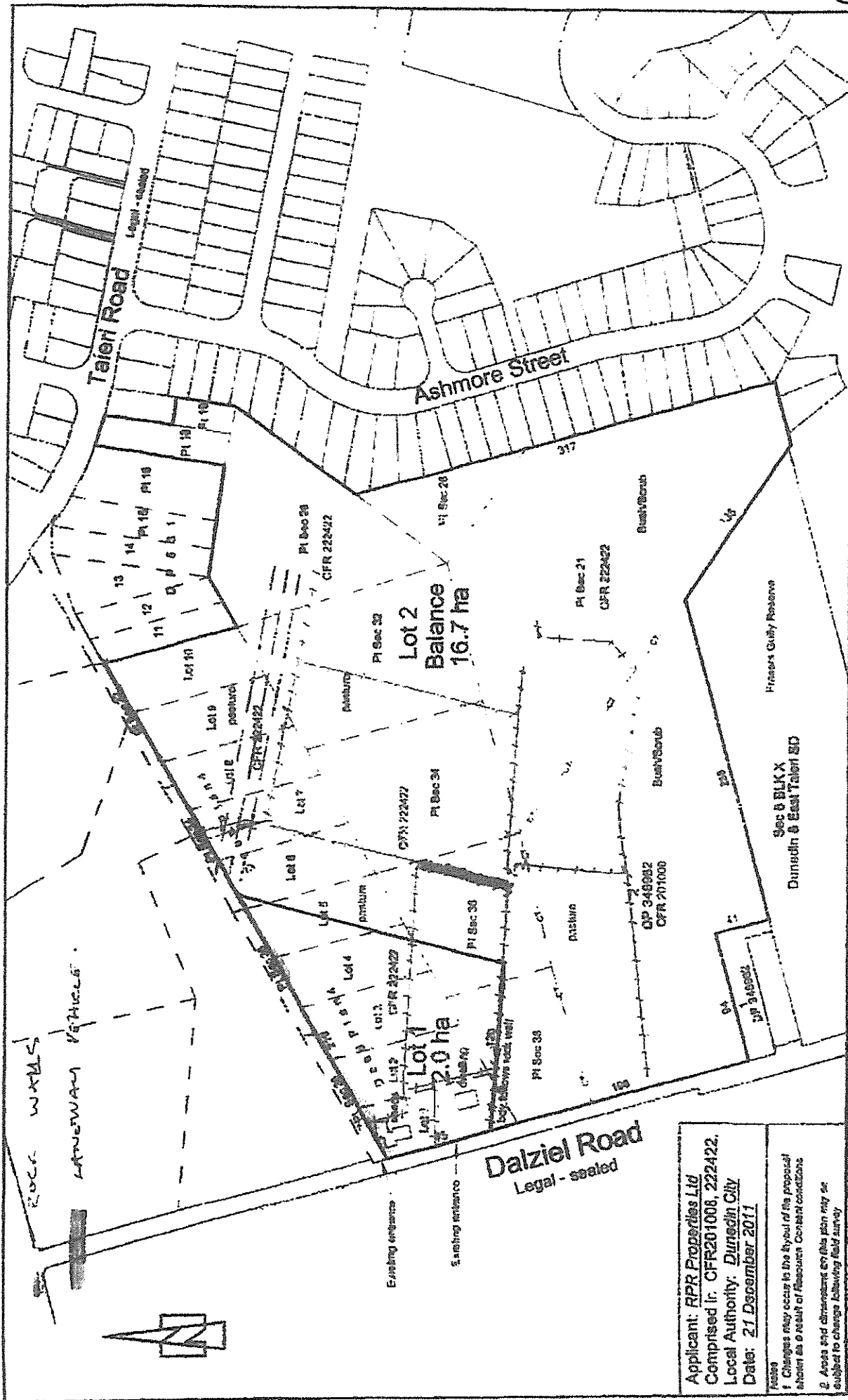

..... DIRECTOR


..... DIRECTOR

Signature of purchaser(s)


.....


.....



Applicant: RPR Properties Ltd
 Comprised in: CFR201008, 222422.
 Local Authority: Dunedin City
 Date: 21 December 2011

1. Changes may occur to the layout of the proposal shown as a result of discussion. Consent conditions
 2. Areas and dimensions on this plan may be subject to change following field survey

CRAIG HORNE
 Registered Surveyor
 5 MAIN SOUTH ROAD EAST (AFTER)
 P.O. BOX 58 MOSGLEN

Proposed Subdivision of Lot 2 DP 348982, Lots 1 - 10 &
 Pt Lots 18 & 19 Deed 4, Pt Sec's 21, 26, 28, 32,
 34, 36, & 38 Wakari SD
 Dalziel & Taleri Roads, Wakari

Ref: RPR Properties Ltd D85
 1
 Down CH
 Checked
 Traced
 1:2500

DR
 DP
 CW
 OW

FURTHER TERMS OF SALE

See attached Further Terms of Sale

Copyright

June 2006

SCHEDULE 1

List all chattels included in the sale
(strike out or add as applicable)

Stove	Fixed floor coverings	Blinds	Curtains	Drapes	Light fittings
-------	-----------------------	--------	----------	--------	----------------

Electric Fence Unit

and
AW
AP
ER

FURTHER TERMS OF SALE

CONDITIONS RELATING TO SUBDIVISION

15.1 Completion of subdivision works

The vendor will forthwith, at its cost in all things:

- (a) complete all works required to subdivide Lot 2 DP 348982 (Computer Freehold Register 201008) and Lot 1-10 and Part lot 18-19 Block II Deeds Plan 4 and Part Section 21, 26, 28, 32, 34, 36 and 38 Wakari Survey District (Computer Freehold Register 222422) ("the Land") in a good and competent manner, and in accordance with sound construction and engineering practice; and
- (b) comply in all respects with any terms and conditions imposed by the Council; and
- (c) prepare and submit a land transfer plan in accordance with the preliminary plan attached to the Council for its approval.

15.2 Survey plan

The vendor will at its cost forthwith apply for the necessary certificates from the Dunedin City Council ("the Council") to complete the subdivision of the Land as shown on the attached plan to enable a separate unique identifier to issue for the property.

15.3 Vendor to lodge survey plan

Following approval of the plan by the Council, the vendor will lodge the survey plan with Land Information New Zealand, and will promptly arrange for the deposit of the survey plan. The vendor undertakes to notify the purchaser ~~when the plan has deposited~~ immediately when the vendor has submitted documents to LINZ for creation of title for the property.

15.4 Deposit

The Vendor and the Purchaser acknowledge that the deposit shall be held as stakeholder pursuant to clause 2.0 of this Agreement.

15.5 Costs

The vendor will pay all costs, charges, expenses and disbursements associated with the subdivision and deposit of the survey plan of the Land including:

- (a) the costs of all subdivisional works;
- (b) all costs of compliance with any terms and conditions imposed by the Council in the granting of its approval to the subdivision excepting any terms and conditions relating to the ongoing use of the Land once subdivided; and
- (c) all Land Information New Zealand costs.

15.6 Easements

The vendor reserves the right to grant, create or receive any easements (excepting any easements for pedestrian access across the Land) which may be required in order to satisfy any conditions of approval of the subdivision of the Land in the manner contemplated by the plan of subdivision. The vendor will

notify the purchaser of the proposed easements, their location and the proposed terms of such easements. The purchaser will not be entitled to object to, or requisition, the grant or receipt of such easements. A right of way easement will be created across Lot 2 in favour of Lot 1 for access to the shed and paddocks. A water easement will be created across Lot 1 in favour of Lot 2.

15.7 Area of property

The purchasers acknowledge that all measurements and areas are subject to final survey and any alterations that may be required upon checking by the Council and other relevant authorities. The purchasers acknowledge that the current certificates of title to be subdivided are limited as to parcels.

15.8 Covenants

The purchaser agrees to the registration of a covenant protecting the rock walls contained within Lot 1 to prevent the removal or demolition of these rock walls.

15.9 No caveat

The purchaser warrants that it will not lodge a caveat against the vendor's title to the Land prior to the deposit of the survey plan. The purchaser acknowledges that this obligation is an essential term of this agreement, breach of which will entitle the vendor to terminate this agreement if the caveat is not withdrawn within 5 working days after the service by the vendor of a written notice on the purchaser requiring the purchaser to withdraw the caveat.

15.10 No Objection

The purchaser warrants that it will not unreasonably withhold consent to any application by the vendor in respect of development of the vendor's land which will form the balance land after subdivision of the land which is the subject of this agreement.

SEWERAGE

16.1 Relocation and Costs

The vendor will pay all costs, charges and expenses associated with the relocation of the effluent disposal field for the existing dwelling so that it is contained within the boundaries of Lot 1.

- 16.2** In the event that as part of the further subdivision of Lot 2 the Council requires the updating or replacement of the septic tank, the Vendor will pay all costs, charges, expenses and disbursements associated with those works.

FENCING

17.1 Fencing

The vendor will pay all costs associated with the erection of standard sheep proof fencing (being post and netting) on the boundaries of Lot 1 where such fencing does not already exist. The Vendor will complete the fencing work within one calendar month of the issue of title to Lot 1.

- 17.2** The Vendor acknowledges that the electric fence unit will be included in the chattels being acquired pursuant to this agreement. The Purchaser agrees that it will pay the costs of electricity associated with the fence.

WATER SUPPLY

- 18.1** The Vendor will pay all costs associated with the water supply to Lot 2 until such time as a separate water meter is installed for Lot 1. The Vendor shall bear the cost of installing the separate water meter for Lot 1. The current water supply shall remain with the property.

GENERAL CONDITIONS

Handwritten signatures and initials:
LWR
R
ah
AP

19.1 Counterparts

Either party may sign a facsimile or scanned and emailed copy of this agreement and send it by facsimile or email to the other party or that party's respective agent(s) or solicitor(s). This method of execution will be sufficient to constitute offer and acceptance and to satisfy the requirements of section 24 of the Property Law Act 2007.

Field (

19.2 Lowest Price

The parties acknowledge that:

- (a) despite any deferred or extended date for settlement or the giving and taking of possession under this agreement, the purchase price of the property set out in this agreement is the lowest price at which the property could be purchased;
- (b) the purchase price of the property set out in this agreement does not include any capitalised interest; and
- (c) the "lowest price" for the purposes of section EW 32(3) of the Income Tax Act 2007 is equal to the purchase price of the property set out in this agreement.

EP
GR
CWA
AW

BEFORE SIGNING THE AGREEMENT

- It is recommended both parties seek professional advice before signing. This is especially so if:
 - there are any doubts. Once signed, this will be a binding contract with only restricted rights of termination.
 - the property is sold as a going concern.
 - Property such as a hotel or a farm is being sold. The agreement is designed primarily for the sale of residential and commercial property.
 - the property is vacant land in the process of being subdivided or there is a new cross lease or unit title to be issued. In these cases additional clauses may need to be inserted.
 - there is any doubt as to the position of the boundaries.
 - the purchaser wishes to check the weatherlightness and soundness of construction of any dwellings or other buildings on the land.
- The purchaser should investigate the status of the property under the Council's District Plan. The property and those around it are affected by zoning and other planning provisions regulating their use and future development.
- The purchaser should investigate whether necessary permits, consents and code compliance certificates have been obtained from the Council where building works have been carried out. This investigation can be assisted by obtaining a LIM from the Council.
- The purchaser should compare the title plans against the physical location of existing structures where the property is a cross lease or unit title. Structures or alterations to structures not shown on the plans may result in the title being defective.
- In the case of a unit title, before the purchaser enters into the agreement:
 - the vendor must provide to the purchaser a pre-contract disclosure statement under section 146 of the Unit Titles Act 2010;
 - the purchaser should check the minutes of the past meetings of the body corporate, enquire whether there are any issues affecting the units and/or the common property, check the body corporate's long term maintenance plan and enquire whether the body corporate has imposed or proposed levies for a long term maintenance fund or any other fund for the maintenance of, or remedial or other work to, the common property.
- The vendor should ensure the warranties and undertakings in clauses 6 and 8:
 - are able to be complied with; and if not
 - the applicable warranty is deleted from the agreement and any appropriate disclosure is made to the purchaser.
- Both parties should ensure the chattels list in Schedule 1 is accurate.
- Before signing this agreement, both parties should seek professional advice regarding the GST treatment of the transaction. This depends upon the GST information supplied by the parties and could change before settlement if that information changes.

THE ABOVE NOTES ARE NOT PART OF THIS AGREEMENT AND ARE NOT A COMPLETE LIST OF MATTERS WHICH ARE IMPORTANT IN CONSIDERING THE LEGAL CONSEQUENCES OF THIS AGREEMENT.

PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF ANY AGREEMENT ENTERED INTO BETWEEN THE PARTIES.

THE PURCHASER IS ENTITLED TO A COPY OF ANY SIGNED OFFER AT THE TIME IT IS MADE.

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

© This form is copyright to the Real Estate Institute of New Zealand Incorporated and Auckland District Law Society Incorporated

DATE: 14-5-2012

VENDOR:
RPR Properties Limited

Contact Details:

VENDOR'S LAWYERS:

Firm: Marks & Worth Lawyers

Individual Acting: Sally Peart

Contact Details:
PO Box 1116, Dunedin 9054
Telephone: 464 0034

PURCHASER:
Christopher William RIETVELD and Alice Mary WOUTERS

Contact Details:
1 Splers Road, Halfway Bush, Dunedin 9010

PURCHASER'S LAWYERS:

Firm: O'Neill Devereux

Individual Acting: Paul O'Neill

Contact Details:
PO Box 909
Dunedin 9054
Telephone: 477 6801

REAL ESTATE AGENT:

Agent's Name: HEARTLAND REALTY

Manager: MURRAY HANSTED

Salesperson: TOM RICHARDSON

Contact Details:

JOHN KING REAL ESTATE LTD.

P.O. Box 1221

INVERCARGILL

(03) ~~444 777~~ 2144 777

Fax (03) ~~444 777~~ 2144 779.

Further Terms of Sale

Conditions:

- 18.0 This Agreement is conditional upon the purchaser and the vendor each obtaining confirmation from their solicitor that the terms and conditions of this Agreement are acceptable and that the solicitor is satisfied with its form and content and each party's solicitor notifying the other party's solicitor that this condition has been satisfied within three (3) working days from the date of this Agreement. This condition is inserted for the benefit of both the purchaser and vendor.
- 19.1 This Agreement is conditional upon the purchaser carrying out a due diligence investigation of the property including (but not limited to) an investigation of the following:
- (a) The Certificate of Title
 - (b) A valuation of the property
 - (c) A LIM report
 - (d) The overall financial commercial viability of the purchaser's proposed investment in the property, including the purchaser arranging suitable finance.
- 19.2 The parties acknowledge that this condition is inserted for the sole benefit of the purchaser and may at any time prior to this Agreement being voided be waived by the purchaser giving written notice of waiver to the vendor.
- 19.3 The parties agree that satisfaction of this condition shall be the sole and absolute discretion of the purchaser and that if this condition is not fulfilled due to the purchaser not being satisfied with any aspect of the property or the transaction, the purchaser shall not be obliged to state any reasons for the purchaser's lack of satisfaction.
- 19.4 The date of satisfaction of this condition shall be ten (10) working days from the date of this Agreement at which time the purchaser shall advise the vendor or the vendor's solicitor in writing.
- 20.0 This Agreement is conditional upon RPR Properties Limited, a company of which the purchasers are directors, obtaining full and complete consent to the Westacott Heights subdivision which is the subject of consent application number which at the date of this Agreement is currently before the Dunedin City Council.

SETTLEMENT

- 21.1 Deposit payable within five (5) working days of the S&P agreement becoming unconditional.
- 21.2 Settlement and Possession to be on a mutually agreed basis, but in any event, not before the 30th of July 2016 and no later than the 20th December 2016

Further Terms

- 22.0 As a condition of this Agreement the vendor will not from the date of this Agreement withhold consent to any subdivision consents or other consents required by RPR Properties Limited relating to the Westacott Heights subdivision and will not object to the subdivision or be involved in any protest against it.
- 23.0 The Vendor agrees without any exclusions, the full and absolute rights and uses to the sheds and yards contained on the property from the date that this agreement becomes unconditional. This clause does not include the garages contained within and or immediately adjacent to the house.

Signing of Agreement

- 24.0 The offers contained by the purchaser to the vendor in this Agreement remain open for five (5) working days from the date on which this Agreement is presented by the purchasers to the vendors, being January 2016.
- 25.0 **GST Registration** – The Customer and Client both warrant to provide to each other the information required in Schedule 3 of this agreement prior to this agreement becoming unconditional. (This is to be used when the Client and /or Customer do not have the details on hand at the time of negotiation. Under no circumstances must a broker complete Schedule
- 26.0 The purchasers acknowledge that Thomas Charles Thomas Richardson, a Director of the development company RPR Properties Limited is also a Licensed Real Estate agent. Mr Richardson further offers to provide the Vendors with a registered valuation of the property within the due diligence period as per the requirements of the REAA regulations.

RIETVELDS.

Applicants records.

APPROX 10 METRES INSIDE EASTERN BOUNDARY IN LOT 2/3
VIEW TO 31 DALZIEL ROAD HOUSE





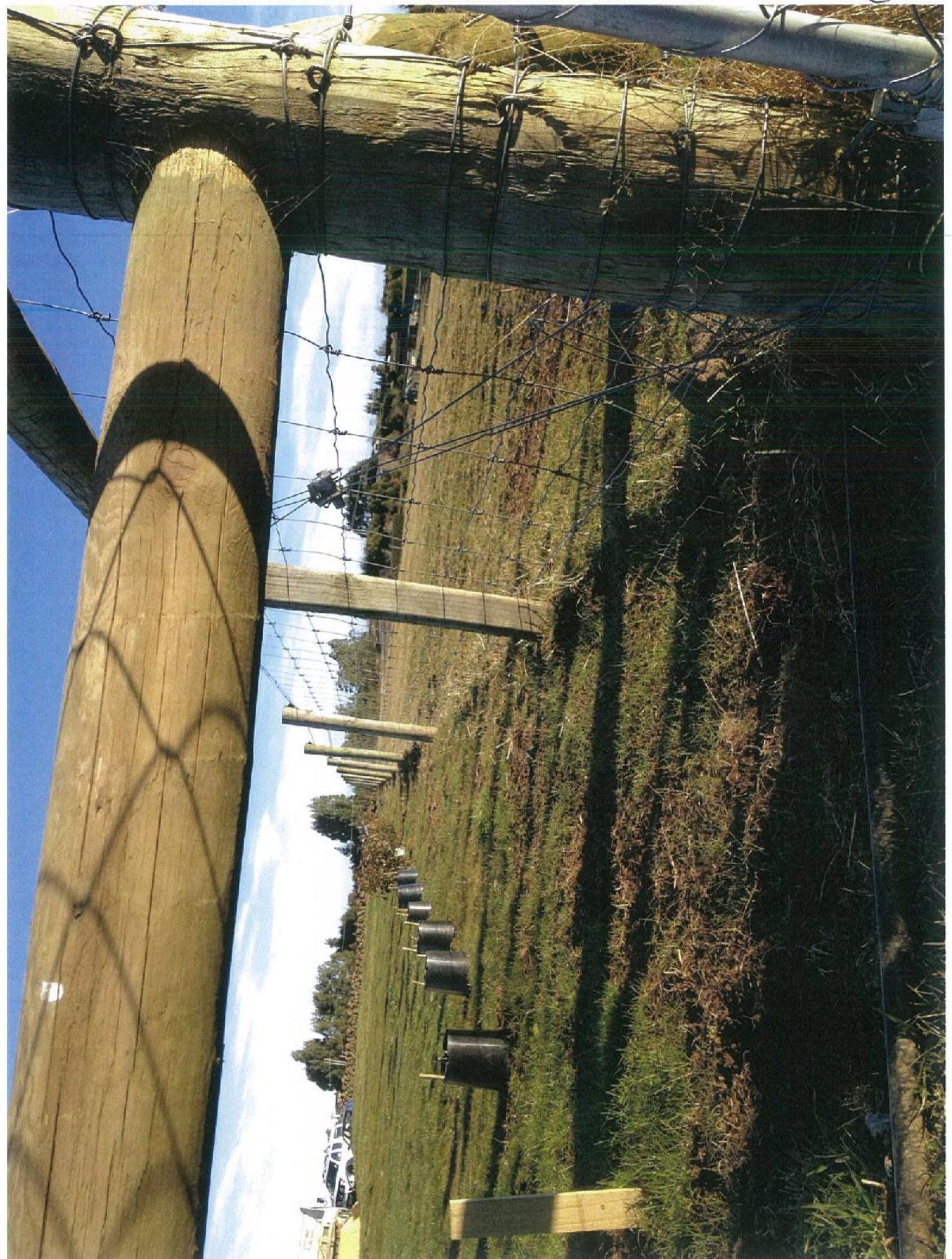














DUNEDIN CITY
COUNCIL
Kaunihera-a-rahe o Otepoti

50 The Octagon, PO Box 5045, Moray Place
 Dunedin 9058, New Zealand
 Telephone: 03 477 4000, Fax: 03 474 3488
 Email: dcc@dcc.govt.nz
www.dunedin.govt.nz

15 July 2016

Angela Ruske
 Keep Halfway Bush Semi-Rural Inc
 42 Dalziel Road
 Dunedin 9010

Dear Angela

RPR PROPERTIES DALZIEL ROAD SUBDIVISION – SUB 2012-92

I am writing in response to the letter you sent on behalf of Keep Halfway Bush Semi-Rural Inc dated 21 June, about resource consents SUB 2012-92 and LUC 2012-505. Your primary concern is with the alteration to the lots sizes during the hearing process. I asked staff to investigate and report back to me. I have considered your letter and information from staff.

When the resource consent was being processed in 2013 the Hearing Committee did seek legal advice about the changed layout. The advice was that the change was within the scope of the application. Key points of advice were that the number of lots and houses would be the same, and the bush remains protected. Legal consideration was also given to the submitters and the general public who did not submit. The Hearing Committee accepted the advice and made their decision. At the time our legal advisors did consider all the relevant information. They are very experienced in planning law and have provided a wealth of planning advice to Council. On the basis of legal advice in 2013 we disagree with Mr Shiels advice.

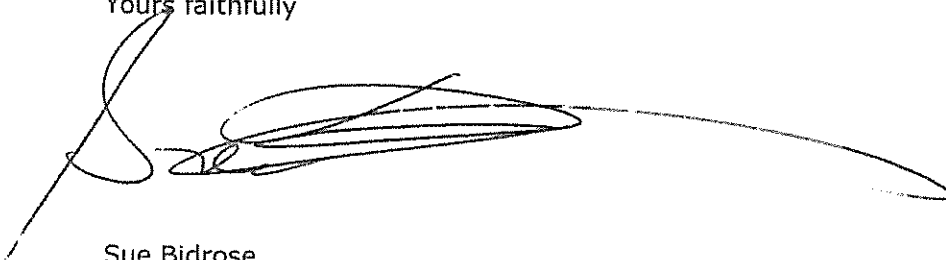
The resource consent has been given effect to and most lots have been developed. The two remaining lots owned by the developer have an area of 1.95ha (47 Dalziel Road) and 0.4860ha (41 Dalziel Road). One of the two Lots is essentially the two hectare size you wish to see. The other Lot is smaller and surrounded by land owned by persons other than the developer, which makes it highly unlikely a two hectare lot could be created.

As you note, the rezoning of the land is a matter that will be considered as part of the current review of the District Plan, the 2GP. I note yourself and two other residents from Dalziel Road have made a submission on the 2GP zoning of the Dalziel Road properties. All submitters have the ability to speak to the Hearing Committee. You can call on other member of Keep Halfway Bush Semi-Rural Inc as witnesses to support your submission point(s). At the end of the hearing process submitters can appeal the decisions. I also note you made a submission on the resource consent application in 2012. As part of that process a copy of the decision was posted on 30 April 2013 to all submitters.

To conclude, I note the Council received legal advice during the hearing that the alteration to the lot dimensions was within the scope of the resource consent application. The resource consent has been given effect to with seven of the nine lots with houses on them or under construction. Seeking to change the one lot owned by the developer that is not close to two hectares would not be practical and does not recognise the resource consent is a lawful.

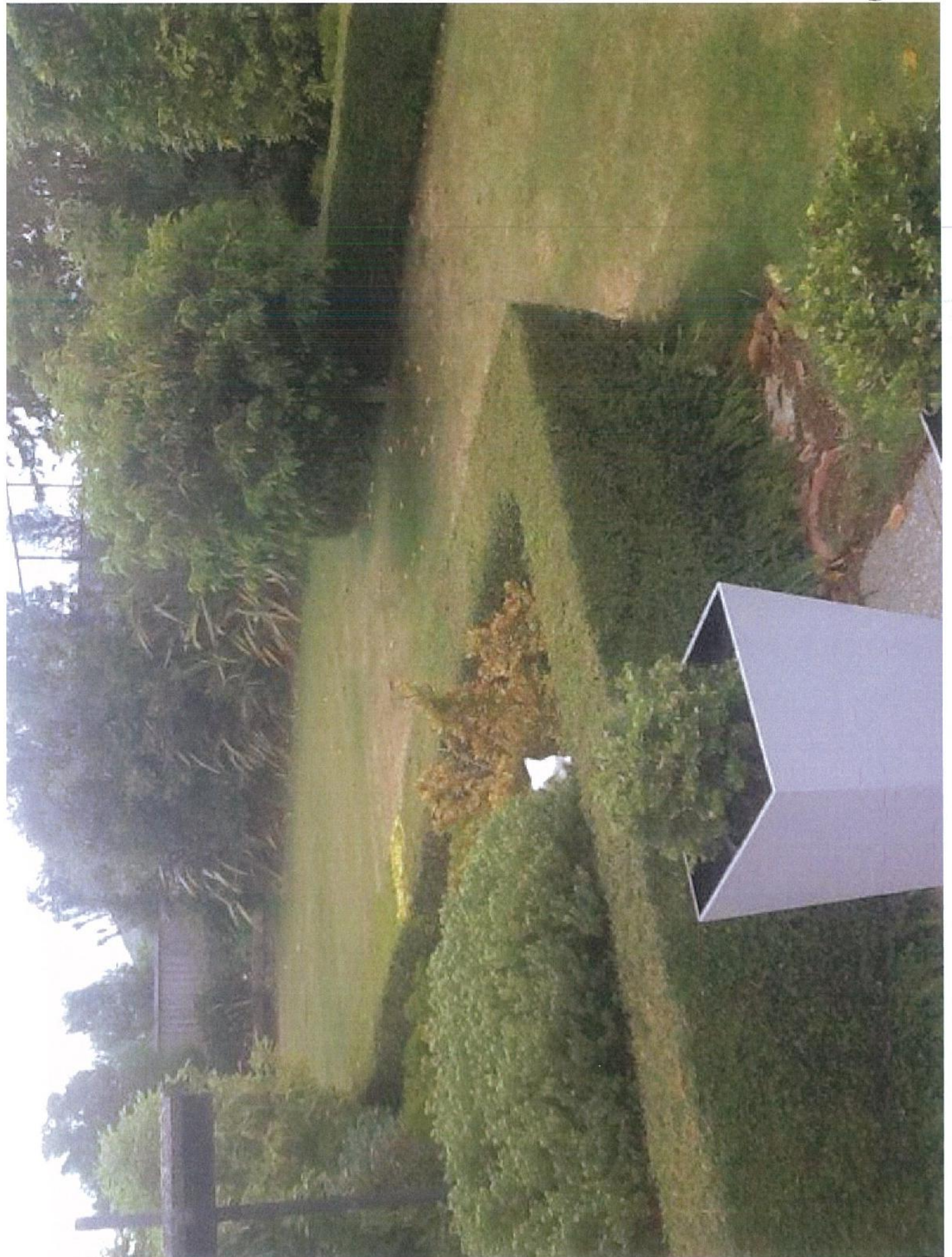
I hope that this response answers your questions.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a long horizontal stroke extending to the right.

Sue Bidrose
Chief Executive Officer











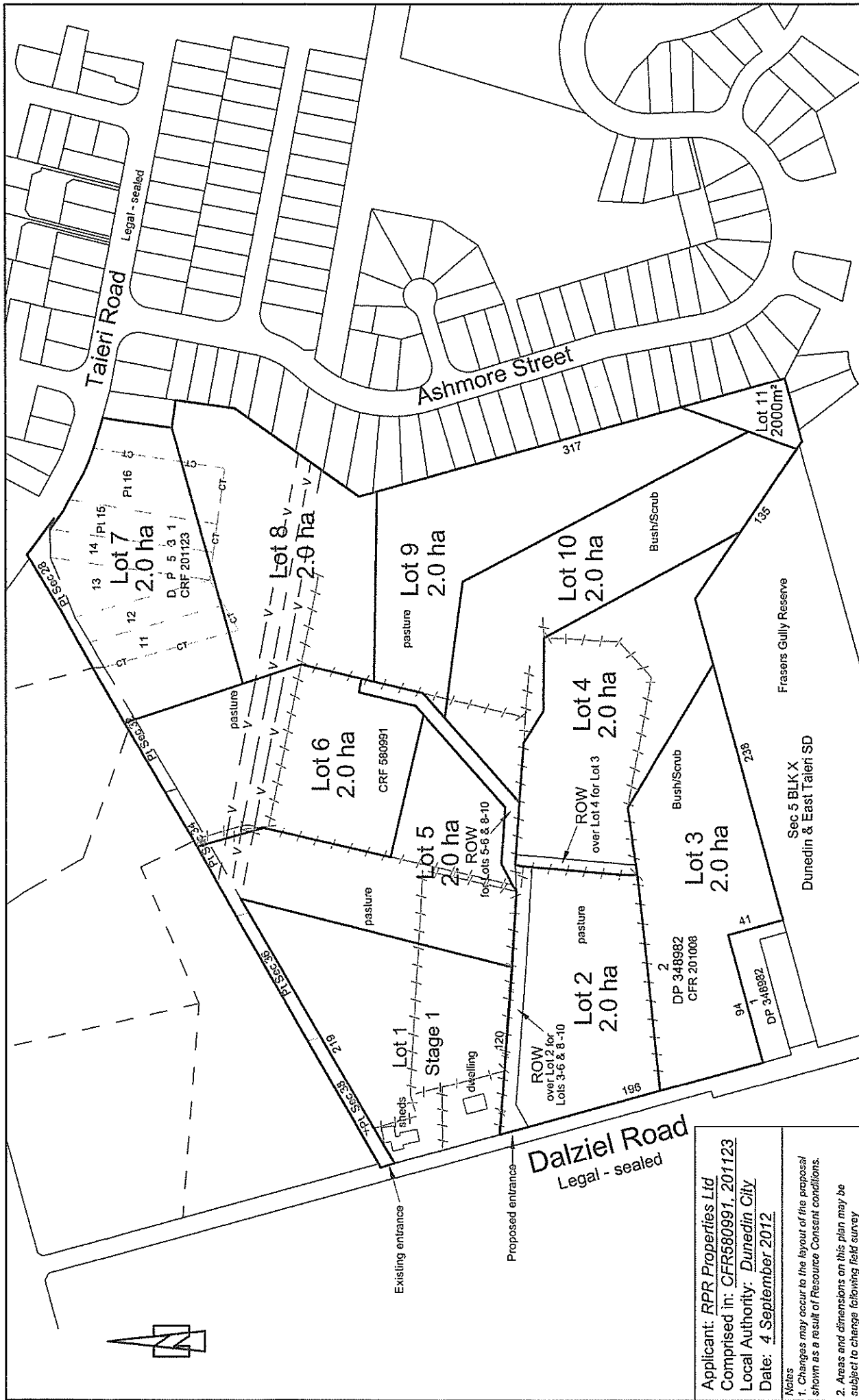






End of boundary

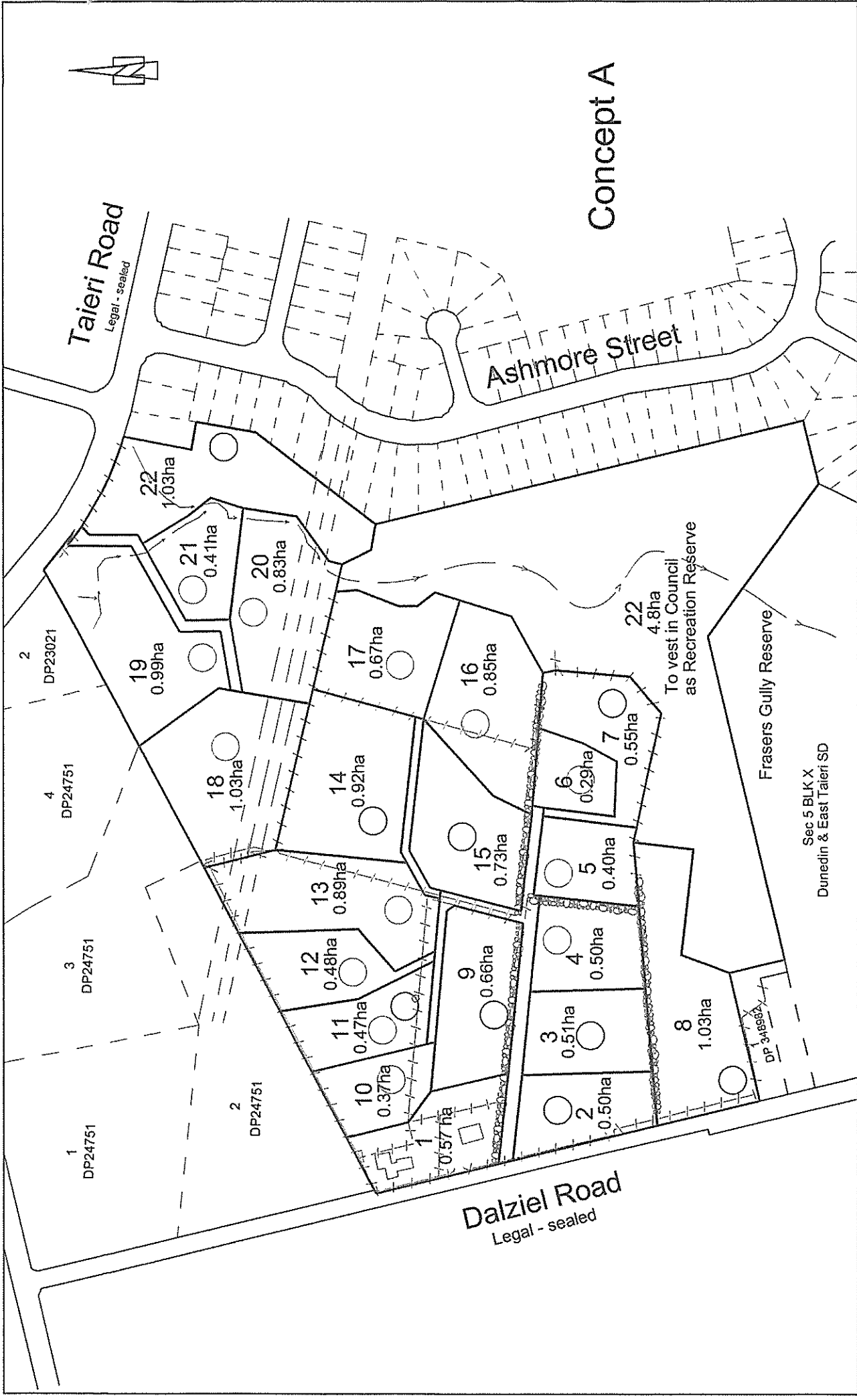
EXHIBET D, DATE VOTED 4 - 7 - 2012



CRAIG HORNE Registered Surveyor 5 MAIN SOUTH ROAD EAST TAIERI P.O. BOX 56 MOSGIEL PH (03) 4847008 FAX (03) 4847009	Proposed Subdivision of Lot 2 DP 453493, Pt Sec's 28, 32, 34, 36, & 38 Wakari SD and Lots 11 - 16 DP 531 Dalziel & Taieri Roads, Wakari		Ref: RPR Properties Ltd D85		1
	Applicant: <u>RPR Properties Ltd</u> Comprised in: <u>CFR580991, 201123</u> Local Authority: <u>Dunedin City</u> Date: <u>4 September 2012</u>		Drawn CH Traced		OF 1 A3 SCALE 1:2500

Notes
1. Changes may occur to the layout of the proposal shown as a result of Resource Consent conditions.
2. Areas and dimensions on this plan may be subject to change following field survey

EXHIBIT 11, LITE DRAWN 9-2-2011



CRAIG HORNE Registered Surveyor 5 MAIN SOUTH ROAD EAST TAIERI P.O. BOX 56 MOSGIEL	Westacott Park - Lifestyle Layout Dalziel & Taieri Roads, Wakari		Ref: RPR Properties Ltd D85 9 February 2011	SHEET 1 OF 1
	PH (03) 4847008 FAX (03) 4847009		Drawn CH	Checked
			Traced	A3 SCALE 1:2500

Water Invoice Statement

Assessment:	4022442
Telephone:	474-3884
Invoice Date:	29-Jul-2016
Due Date:	20-Aug-2016

R P R Properties Limited
PO Box 44421
Mosgiel 9053

TAX INVOICE
GST NO: 51-997-891

Opening Balance	\$	313.85
Adjustments	\$	
Payments Received	\$	-313.85

Meter Number Supply Description	Reading Date		Meter Reading		Units Charged	Rate	Amount
	Previous	Current	Previous	Current			

Property Address: 31 Dalziel Road Dunedin

06M269124 Water - DCC Water Consumption Generated Rate	22-Apr-2016	20-Jul-2016	4,972	5,098	98.00	1.430	139.69
Water - DCC Water Consumption Generated Rate	22-Apr-2016	20-Jul-2016			28.00	1.470	41.62
Up to 20mm Supply Quarterly Water Supply Charge					1.00	36.000	36.00

Current Charge \$ **217.31**

Due Date **20-Aug-2016**

Current Charge \$ **217.31**

Please detach and return to the Dunedin City Council, PO Box 5045, Moray Place, DUNEDIN 9058

Total GST	\$28.34	Total Due	\$ 217.31
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Page 1 of 1

WATER INVOICE/STATEMENT



Assessment:	4022442
Due Date:	20-Aug-2016
Total:	\$217.31

DEPOSIT DETAILS - Bank: Westpac; Account Details: 03 0905 0184000 12; Particulars: Please include your Reference Assessment Number.

Change of Postal Address Advice

Assessment Name: R P R Properties Limited
Assessment Number: 4022442

This new address should be used from

/	/
---	---

Keep Halfway Bush Semi-Rural Inc

Mobile 021452111 email: ruske@stonebarn.co.nz 42 Dalziel Road, Halfway Bush, Dunedin

Dr Sue Bidrose
CEO
Dunedin City Council

21 June 2016

Keep Halfway Bush Semi-Rural Inc
42 Dalziel Road
Halfway Bush
Dunedin

Dear Dr Bidrose,

Re Consent Application: SUB-2012-92 & LUC-2012-504 by R P R Properties Ltd

As the president of Keep Halfway Bush Inc I am writing to inform you of a procedural mistake made by the Council with regard to granting of the above consent. We have been advised to contact the Council in the first instance to see if this can be resolved prior to seeking further legal action.

Below is a an extract from the Resource Consent Notice:

41 Dalziel Road, Halfway Bush, Dunedin being the land legally described as Lot 2 Deposited Plan 453493, Lott 11-14 Deposited Plan 531 and Part Lot 15 - 16 Deposited Plan 531 (CFR 5800991; 17.6562ha) and Part Sections 28, 32, 34, 36 & 38 Wakari SD (title to be issued).

Resource consent is sought for a non-complying activity, being the subdivision of the above land into nine new lots for rural residential development, plus two small lots to be transferred to adjoining properties.

The proposed Lots 2 to 10 will all be rural residential sized lots of approximately 2ha.

As you can see, it was specifically stated in the notified application that Lots 2-10 (nine sites) will be rural residential sized Lots of approximately 2ha. Prior to this application the developer, R P R Properties, had looked at developing this land into 106 residential sites, which was opposed by both residents and the Council. There was little objection by residents to the the new proposed development of nine 2ha Lots as many in area believed it was in keeping with the surrounding properties and made best use of the



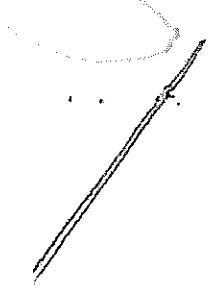
land - which is currently zoned Rural, despite being nestled in amongst Rural-Residential land. The Council declined this application at the submission hearing based on their concerns about the loss of a native gully on the property, and gave R P R Properties an option to submit a revised plan which protected the gully. The revised plan significantly changed the Lot sizes - reducing some of the Lots from 2ha to 0.25ha. The revised plan no longer met the Lot sizes stated in the application. Given the significant change in Lot sizes the correct procedure would have been for the Council to re-notify everyone and give them the option to re-submit. However the Council only sought "feedback" from those who made submissions on the initial application. Not only should the Council have sent a new application out to all the people notified in the first application, but a new hearing should also have been held.

Many residents opposed a further application made by the developer to subdivide this area into an additional 34 Lots (SUB-2015-54 & LUC-2015-291). This application was declined by the Committee earlier this year, due to the "more than minor" affects it would have on the area. It was at this meeting that many residents learnt for the first time that the Rural Residential application of nine 2ha Lots were not all 2ha in size, and no longer satisfied Rural Residential zoning. At this point we realised that the Council had granted the above application without following correct procedure, and as such we have been advised that this consent has been granted in error.

This is important because we believe residents would have opposed the smaller Lot sizes had they been informed of the changes in the revised plan. This has had further implications on development of this land as both the developer - and the Council in its 2GP re-zoning plan - have proposed to subdivide this land into even smaller Lot sizes. We are very confident that the Council planner would not have suggested this if the initial application of nine 2ha Rural Residential Lot sizes had been granted. Given that the Committee rejected R P R Properties application to create a further 34 Lots by subdividing some of the initial nine Lots to even smaller Lot sizes, it is evident that it is not in keeping with the surrounding Rural Residential area and not supported by those who live in the area.

We have consulted Trevor Shiels (QC) with regard to this matter, and he has advised us that the we would have a very good case if we were to take this matter to the High Court. We would like to avoid this if possible.

We believe that the initial application of nine 2ha Lots should be upheld. Given that some of these Lots have been sold (some of which are significantly smaller than 2ha) we are aware that these cannot be changed, but we would like to see the remaining unsold Lots to be changed so that they are at least 2ha in size. Given that most of the



titles on this land will meet the land size of Rural-Residential, we would like the land to be re-zoned Rural-Residential at the upcoming 2GP Hearing in February 2017, rather than the Large Lot Residential zone it is being considered for.

We look forward to hearing from you with regard to this and hope that we are able to resolve this issue quickly.

Yours Sincerely

Angela Ruske

6 June 2016

Mr John Sule
Dr Sue Bidrose
Dunedin City Council
50 The Octagon
PO Box 5045 Moray Place
Dunedin 9058

Dear John,

Immediate hold of all applications regarding RPR Properties subdivision, Dalziel Road

Further to your phone call on Friday, 3 June 2016 regarding, the application from RPR properties, Since I was unwell and unable to speak, due to having lost my voice, I now am writing to clarify my position on this situation.

I have now had the opportunity to seek further legal advise from a Barrister experienced in environmental resource consent case advising that the High Court would likely deem that the process used to approved to the 2012 consents to be illegal.

As you were aware the 2012 consents did not follow proper process.
SUB-2012-92 & LUC - 2012-504

Therefore, with immediate effect, I am requesting that all current applications regarding the Dalziel Road subdivision are place on hold and that no further applications are accepted whilst this matter is being investigated.

Also as you are aware, there a current appeal by RPR Properties in the Environment court (LUC 2015-291 & SUB 2015-54) therefore no further action should be taken by the DDC until this legal matter is resolved through the proper channels.

Finally, I would just like to add that as a Dunedin rate payer that I am concerned that rate payers' money is being wasted on litigation that could be avoided.

Yours sincerely



Alice Wouters
31 Dalziel Road
Dunedin 9010

9 June 2016

Alice Wouters



Dear Alice

REQUEST FOR SUSPENSION OF APPLICATIONS – RPR PROPERTIES LIMITED

I am writing in response to your letter of 6 June 2016. I have considered your letter and discussed it with our legal advisors. I advise that we are not able to suspend the applications recently lodged by RPR Properties Limited as requested. The Council is bound by statutory processing timeframes. It cannot refuse to accept applications and it is obligated under Section 21 of the RMA to avoid unreasonable delay in the processing of resource consents. The proposed subdivision (SUB-2016-45) is a reorganisation of an existing subdivision approval and it can proceed independently of the subdivision and land use consents which are currently subject to an Environment Court appeal (Sub-2015-54 & LUC 2015-291).

As you will be aware the earlier 2012 subdivision consent you refer to (SUB-2012-92) has been completed and dwellings are already established on some of the sites. This decision and the complimentary land use consent (LUC-2012-504) have not been appealed or legally challenged. As a result, the Council does not accept that the consents did not follow proper process. Whilst acknowledging your concerns regarding these consents we are not able to take into account your legal advice that the High Court would likely consider it illegal and suspend the applications.

I note that with the most recent subdivision application the applicant accepts that there are at least minor effects on your property. As you have not provided an affected party approval you will be directly advised of the proposal when it is notified and will be invited to make a submission. In the interim I have included a copy of the application and the plans (appendices excluded) for your information. I note that the applicant has sought only limited notification of the application as the applicant considers the adverse effects beyond the immediate neighbours are less than minor. The full application and a submission form will be provided to you when the notification assessment is completed and the application is notified.

If you require any clarification I can be contacted on 474 3688.

Yours faithfully

John Sule
SENIOR PLANNER

Tom Richardson

By email

RE: 'Westacott Heights' – Rural Life – City Style

Dear Tom

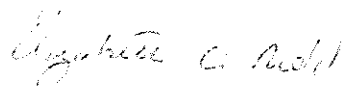
I am interested in your proposed subdivision in terms of the market and the likely demand. There is currently very strong demand for sections in Dunedin which is reflecting in the price increases you will see in the graph attached to this email.

In the past three years it appears from the statistics that I have available that there have been 441 section sales. Of these there were only 18 sections over 1500m². This is merely because of the lack of larger sections available which allows very little choice for those buyers wanting more space but not necessarily wanting a 'lifestyle block'.

We were the marketing agents for the 'Penno Block' subdivision undertaken by the Dunedin City Council some time ago. This is located just across the road from your proposed subdivision. It went very quickly and was received with enthusiasm by the market because of the proximity to the City. Not all section buyers want to go to Mosgiel or the surrounding area, particularly medical staff from the hospital or families with teenage children wanting to have reasonably proximate access to the city high schools.

I totally support this development and find it very difficult to see any reason that it should not be approved.

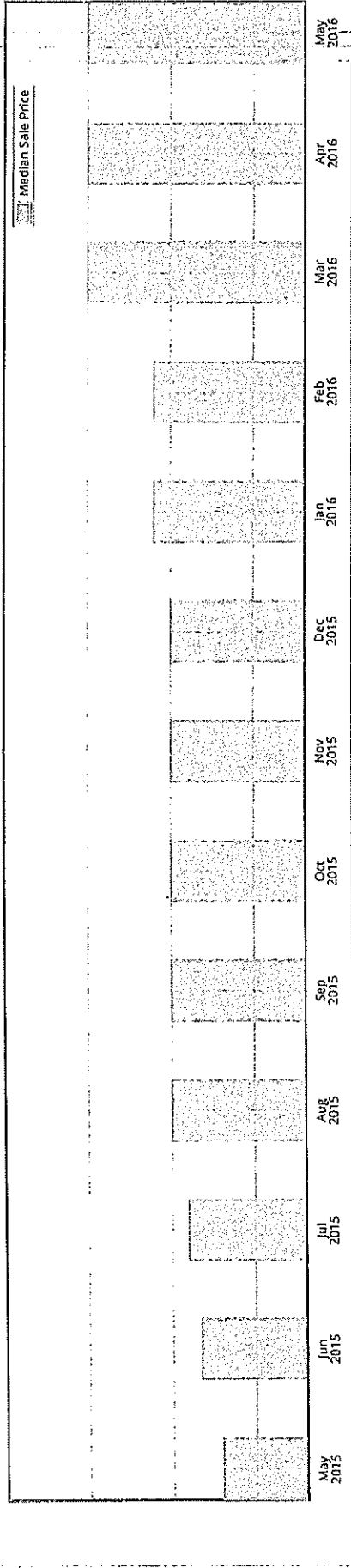
Yours faithfully

A handwritten signature in cursive script, appearing to read "Elizabeth Nidd".

Elizabeth Nidd

Director

6/27/2016



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Year	Month	Median Sale Price	Median Days	No. of Sales	% Diff Prev Month	Total Sales	Total Nat's Sales	% of Nat's Sales
2016	Mar	\$205,000	89	7956	1.99%	\$2,217,576,379	\$2,217,576,379	100.00%
2016	Apr	\$205,000	88	8308	0.00%	\$2,329,448,002	\$2,329,448,002	100.00%
2016	May	\$205,000	89	8579	0.00%	\$2,413,818,424	\$2,413,818,424	100.00%

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