

APPLICATION NUMBER:	SUB-2016-34
RELATED APPLICATIONS/LICENCES:	SUB-2015-108LUC-2015-577HAIL-2015-105

PLANNING APPLICATION DETAILS FORM

Property Address		10 Riccarton Road West Mosgiel	
Property Description:		Property No: 5052170, Legal Description: LOT 1 DP 10269, PT SEC 5 BLK III SO 63 EAST TAIERI SD, PT SEC 6 BLK III SO 63 EAST TAIERI SD	
First Contact: (Applicant)	Name:	J P Sebelin and D S Sebelin	
	Mail Address:	C/O Paterson Pitts Group, PO Box 5933, Moray Place, Dunedin 9058	
	Phone Number:	03 488 1720	
Second Contact: (Agent)	Name:		
	Mail Address:		
	Phone Number:		
	Contact Person:		
Description of Application:		subdivision creating two lots	
Application Type:		Subdivision Consent	
Consent Type:	Full Notified Land Use Consent	Consent Nature	Full Notified Land Use Consent
Major Category		Notified	
Minor Category		Notified - Non Complying	
Senior Planner or Responsible Officer:		Campbell Thomson	
Lodgement Date:		10 May 2016	Lodgement Officer: Lorna Jackson
Amount Paid:	\$4,300.00	Invoice Number:	577222
Waived: <input type="checkbox"/>			
Application Requirements	Signed Application Form		Copy of Title
	Locality Plan		Site Plan
	Plans and Elevations		AEE
	Affected Persons Consent		
Counter Comments:	This application was originally SUB-2015-108 which was withdrawn and the \$1,700 deposit was used up, therefore we are accepting \$4,300 as the full deposit for notification of this replacement application. LD/LJ		



5 May 2016

The Planner
City Planning
Dunedin City Council
PO Box 5045
Dunedin

Attn: Lianne Darby



Dear Lianne

SUB-2015-108
APPLICATION FOR RESOURCE CONSENT (LAND USE & SUBDIVISION)
JP & DS SEBELIN
LOT 1 DP 10269 & PT SEC'S 5 AND 6
8-10 RICCARTON ROAD WEST, MOSGIEL

Further to the s95 report supplied by Council on 12 April 2016, I advise that the applicant has elected to proceed with the consent application. Please find the attached cheque for \$4,300.00 as a further deposit payment in support of the next stage of the determined consenting process (public notification).

Please find the attached revised subdivision scheme plan (dated 03 May 2016) and the revised application document below, which re-describes the proposed subdivision in recognition of the recently issued land use consent for two residential activities. This is supplied to ensure that the notification and subsequent planning processes occur in terms of the current situation.

Also attached is a copy of the recently issued land use consent for two residential activities (LUC-2015-577) and copies of the existing certificates of title.

DESCRIPTION OF ACTIVITY

The objective of this application is to obtain resource consent (land use and subdivision) for the proposed boundary adjustment subdivision of the properties at 8 and 10 Riccarton Road West (CT's OTB1/697 and OTB1/698 respectively). This boundary adjustment will produce an improved alignment of boundaries in terms of the land use which presently occurs within the site, and which has been recently consented in regard to the site.

Current Situation

The applicant owns the two properties on Riccarton Road West. The properties are held in Certificates of Title OTB1/697 (containing 2.4281 hectares of land) and OTB1/698 (containing 36.6936 hectares of land). In total, the land area is approximately 39.12 hectares.

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Queenstown 9349.

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WANAKA:

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Wanaka 9305.

T 03 443 0110

The applicants are John and Dianne Sebelin. This site is located on the eastern side of Riccarton Road West, just north of Gladstone Road South and the South Island Main Truck (SIMT) railway corridor. The site is generally flat and mainly in pasture, with the occasional shelter belt planting at its periphery. The land currently contains no built residential dwellings, but there is a small farm shed to the north.

LUC-2015-577, issued on 22 January 2016, has consented the establishment of two new residential activities within the site. The location of these activities is controlled by way of building platform areas, and these are marked on the attached subdivision scheme plan. The applicant intends to build residential dwellings within each of these platforms over the coming several years. For the purposes of planning consideration of this consent, these consented activities should hold the same status as if the physical dwellings were already existing.

The land use of the two existing sites is that of traditional farming activities, although the size of the land contained in the smaller title limits the productive capacity of that land. The land use of the proposed sites is also that of farming activities, however under the proposed situation both of the proposed sites will enjoy sufficient size to accommodate these activities on an independently productive basis.

The land is located within the Rural Zone of the current (operative) Dunedin City District Plan, and the Rural Taieri Plains Zone of the notified (proposed) Dunedin City District Plan (the 2GP).

The land is contained in Certificate of Title OTB1/697 and OTB1/698, copies of which are enclosed with this application. There is a subject right of way over OTB1/698 in favour of the property to the north (Wall's Nurseries), and this is shown on the application plan.

Access to both of the existing properties is currently achieved by way of a single access point on Riccarton Road West. A formed driveway runs along the northern boundary and coincides with the area identified in the existing easement mentioned above. Both existing properties have frontage to Riccarton Road.

The Dunedin City Council (DCC) services records do not show any water connection to the site. Given the location of the site, it is expected that supply of water to any new dwellings will be achieved through a roof-top collection and storage system.

There is currently no requirement for the drainage of foul sewage. It is expected that foul sewer drainage for the new dwellings will be achieved via septic tank systems to ground, as per normal rural activities.

Likewise there is currently no requirement for storm water drainage. Drainage for the new dwellings will be achieved to ground in the normal rural manner.

The supply of electricity and telecommunications is available from infrastructure within the adjoining road corridor.

PROPOSAL

The proposed boundary adjustment subdivision is shown on the attached scheme plan.

This application seeks to obtain land use consent and subdivision consent to enable the common boundary between the two existing certificates of title to be re-routed in such a way as to i) generally balance the areas of each property so as to enable independently productive rural activities, and ii) to include one of the consented residential activities within each of the new sites.

The proposed land use activities attached to each property will remain that of rural farming. It is anticipated that the proposed subdivision, to achieve the purposes noted above, will better provide for these land use activities.

The proposed site areas (subject to survey) are shown below-

Lot 1:	19.6 hectares
Lot 2:	19.4 hectares

Frontage and Access

Both of the proposed allotments enjoy road frontage. Lot 1 has a frontage of 557m to Riccarton Road West which also provides legal and practical access directly from the Road. It is proposed to create a right-of-way (ROW) over part of the existing formed strip to allow egress using the existing access point to Riccarton Road West. This will allow ready access to Lot 1 prior to any development taking place.

Lot 2 will have a 10m frontage at the road end of the leg-in strip. The leg-in strip will also provide access to Pt Section 11 (OT258/297) by virtue of the existing 6.64m wide existing ROW which will carry down onto Lot 2. The leg-in strip has been made 10.0m wide to allow for future upgrade and passing capabilities.

Riccarton Road is legal, formed and sealed, and is designated a Collector Road under the Dunedin City District Plan. Sight lines are good and the existing access point is not located close to intersections or other specific traffic hazards.

Water

It is expected that the two new dwellings will utilise a roof water collection systems, as per normal rural water supplies.

Foul Sewage

It is expected that the two new dwellings will be adequately serviced by approved septic tank systems discharging to soakage fields contained within the respective properties, as per normal rural practices.

Stormwater

The drainage of stormwater from the two new dwellings will be achieved of by way of a discharge directly to ground, as per normal rural practices.

Electricity and Telecommunications

The supply of electricity and telecommunications to the two new dwellings will be made from existing services in Riccarton Road.

Hazards

The applicant has undertaken a search of the Dunedin City Council Hazard Register. The property is recorded in whole or part as being subject to four Natural Hazard notations, as follows-

- #11582 relates to the property being located in Flood Hazard Areas 19 and 22, being a Waterway and Overland Flow Path respectively.
- # 10106 relates to active and inactive alluvial material being deposited on the site as a result of over-land flows of sediment-laden flood-waters.

- #11407 records that the site has a degree of liquefaction risk due to poorly consolidated sediment being present in an area with a high water table.
- #10111 records the area as having the potential for amplified shaking in a major earthquake event.

Given the location and land-forms present on the site, none of the above notations are unexpected. However, there it is considered unlikely that these hazards might impede the subdivision and land-use aspects of the project, particularly as these have been assessed as part of the recent land use consent for the two building platforms, and did not raise concerns at that time.

HAIL Matters

A HAIL (hazardous activities and industries list) report was provided by the applicant to Council with the recent consent application for the two residential activities. On the basis of that information satisfying the residential aspects of land use within the subject sites, no further HAIL reporting is considered necessary (there will be no change of land use brought about by the current proposal).

PLANNING CONSIDERATIONS

The subject site is zoned **Rural** in the operative Dunedin City District Plan and **Rural Taieri Plains** in the proposed 2GP. Riccarton Road West is classified as a **Collector Road** in the Council's Roding Hierarchy.

We have considered the development in light of the provisions of both relevant Plans. We recognise that 2GP rules 16.7.4 and 16.9.5.5, relevant to this subdivision in the rural zones, have taken immediate legal effect (RMA s86D). However, the current plan is still valid, and both Plans need to be considered until such time as the 2GP becomes fully operative.

The Operative Plan

Regarding density, under the operative Plan the Rural Zone allows for subdivision at a density of 15 hectares per residential unit.

- In respect of the existing situation, one of the current titles complies with this density while the other title is significantly undersized.
- In respect of the proposed situation, both of the resulting allotments will comply with this density.

Therefore, when considered against the density objectives of the operative Plan, the proposed subdivision achieves a more consistence situation that the present situation.

In all other respects, the proposed boundary adjustment subdivision is consistent with the objectives, policies and rules of the operative Plan. As such, under the operative Plan the proposal is deemed to be fully compliant, and adopts the status of a **Discretionary (Restricted) Activity**.

In terms of the relevant objectives and policies of the operative Plan, the proposed boundary adjustment is consistent with all of these, and in fact achieves a greater consistency that the existing situation.

The 2GP

Regarding density, Rule 16.7.4(1)(g) of the 2GP (which has immediate legal effect as discussed above) specifies the minimum site area for resultant sites as 40 hectares.

- In respect of the existing situation, neither of the current titles complies with this density.
- In respect of the proposed situation, neither of the proposed allotments will comply with this density.

Therefore, when considered against the density objectives of the proposed Plan, the proposed subdivision neither improves, nor worsens, the present situation.

Due to the fact that the application does not meet the density provisions of the 2GP the proposal must be considered to adopt the status of a **Non-Complying Activity**.

In terms of the relevant objectives and policies of the 2GP, it is critical that the proposal is evaluated for consistency in terms of these matters having determined that the proposal is non-complying in regard to the proposed density rules. The relevant objectives and policies of the 2GP are discussed below.

Objective 16.2.1: Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of rural communities where these activities are most appropriately located in a rural rather than an urban environment. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.

The proposed activity is consistent with this objective.

Policy 16.2.1.1: Enable farming, grazing and conservation activity in the rural zones.

The proposed activity is consistent with this policy.

Policy 16.2.1.5: Limit residential activity, with the exception of papakāika, in the rural zones to a level (density) that supports farming activity and achieves Objectives 2.2.2, 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.

The proposed activity is consistent with this policy – no additional residential activities than what is already consented are proposed.

Policy 16.2.1.7: Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless it is the result of a surplus dwelling subdivision.

The proposed activity is considered not inconsistent with this policy. The policy clearly recognises that the subdivision of a surplus dwelling is an exemption from this provision. The fact that the subject site includes two existing consented residential activities qualifies the proposal as a surplus dwelling subdivision. This position is confirmed when the proposal is considered against the policy's reference objective, with which the activity is consistent.

Objective 16.2.2: The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential zones, is minimised through measures that ensure:

- a) the potential for reverse sensitivity effects from more sensitive land uses (such as residential activities) on other permitted activities in the rural zones is minimised;*
- b) the residential character and amenity of adjoining residential zones is maintained; and*
- c) a reasonable level of amenity for residential activities in the rural zones.*

The proposed activity is not inconsistent with this objective.

Objective 16.2.3: The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:

- a) a predominance of natural features over human made features;*
- b) a high ratio of open space, low levels of artificial light, and a low density of buildings and structures;*

- c) buildings that are rural in nature, scale and design, such as barns and sheds;
- d) a low density of residential activity, which is associated with rural activities;
- e) a high proportion of land containing farmed animals, pasture, crops, and forestry;
- f) significant areas of indigenous vegetation and habitats for indigenous fauna; and
- g) other elements as described in the character descriptions of each rural zone located in Appendix A7.

The proposed activity is not inconsistent with this objective.

Policy 16.2.3.2: Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.

The proposed activity is consistent with this policy - no additional residential activities beyond what has already been consented are proposed.

Policy 16.2.3.8: Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones.

The proposed activity is consistent with this policy. The subdivision has been designed in such a way as to enable ordinary rural farming land use activities to continue of each of the proposed sites. In fact, the proposed activity, which will effect a boundary adjustment subdivision, will result in two sites that are each significantly larger in size than the smallest of the two existing properties. With these matters in mind the existing rural character values and visual amenity of the local area will be maintained.

Objective 16.2.4: The productivity of rural activities in the rural zones is maintained or enhanced.

The proposed activity is consistent with this policy. The subdivision has been designed in such a way as to enable ordinary rural farming land use activities to continue of each of the proposed sites. In fact, the proposed activity, which will effect a boundary adjustment subdivision, will result in two sites that are each significantly larger in size than the smallest of the two existing properties. Both of the new sites exceed the rural density provisions of the operative Plan, and this is a good measure of the ability of these sites to achieve an appropriate capacity for independent productivity.

Policy 16.2.4.3: Only allow subdivision where the subdivision is designed to ensure any future land use and development will:

- a) maintain or enhance the productivity of rural activities;
- b) maintain high class soils for farming activity, or ensure any loss is no more than minor;
- c) maintain land in a rural rather than rural residential land use; and
- d) not increase the potential for reverse sensitivity from residential activities in the rural zones.

The proposed activity is not inconsistent with this policy for the reasons stated in the paragraphs above. Productive capacities will be maintained by both proposed sites, which is an improvement on the existing situation. The proposed subdivision will not compromise high class soils. The existing rural land use will be maintained. The potential for reverse sensitivity issues will not be increased (this proposal does not provide for additional residential activities beyond what has already been consented).

Policy 16.2.4.4: Avoid residential activity in the rural zones at a density that may, over time and cumulatively, reduce rural productivity by displacing rural activities.

The proposed activity is consistent with this policy for the reasons stated in the paragraphs above. The proposed application seeks to allocate a useful area of land to each of the consented residential activities and this will ensure that both properties maintain an appropriate capacity for independent productivity. This will be an improvement on the current situation whereby the smaller of the two existing properties has an extremely limited level of productive capacity.

In review of the above objectives and policies, the applicant is confident that the proposed activity is consistent with all of the relevant objectives and policies of the rural section of the 2GP. Certainly, there are no objectives or policies with which the proposed activity is contrary to.

Affected Persons

No person or party is considered to be adversely affected by the activity because of the reasons outlined below under the section 'Effects on the Environment' (the effects are considered with reference to sections of the Operative plan). Having said this, Council has determined through its s95 assessment that a full public notification process is required in any case.

Effects on the Environment

The following assessment of effects on the environment has been carried out in accordance with section 104(1) of the Resource Management Act 1991. It addresses those assessment matters listed in Sections 8.13 and 18.6 of the District Plan considered relevant to the proposed activity, being that of a boundary adjustment subdivision.

The assessment of environmental effects below does not consider those effects arising from the establishment of two new residential activities as those effects have already been consented to.

Amenity Values and Character (8.13.5)

The amenity values and character of the neighbourhood will not be compromised in any way by subdivision in the manner proposed. This view has been reached in consideration of i) the existing land use will not change as a result of the proposed subdivision activity, and ii) the two new dwellings are already consented, and iii) the subdivision will not result in any more sites that presently exist.

Transportation (8.13.7)

No adverse effects to the transportation network are anticipated as a result of subdivision in the manner proposed. The access point will remain where it presently exists. The two dwellings are already consents, so the volume of traffic movement is not relevant to consider.

Provision of Stormwater, Water and Sewerage (8.13.10)

No adverse effects to any public infrastructure systems are anticipated as a result of subdivision in the manner proposed. As these facilities will take the form of normal rural supplies, and given that the two new dwellings have already been consented, no further consideration is needed.

Section 104D

Section 104D of the Resource Management Act specifies that resource consent must not be granted unless the proposal can meet at least one of two limbs. The limbs of section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of the District Plan.

It is the applicants position that the proposal meets both limbs as any adverse effects arising from this proposed activity will be no more than minor, and the activity is not contrary to the objectives and policies of the District Plan. Therefore, we ask that Council exercises its discretion under Section 104D to grant consent.

Precedent and True Exception

Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. The matter of precedent has been previously addressed by the Environment Court and case law now directs the Council to consider whether approval of a non-complying activity will create an undesirable example. Where the Plan's integrity is at risk by virtue of such a precedent the Council is required to apply the 'true exception test'. This is particularly relevant where the proposed activity is contrary to the objectives and policies of the District Plan.

It is the applicants position that the proposed activity is not contrary to the objectives and policies of the current District Plan and that the environmental effects resulting from the proposed subdivision will be no more than minor. Accordingly, we submit that the application of the true exception test is not required as part of Council's considerations towards this proposal.

It is not considered that approval of this application will undermine the integrity of the District Plan.

However, the applicant recognises that this application is the first of its kind in respect of the subdivision of sites that do not meet the 2GP rural density provisions. With this in mind, the applicant sets out below a number of unusual elements of the property that establish this proposal as being a true exception.

Existing Undersized Site

The application site includes a property of 2.4281 hectares in size (CT OTB1/697). This title has been in existence since 1962 and is significantly undersized for an independent site within the current Rural Zone and the proposed Rural Taieri Plains Zone. Rather than retaining this title as a separate property, the applicant prefers the option of incorporating this land into the proposed subdivision, which has the benefit of addressing a long-term planning anomaly at this location.

Consented (Existing) Residential Activities

The application site includes two consented residential activities, both of which are consistent with the provisions of the operative Plan. New residential activities will be established by the applicant over the coming several years

Consistency with Operative Plan Density

The application site is sufficiently sized so as to enable a subdivision that is consistent with the provisions of the operative Plan (i.e. 1 site per 15 hectares). While the proposal is not consistent with the density rules of the 2GP, it does achieve a density that is known to be capable of supporting independently productive rural activities.

Boundary Adjustment Subdivision

The application property comprises two existing sites and seeks to restructure these into two proposed sites. In this sense, the proposed subdivision is a boundary adjustment subdivision rather than a subdivision for the purpose of creating additional sites. Furthermore, the proposed boundary adjustment subdivision intends to balance the existing title areas so that the existing significantly undersized property is removed and two roughly equally sized properties are returned, both of which will be capable of supporting independently productive rural activities.

With the above matters in mind, it is considered that the subject site is rather exceptional. It is considered highly unlikely that there are any other sites within the Dunedin City region that exhibit sufficiently similar features as to be able to successfully claim a precedent has been set though issue of consent for the proposed activity.

CONCLUSION

As discussed above, we have considered the development in light of the provisions in both the operative Plan and the 2GP.

Under the current Plan the proposed activity is consistent with the relevant provisions, and is assessed as being a Discretionary (Restricted) Activity.

Under the 2GP the proposed activity is consistent with the relevant objectives and policies, but inconsistent with the density rules, and is assessed as being a Non-Complying Activity.

Consent is sought, for both subdivision and land use elements, to overcome the non-compliances arising from the density provisions of the 2GP, and to thereby enable the proposed boundary adjustment subdivision to proceed.

In simple terms, the relevant matters of the proposed subdivision include-

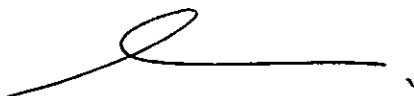
1. This is a boundary adjustment subdivision, i.e. starting and finishing with two titles.
2. There are two consented (deemed existing) residential activities already within the site.
3. The outcome of the proposed subdivision, in terms of density breaches, will be less inconsistent with the planning framework (under either Plan) than the site is at present.
4. This boundary adjustment subdivision will enhance the ability for the existing land to be used for independently productive rural activities.
5. The proposed application is consistent with the objectives and policies of both Plans.
6. There are no adverse environmental effects of any significance associated with this proposal.
7. The proposed activity is a true exception and it is highly unlikely that an undesirable precedent might be set by granting of the sought consents.

With the above in mind, the applicant requests that Dunedin City Council give consideration to the proposed activity and that the sought subdivision and land use consents are issued as a result of this.

Council is invited to contact the author should any further information be required.

Yours Faithfully

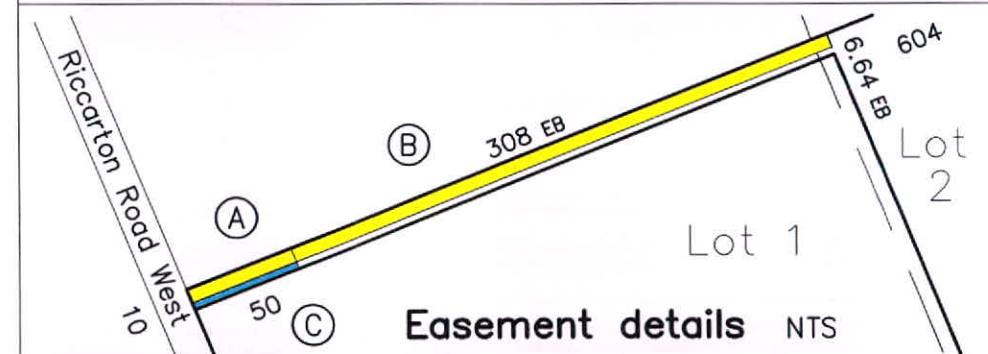
PATERSON PITTS GROUP



Kurt Bowen

Registered Professional Surveyor

Our Ref: 15303



EXISTING BUILDING LINE RESTRICTION TO BE RETAINED		
PURPOSE	SHOWN	CREATED BY
BLR	Fronting Riccarton Road	T 243505

EXISTING EASEMENTS TO BE RETAINED			
PURPOSE	SHOWN	SERVIENT TENEMENT	DOMINANT TENEMENT
RIGHT OF WAY	(A) (B)	LOT 2 HEREON	Pt Sec 11 OT258/297

PROPOSED EASEMENTS			
PURPOSE	SHOWN	SERVIENT TENEMENT	DOMINANT TENEMENT
RIGHT OF WAY	(A) (C)	LOT 2 HEREON	LOT 1 HEREON

Easement details may be modified to accommodate the proposed development

PATERSON PITTS PARTNERS LTD
Consultants in
Surveying, Land Planning & Development
Dunedin Alexandra Cromwell Wanaka Queenstown

Lots 1 & 2 being a Prop. Boundary Adjustment Subdivision of
OT's B1/697 & B1/698 (Lot 1 DP 10269, Pt Sec's 5 & 6)

Issued	Amendments
Date	...

Proposed Subdivision
DRAWN: KAB
CHECKED: ...
SCALE: 1:5000

SHEET: 1 of 1
DATE: 03 May 2016
JOB REF: 15-303



22 January 2016

JP & DS Sebelin
C/- Peter Williams
Paterson Pitts Partners Ltd
PO Box 5933
Moray Place
Dunedin 9058

Dear Peter

RESOURCE CONSENT APPLICATION: LUC-2015-577
10 RICCARTON ROAD WEST
MOSGIEL

Your application for land use consent to establish a second residential unit on the site at 10 Riccarton Road West, Mosgiel, was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. In considering sections 95A to 96G, it was determined that any adverse effects would be no more than minor, there were no potentially affected parties to the application, and that there were no special circumstances in relation to the proposal. Therefore, public notification of the application was not required. The application was considered by a Senior Planner under delegated authority on 22 January 2016.

I advise that the Council has **granted** consent to the application. The decision is outlined below, and the decision certificate is attached to this letter.

BACKGROUND TO APPLICATION

The application for the establishment of a second residential unit on the subject site of 10 Riccarton Road West, Mosgiel, was submitted on 24 November 2015 simultaneously with a subdivision application SUB-2015-108 to subdivide the subject land in such a manner so as to place the two houses (neither currently built) on separate titles. The new lots would each have an area of approximately 19.5ha.

The Proposed Second Generation District Plan (the Proposed Plan) was notified on 26 September 2015, with Rules 16.7.4 (minimum site size for rural zones) and 16.9.5.5 (assessment of subdivision performance standard contraventions – minimum site size) being given immediate legal effect pursuant to section 86D of the Resource Management Act 1991 at the time of notification. This direction was sought from the Court because the Council has significant concerns with the subdivision of rural land, and the potential consequences of development in anticipation of more restrictive rules for subdivision.

Proposed Rule 16.7.4 sets the minimum site size for the Rural – Taieri Plains zone as being 40ha. The proposed lots were to be considerably smaller than this, and the Proposed Plan does not anticipate the subdivision of the subject sites at all. Rule 16.5.2 (not currently operative or in effect) anticipates 25ha for the first residential activity on a site in this zone, so neither of the proposed lots would be expected to have a residential dwelling under the Proposed Plan. It was considered that the conflict of the proposal with the proposed rules presented challenges in regards to the environmental outcome sought by the proposed rules,

and issues of precedent, that could not be satisfactorily addressed through the non-notified consent process. Accordingly, Council sought to bundle the land use and subdivision applications into one process as they were clearly related, and advised that notification of the applications would be required.

The applicant has now withdrawn the subdivision proposal, but seeks to continue with the land use application.

DESCRIPTION OF ACTIVITY

The proposal is to establish two dwellings on the subject site, with the second dwelling requiring land use consent under the Dunedin City District Plan. The subject property is held in two titles, with the application plan showing that the proposal is to be considered over the property as a whole although the inclusion of the second title adds little to the planning argument. The subject sites are as follows:

- Part Section 5-6 Block III East Taieri Survey District, held in Computer Freehold Register OTB1/698, and having an area of 36.6936ha. The site is an almost square property except for a rectangular section excluded at its southeast corner. The site has an extremely gentle overall slope downwards towards the south. The site is in pasture, and is currently vacant land. There is a shared driveway along the northwest boundary which provides access to Wal's Plant World on the adjoining property.
- Lot 1 Deposited Plan 10269, held in Computer Freehold Register OTB1/697, and having an area of 2.4281ha. This small, rectangular parcel completes the overall square shape of the greater site. There is no development on this land.

The subject sites both have frontage to Riccarton Road West along their southwest boundaries, and the South Island Main Trunk Line along their southeast boundaries. It appears that both titles utilise a portion of the railway land for grazing purposes as there is no fenceline along the boundary, but one is located closer to the track.

The application identifies two building platforms situated on CFR OTB1/698 suitable for residential use. Each of the two platforms measures 40m by 40m. The proposal is to establish a house on each of the building platforms. Minimum floor levels of 14.2m and 15.5m have been set for the two platforms respectively. Access to the eastern platform will be via the existing access, while the western platform has the option of using this same access or forming a new driveway. There are no specific building plans to consider.

REASONS FOR APPLICATION

Dunedin currently has two district plans: The Dunedin City District Plan and the Proposed Section Generation Dunedin City District Plan (the Proposed Plan). The Proposed Plan was notified on 26 September 2015 and is currently proceeding through the public process of becoming the operative plan. Until the provisions of the Proposed Plan become operative, the current District Plan remains the operative plan. Where the provisions of the Proposed Plan have been given effect, the provisions of both plans need to be considered.

Section 88A of the Resource Management Act 1991 states that the activity status of an application is determined at the time of lodging the consent. The activity status could, therefore, be determined by the current District Plan or the Proposed Plan, depending on which provisions are operative at the time. Nevertheless, even if it is the current District Plan which determines the activity status of the application, the provisions of a proposed plan must be considered during the assessment of the application pursuant to section 104(1)(b) of the Act.

The relevant rules of the two district plans for this application are as follows:

The Dunedin City District Plan.

The site is zoned **Rural** in the Dunedin City District Plan. The general area is shown on the Hazards Register as **10106 – Land Stability (land movement)**, **10111 – Seismic (intensified shaking)**, **11507 – Seismic (liquefaction)** and **11582 – Flood (waterway)**.

Rule 6.5.2(iii) lists residential activity at a density of one residential unit per site as being permitted, provided the site is greater than 15.0ha. CFR OTB1/698 has an area of 36.6936ha and as such, the first residential unit constructed on this site is a permitted activity.

Rule 6.5.4(v) specifies that a second residential unit on a site equal to or greater than 30.0ha is a controlled activity. Accordingly, the second proposed unit is a **controlled** activity. Council's controlled is limited to:

- (a) The effect on open space and amenity values.
- (b) Vehicle access
- (c) The size and location of structures
- (d) The performance standards of the Environmental Issues Section
- (e) Acoustic insulation for sites within the Airport Outer Control boundary.

Proposed 2GP

The site is zoned **Rural – Taieri Plains** in the proposed 2GP. It has **High Class Soils**. It is within the **Hazard 3 – Flood** area. The stream requires an **Esplanade Strip**, and the stream is designated **D218 – East Taieri Drainage Scheme**.

Under the Proposed Plan, activities have both a land use activity and a development activity component.

Land Use Activity:

Rule 16.3.3.23 specifies that residential activity is permitted in the Rural zones, subject to the performance standards. The proposed residential activity will fail to comply with the following:

- Rule 16.5.2.1(g)(i) specifies that the minimum site size for the first residential activity on the site for the Taieri Plains is 25.0ha.
- Rule 16.5.2.1(g)(ii) specifies that the minimum site size for a second residential activity is 80.0ha.

The land use component of the proposal is therefore a non-complying activity pursuant to Rule 16.5.2.3.

Development Activity:

Rule 16.3.4.5 specifies that a new building greater than 60m² is permitted in the Rural zone, subject to the performance criteria specified by Rule 16.3.4.2. There are no specific building proposals for this application but the proposed building platforms and minimum floor levels are expected to comply with the relevant performance criteria. The proposed development is therefore a permitted activity pursuant to Rule 16.3.4.4.

Overall Proposed Plan Status:

Having regard to both the land-use and development activity components under the Proposed Plan, the proposal is considered to be a non-complying activity.

Summary

The application was lodged on 24 November 2015, prior to the close of submissions on the Proposed Plan. None of the relevant provisions were in effect at that time. Accordingly, the operative plan is the current Dunedin City District Plan, and the activity is considered to be a **controlled** activity.

At the time of the issuing of this decision, none of the relevant Proposed Plan provisions have been given effect or made operative. The relevant provisions are subject to submissions and could change as a consequence of the submission process. Accordingly, the Council need not have regard to the provisions of the Proposed Plan as part of the assessment of this application.

NES Soil Contamination Considerations:

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the NES and/or might require resource consent.

The applicant's agent has had a search of Council records undertaken (HAIL-2015-105). He advises that the report indicates no evidence of any HAIL activities having taken place on the property, although the site is adjacent to a commercial nursery and there is evidence of cultivation in the wider area.

The aerial photographs give no evidence of industrial activity having been undertaken on the subject site or adjacent properties. The applicant's agent considers that very little has happened at all on the subject site, judging from the aerial photographs, and there are no building control applications for the land. There is no evidence of stock yards ever having been present, and no buildings that may have served as storage areas for pesticides. None of the resource consents for the wider area have HAIL implications.

The applicant's agent therefore considers it reasonable to conclude that there is unlikely to be any soil contamination that might affect human health on the property. Accordingly, the NES is not considered relevant to this proposal.

PLANNING ASSESSMENT

Affected Persons

No affected persons forms were submitted with the application. No person or party is considered to be adversely affected by the activity for the reasons discussed below in the section on the effects on the environment.

Effects on the Environment

The following assessment of effects on the environment has been carried out in accordance with Section 104(1) of the Resource Management Act 1991. It addresses assessment matters listed in Section 6.7 of the Operative Plan considered relevant to the proposed activity, having regard to the existing environment, which is characterised by open pastoral land and low-density residential activity. The Main South Railway Line is immediately to the southeast of the subject sites.

Dunedin City District Plan:

Any actual or potential effects on the environment of allowing this proposal to proceed will be no more than minor for the following reasons:

1. Baseline Considerations

Under Sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect. That is, an application can be assessed by comparing it to the existing environment and development that could take place on the site as of right, without a resource consent, but excluding development that is fanciful.

In this situation, residential activity is anticipated for this site, at a density of not less than 15.0ha per a residential unit. While the two proposed units are compliant in terms of the overall area requirement, the two units will be established on the same site. The District Plan provides for only one dwelling per site as a permitted activity and treats the second unit as a controlled activity; the residential activity proposed is anticipated by the District Plan, but the Council seeks to control the effects.

This is considered to be the appropriate baseline against which the activity should be considered, and against which the proposal has been assessed. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements and these are considered further below.

2. The Effect on Open Space and Amenity Values

The two dwellings are to be situated approximately 290m apart, and are likely to have separate driveways although the existing access could serve both houses. It is likely that the dwellings will 'read' as independent places, and there will be no obvious relationship between the two. While there is an argument that the dwellings should be clustered (as would often be the case if the second house was support accommodation for the main farm residence e.g. workers' accommodation), there is no actual expectation in the District Plan that this would be the case. Furthermore, clustering may only be of benefit on a larger scale. Grouping the proposed dwellings together will make little difference to the setting of the buildings. The separation of the proposed dwellings will still maintain the open nature of the rural environment in this location, and is in accordance with the expectations for the zone. The houses will more than maintain the yard spaces for the Rural zone.

Residential activity is an expected component of the Rural zone at the density proposed. As such, the proposed dwellings are expected to maintain the amenity values of the site and wider area.

3. Vehicle Access

The Transportation Planner, Transportation, has considered the application. Riccarton Road West is a Collector Road in the District Plan roading hierarchy.

The Transportation Planner notes that the eastern building site will rely on an existing vehicle entrance on Riccarton Road West for access. Transportation considers this to be acceptable, though the existing formation is required to comply with District Plan requirements. Specifically, the existing access formation shall be hard surfaced from the edge of the carriageway of Riccarton Road West to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration. Should this requirement necessitate works being undertaken within the legal road corridor, it is advised that the vehicle crossing is within legal road and is therefore required to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from Transportation). There are no on-site parking/manoeuvring requirements for residential activities in the Rural zone.

It is stated in the application that the western building site will likely be provided a new vehicle entrance from Riccarton Road West for access, though its exact location is not detailed within the application documents. Transportation considers this to be acceptable in principle, provided the new formation is provided adequate visibility and complies with District Plan requirements. Specifically, the access formation shall be formed to a width of at least 3.5m, be hard surfaced from the edge of the carriageway of Riccarton Road West to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration. An appropriate location for the vehicle access can be determined in consultation with Transportation at a future point in time, closer to when dwelling plans are being considered. As with the eastern building site, it should be noted that there are no on-site parking/manoeuvring requirements for residential activities in the Rural zone.

Transportation has no issues with the proposal, subject to conditions consistent with the above matters.

4. The Size and Location of Structures.

While there is no specific building proposal for either dwelling, there is no expectation that the dwellings will be exceptionally large or obtrusive. The District Plan does not have rules regarding the overall sizing of residential units in the Rural zone. The yard and maximum height controls impose some limitations, but a site of 36ha allows substantial options for development of a residential building. There are no controls on visual appearance of structures on this particular site.

The building platforms are shown as being generous distances from the site's boundaries when compared to the District Plan requirements of 20.0m for a front yard and 40.0m for side and rear yards. The eastern building platform is shown as being 103m from the northwest side boundary, and 64m from the northeast rear boundary. The distance from the front boundary will be approximately 500m. The western building platform is shown as being 192m from the front boundary and 236 from the closest (northwest) side boundary. While there is very limited mature vegetation on-site to screen the dwellings from public viewpoints, the yard distances will help ensure that the dwellings are not dominant on the streetscape or in relation to neighbouring properties. As the distances involved are substantial, the sizing of the proposed dwellings is less significant.

5. Environmental Issues

The proposed dwellings will be a typical activity for the Rural zone, and there is no expectation that residential activity will breach any of the noise, glare, lighting, or other rules of the Environmental Issues Section of the District Plan.

CONSENT DECISION

*That, pursuant to Sections 34A(1), 104 and 104A of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **controlled** activity being the second residential dwelling on the property of 10 Riccarton Road West, Mosgiel, being held in CFRs OTB1/698 and OTB1/697, subject to the conditions imposed under Section 108 of the Act, as shown on the attached certificate.*

REASONS

Effects

In accordance with Section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposed activities have been assessed and outlined above. It is considered that the adverse effects on the environment arising from the proposal are no more than minor.

Objectives and Policies

In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of both the Operative Plan and the Proposed Plan were taken into account when assessing the application.

Operative Plan

The proposal is considered to be consistent with the following objectives and policies from the Operative Plan:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)** that seek to enhance and maintain the amenity values of the Dunedin area.
- **Objective 6.2.2 and Policy 6.3.5 (Rural Section)** that seek to maintain and enhance the amenity values associated with the character of the rural area.

- **Policy 6.3.6 (Rural Section)** seeks to required rural activities to be of a nature, scale, intensity and location consistent with maintaining the character of the rural area.
- **Policy 6.3.9 (Rural Section)** seeks to ensure residential activity in the rural area occurs at a scale enabling self-sufficiency in water supply and on-site effluent disposal.
- **Policy 6.3.12 (Rural Section)** seeks to avoid or minimise conflict between differing land uses which may adversely affect rural amenity.
- **Policy 6.3.14 (Rural Section)** seek to ensure land use activities should not occur where this may result in cumulative adverse effects in relation to amenity values, character, natural hazards, etc.
- **Objective 20.2.1 and Policy 20.3.1 (Transportation Section)** that seek to avoid, remedy or mitigate adverse effects on the environment arising from the use of the transportation network.

Proposed Plan

The proposal is considered to be consistent with the following objectives and policies from the Proposed Plan:

- **Objective 16.2.1 and Policy 16.2.1.5 (Rural Section)** seek to ensure that residential activity in rural zones is limited to that which directly supports farming.
- **Objective 16.2.2 and Policy 16.2.2.1 (Rural Section)** seek to ensure that residential buildings are set back an adequate distance from site boundaries to minimise the potential for reverse sensitivity effects from rural activities.
- **Objective 16.2.3 and Policy 16.2.3.1 (Rural Section)** seek to ensure that the rural character values and amenity are maintained through the appropriate set back of buildings from boundaries.
- **Policy 16.2.3.9 (Rural Section)** seeks to ensure that activities are designed and operated to ensure that adverse effects from light spill on rural character and amenity, and the ability of people to view the night sky, are insignificant.
- **Objective 16.2.4 and Policy 16.2.4.4 (Rural Section)** seek to ensure that the productivity of rural activities in the rural zones is maintained.

The proposal is considered to be inconsistent with the following objectives and policies of the Proposed Plan:

- **Policy 16.2.1.7 (Rural Section)** seeks to avoid residential activity in the Rural zones on a site that does not comply with the density standards for the zone.
- **Objective 16.2.3 and Policy 16.2.3.2 (Rural Section)** which seek to maintain the rural character values and amenity by requiring residential activity to be at a density that maintains the rural character values and visual amenity of the rural zone.

Summary

The proposal is considered consistent with the objectives and policies of the current District Plan, but inconsistent with some of those of the Proposed Plan in relation to the proposed rules. As the Proposed Plan is not far through the submission and decision-making process, the objectives and policies of the Operative Plan have been given more weight than those of the Proposed Plan.

RIGHTS OF OBJECTION

In accordance with Section 357A of the Resource Management Act 1991, the consent holder may object to this decision or any condition within 15 working days of the decision being received, by applying in writing to the Dunedin City Council at the following address:

Senior Planner - Enquiries
Dunedin City Council
PO Box 5045
Moray Place
Dunedin 9058

MONITORING

Section 35(2)(d) of the RMA requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the nature of your intended works/activity, this consent will require two inspections.

The City Planning Department sets out the fixed fees charged for monitoring in its schedule of fees. The fee for your scheduled inspection will be included in the invoice for your application.

It should be noted that if additional inspections are required, beyond those scheduled at the time the consent is issued, then there is the ability to apply additional charges to cover the costs of these extra inspections. Often you can reduce the need for additional inspections by complying with the conditions of consent in a timely manner and by ensuring on-going compliance with those conditions. Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.

Yours faithfully



Lianne Darby
Planner



DUNEDIN CITY
COUNCIL

Kāunihera-a-rohe o Otepoti

Consent Type: Land Use Consent

Consent Number: LUC-2015-577

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

Location of Activity: 10 Riccarton Road West, Mosgiel

Legal Description: Lot 1 DP 10269 (CFR OTB1/697) & Part Section 5-6 Block III East Taieri Survey District (CFR OTB1/698)

Lapse Date: 22 January 2021, unless the consent has been given effect to before this date. For the purpose of clarity, the building of the first house does not give effect to the consent as this is a consent for the establishment of the second house on the site.

*That, pursuant to Sections 34A(1), 104 and 104A of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **controlled** activity being the second residential dwelling on the property of 10 Riccarton Road West, Mosgiel, being held in CFRs OTB1/698 and OTB1/697, subject to the conditions imposed under Section 108 of the Act, as follows:*

- 1. The proposed activity shall be undertaken in general accordance with the plan prepared by Paterson Pitts Partners Ltd, entitled, 'Proposed Land Use Consent and future Subdivision of OT's B1/697 & B1/698 (Lot 1 DP 10269, Pt Sec's 5 & 6),' Job Ref 15-303, dated 19 September 2015, and the information provided with the resource consent application LUC-2015-577, received by the Council on 24 November 2015 except where modified by the following conditions.*
- 2. That residential development shall be confined to the building platforms shown on the plan by Paterson Pitts Partners Ltd (refer condition 1), with each having a single residential unit and any residential accessory buildings. Farm buildings can be built in any location provided all bulk and location planning provisions applying at the time are met.*
- 3. That a dwelling built on the western building platform shall have a minimum floor level of 14.2m amsl.*
- 4. That a dwelling built on the eastern building platform shall have a minimum floor level of 15.5m amsl.*
- 5. That the vehicle access to each house/both houses will be hard surfaced from the edge of the carriageway of Riccarton Road West to a minimum of 5.0m inside the property boundary prior to residential use commencing. A new driveway serving only the residential unit/s shall have a minimum formed width of 3.5m. The use of the existing driveway for residential activity will require a minimum width formation of 5.0m, given its mixed residential/rural use.*

Advice Notes:

- 1. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.*

- 2 Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
- 3 The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
- 4 It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
- 5 Unless otherwise specified all conditions should be complied with within 12 months of the consent having been given effect to.
- 6 This is a resource consent. Please contact the Council's Building Control Office, Development Services, about the building consent requirements for the work.
- 7 For the sake of clarity, a single dwelling fully complying with the provisions of the Dunedin City District Plan (DCDP) can be built in any location on CFR OTB1/698 as a permitted activity under the present planning regime. This application for a second dwelling on-site has been presented to Council on the basis that the two proposed houses for this land will be confined to the building platforms respectively. Accordingly, it is expected that if there is to be a second dwelling, the first will be built within one or the other of the defined building platforms. Building the first house elsewhere on-site does not give effect to this consent for the purpose of constructing a second dwelling.
- 8 The portion of the vehicle access between the carriageway and the property boundary is within legal road and is therefore required to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from Transportation).

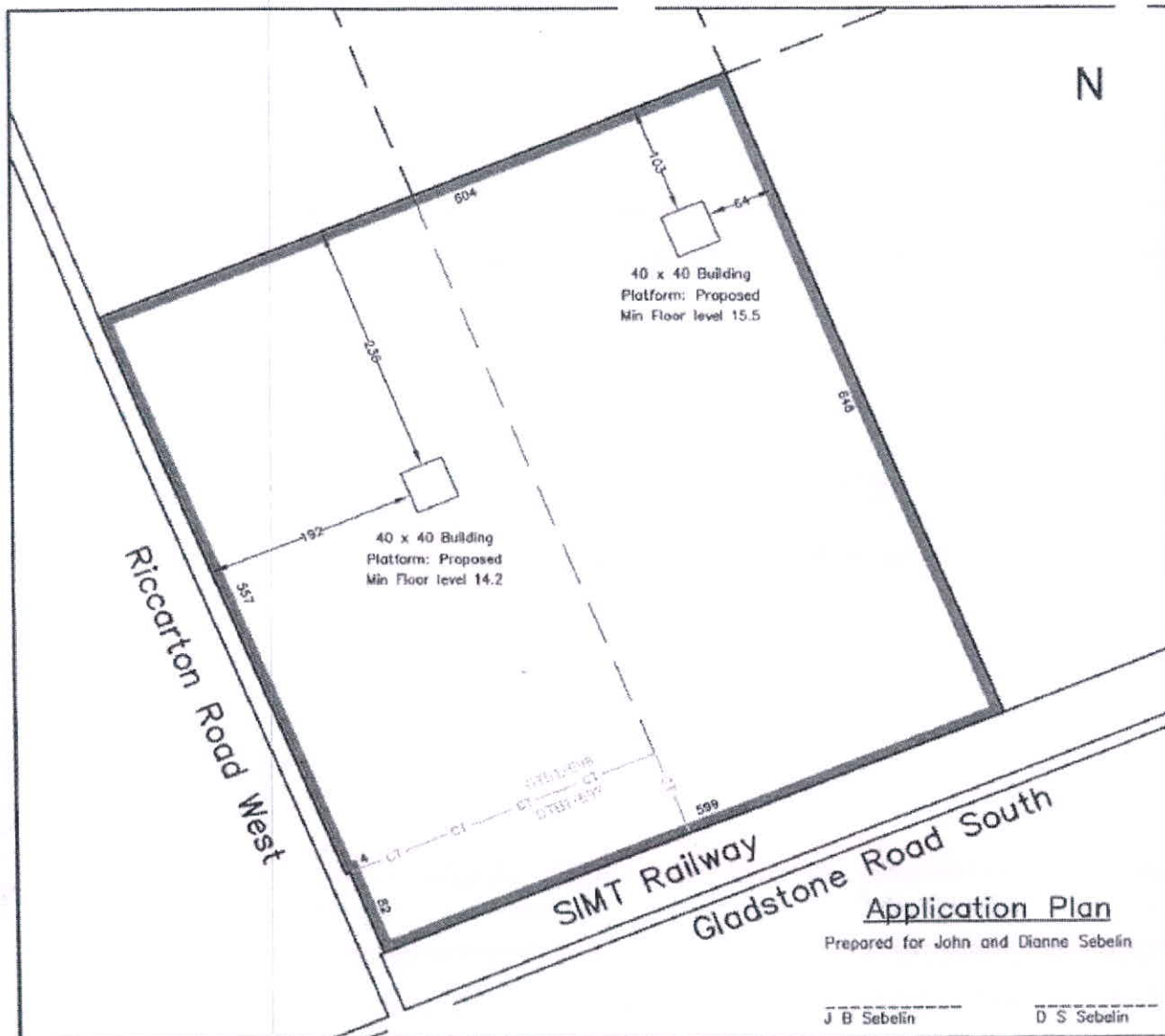
Issued at Dunedin this 22 January 2016.



Lianne Darby

Planner

COPY OF PLAN: Not to Scale



NOTES:
 Areas and dimensions subject to survey
 Comprised in OTB1/697 & OTB1/698
 Total Area by Titles: 39.1217 ha
 Zoning: Rural
 Level Datum Mean Sea Level (=DCC drainage datum - 100)
 Origin of Levels MH's on Gladstone Road South
 Level Data confirmed by inspecting LIDAR data (see sheet 3)

Application Plan
 Prepared for John and Dianne Sebelin

J B Sebelin ----- D S Sebelin -----

PATERSON PITTS PARTNERS LTD
 Consultants in
 Surveying, Land Planning & Development
 Dunedin Alexandra Cromwell Wanaka Queenstown

Proposed Land Use Consent and future Subdivision of
 OT's B1/697 & B1/698 (Lot 1 DP 10269, Pt Sec's 5 & 6)

Issued	Amendments	Proposed Land Use	SHEET: 1 of 3
Date			DATE: 19 Sept 2015
		DRAWN: PFW	JOB REF: 15-303
		CHECKED: ---	
		SCALE: 1:5000	



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



R. W. Muir
Registrar-General
of Land

Search Copy

Identifier OTB1/697
Land Registration District Otago
Date Issued 16 July 1962

Prior References

OT258/283

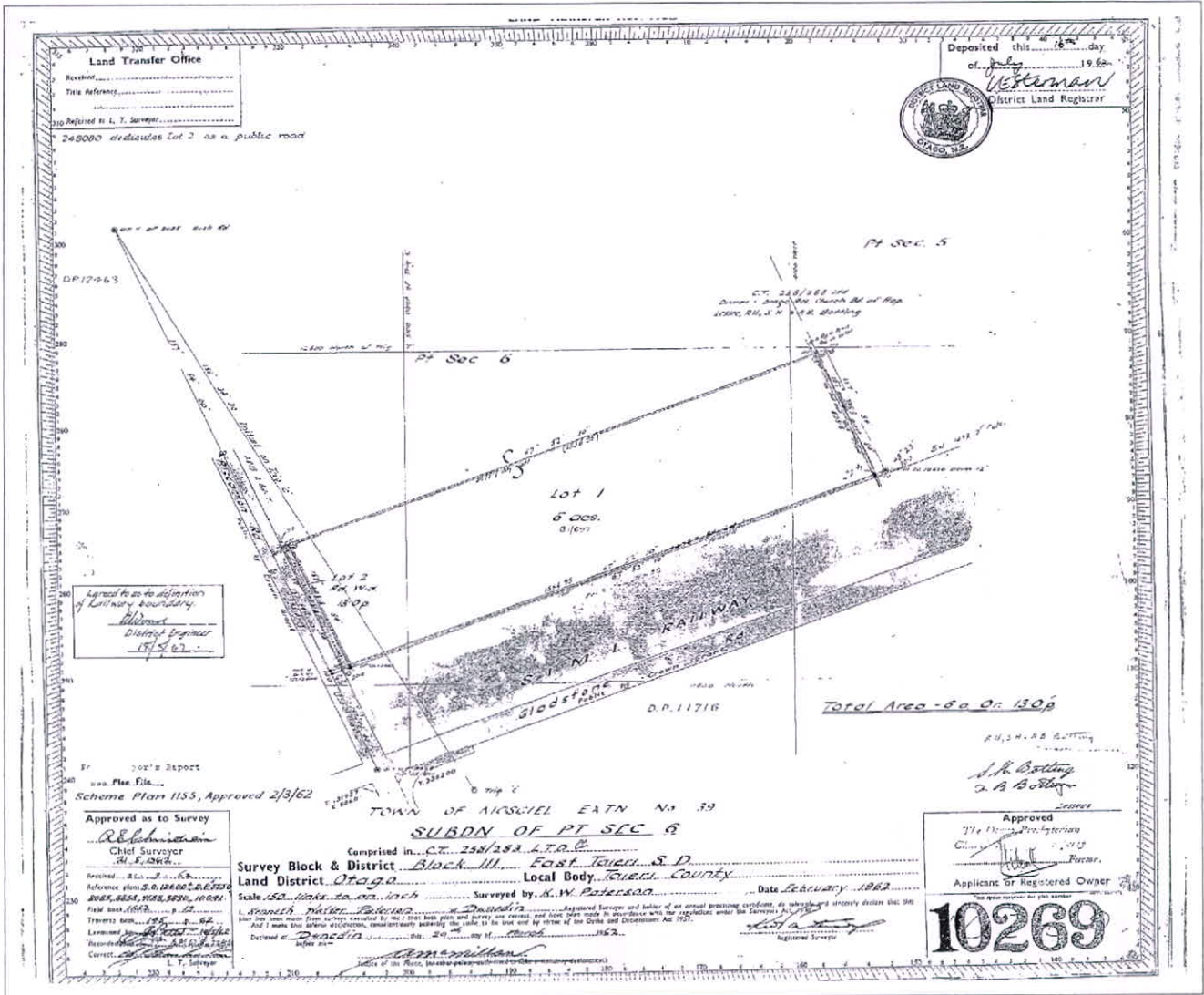
Estate Fee Simple
Area 2.4281 hectares more or less
Legal Description Lot 1 Deposited Plan 10269

Proprietors

John Philip Sebelin, Dianne Sheila Sebelin and Webb Farry Limited

Interests

7649905.2 Mortgage to ANZ National Bank Limited - 21.12.2007 at 1:41 pm






**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**
Limited as to Parcels



Search Copy


R.W. Muir
Registrar-General
of Land

Identifier OTB1/698
Land Registration District Otago
Date Issued 16 July 1962

Prior References
OT258/283

Estate Fee Simple
Area 36.6936 hectares more or less
Legal Description Part Section 5-6 Block III East Taieri
Survey District

Proprietors
John Philip Sebelin, Dianne Sheila Sebelin and Webb Farry Limited

Interests

243505 Notice imposing Building Line Restriction

43216 (52/717) Conveyance creating the following easement

Type	Servient Tenement	Easement Area	Dominant Tenement
Right of way	Part Section 5-6 Block III East Taieri Survey District - herein	Green Deed 43216 (52/717)	Part Section 11 Block III East Taieri Survey District - CT OT258/297

7649905.2 Mortgage to ANZ National Bank Limited - 21.12.2007 at 1:41 pm

