

HEARINGS COMMITTEE AGENDA

TUESDAY, 2 AUGUST 2022, 9.00 AM
Edinburgh Room, Municipal Chambers

MEMBERSHIP: Commissioner Ros Day-Cleavin

IN ATTENDANCE: Phil Marshall (Senior Planner/Committee Advisor), Robert Buxton (Consultant Planner), Elizabeth Schonwald (Parks and Recreation Planner) and Wendy Collard (Governance Support Officer)

PART A (Committee has the power to decide these matters):

1 RESOURCE CONSENT APPLICATION – SUB-2021-282 and LUC-2021-716, 45 Boundary Road, Green Island

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Robert Buxton

Refer to pages 1 - 10

The Applicant's Presentation

Application

Refer to pages 11 - 66

Revised Plans

Refer to pages 67 - 69

Council Officer's Evidence

- Memorandum from Parks and Recreation Planner
Refer to pages 70 – 75

The Planner's Review of their Recommendation

The Planner reviews their recommendation with consideration to the evidence presented

The Applicant's Response

The Applicant to present their right of reply

PLEASE NOTE: The **only** section of the hearing which is not open to the public is the Committee's final consideration of its decision, which is undertaken in private. Following completion of submissions by the applicant, submitters and the applicant's right of reply, the Committee will make the following resolution to exclude the public. All those present at the hearing will be asked to leave the meeting at this point.

RESOLUTION TO EXCLUDE THE PUBLIC

To be moved:

“That the public be excluded from the following parts of the proceedings of this meeting, namely, Item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48 for the passing of this resolution.
1	Resource Consent application – 45 Boundary Road, Green Island	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Consent Hearings Commissioner

FROM: Robert Buxton, Buxton & Walker Limited
Consultant Planner

DATE: 19 July 2022

SUBJECT: RESOURCE CONSENT APPLICATION: SUB-2021-282 LUC-2021-716
ESPLANADE RESERVE REQUIREMENTS
45 Boundary Road, Green Island, DUNEDIN

APPLICANT: Mountain Grove Limited

Note the following sections on “Description of activity” and “Planning provisions” are canvassed in full for completeness, although in terms of the consideration of esplanade reserve requirements it is only Lots 1, 2 and 7 where these requirements apply.

DESCRIPTION OF ACTIVITY

The application appears to be a complicated subdivision, although the applicant describes it as a boundary adjustment of seven existing titles to the south of Boundary Road (total area of the seven titles is 15.8613ha).

These seven titles are part of a larger property showing as 45 Boundary Road on the DCC Rates Webmap, total area of approximately 62ha, with most of the property to the north of Boundary Road (unformed). Access to the seven titles is from Crimp Street to the south. Access to the larger northern portion of the 45 Boundary Road property is from Abbots Hill Road. This larger northern portion of the 45 Boundary Road property is divided in two by a strip of land running east-west that is owned by DCC 3-Waters.

The subdivision plan, sheet 1 (Appendix One of this report) shows nine titles using coloured shading. Seven of those titles are part of the subdivision and are within the red coloured borders on the subdivision plan. Seven of the nine titles are described as “Surface Titles with the mineral deposits below the surface owned by another party”.

The seven shaded titles that are part of the subdivision are:

1. 971396 (shaded light blue) is the largest existing title (13.5928ha). It is an unusual shape: it includes two portions of closed roads, being the northern portions of Crimp Street and Kane Street; it completely surrounds four shaded titles subject to the subdivision (527669, 527670, OT69/248 and OT72/82); and it also completely surrounds the two unshaded titles (OT53/131 and 527671) that are not part of the subdivision. Title 971396 also includes a separate parcel approximately 0.5km to the southeast that contains the access to the Burnside landfill. Title 971396 is a Surface Title.
2. 527669 (shaded violet) 2385m², is the southwest quadrant of the four titles surrounded by 971396. Title 527669 is not a Surface Title.
3. 527670 (shaded yellow) 2104m², is the northwest quadrant of the four titles surrounded by 971396. Title 527670 is not a Surface Title.
4. OT69/248 (shaded green) 2104m², is the northwest quadrant of the four titles surrounded by 971396. Title OT69/248 is a Surface Title.
5. OT72/82 (shaded orange) 2448m², is the southeast quadrant of the four titles surrounded by 971396. Title OT72/82 is a Surface Title.
6. 540766 (shaded yellow) 1.2368ha, lies between the two portions of closed roads of 971396. Title 540766 is a Surface Title.

7. OT16D/138 (shaded brownish pink) 976m², is the northwest corner of the land that lies between the two portions of closed roads of 971396. Title OT16D/138 is a Surface Title.

The two of the nine shaded titles that are not part of the subdivision are:

8. OT13C/149 (shaded lavender) 23.4143ha is 712 Kaikorai Valley Road containing the neighbouring Burnside landfill directly to the east of the proposed subdivision. Title OT13C/149 is a Surface Title.
9. 189535 (shaded greenish-yellow) 10.9360ha is 20 McLeods Road containing the golf driving range further to the east, and is separated from the proposed subdivision by the Burnside landfill. Title 189535 is a Surface Title.

There is also an unshaded title OT44/148 that extends into the western side of 712 Kaikorai Valley Road. This title is in the same ownership as 712 Kaikorai Valley Road.

Note subdivision plan, sheet 1 (see Appendix One of this report) also shows the Proposed 2GP zoning using a white dashed line and white notations.

There are two parallel Aurora power lines (pink dashed lines on the subdivision plan) that run through the sites in a north-south direction to a substation at 12 Boomer Street, to the south of the application sites. Aurora has an appeal (ENV-2018-CHC-277 (214)) to annotate these lines on the Proposed 2GP planning maps.

The proposed subdivision will result in seven lots as follows:

- Lot 1, being 8.669ha, will include: the eastern half of title 971396, will border the north and west boundaries of the existing Burnside landfill and will be sold to the owners of the Burnside landfill to “align the boundaries with the current or proposed limits of occupation (as appropriate) between the two land owners”. Lot 1 will also contain both of the Aurora power lines that run through the applicant’s sites. Lot 1 will also absorb: all of titles OT69/248, OT72/82; the eastern quarter of titles 527670 and 527669; most of title 540776 (except for a small triangle at the northwest corner); and approximately the southeastern half of OT16D/138.
- Lot 2, being 6.423ha, will include: the western half of title 971396. This lot will include Right of Ways (ROW) A and D for access from the northern end of Crimp Street for proposed Lots 1 ,3, 4, 5 and 6 and adjoining Title OT13C/149 (the Burnside landfill). Lot 2 will completely surround the two unshaded titles (OT53/131 and 527671) that are not part of the subdivision.
- Lot 3, being 1578m² will consist of the western three quarters of title 527670. Note there does not appear to be any legal access to this lot, unless a ROW is provided over proposed Lots 1 or 4.
- Lot 4, being 1700m² will consist of the western three quarters of title 527669. This lot will include ROW E for access from the northern end of Crimp Street for proposed Lots 1 and 3 and adjoining Title OT13C/149 (the Burnside landfill).
- Lot 5, being 520m² will consist of approximately the northwestern half of OT16D/138. Lot 5 will include ROW C for access from the northern end of Crimp Street for proposed Lots 1 ,3, and 4 and adjoining Title OT13C/149 (the Burnside landfill).
- Lot 6, being 64m² will consist of a small triangle at the northwest corner of title 540776. Lot 6 will include ROW B for access from the northern end of Crimp Street for proposed Lots 1 ,3, 4 and 5 and adjoining Title OT13C/149 (the Burnside landfill)..
- Lot 7, being 0.807ha, will border the southeast corner of the existing Burnside landfill and will be sold to the owners of the Burnside landfill.

Note the Burnside Landfill to the east of the proposed subdivision is subject to land use consent LUC-2016-238/C (granted 22 October 2021) which extended the boundaries of the landfill, although the landfill boundaries close to the proposed Lot 2 did not change.

Following an assessment of the application it has been determined that the subdivision will require assessment of the esplanade requirements of the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). As Council Staff do not have delegation to approve this, the matter has been referred to the Consent Hearings Commissioner for a decision.

PLANNING PROVISIONS

Under the Proposed 2GP the sites are zoned **Rural – Hill Slopes** and/or **Industrial**, with some of the Rural zoned land included within the **Industrial Transition Overlay** as shown in the subdivision plan, sheet 1 (see Appendix One of this report).

Overlays and Mapped Areas include:

- The Hazard 2 (flood) Overlay is on:
 - approximately 65m length of the southern end of closed road portion of Crimp Street within proposed Lot 2;
 - a small portion of the southeastern corner of proposed Lot 1; and
 - most of proposed Lot 7.
- The Hazard 2 (land instability) Overlay is on a small portion of the western edge of proposed Lot 2.
- The Esplanade Reserve Mapped Area which requires creation of a 20m esplanade reserve or top up under section 236 of the RMA applies to:
 - the southern end of closed road portion of Crimp Street within proposed Lot 2;
 - the southeastern corner of proposed Lot 1; and
 - parts of the southern boundary of proposed Lot 7 are within or adjoining.
- The High Class Soils Mapped Area is on essentially all proposed Lot 7.

The roading classification for adjoining roads is Local Road. Further south, Carnforth Street as it passes under State Highway 1 to join Main South Road is a Collector Road.

Subdivision

Note in the Industrial Transition Overlay the Industrial Zone provisions will only apply when the DCC Chief Executive Officer certifies the release of the land. Prior to that the Rural Zone provisions will apply for land within this overlay.

RURAL ZONE

Rule 16.3.5.1 specifies that subdivision is a restricted discretionary activity in the Rural zones, subject to compliance with the performance standards.

The proposed subdivision will fail to comply with Rule 16.7.4.1(d) which sets the minimum site size for the Rural – Hill Slopes zone at 25ha, as:

- Proposed Lot 1 will contain approximately 7.17ha of Rural zoned land, of which approximately 4.1ha is within the Industrial Transition Overlay. The remaining approximately 1.5ha of proposed lot 1 is zoned Industrial.
- Proposed Lot 2 will contain approximately 6.2ha of Rural zoned land, noting that approximately 0.33ha is within the Industrial Transition Overlay. The remaining approximately 0.22ha of proposed lot 2 is zoned Industrial (i.e. the leg-in from Crimp Street).
- Proposed Lot 3 will contain 1578m² of Rural zoned land, noting that approximately 1450m² is within the Industrial Transition Overlay.
- Proposed Lot 4 will contain 1700m² of Rural zoned land, noting that all of the lot is within the Industrial Transition Overlay.
- Proposed Lot 7 will contain 0.807ha of Rural zoned land, noting that all of the lot is within the Industrial Transition Overlay.

Accordingly, the non-compliance of the subdivision proposal with Rule 16.7.4 results in an activity status of a **non-complying** activity pursuant to Rule 16.7.4.3. Guidance on assessment includes Rule 16.12.5.6.

The applicant advises the proposed subdivision will comply with Rule 16.7.3 which cross references to Rule 9.3.3 that requires provision of sufficient water supplies for firefighting.

The proposed subdivision will fail to comply with Rule 16.7.5 which requires sites that are intended to be developed to contain a building platform 8m by 15m with a slope of 12° or less. The application states that

this is not complied with. Infringing this rule is a **restricted discretionary** activity under Rule 16.7.5.5. Matters that discretion is are not specified but guidance is given in Rule 16.9.5.4.

INDUSTRIAL ZONE

Rule 19.3.5.1 specifies that subdivision is a **restricted discretionary** activity in the Industrial zones, subject to compliance with the performance standards. There is no minimum lot size. Under Rule 19.10.5.1 discretion is restricted to: Effects on the safety and efficiency of the transport network (Rule 19.10.5.1.a); Effects on health and safety (Rule 19.10.5.1.b, note this rule is deleted by Variation 2); Effects on efficiency and affordability of infrastructure (Rule 19.10.5.1.c); and Risk from natural hazards (Rule 19.10.5.1.d). Assessment guidance is given in Rules 19.10.2.1 and 19.10.5.1.

The applicant advises the proposed subdivision will comply with Rule 19.7.3 which cross references to Rule 9.3.3 that requires provision of sufficient water supplies for firefighting.

The applicant advises the proposed subdivision will not comply with Rule 19.7.4 which cross references to Rule 9.3.7 that requires service connections. Infringing this standard is a **restricted discretionary** activity (Rule 9.3.7.4). Under Rule 9.5.3.12 discretion is restricted to effects on efficiency and affordability of infrastructure and assessment guidance is given in Rules 9.5.2.1 and 9.5.3.12.

The proposed subdivision will fail to comply with Rule 19.7.2 which cross references to Rule 10.3.1.X that requires provision of an esplanade reserve with a minimum width of 20m for the Kaikorai Stream, as:

- Proposed Lot 1 will include the southeastern corner within 20m of the banks of the Kaikorai Stream.
- Proposed Lot 2 will include the southern end of closed road portion of Crimp Street that crosses over the Kaikorai Stream.
- Proposed Lot 7 will have parts of its southern boundary that appear to be within 20m of the banks of the Kaikorai Stream.

Infringing this rule is a **restricted discretionary** activity under Rule 10.3.4. Matters that discretion is restricted to include:

- Positive effects on biodiversity values or the natural character of the coast (Rule 10.5.3.1.a)
- Effects on biodiversity values and natural character of riparian margins and the coast (Rules 10.5.3.2.a, 10.6.3.5.a, 19.9.5.2.a); and
- Effects on public access (Rules 10.5.3.2.b, 10.6.3.5.b, 19.9.5.2.b).

The subdivision will also require consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) as a **discretionary** activity due to the site being a HAIL site and the applicant has not provided a Preliminary Site Investigation or Detailed Site Investigation report. The application includes a HAIL investigation letter on scanned pages 28 to 29 of the application.

Overall the subdivision is a **non-complying** activity.

Land Use

Although the application requested a land use consent, this was to cover any possibility that the proposal would create a land use infringement. However, the applicant has not identified any such infringements.

Other documents

Kaikorai Stream (Kaikare awa) is noted under Schedule 1D of the Otago Regional Plan: Water (RPW) as holding values for Kāi Tahu.

Although further downstream, the Kaikorai Estuary is also protected under the RPW; it is identified (as “Kaikorai LagoonSwamp”) in Schedule 9 as a Regionally Significant Wetland (no. 68, map F57).

ESPLANADE RESERVES – RELEVANT STATUTORY PROVISIONS

Resource Management Act 1991 (RMA)

Sections 77 and 230 of the RMA allows for the variation of the width of esplanade reserves, either in the district plan or by resource consent. In considering this request, Council is required to have regard to the matters set out in Section 229 of the RMA.

Section 229 of the RMA identifies the purposes for which the esplanade reserves or strips can be taken. The reserve or strip can have one or more of the following purposes.

- (a) *To contribute to the protection of conservation values by, in particular:*
 - (i) *Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - (ii) *Maintaining or enhancing water quality; or*
 - (iii) *Maintaining or enhancing aquatic habitats; or*
 - (iv) *Protecting the natural values associated with the strip or reserve; or*
 - (v) *Mitigating natural hazards; or*
- (b) *To enable public access to or along any sea, river, or lake; or*
- (c) *To enable public recreation use of the strip or reserve and adjacent sea, river or lake, where the use is compatible with the conservation values.*

Proposed 2GP

The matters of discretion referred to above under Proposed 2GP rules in relation to esplanade reserves are helpful and are addressed below under the assessment:

- *Positive effects on biodiversity values or the natural character of the coast*
- *Effects on biodiversity values and natural character values of riparian margins and the coast*
- *Effects on public access*

The Proposed 2GP lists the following guidance (Rule 10.5.3.2):

In assessing a change or reduction to the required esplanade reserve or esplanade strip, Council will consider relevant objectives and policies, the most relevant with regard to biodiversity and natural character being the following (Rule 10.5.3.2.a):

Objective 10.2.2. The biodiversity values and natural character of the coast and riparian margins are maintained and enhanced (note this objective is subject to appeal); and

Policy 10.2.2.7 Only allow subdivision activities adjacent to water bodies and the coast where the subdivision is designed to ensure that the following biodiversity values and natural character values are maintained or enhanced, including through provision of an esplanade reserve or esplanade strip in identified locations:

- a. *biodiversity values of riparian margins and the coast;*
- b. *the water quality and aquatic habitats of the water body or coast; and*
- c. *the natural functioning of the adjacent sea or water body.*

And in relation to public access(Rule 10.5.3.2.b):

Objective 10.2.4 Subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai, and

Policy 10.2.4.3 public access to the natural environment is enhanced.

General assessment guidance:

- *the effects on the values of the water body as identified in Appendix 10C;*
- *the effects on the natural functioning of the water body;*
- *the effects on other biodiversity values and natural character values; and*
- *any other measures proposed to enhance the biodiversity of the riparian or coastal margin and associated water body.*
- *the effects on public recreation and access values as identified in Appendix 10C;*
- *any relevant circumstances listed in the New Zealand Coastal Policy Statement 2010 or the Regional Policy Statement for Otago that may support restriction of public access; and*
- *the potential effects of sea level rise on the future level of the mean high water springs, and thus the width of the reserve.*

The Proposed 2GP also provides the following additional guidance in relation to public access (this provision is subject to appeal):

- *Potential circumstances that may support a consent application include:*
 - *Other opportunities to enhance public access are created by the subdivision.*
 - *The design of the subdivision takes advantage of adjacent unformed legal roads to provide public access.*
 - *Restricting access is necessary to protect public health and safety.*

PARKS AND RECREATION PLANNING COMMENTS AND APPLICANT'S RESPONSE

The application for a waiver/reduction (via resource consent) for an esplanade reserve has been reviewed by Council's Parks and Recreation Planner, Elizabeth Schonwald, from Council's Parks and Recreation Team (PARS).

The Parks and Recreation Planner has reviewed the proposal and advised the following:

- The conservation values identified for Kaikorai Stream in Appendix 10C of the Dunedin City Council's Second Generation District Plan (2GP) are *"Mitigating flooding and erosion. Lower reaches have tidal influence and high conservation value."*
- The Kaikorai Stream has a total catchment area of 55. and 4km² and is approximately 14.5km long flowing from Kaikorai Valley to the Pacific Ocean. The lower catchment of the stream prior to the entry to Kaikorai Estuary has poor water quality. The Kaikorai Stream flows through both residential and industrial areas, the water quality is compromised by the many stormwater outfalls that discharge into the stream.
- There have been previous consents which have provided reductions in esplanade reserve widths, with resultant widths varying from approximately 3m (granted 1990) to approximately 15m (granted 2010). Since then changes have occurred, including the location of the streambed and also there is now an interest in riparian planting along waterways and providing green corridors for pedestrians and cyclists away from our roading network.
- The provision for public access is to safeguard public access for the future, no matter the ownership of the land, ensuring the possibility for a continuous walkway or cycleway along the stream. An esplanade strip or reserve will also provide the opportunity to not only protect the biodiversity of the stream from the immediate effects of adjacent industrial activities, but also enable the ability for biodiversity monitoring and water quality testing. Enhancement of the waterways through the removal of pest plants, and planting of natives would improve the water quality and encourage biodiversity.

Following a site meeting with the applicant, the Parks and Recreation Planner has made the following suggestions regarding the reduction in the esplanade width (see Figure 2 below for "Areas 1 – 4" referred to):

1. On proposed Lot 2 at "Area 1", provide an esplanade strip over the full width of the former road corridor from the end of the legal portion of Crimp Street and extending 20m north of the stream

(i.e. the full 20m width be taken where possible, but as an esplanade strip rather than an esplanade reserve).

2. On proposed Lot 1, top up the existing esplanade reserve to 15m on the northern side of the stream opposite Kane Street identified as "Area 2", to make it consistent in width with the adjacent esplanade reserve south of 5 Crimp Street created via SUB-2009-118.
3. On proposed Lot 7, top up the esplanade reserve to between 15m and 20m on the northern side of the stream identified as "Areas 3 and 4", and offset any waiver in width by providing an esplanade reserve between "Areas 3 and 4".
4. Provide access to the esplanade reserves.
5. The Parks and Recreation Planner is interested in meeting with the applicant to discuss these matters in more detail.



Figure 2: Identifying opportunities for esplanade area top ups

The applicant has viewed the suggestions of Ms Schonwald and responded to each point as follows:

1. They accept the requirement to create esplanade strips on the portion of Lot 2 crossing the Kaikorai Stream above Crimp Street.
2. They reluctantly accept an additional portion of land to vest as Esplanade Reserve at the south-eastern corner of Lot 1 to make up a total width of 15metres of reserve in this location.
3. They do not see the need for topping up the esplanade reserves at proposed Lot 7, and wonder if they could use s226 of the RMA to separate this parcel from the existing title, and then undertake the subdivision.

Note the applicant has applied for a s226 certificate to separate the parcel of land that would be proposed Lot 7 from its parent title. The rationale for doing this was to remove it from the subdivision application, and therefore the esplanade considerations. However, because proposed Lot 7 is currently zoned Rural – Hill Slopes zone and at 0.807ha is less than the minimum lot size of 25ha, a s226 certificate can not be issued.

ASSESSMENT OF WAIVING ESPLANADE RESERVE REQUIREMENTS

Assessment

Positive effects on biodiversity values or the natural character of the coast (10.5.3.1.a)

Effects on biodiversity values and natural character values of riparian margins and the coast (10.5.3.2.a)

Effects on public access (10.5.3.2.b)

The presumption of the RMA, and the clear direction in the proposed 2GP is to vest a 20m esplanade reserve along Kaikorai Stream. The benefits of esplanade areas are well known and are highlighted in the RMA under s6 as matters of national importance, and the purposes of esplanade reserves and strips under s229. Reductions in the width can limit future opportunities to enhance the riparian margin character and biodiversity values, and/or provide public access.

I generally agree with the Parks and Recreation Planner's suggestions, and comment on the points above as follows:

1. "AREA 1"

Provision of an esplanade strip at "Area 1" rather than an esplanade reserve is sensible, as the primary purpose of this portion of former road corridor within proposed Lot 2 is to gain vehicle access over the Kaikorai Stream to sites to the north. Keeping this land in private ownership clearly leaves the responsibility for that access with the land owner, including the bridge. The purpose of the esplanade strip would:

- a. provide the Council with the opportunity to enhance the portions of that esplanade strip not necessary for vehicle access, noting that the existing bridge is approximately 4m wide whereas the land parcel is approximately 12m wide.
- b. It would also give opportunity for future public access along the true right stream bank (i.e. the northern bank).
- c. It would also provide the Council with access to the existing esplanade reserves on the true right stream bank (i.e. the northern bank) upstream of "Area 1".

I note that the Parks and Recreation Planner has suggested a maximum 20m width esplanade strip be taken where possible. The existing esplanade reserve immediately upstream measures approximately 17m width where it adjoins proposed Lot 2. This is based on the existing hydro parcel for the Kaikorai Stream. Given that an esplanade strip will move with the banks of the stream, I agree that the esplanade strip should be the maximum 20m width. This would allow for future movement of the stream, for example, if the bridge is ever replaced, the stream may be moved to the south to improve flood flows in that stretch of the stream.

2. "AREA 2"

Topping up the existing esplanade reserve to extend over proposed Lot 1 to 15m width on the true right bank (i.e. northern side) of the stream opposite Kane Street will make it consistent in width with the adjacent esplanade reserve south of 5 Crimp Street created via SUB-2009-118. While this is considered a topping up, it should be noted that a full 20m top up is required by the Proposed 2GP, and therefore this suggestion is effectively a reduction of the maximum top-up that should be considered.

Any top-up will need to take into account movement of the stream banks, as this is one reason a top-up should be considered. If the stream bank has moved, particularly to the north of the existing hydro parcel, then this will need to be taken into account.

The Parks and Recreation Planner has suggested a 15m width to match the width of the esplanade reserve immediately downstream. I accept that recommendation although I note that the contours appear steeper at the meander of the stream and therefore any top-up should consider the full 20m width if that is necessary to provide future public access along the true right bank.

3. "AREAS 3 and 4".

I note that applicant has considered using s226 of the RMA to separate this parcel (proposed Lot 7) from the existing title, and then undertake the subdivision. I note that s226 requires Council to certify that the allotment is in accordance with the requirements and provisions of the district plan. Given that the district plan requires a 20m width esplanade reserve, the Council may not be able to certify that the requirements and provisions of the district plan are met.

I consider the suggested top up the existing esplanade reserves adjoining proposed Lot 7 and an offset of any waiver in width by providing an esplanade reserve between "Areas 3 and 4" on proposed Lot 7 would meet the requirements to provide esplanade reserves for future enhancement of riparian margin character and biodiversity of the stream, as well creating the option for future access along the true right bank. The "offset" would create esplanade reserve along the southern boundary of Lot 7 where it is adjacent to the railway corridor. This land parcel to the south (containing the railway line) has no information on the DCC Rates Webmap. Various opinions have

been advised by the applicant and Council staff as to whether a top up along this portion of proposed Lot 7 can be required. However, if agreement can be reached with the applicant as to the width of esplanade reserve between “Areas 3 and 4”, then that would be the simplest approach.

I note that immediately to the south of the western “leg-in” portion of proposed Lot 7 there are two adjoining triangular land parcels with no information shown on the DCC Rates Webmap. The stream in this area is bordered on its true right by a private road. The triangular parcel furthest west appears to contain half of the private road. The other triangular parcel also appears to contain some of the private road in the northeast corner of the triangle. Taking or topping up an esplanade reserve would appear to be unwarranted beside these two parcels as the road is well established. However, I consider an esplanade strip should be considered, primarily to provide future public access along the existing road, although such an esplanade strip should also provide for some biodiversity planting if portions of proposed Lot 7 in this area (no matter how narrow) could enhance riparian margin character and biodiversity values for the stream.

In summary, I consider esplanade reserve top-ups along proposed Lot 7 should be provided of sufficient width for enhancement of riparian margin character and biodiversity and future access purposes. Along the western “leg-in” portion of proposed Lot 7, an esplanade strip should be provided, primarily for access, but also for future riparian margin character and biodiversity enhancement purposes if there is any land between the road and stream (or land that may become available in the future) that can be planted or enhanced.

I also recommend that legal access to the esplanade reserves and strips associated with proposed Lot 7 be provided. This would require right of way access over portions of proposed Lot 7, but also providing the Council with right of way access over any rights of way that proposed Lot 7 currently enjoys.

I note there has been an application (SUB-2014-119) for 712 Kaikorai Valley Road where an esplanade reserve reduction to 3.5m width on the Kaikorai Stream has been granted (3 November 2014). 712 Kaikorai Valley Road lies between proposed Lots 1 and 7. The subdivision application has not been proceeded with. I note, in that application it appears account has been taken of existing legally established industrial activities or built structures, on Industrial zoned land as well as a proposed service lane to be vested in Council as road that would have provided additional access width. That decision also noted that an esplanade reserve was desirable predominantly for access reasons, rather than for amenity or any enhancement due to the concrete banks of the stream in that location.

RECOMMENDATION

That the following amendments to the full 20m width esplanade reserve requirement along Kaikorai Stream be granted, based on the areas circled in the Parks and Recreation Planner memo:

1. “Area 1” - an esplanade strip for the purposes of riparian margin character and biodiversity enhancement and public access be provided on proposed Lot 2 to the maximum width of 20m from the true right bank and to the legal road portion of Crimp Street on the true left bank.
2. “Area 2” – a top-up of the existing adjacent esplanade reserve for the purposes of riparian margin character and biodiversity enhancement and public access be provided on proposed Lot 1 to the maximum width of 20m, or lesser and/or wider widths in agreement with PARS taking into account any movement of the stream bed and potential provision of future access.
3. “Areas 3 and 4” – a top-up of the existing adjacent esplanade reserve, and an additional esplanade reserve between “Areas 3 and 4” for the purposes of riparian margin character and biodiversity enhancement and future public access be provided on proposed Lot 7 to the maximum width of 20m, or lesser and/or wider widths in agreement with PARS. At the western leg-in of proposed Lot 7 esplanade strips be provided over the existing formed road, primarily for access, but also for future riparian margin character and biodiversity enhancement purposes.

In addition, legal access for the Council to all esplanade reserves or strips should be provided through the subdivision consent.

Report prepared by:



Robert Buxton, Buxton & Walker Limited
Consultant Planner

19 July 2022

Date

Report checked by:



Phil Marshall
Senior Planner

19 July 2022

Date

Appendix One: Application.
Appendix Two: Staff memorandum.

APPLICATION

APPLICATION NUMBER:	SUB-2021-282
RELATED APPLICATIONS/LICENCES:	HAIL-2021-215

PLANNING APPLICATION DETAILS FORM

Property Address	45 Boundary Road Green Island
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Property Description:	Property No: 5132543 Legal Description: LOT 2 DP 549702, PT SEC 41 BLK VI SO 435 DUNEDIN & EAST TAIERI SD, LOT 1 DP 207, LOT 18 DP 207, LOT 10 DP 207, LOT 11 DP 207, LOT 12 DP 207, LOT 13 DP 207, LOT 131 DP 207, LOT 14 DP 207, LOT 15 DP 207, LOT 19 DP 207, LOT 2 DP 207, LOT 20 DP 207, LOT ...
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First Contact: (Applicant)	Name:	Mountain Grove Limited
	Mail Address:	C/O Paterson Pitts Group, PO Box 5933, Dunedin 9054
	Contact Email:	Andrew.robinson@ppgroup.co.nz
	Phone Number:	03 477 3245
	Method of Service	Preferred Method – Email
Second Contact: (Agent)	Name:	
	Mail Address:	
	Phone Number:	
	Contact Person:	

Description of Application:	Boundary reorganisation subdivision
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Application Type:	Subdivision Consent
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Fast Track?	
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Consent Type:	Subdivision	Consent Nature	Boundary Adjustment Complex: more than 2 sites inv
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Major Category	Subdivision Category A
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Minor Category	Non-Notified - Non Complying
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Senior Planner or Responsible Officer:	Planning Consultant
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Lodgement Date:	09 December 2021	Lodgement Officer:	Hanneri Wilkie
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Deposit Amount:	\$2,400.00	Invoice Number:	899472
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Waived: ☐	
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Application Requirements	Signed Application Form		Copy of Title	
	Locality Plan		Site Plan	
	Plans and Elevations		AEE	
	Affected Persons Consent			

Counter Comments:	
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APPLICATION NUMBER:	LUC-2021-716
RELATED APPLICATIONS/LICENCES:	SUB-2021-282HAIL-2021-215

PLANNING APPLICATION DETAILS FORM

Property Address		45 Boundary Road Green Island	
Property Description:		Property No: 5132543 Legal Description: LOT 2 DP 549702, PT SEC 41 BLK VI SO 435 DUNEDIN & EAST TAIERI SD, LOT 1 DP 207, LOT 18 DP 207, LOT 10 DP 207, LOT 11 DP 207, LOT 12 DP 207, LOT 13 DP 207, LOT 131 DP 207, LOT 14 DP 207, LOT 15 DP 207, LOT 19 DP 207, LOT 2 DP 207, LOT 20 DP 207, LOT ...	
First Contact: (Applicant)	Name:	Mountain Grove Limited	
	Mail Address:	C/O Paterson Pitts Group, PO Box 5933, Dunedin 9054	
	Contact Email:	Andrew.robinson@ppgroup.co.nz	
	Phone Number:	03 477 3245	
	Method of Service	Preferred Method - Email	
Second Contact: (Agent)	Name:		
	Mail Address:		
	Phone Number:		
	Contact Person:		
Description of Application:		continuation of land use activities under NESCS	
Application Type:		Land Use Consent	
Fast Track?			
Consent Type:	Combined with or Consequential to another consent	Consent Nature	To Another Non Notified Consent
Major Category		Land Use Category A	
Minor Category			
Senior Planner or Responsible Officer:		Planning Consultant	
Lodgement Date:		09 December 2021	Lodgement Officer: Hanneri Wilkie
Deposit Amount:	\$	Invoice Number:	
Waived: ☐			
Application Requirements	Signed Application Form		Copy of Title
	Locality Plan		Site Plan
	Plans and Elevations		AEE
	Affected Persons Consent		
Counter Comments:		Robert – I am not sure if the consent Andrew is seeking under the NES is a land use consent or just for subdivision of a HAIL site. As there is no PSI or DSI I expect it	

would be a DA.

PATERSONPITTSGROUP

Your Land Professionals
www.ppgroup.co.nz
0800 PPGROUP



8 December 2021
City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Our Ref: D14270

Attn: The Senior Planner

Dear Sir/Madam

SUBDIVISION APPLICATION
45 BOUNDARY ROAD, GREEN ISLAND, DUNEDIN

On behalf of our clients, we submit for consideration by Council, an application to subdivide these properties, in order to create a more effective utilisation of the lower parts of the subject parcels.

The subject sites, contained in numerous titles, have been put to a variety of uses over the years. The underlying title structure does not reflect the current or proposed layout of the area. This proposal seeks to remedy this, with some of the proposed lots to be sold to adjoining land owners.

Please find enclosed the following documents:

1. Form 9
2. Resource consent application
3. Subdivision scheme plan
4. Relevant Records of Title
5. HAIL assessment

For all correspondence on this matter, please note the contact details below:

Mountain Grove Limited

C/o: Paterson Pitts Group
PO Box 5933, Dunedin 9058
Phone 03 477-3245
Email: dunedin@ppgroup.co.nz

For any further information or discussion in respect of this application, please do not hesitate to contact the author below.

Yours faithfully

PATERSON PITTS GROUP

Andrew Robinson



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We Mountain Grove Limited

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable; in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

☒ Land Use Consent ☒ Subdivision Consent

I opt out of the fast-track consent process: Yes No

(only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

The applicant seeks to subdivide the property, in order to sell a portion of the property to a neighbouring owner, rectify an adverse possession matter and provide a curtilage for their activities.

Have you applied for a Building Consent? Yes, Building Consent Number ABA

☒ No

Site location/description

I am/We are the: (☒ owner, ☐ occupier, ☐ lessee, ☐ prospective purchaser etc) of the site (tick one)

Street address of site: 45 Boundary Road Green Island

Legal description: Lot 1-131 DP207, Lot 1 DP 436310, Pt Sec 41 BLK VI Dunedin and E Taieri SD, Lots 1-6, 9-14 DP97, Lot 2

Certificate of Title: 189535, 527669, 527670, 540776, 971396, 13C/149, 16D/138, 69/248, 72/82

Contact details

Name: Paterson Pitts Group

(☐ applicant ☒ agent (tick one))

Address: PO Box 5933 Moray Place, Dunedin

Postcode: 9058

Phone (daytime): 4773245

Email: andrew.robinson@ppgroup.co.nz

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service (tick one): ☒ Email ☐ Post ☐ Other:

Ownership of the site

Who is the current owner of the site? Mountain Grove Limited

If the applicant is not the site owner, please provide the site owner's contact details:

Address:

Postcode:

Phone (daytime):

Email:

Planning Application Fees Payment Details (Who are we invoicing)

THIS FORM MUST BE COMPLETED FOR ALL PLANNING APPLICATIONS THAT ATTRACT A FEE. ALL FIELDS ARE MANDATORY.

This information is required to assist us to process resource consent invoices and refunds at lodgement and the end of the process. If you have any queries about completing this form, please email planning@dcc.govt.nz

Deposit Payment Payee Details:

Full Name of Deposit Payee (Person or Company): Mountain Grove Limited

Mailing Address of Deposit Payee (please provide PO Box number where available):

C/- Paterson Pitts Group

PO Box 5933 Moray Place, Dunedin

Email Address of Deposit Payee: Dunedin@ppgroup.co.nz

Daytime contact phone number: 4773245

Important Note: *The Payee will automatically be invoiced for the deposit and/or any additional costs. Should a portion of the deposit be unspent, it will be refunded to the payee.*

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Occupation of the site

Please list the full name and address of each occupier of the site:

This property is used for forestry and access purposes.

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

November 2026

(month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

Please see attached report.

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

Please see attached report.

District plan zoning

What is the District Plan zoning of the site? Industrial, Hill Slopes Rural

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

Industrial Transition Overlay Zone
Aurora Transmission – Under Appeal
High Class Soils Mapped Area
Hazard 2 (flood) Overlay Zone

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

Please see attached report.

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name:

Address:

Name:

Address:

Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

Please see attached report.

(Attach separate sheets if necessary)

The following additional Resource Consents from the Otago Regional Council are required and have been applied for: Yes ☒ No
 Water Permit Discharge Permit Coastal Permit Land Use Consent for certain uses of lake beds and rivers Not applicable

Assessment of Objectives and Policies

In this Section you need to consider and assess how your application proposal aligns with the relevant objectives and policies in the District Plan relating to your activity. If your proposal is a discretionary or non-complying activity under the District Plan more attention to the assessment will be necessary as the objectives and policies of the District Plan may not always be in support of the proposed activity.

Please see attached report.

Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of: Applicant ☒ Agent (tick one):

Andrew Robinson

8 December 2021
Date:

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Māori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

IN WRITING: Dunedin City Council, PO Box 5045, Dunedin 9054

IN PERSON: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

BY PHONE: (03) 477 4000

BY EMAIL: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz

Information requirements

- ✓ Completed and Signed Application Form
- ✓ Description of Activity and Assessment of Effects
- ✓ Site Plan, Floor Plan and Elevations (where relevant)
 - Written Approvals
- ✓ Payee details
 - Application fee (cash, eftpos, direct credit or credit card (surcharge may apply))
- ✓ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
 - Forms and plans and any other relevant documentation signed and dated by Affected Persons

In addition, subdivision applications also need the following information:

- ✓ Number of existing lots
- ✓ Number of proposed lots
- ✓ Total area of subdivision
- ✓ The position of all new boundaries

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information)? Yes No

Application: Received Rejected

Received by: Counter Post Courier Other:

Comments:

(Include reasons for rejection and/or notes to handling officer)

Planning Officer:

Date:

RESOURCE CONSENT APPLICATION FOR SUBDIVISION**45 BOUNDARY ROAD, GREEN ISLAND, DUNEDIN****PURPOSE OF APPLICATION**

The purpose of this resource consent application, is to achieve subdivision consent; in order to realign some of the existing boundaries, and allow some portions of the subject property to be sold to a neighbouring property owner.

Proposed Lots 1 and 7 will be sold to the adjoining land-owner. Lots 2 to 6 will be retained by the applicant.

The applicant for this consent application is Mountain Grove Limited.

EXISTING PROPERTY DETAILS

The application sites are located at 45 Boundary Road, Green Island.

The property is generally sloping to the south and surrounds the former Burnside Cement Works Marl Pit. Access is provided via extensions of Crimp Street, Boundary Road and McLeods Road. The existing and proposed easements are shown on the attached scheme plan. The land is generally used for forestry, access and open yard purposes.

Specific elements of the existing property are described further below.

Legal

The relevant portions of the subject property is contained within RT 527669, 527670, 971396, 69/248, 72/82, 13C/149, 540776, 16D/138 and 189535. All but the first 2 titles are "surface titles" with the mineral deposits below the surface owned by another party.

Site Features

The application land includes the following notable features-

1. The site comprises 9 titles, most of which show evidence of historic industrial or mining activity. Current site uses include storage, access and forestry.
2. The wider area is characterised by rural activities to the north and west, with industrial activities to the south and east.

3. Road transport links are relatively weak, with Boundary Road not being a through road, and Crimp Street being a local road. However, this proposal does not seek to increase the number of traffic movements.

Surrounding Environment

The subject sites are at the lower end of Kaikorai Valley, with some parcels being heavily influenced by the Kaikorai Stream in terms of boundary geometry. After a significant period of decline, there is evidence of renewal in the industrial building stock in the locality. The adjacent hard-fill area is proving to be an important resource to the city, allowing the treatment and disposal of materials unsuited to disposal in other city locations. Moderate scale farming and forestry activities are an important part of the area, particularly on the higher slopes.

Major roads in the wider area include the southern motorway, although local roads such as McLeod Road and Boomer Street provide practical road links to site entrances.

Planning Zones

The application land is located partly in the Industrial zone, and partly in the Hill Slopes Rural Zone. The Hazard 2 (flood) annotation is applicable to the lower-lying portions of the site. A portion of the site is subject to a transition layer, indicating that it will transfer from rural to industrial land-use once the necessary preconditions are fulfilled. There is an appeal regarding Aurora's sub-transmission lines across the site. The western fringe of proposed Lot 3 is subject to a Hazard 2 (Land Stability) overlay.

Hazards

As recorded above, parts of the properties are subject to flooding and land stability issues. This application is effectively a boundary adjustment, intended to align the legal boundaries with present and future activities in the locality. Authorisation of buildings or major earthworks is not sought under this application. Therefore, any required hazard mitigation is best addressed under any future development proposals.

PROPOSED ACTIVITY

The objective of the proposed activity, is to align the boundaries with the current or proposed limits of occupation (as appropriate) between the two land-owners. The applicant seeks to retain the same number of titles as he currently owns, following the completion of the proposed boundary adjustment.

To achieve the objective of the proposed activity, the applicant is required to obtain a resource consent for the proposed subdivision.

Specific elements of the existing property are described further below.

Water Supply and Fire-Fighting Infrastructure

The Three Waters infrastructure terminates at the end of Crimp Street. The rates assessment indicates that there are no connections to the Three Waters network. A significant portion of the subject properties lie beyond the water supply boundary, with proposed Lot 7 being the only site with significant amounts of land within the supply boundary. As this proposal is effectively a boundary adjustment, we seek discretionary (restricted) consent for the existing unserviced sites within the Industrial zone to remain unserviced. The Rural (Hill Slopes) zone doesn't anticipate connections to piped services. However, the Industrial zone does, under Rule 19.7.4

Easements A-D have been provided for future piped services if required, leading toward the existing Crimp Street infrastructure.

There are fire hydrants located at the ends of Crimp and Kane Streets.

Legal Matters

New reciprocal rights of way are proposed, and the aforementioned service easements. Existing easements and Rights of Way will be retained.

There is no need for any of the sites to be amalgamated with other properties, following the boundary adjustment.

PLANNING EVALUATION: NATIONAL STANDARDS

The National Policy Statements (NPS) and National Environmental Standards (NES) that are relevant to the proposed activity are discussed below.

NES for Assessing and Managing Contaminants in Soil to Protect Human Health

Please find attached, a report that details the site history from a contamination perspective. We are of a view that the NES is applicable to these sites and seek Resource Consent for the HAIL activities that continue to be undertaken on the properties.

PLANNING EVALUATION: DISTRICT PLAN (2GP)

The sites are split between the Industrial and Hill Slopes Rural Zone of the 2GP.

The Appeals Version of the 2GP identifies the following mapped planning provisions-

- Part of the property is subject to the Hazard 2 Flood Overlay
- Part of the subject land is contained in a Hazard 2 (Land Stability) overlay
- The sub-transmission lines are subject to an appeal.
- Transitional Industrial overlay relates to parts of the site.

The discussion below considers the planning provisions that relate to the activities associated with the proposed boundary adjustment. For convenience, these activities are separated into subdivision, land use and development. Following the evaluation of the proposed activity in respect of the relevant rules and performance standards, an assessment of the application in reference to the objectives and policies of the 2GP has been carried out.

Subdivision Activity

Rule 19.3.5 describes the planning status of subdivision activities within the Industrial zone as being a restricted discretionary activity provided that the proposal complies with the performance standards shown in the table overleaf.

General Subdivision – Industrial Zone

Rule 19.3.5	i	Access	Compliance with Rule 6.8.1 – Compliant
	ii	Esplanade Reserves & Strips	N/A
	iii	Firefighting	Compliance with Rule 9.3.3.1 – Compliant
	iv	Service Connections	Compliance with rule 9.3.7 – Not Compliant

As the proposed subdivision activity is unable to comply with the requirement for service connections, therefore the proposal is considered to be a **non-complying activity**.

General Subdivision – Rural Zone

Rule 16.3.5	i	Access	Compliance with Rule 6.8.1 – Compliant
	ii	Esplanade Reserves & Strips	N/A
	iii	Firefighting	Compliance with Rule 9.3.3.1 – Compliant
	iv	Minimum Site Size	Not Compliant
	v	Shape	Not Compliant

As the proposed subdivision activity is unable to comply with the requirement for service connections in the industrial zone, nor minimum site size or shape requirements (size and gradient of building platforms) in the rural zone, therefore the proposal is considered to be a **non-complying activity**.

Land Use Activity

Rule 19.5 describes the planning status of standard industrial land use activities within Industrial zones as being a permitted activity provided that the proposal complies with the performance standards that relate to that rule. No changes to the proposed land-uses on the subject properties are proposed as part of this application, and it is assumed that all activities currently comply with the required performance standards.

Rule 16.5 describes the planning status of standard rural land use activities within rural zones as being a permitted activity provided that the proposal complies with the performance standards that relate to that rule. No changes to the proposed land-uses on the subject properties are proposed as part of this application, and it is assumed that all activities currently comply with the required performance standards. There is no intention to establish a residence on any of the rural lots.

Development Activity

As this proposal does not include the establishment of any buildings or structures, or the carrying out of a development activity as otherwise provided for in Rule 16.3.4 or 19.3.4, it is not necessary to evaluate the proposed activity in this respect.

Accordingly, the proposed development of the site is deemed to be a **permitted activity**.

Overall Activity Status

The application overall is deemed to have a **restricted discretionary activity** status.

Assessment of Objectives and Policies

The relevant objectives and policies of the district plan are discussed in the table overleaf.

Objective	Supporting Policies	Assessment
Objective 2.2.2 Dunedin reduces its reliance on non-renewable energy sources and is well equipped to manage and adapt to changing and disrupted energy supply by having: a. increased local renewable energy generation; b. reduced reliance on private motor cars for transportation; c. increased capacity for local food production; d. housing that is energy efficient.	Policy 2.2.2.5 Encourage the development of new housing that is durably-constructed and energy efficient to operate, and located to minimise, as far as practicable, transportation costs and car-dependency by: a. managing the design of <u>subdivision</u> to promote connectivity and <u>legibility</u> and maximise accessibility by transportation modes other than private motor cars; and b. managing <u>subdivision</u>, and <u>building and site</u> design to maximise solar access and the environmental performance of <u>buildings</u>.	The proposal is considered consistent with this objective and policy.
Objective 2.4.1 Form and Structure of the environment: The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for the enjoyment of the city are protected and enhanced.	Policy 2.4.1.5 To maintain or enhance the attractiveness of streetscapes, public open spaces and residential amenity by using rules the manage building bulk and location, site development and overall development density.	The proposal is assessed as being consistent with this objective and policy
Objective 2.7.1 Efficient public infrastructure: Public infrastructure networks operate efficiently and effectively and have the least possible long-term cost burden on the public.	Policy 2.7.1.1 Manage the location of new housing to ensure efficient use and provision of public infrastructure.	The proposal is assessed as being neutral with this objective and policy.

Objective 6.2.2 Land use activities are accessible by a range of <u>travel methods</u>.	Policy 6.2.2.1 Require land use activities whose parking demand either cannot be met by the public parking supply, or would significantly affect the availability of that supply for surrounding activities to provide car parking either on or near the <u>site</u> at an amount that is adequate to: 1. avoid excessive pressure on publicly available parking in the vicinity of the <u>site</u> (including on-street parking and off-street facilities); 2. avoid or, if avoidance is not possible, adequately mitigate adverse effects on the availability of public parking in the vicinity of the <u>site</u> (including on-street parking and off-street facilities); and 3. ensure accessibility for (as relevant) residents, visitors, customers, staff and students who have limited mobility, including disabled people, the elderly and people travelling with young children.	The proposal is assessed as being neutral with this objective and policies.
Objective 6.2.3 Land use, development and <u>subdivision activities</u> maintain the safety and efficiency of the transport network for all <u>travel methods</u>.	Policy 6.2.3.3 Require land use activities to provide adequate vehicle loading and manoeuvring space to support their operations and to avoid or, if avoidance is not possible, adequately mitigate adverse effects on the safety and efficiency of the transport network.	The proposal is assessed as being consistent with this objective and policies.

	Policy 6.2.3.4 Require land use activities to provide the amount of parking necessary to ensure that any overspill parking effects, that could adversely affect the safety and efficiency of the transport network, are avoided or, if avoidance is not practicable, adequately mitigated. Policy 6.2.3.9 Only allow land use development, or <u>subdivision activities</u> that may lead to land use or development, where there are no significant effects on the safety and efficiency of the transport network.	
Objective 6.2.4 Parking areas, loading areas and vehicle accesses are designed and located to: a. provide for the safe and efficient operation of both the parking or loading area and the transport network; and b. facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	Policy 6.2.4.4 Require vehicle accesses to be limited in number and width, in order to avoid or, if avoidance is not possible, adequately mitigate adverse effects on: 1. pedestrian safety and ease of movement; and 2. the safety and efficiency of the transport network. Policy 6.2.4.5 Require new vehicle accesses to be located a sufficient distance from intersections to avoid or, if avoidance is not possible, adequately mitigate adverse effects on safety and efficiency due to: 1. vehicles queuing to enter the crossing hindering the efficient functioning of the intersection; and 2. confusion over whether indicating vehicles are seeking to turn at the crossing or the intersection creating safety problems.	The proposal is assessed as being consistent with this objective and these policies.

Objective 9.2.1 Land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.	Policy 9.2.1.1 Only allow land use or subdivision activities that may result in land use or development activities where: a) in an area with public water supply and/or wastewater infrastructure, it will not exceed the current or planned capacity of that infrastructure; or b) compromise its ability to service any activities permitted within the zone.	The proposal is assessed as being consistent with this objective and policy
Objective 19.2.1 The industrial zones enable and protect industrial and port activities by: only providing for a very limited range of specified non-industrial or non-port activities; and ensuring the potential for reverse sensitivity is insignificant.	Policy 19.2.1.1 Provide for industrial and port activities, and retail ancillary to industry in the industrial zones. Policy 19.2.1.3 Avoid the establishment of non-industrial or non-port activities, other than those expressly provided for in the industrial zones, unless they would have significant positive effects on the successful operation of surrounding industrial or port activities.	Overall, the proposal is found to be consistent with this objective and policy

Objective 19.2.2 Activities are designed and operated so that: a reasonable level of amenity is maintained within the industrial zones;	Policy 19.2.2.5 Require buildings and structures to be of a height that: avoids or minimises, as far as practicable, significant adverse effects on views from the central city and Dunedin's inner hill suburbs.	Overall, the proposal is found to be consistent with this objective and policy
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 communities where these activities are most appropriately located in a rural rather than an urban environment.	Policy 16.2.1.1 Enable farming, grazing and conservation in the rural zones. Policy 16.2.1.2 Provide for rural activities, veterinary services, rural industry, rural contractor and transport depots, community activities, emergency services, cemeteries and crematoriums in the rural zones where the effects will be adequately managed in line with objectives 16.2.2 and 16.2.3, 16.2.4 and their policies, and the objectives and policies of any relevant overlay zones.	Overall, the proposal is found to be consistent with this objective and these policies.

Overall, this proposal is judged to be consistent with all of the relevant objectives and policies of the district plan (2GP).

ASSESSMENT OF EFFECTS

An assessment of environmental effects has been carried out in accordance with the requirements of the Resource Management Act 1991. The results of this assessment are discussed below.

Affected Parties

There are no parties that have been identified as specifically affected by the proposed activity. The matters of non-compliance are either technical or internal to the development site.

Effects on the Environment

This proposed subdivision is largely administrative, as it seeks to realign the legal boundaries with the current occupation boundaries, and improve the legal access provisions for both parties. The boundary adjustment will be difficult to discern from most publicly accessible vantage points.

Overall Effects

The assessment of environmental effects concludes that overall, the effects of the proposed activity will be less than minor.

PLANNING EVALUATION: RESOURCE MANAGEMENT ACT 1991

The relevant matters for consideration under the Resource Management Act 1991 are discussed below.

Section 104D

Section 104D of the Resource Management Act 1991 specifies that resource consent for a non-complying activity 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 both the district plan and the proposed district plan.

It is considered that the proposal meets both of these limbs as any adverse effects arising from this proposed activity will be no more than minor, and the activity will not be contrary to the objectives and policies of the 2GP (as assessed in the sections above).

Therefore, the Council can exercise its discretion under Section 104D to grant consent.

Other Matters

Section 104(1)(c) of the Resource Management Act 1991 requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.

The proposal is not considered contrary to the objectives and policies of the 2GP and can be developed appropriately in accordance with the values of the underlying zone given

residential activity is anticipated across the subject site. Environmental effects have been judged to be less than minor. Overall, the applicant cannot identify any other matters that Council might wish to have regard to.

Integrity of the District Plan and Precedent Matters

As noted previously, the proposal is not considered contrary to the objectives and policies of the 2GP and can be developed appropriately in accordance with the values of the underlying zone given residential activity is anticipated across the subject site.

Overall, it is considered that approval of the subdivision and proposed land use will not undermine the integrity of the district plan. Similarly, the potential for granting of the sought consent to set an undesirable precedent is considered to be nil.

Part 2 – Purpose and Principles

A consideration of Part 2 of the Resource Management Act 1991 can be applied by Council to the consideration of a consent application in the event that there is ambiguity or uncertainty in the evaluation of the proposal against the objectives and policies of the district plan.

In this instance there does not appear to be any ambiguity or uncertainty between the proposed activity and the interpretation of the relevant objectives and policies. Accordingly, evaluation of the application against Part 2 of the RMA is not necessary.

Special Circumstances

Special circumstances are considered to be matters that lie outside the common run of things, and which are exceptional, abnormal or unusual (but less than extraordinary or unique). There does not appear to be any reason for this application to be notified under the special circumstances provision.

Offsetting or Compensation Measures

In accordance with Section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures offered nor are any deemed necessary.

Assessment of Regional Policy Statements

Section 104(1)(b)(v) of the Act requires that any relevant regional policy statements be taken into account. The Regional Policy Statement for Otago (RPS) and the Partially Operative Regional Policy Statement for Otago (PORPS) have been reviewed in respect of this proposal. No policies specifically relevant to this proposal were identified. Overall, the proposal is considered to be consistent with both the operative and partially operative Regional Policy Statements for Otago.

Other Planning Instruments

Section 104(1)(b) requires consideration of other relevant planning instruments. There are no other planning instruments considered relevant to this application/.

OVERALL

The applicant proposes to align the cadastral boundaries with the existing occupation boundaries. The owners of both properties are supportive of this proposal. The number of titles owned by each party will remain unchanged.

The existing activities on the site will remain unchanged.

All potential environmental effects are deemed to be less than minor, and the proposal is judged to be consistent with all of the relevant objectives and policies of the district plan.

The proposal is judged to have a non-complying activity status. Accordingly, resource consent is sought through this application. The relevant consent elements comprise-

1. Resource consent (subdivision) for the proposed subdivision activity.
2. Resource consent for the existing HAIL activities and matters relating to historic activities on the site.

There are no specifically affected parties, and there is no risk to the integrity of the district plan. Accordingly, we ask that this consent be considered on a non-notified basis.

For any further information or discussion in respect of this application, please do not hesitate to contact the author below.

Yours faithfully

PATERSON PITTS GROUP

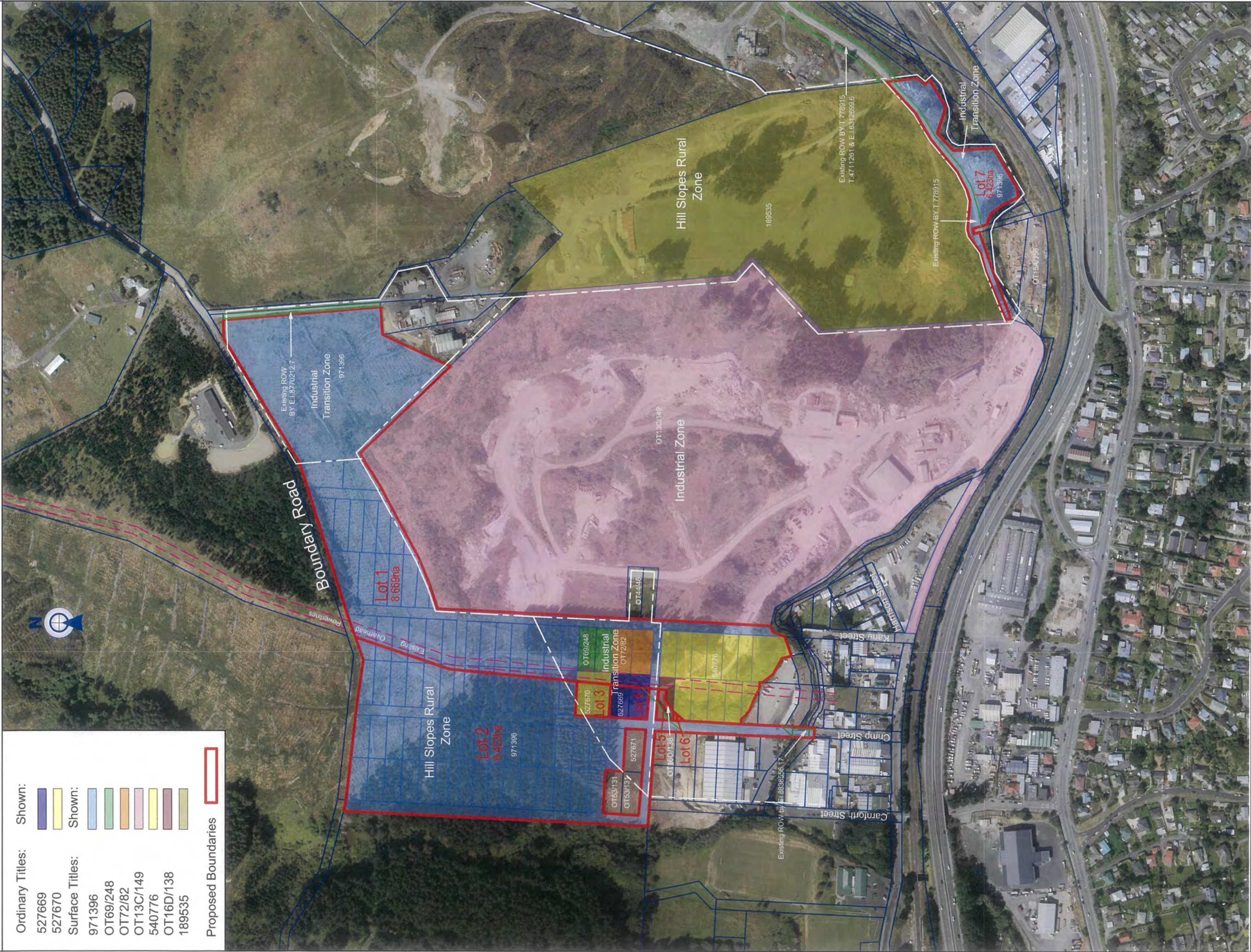
A handwritten signature in dark ink, appearing to read 'A J Robinson', written in a cursive style.

Andrew Robinson

E: andrew.robinson@ppgroup.co.nz

P: 03 477-3245

M: 021 043 8348



- Ordinary Titles: 527669 527670
- Surface Titles: 971396 OT69/248 OT72/82 OT13C/149 540776 OT16D/138 189535
- Shown: [Color swatches for Ordinary and Surface Titles]

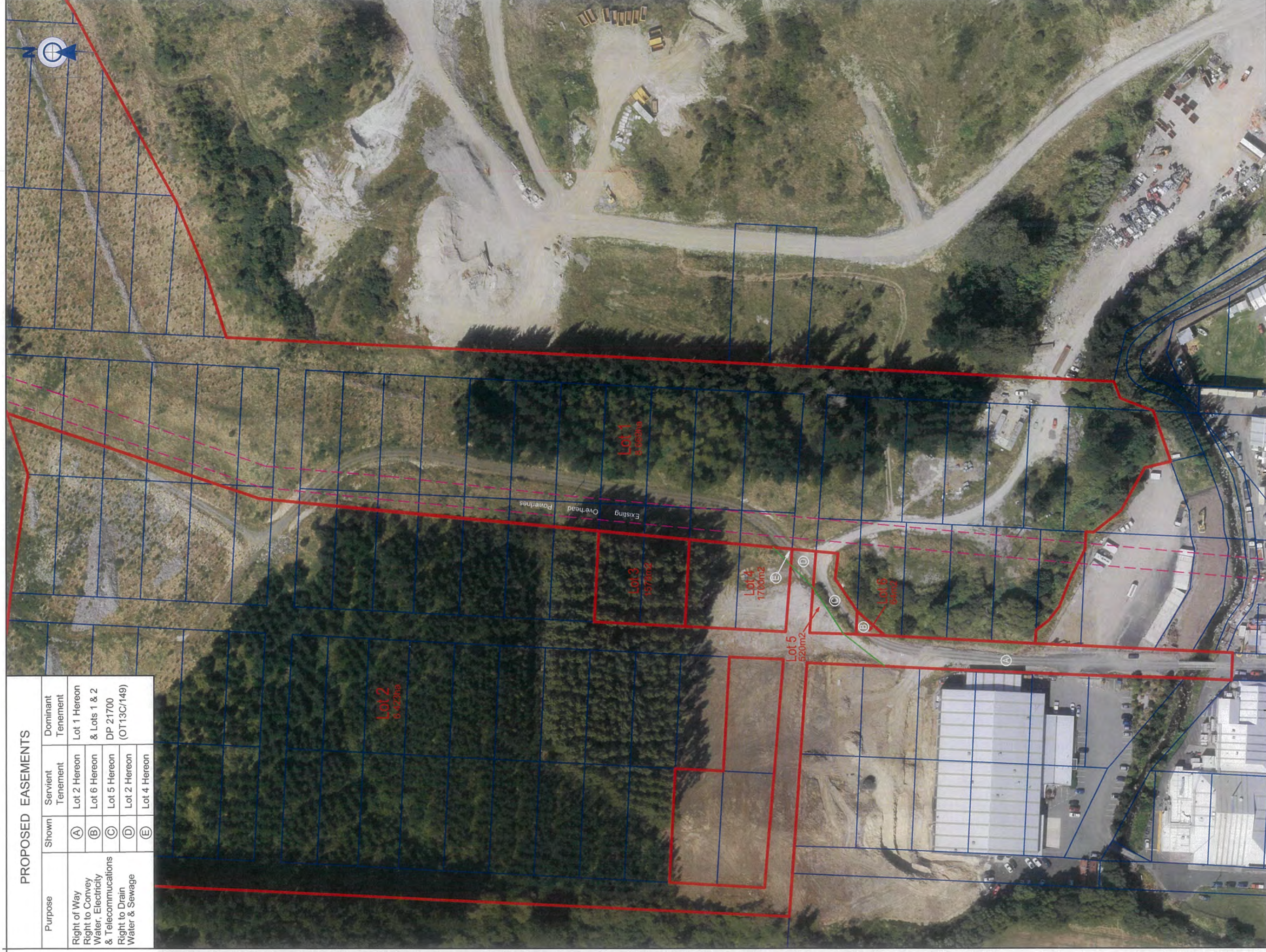
Proposed Boundaries [Red outline]

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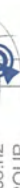
Client Location:
Burnside Ltd.
45 Boundary Road
Green Island

Purpose/Drawing Title:
Proposed Subdivision

Surveyed by:	Original Size:	Scale:
Designed by:	A3	1:4000
Drawn by:	MSW	
Checked by:	LRI	
Approved by:		
Job Ref:	Sheet No:	DO NOT SCALE
D14270	1	Revision No: C
		Date Created: 8/12/2021



PROPOSED EASEMENTS			
Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way Right to Convey Water, Electricity & Telecommunications Right to Drain Water & Sewage	(A)	Lot 2 Hereon	Lot 1 Hereon
	(B)	Lot 6 Hereon	& Lots 1 & 2
	(C)	Lot 5 Hereon	DP 21700 (OT13C/149)
	(D)	Lot 2 Hereon	
	(E)	Lot 4 Hereon	

PATERSONPITTS GROUP Surveying • Planning • Engineering Your Land Professionals www.ppgroup.co.nz 0800 PPGROUP		Client Location:		Burnside Ltd. 45 Boundary Road Green Island	
		Purpose Drawing Title:		Proposed Subdivision	
		Surveyed by: - Designed by: - Drawn by: MSW Checked by: LRH Approved by: LRH		Original Size: A3 Scale: 1:1500	
		Job Ref: D14270		Sheet No: 2 Revision No: C Date Created: 8/12/2021	
		DO NOT SCALE			

14270

8 December 2021

City Planning Department
Dunedin City Council
PO Box 5045
DUNEDIN 9054

45 Boundary Road, Burnside, Dunedin

Hazardous Activities and Industries Investigation

We have investigated information from a number of sources, in order to ascertain whether any historic land uses or activities are likely to have contaminated any parts of the property. To understand the site and contamination issues relating to it, we need to give the former uses of the property and the “host community” some context.

In times past, Burnside was an economic powerhouse for the regional economy, with many hundred workers being employed, mainly in secondary production (processing commodities transported to the area from the rural hinterland). Following technological and economic changes that were particularly pronounced between the 1970's and 1990's, many of the industries down-sized and eventually ceased production on their respective sites. As is common in many areas where historic industrial activity has occurred at the intensity and duration that occurred at Burnside, there are many cases of suspected or confirmed discharges to the air, ground and water. The former Cement Works, Freezing Works, Rail Yards and the waterway itself are all potential sources of soil contamination, as are the more recent activities on the site including automotive dismantling and metal recycling.

The subject property is located near the Kaikorai Stream and the area beyond the northern and western edge of the former marl pits. Marl is a naturally occurring substance containing limestone and clay, that is used in the cement manufacturing process. The majority of the subject site is used for forestry and as access to adjacent properties.

We reviewed the Otago Regional Council spatial database. This correctly records that part of the subject site contained a land-fill associated with the Cement Works.

A search of the City Council documents was undertaken under HAIL 2021-215, which is a rather large and intimidating document. It references the landfill and automotive recycling activities on the property. The land-fill appears well documented and it has a status of “managed”.

The proposed subdivision is effectively a boundary adjustment between the 2 land-owners to tidy

up some adverse possession matters and to provide a curtilage for the activities within the marl pit on the adjoining property.

In conclusion, we have reviewed retrievable information from a number of sources and have found considerable information "of interest" in relation to soil contamination. However, no new receptor pathways are proposed under this boundary adjustment and we feel that consent under the NES is appropriate in order to provide a sustainable development pathway for the subject and adjoining property.

Yours faithfully

PATERSON PITTS PARTNERS LTD

Andrew Robinson

Email: andrew.robinson@ppgroup.co.nz

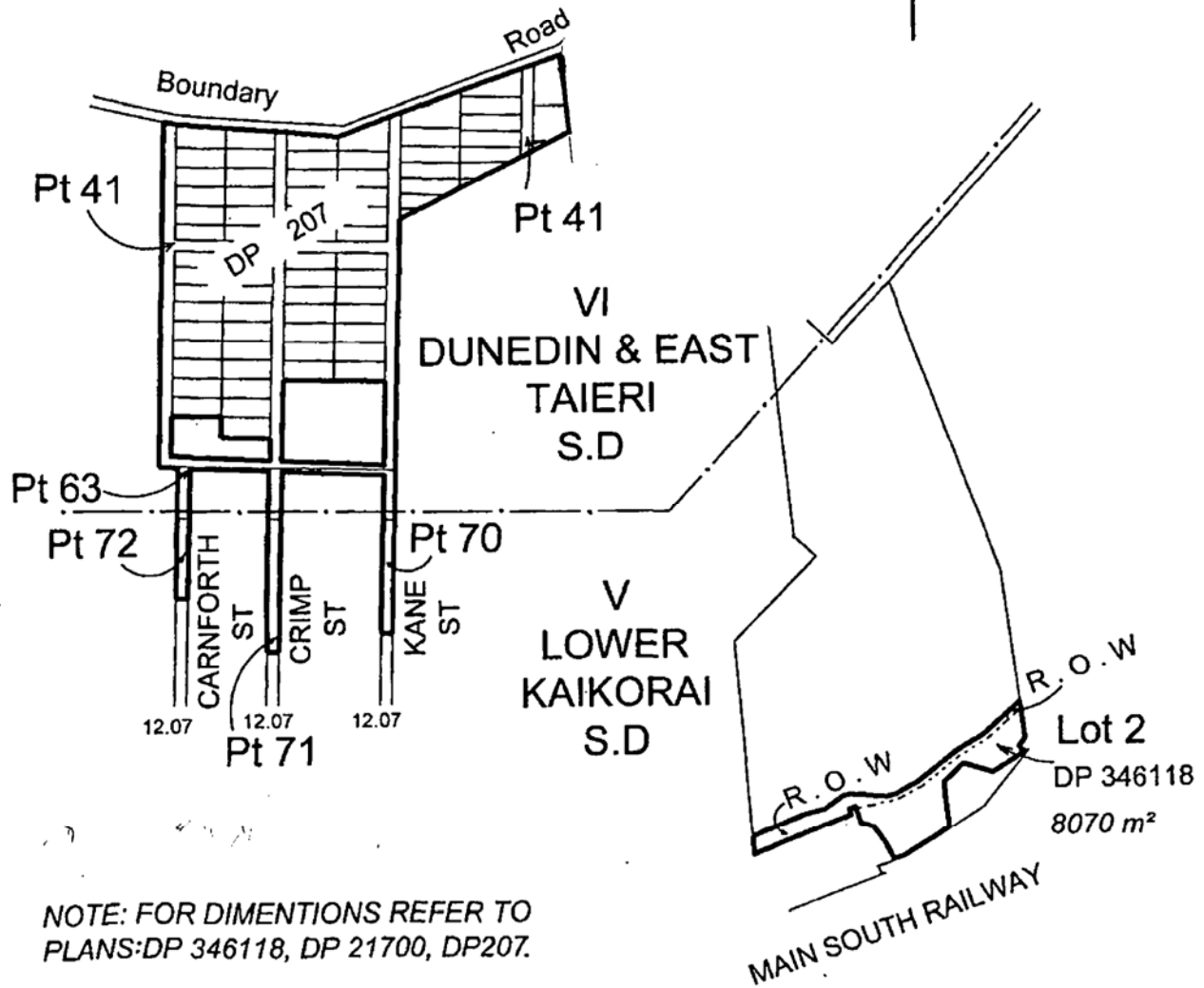
14270

Title Diagram 535180

Cpy - 01/01, Pgs - 001, 14/06/11, 09:48



DocID: 212835635



Total Area: 10.7283



Diag. A

Part Section 61 Blk VI Dunedin & East Taieri SD

BOUNDARY ROAD
(Legal and formed)
(20.12)

Diag. AA
See T1

Lot 1 DP 428414

3
0.1223Ha1
3.0288Ha

Lot 1 DP 21212

Lot 2 DP 21212

2
0.4388Ha

Lot 1 DP 21700

Lot 1 DP 346118

**NOTE: Lots 1, 2 & 3 hereon are
subject to amalgamation conditions**

Diag. AA

Part Section 61 Blk VI Dunedin & East Taieri SD

BOUNDARY ROAD

B

3
0.1223Ha1
3.0288Ha

Lot 1 DP 428414

Lot 1 DP 21212

2
0.4388Ha

Lot 2 DP 21212

T 1/1

Land District Otago

Digitally Generated Plan

Generated on: 15/06/2011 1:17pm Page 3 of 3

Lots 1 to 3 Being a Subdivision of Pt Section 61 Blk VI Dunedin and East Taieri

S.D. and Easement Over Lot 1 DP 21212

Surveyor: Kurt Alistair Bowen

Firm: Paterson Pitts Partners Ltd (Dunedin)

Title Plan

DP 436310

Deposited on: 31/05/2011



Land District: Otago	Lots 1 & 2 being a Subdivision of Pt Secs 70-72 Blk V Lower Kaikorai SD & Pt Sec 63 Blk VI Dunedin & East Taieri SD	Surveyor: Geoffrey William Bates Firm: Terramark Ltd	Title Plan DP 549702
Digitally Generated Plan Generated on: 01/02/2021 11:32am Page 4 of 4			



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
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Search Copy**



Identifier **971396**
Land Registration District **Otago**
Date Issued 22 December 2020

Prior References
535180

Estate	Fee Simple - Surface Only
Area	13.5928 hectares more or less
Legal Description	Lot 2 Deposited Plan 549702 and Lot 1-15, 18-33, 35-47, 52-64, 69-72, 90-93, 131 Deposited Plan 207 and Part Lot 73-75, 94-96 and Part Lot 129-130 Deposited Plan 207 and Part Section 41 Block VI Dunedin & East Taieri Survey District and Lot 2 Deposited Plan 346118 and Lot 1 Deposited Plan 436310

Registered Owners
Mountain Grove Limited

Interests

Appurtenant hereto is a right of way created by Conveyance 40306 (53/810)

Appurtenant hereto is a right of way created by Transfer 471261 - 22.12.1976 at 11:45 am

The right of way created by Transfer 471261 is subject to the Council's conditions of consent endorsed on DP 12890

Subject to a right of way over part Lot 2 DP 346118 marked A and B on DP 346118 created by Transfer 778915 - 10.5.1991 at 10:05 am

787211 Variation of the conditions of the easement created by Transfer 471261 - 30.8.1991 at 11.11 am

Subject to a right of way over part Lot 2 DP 346118 marked A on DP 346118 created by Easement Instrument 6312699.6 - 15.2.2005 at 9:00 am

The easements created by Easement Instrument 6312699.6 are subject to Section 243 (a) Resource Management Act 1991

8772128.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 - - 24.5.2011 at 7:00 am (affects Lots 1-15, 18-33, 35-47, 52-64, 69-72, 90-93, 131 DP 207 and Part Lots 73-75, 94-96, 129-130 DP 207 and Part Sections 41 Block VI Dunedin & East Taieri Survey District)

Appurtenant to Lot 1 DP 436310 herein is a right of way created by Easement Instrument 8770212.7 - 31.5.2011 at 10:57 am

The easements created by Easement Instrument 8770212.7 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right to convey water, electricity and telecommunication and to pump foul sewage over part Lot 2 DP 549702 marked A, B and C on DP 549702 created by Easement Instrument 8838556.16 - 19.12.2012 at 7:29 am

The easements created by Easement Instrument 8838556.16 are subject to Section 243 (a) Resource Management Act 1991

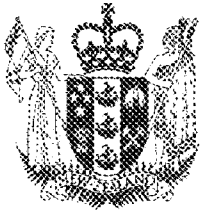
Identifier **971396**

Appurtenant hereto (excluding part Lot 2 DP 549702 formerly Part Section 71 Block V Lower Kaikorai Survey District) is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

Subject to a right of way over part Lot 2 DP 549702 marked A, B and C on DP 549702 created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

Subject to Section 241(2) Resource Management Act 1991 (affects DP 549702)

Subject to a right to drain water over part Lot 2 DP 549702 marked A, C and D on DP 549702 and a right of way over part Lot 2 DP 549702 marked A, B, C, D, N, P and Q on DP 549702 created by Transfer 12231030.1 - 10.9.2021 at 9:47 am



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Identifier **189535**
Land Registration District **Otago**
Date Issued 15 February 2005

Prior References

OT13C/151

Estate	Fee Simple - Surface Only
Area	10.9360 hectares more or less
Legal Description	Lot 1 Deposited Plan 346118

Registered Owners

Burnside Dunedin (2018) Limited

Interests

Appurtenant hereto is a right of way created by Conveyance 40306 (53/810)

Appurtenant hereto (except part formerly lot 2 DP 16144) is a right of way created by Transfer 471261 - 22.12.1976 at 11:45 am

The right of way created by Transfer 471261 is subject to the Council's conditions of consent endorsed on DP 12890

787211 Variation of the conditions of the easement created by Transfer 471261 - 30.8.1991 at 11.11 am

796271.8 Transfer reserving to Millburn New Zealand Limited all limestone, marl, clay, sand and minerals on or under the within land together with mining rights - 21.1.1992 at 11.11 am

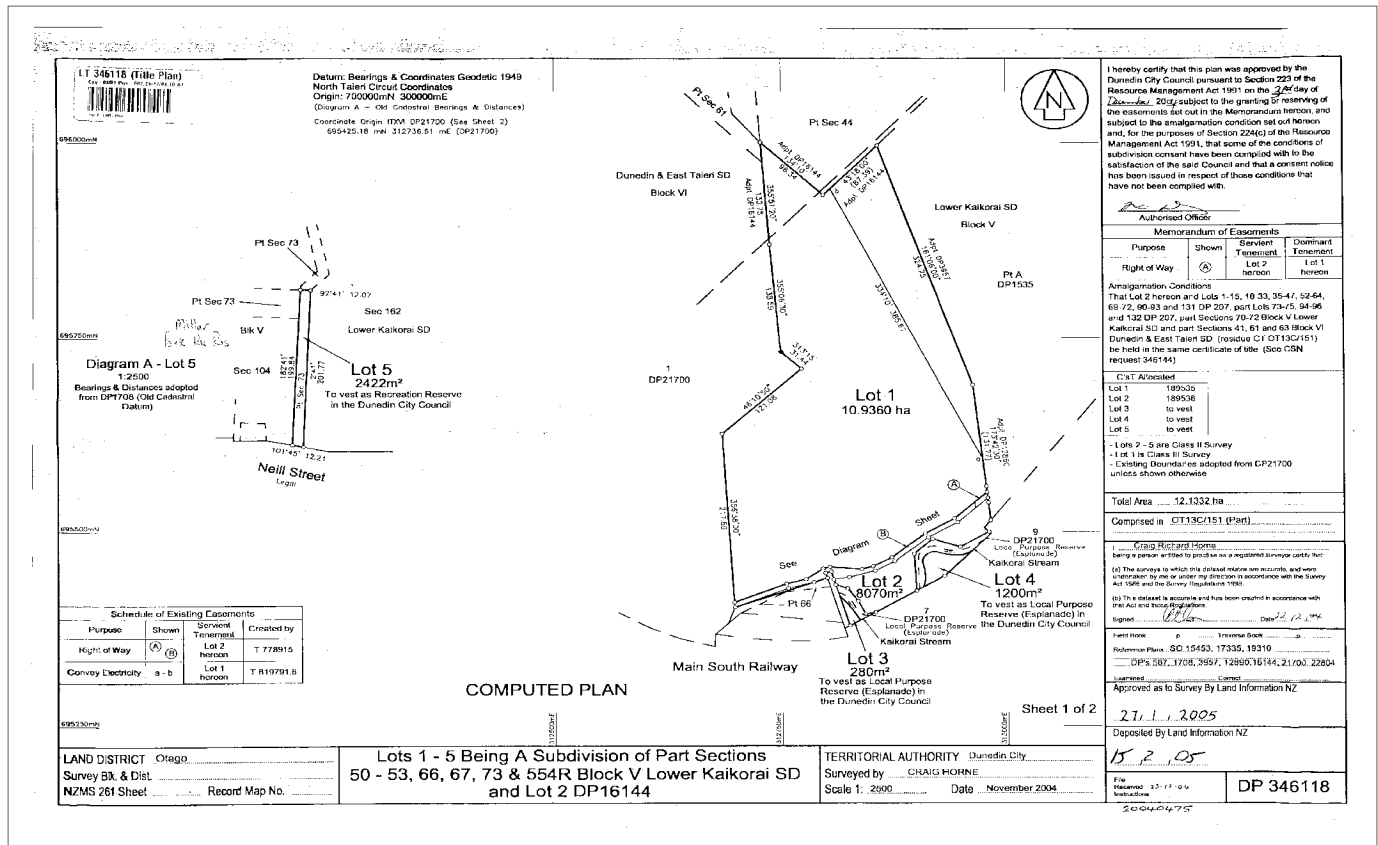
Subject to a right to convey electricity in gross over part marked a-b DP 346118 to Dunedin Electricity Limited created by Transfer 819791.8 - 8.12.1992 at 9:31 am

The easements created by Transfer 819791.8 are subject to Section 243 (a) Resource Management Act 1991

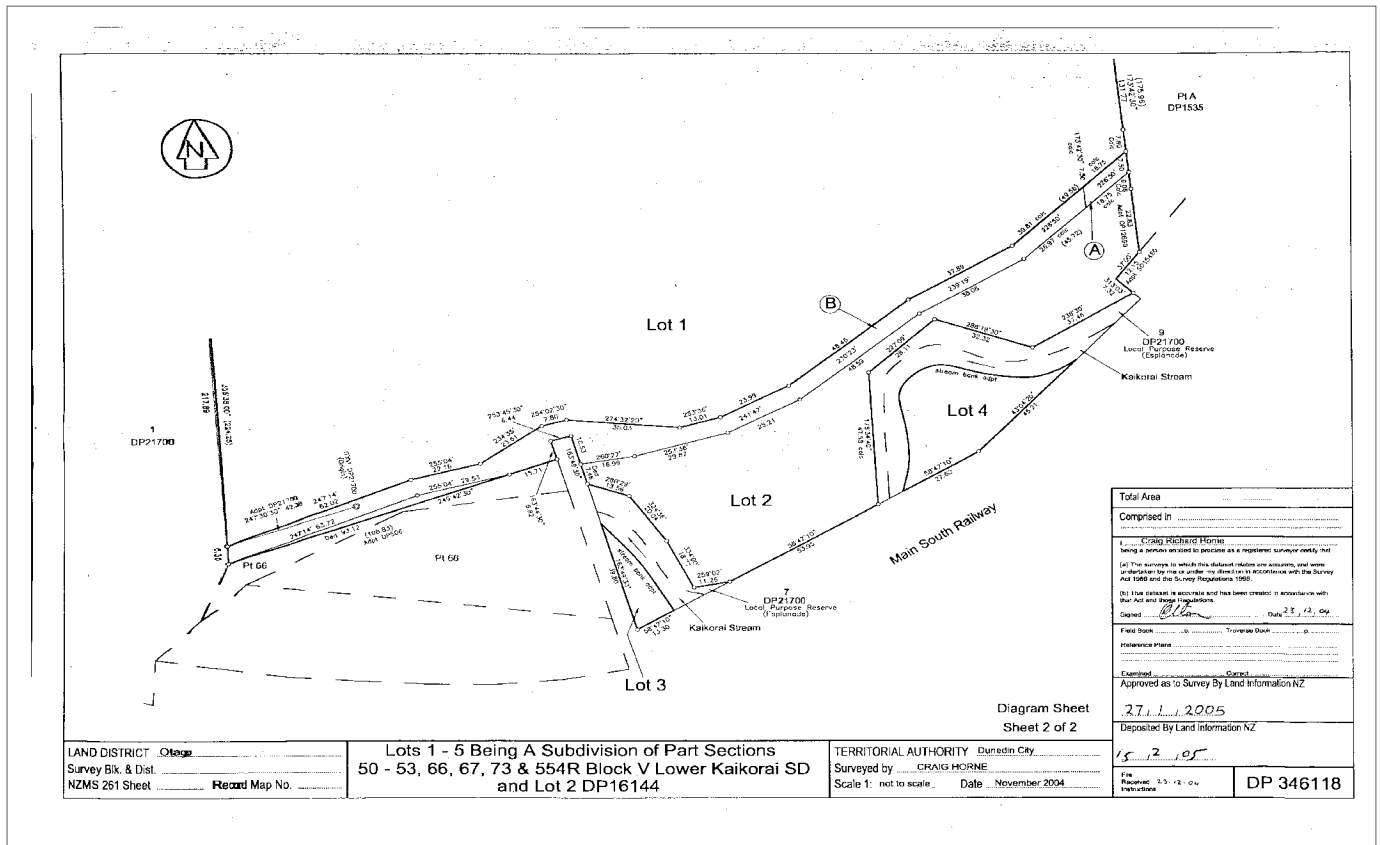
6312699.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 15.2.2005 at 9:00 am

Appurtenant hereto is a right of way created by Easement Instrument 6312699.6 - 15.2.2005 at 9:00 am

The easements created by Easement Instrument 6312699.6 are subject to Section 243 (a) Resource Management Act 1991



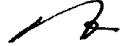
Identifier 189535





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R. W. Muir
Registrar-General
of Land

Identifier **527669**
Land Registration District **Otago**
Date Issued 08 July 2010

Prior References

OT44/49

Estate	Fee Simple
Area	2385 square metres more or less
Legal Description	Lot 50-51 Deposited Plan 207

Registered Owners

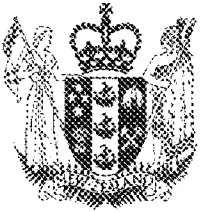
Mountain Grove Limited

Interests

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

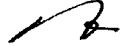


Declared at Durand.
This sixth day of January 1879
Before me R. R. Butler, Judge
Justice of the Peace for



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R. W. Muir
Registrar-General
of Land

Identifier **527670**
Land Registration District **Otago**
Date Issued 08 July 2010

Prior References

OT44/50

Estate	Fee Simple
Area	2104 square metres more or less
Legal Description	Lot 48-49 Deposited Plan 207

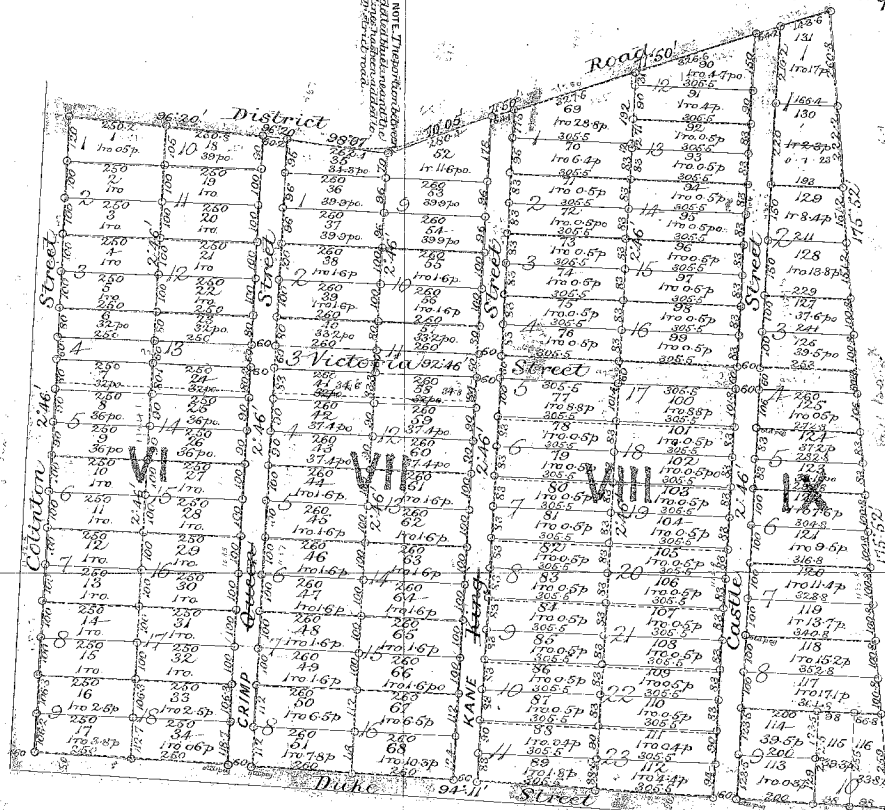
Registered Owners

Mountain Grove Limited

Interests

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

202

Vol. 31 fol. 167
Vol. 94 fol. 143Sec
61

NOW IN BOROUGH OF GREEN ISLAND.

SUBDIVISION OF BLOCKS VI, VII, VIII, IX BURNSIDE.

part of
Being Subdivision of original Section 41
BLOCK VI DUNEDIN AND E. TAIERI.
Scale 2 Chains to 1 inch.

I, Andrew John Park of Dunedin a surveyor duly licensed under the provisions of the Land Transfer Act 1870 and the Land Transfer Act 1870 Amendment Act 1871 do solemnly and sincerely declare that I have surveyed the land of which the plan here is an accurate delineation, the same being subdivisions of Blocks numbered six (6) seven (7) eight (8) and nine (9) Township of Burnside being subdivisions of original Section number forty, (40) Block VI (60) Dunedin and East Taieri District, and make this solemn declaration conscientiously believing the same to be true and by virtue of an Act of the General Assembly of New Zealand entitled "The Statute of the Peace Act 1866".

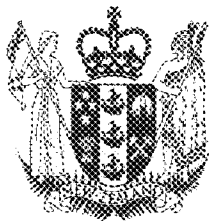
Declared at Dunedin.

This sixth day of January 1879

Per Andrew J. Park

Surveyor of the District for the Colony of New Zealand

207



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R.W. Muir
Registrar-General
of Land

Identifier **540776**
Land Registration District **Otago**
Date Issued 19 December 2012

Prior References

OT158/13 OT16D/137

Estate	Fee Simple
Area	1.2368 hectares more or less
Legal Description	Allotment 2-5, 14-19 Block XI Deposited Plan 97 and Lot 6, 9 Deposited Plan 432938

Registered Owners

Mountain Grove Limited

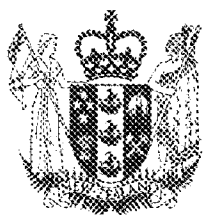
Interests

Excepting by Order 796271 (CT OT14B/1033 & OT14B/1038) all minerals not excepted thereout by law - 21.1.1992 at 11.11 am

Subject to certain rights relating to the mining of all limestone, marl, clay, sand and minerals created by Transfer 796271.8 - 21.1.1992 at 11.11 am

Subject to Section 241(2) Resource Management Act 1991 (affects DP 432938)

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am



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R. W. Muir
Registrar-General
of Land

Identifier **971396**
Land Registration District **Otago**
Date Issued 22 December 2020

Prior References

535180

Estate	Fee Simple - Surface Only
Area	13.5928 hectares more or less
Legal Description	Lot 2 Deposited Plan 549702 and Lot 1-15, 18-33, 35-47, 52-64, 69-72, 90-93, 131 Deposited Plan 207 and Part Lot 73-75, 94-96 and Part Lot 129-130 Deposited Plan 207 and Part Section 41 Block VI Dunedin & East Taieri Survey District and Lot 2 Deposited Plan 346118 and Lot 1 Deposited Plan 436310

Registered Owners

Mountain Grove Limited

Interests

Appurtenant hereto is a right of way created by Conveyance 40306 (53/810)

Appurtenant hereto is a right of way created by Transfer 471261 - 22.12.1976 at 11:45 am

The right of way created by Transfer 471261 is subject to the Council's conditions of consent endorsed on DP 12890

Subject to a right of way over part Lot 2 DP 346118 marked A and B on DP 346118 created by Transfer 778915 - 10.5.1991 at 10:05 am

787211 Variation of the conditions of the easement created by Transfer 471261 - 30.8.1991 at 11.11 am

Subject to a right of way over part Lot 2 DP 346118 marked A on DP 346118 created by Easement Instrument 6312699.6 - 15.2.2005 at 9:00 am

The easements created by Easement Instrument 6312699.6 are subject to Section 243 (a) Resource Management Act 1991

8772128.1 Notice pursuant to Section 195(2) Climate Change Response Act 2002 -- 24.5.2011 at 7:00 am (affects Lots 1-15, 18-33, 35-47, 52-64, 69-72, 90-93, 131 DP 207 and Part Lots 73-75, 94-96, 129-130 DP 207 and Part Sections 41 Block VI Dunedin & East Taieri Survey District)

Appurtenant to Lot 1 DP 436310 herein is a right of way created by Easement Instrument 8770212.7 - 31.5.2011 at 10:57 am

The easements created by Easement Instrument 8770212.7 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right to convey water, electricity and telecommunication and to pump foul sewage over part Lot 2 DP 549702 marked A, B and C on DP 549702 created by Easement Instrument 8838556.16 - 19.12.2012 at 7:29 am

The easements created by Easement Instrument 8838556.16 are subject to Section 243 (a) Resource Management Act 1991

Identifier**971396**

Appurtenant hereto (excluding part Lot 2 DP 549702 formerly Part Section 71 Block V Lower Kaikorai Survey District) is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

Subject to a right of way over part Lot 2 DP 549702 marked A, B and C on DP 549702 created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

Subject to Section 24I(2) Resource Management Act 1991 (affects DP 549702)

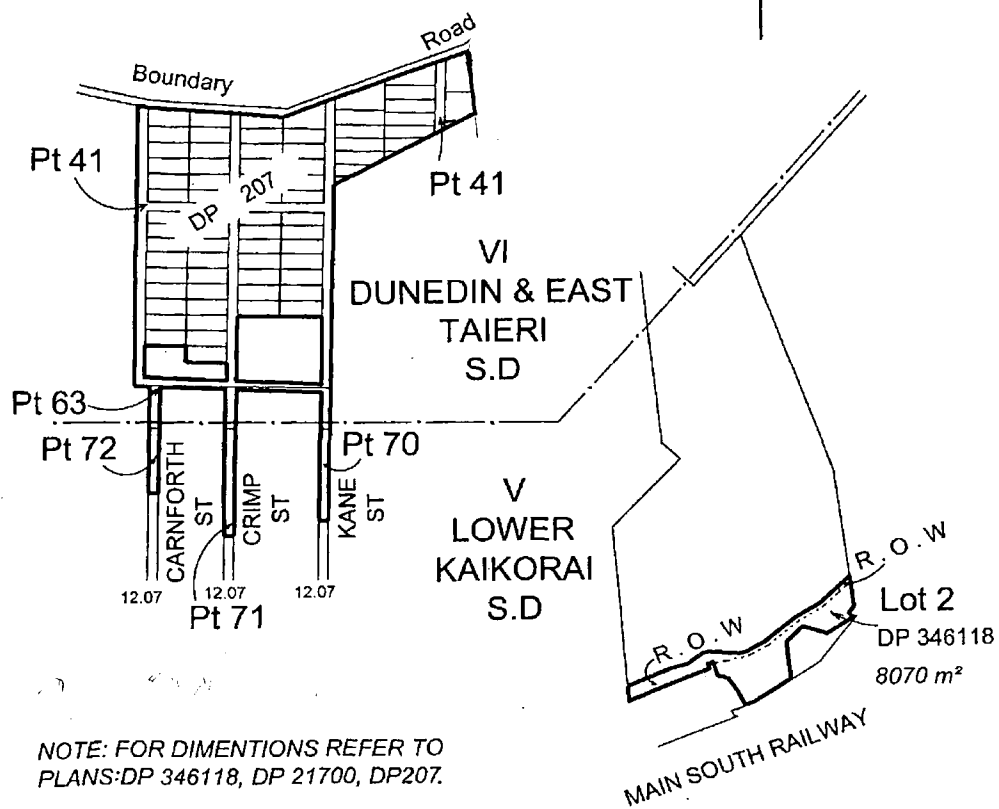
Subject to a right to drain water over part Lot 2 DP 549702 marked A, C and D on DP 549702 and a right of way over part Lot 2 DP 549702 marked A, B, C, D, N, P and Q on DP 549702 created by Transfer 12231030.1 - 10.9.2021 at 9:47 am

Title Diagram 535180

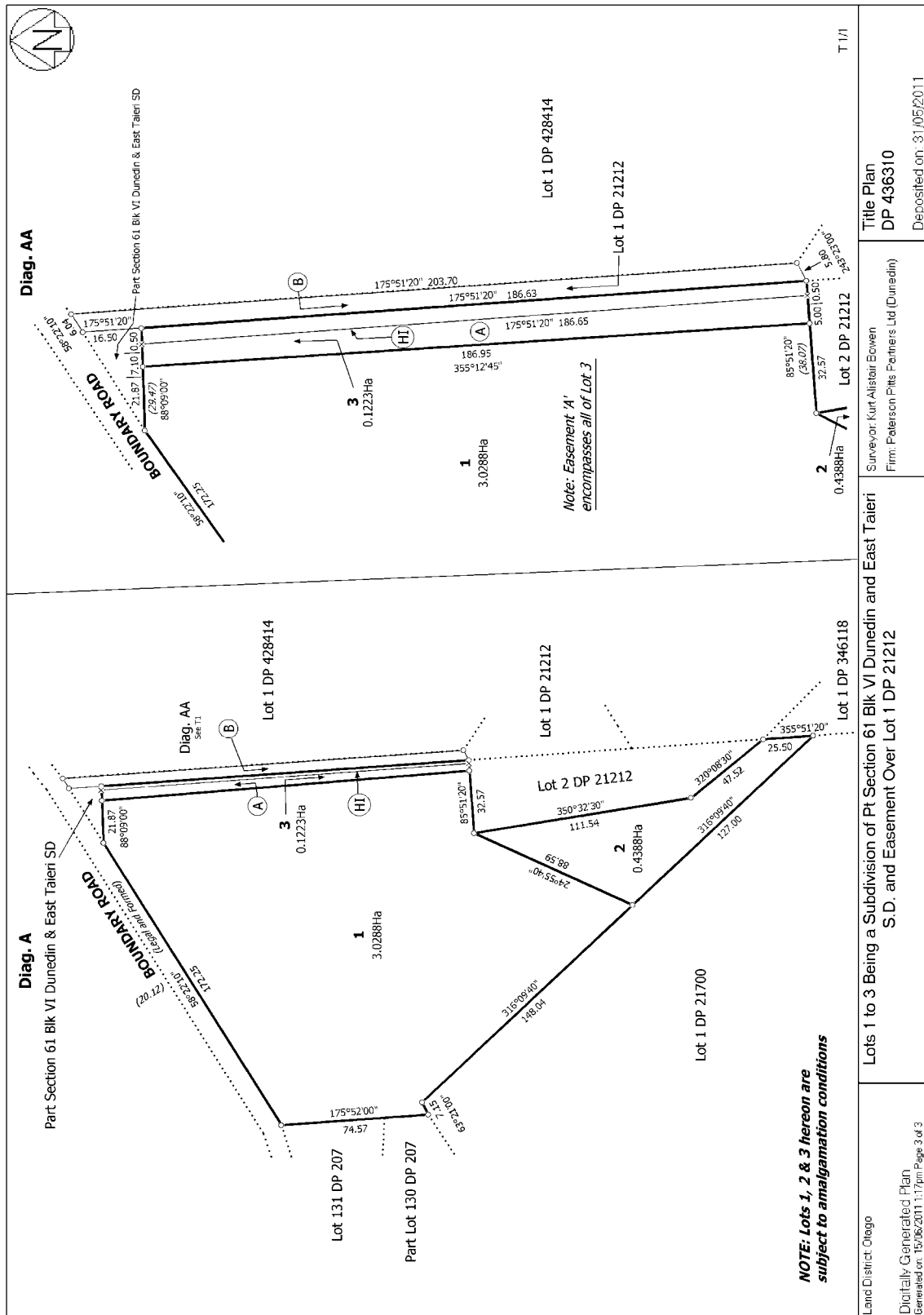
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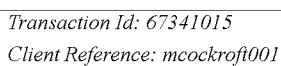


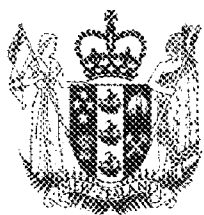
DocID: 21283635



Total Area: 10.7283







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Identifier **OT13C/149**
Land Registration District **Otago**
Date Issued 15 January 1991

Prior References

OT137/24	OT137/41	OT141/12
OT185/124	OT238/178	OT256/74
OT296/249	OT2C/1094	OT360/7
OT8C/1185		

Estate Fee Simple
Area 23.4143 hectares more or less
Legal Description Lot 1-2 Deposited Plan 21700

Registered Owners
 Burnside Dunedin 2018 Limited

Interests

Subject to Section 308 (4) Local Government Act 1974 - (see DP 21700)

Appurtenant to part is a right of way over a road line adjoining Section 66 Block V Lower Kaikorai Survey District originally described in Conveyance 40306 (53/810) and referred to in Deed 56960

471261 Transfer creating the following easements

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Right of way	Section 50-52 Block V Lower Kaikorai Survey District - CT OT273/227	Proposed ROW DP 12890	Lot 1-2 Deposited Plan 21700 - herein	

The right of way created by Transfer 471261 is subject to the Council's conditions of consent endorsed on DP 12890

770828.1 Easement Certificate specifying the following easements - 15.1.1991 at 9.28 am

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Right of way	Lot 4 Deposited Plan 21700	A DP 21700	Lot 1 Deposited Plan 21700 - herein	Section 309(1)(a) Local Government Act 1974
Right of way	Lot 2 Deposited Plan 21700 - herein	D DP 21700	Lot 3 Deposited Plan 21700 - CT OT13C/150	Section 309(1)(a) Local Government Act 1974

778915 Transfer creating the following easements - 10.5.1991 at 10.05 am

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Right of way	Section 52-53 and Section 66 Block V Lower Kaikorai Survey District - CT OT13C/151	B DP 21700	Lot 1 Deposited Plan 21700 - herein	

778915 Transfer reserving thereout to the transferor all limestone, marl, clay and sand and other minerals on or under the surface of the land - 10.5.1991 at 10.05 am

784754 New Certificate of Title for the mineral interests in Lots 1 and 2 DP 21700 - 1.8.1991

Subject to a right (in gross) to convey electricity over part Lot 1 DP 21700 marked A, B, C, D, G, H and J on DP

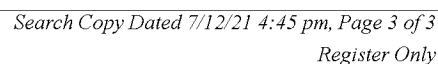
Identifier**OT13C/149**

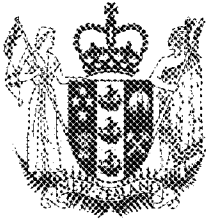
496992 and over part Lot 2 DP 21700 marked I, L, R and S on DP 496992 in favour of Aurora Energy Limited created by Easement Instrument 10493478.2 - 4.10.2016 at 8:28 am

Subject to a right (in gross) to drain sewage over part Lot 1 DP 21700 marked A, B, C, D, G, H and T on DP 496992 and right to convey water over part Lot 1 DP 21700 marked A, B, C, D, G and H on DP 496992 in favour of Dunedin City Council created by Easement Instrument 10493478.3 - 4.10.2016 at 8:28 am

Subject to a right to convey electricity over part Lot 2 DP 21700 marked L and R on DP 496992 created by Easement Instrument 10493478.4 - 4.10.2016 at 8:28 am

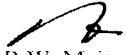
Appurtenant hereto is a right to convey electricity, telecommunications and computer media and electricity and to Lot 1 DP 21700 is a right to convey water and gas and right to drain sewage and water created by Easement Instrument 10493478.4 - 4.10.2016 at 8:28 am





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




 R.W. Muir
 Registrar-General
 of Land

Identifier **OT16D/138**
Land Registration District **Otago**
Date Issued 21 November 1994

Prior References

OT50/56

Estate	Fee Simple
Area	976 square metres more or less
Legal Description	Lot 1 Block XI Deposited Plan 97 and Excepting by Order 79627.5 (CT OT14B/1037) all minerals not excepted thereout by law.

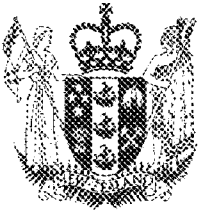
Registered Owners

Mountain Grove Limited

Interests

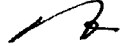
Subject to certain rights relating to the mining of all limestone, marl, clay, sand and minerals created by Transfer 796271.8 - 21.1.1992 at 11.11 am

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




 R. W. Muir
 Registrar-General
 of Land

Identifier **OT69/248**
Land Registration District **Otago**
Date Issued 27 February 1884

Prior References

OT50/151

Estate	Fee Simple - Surface Only
Area	2104 square metres more or less
Legal Description	Allotment 65-66 Deposited Plan 207

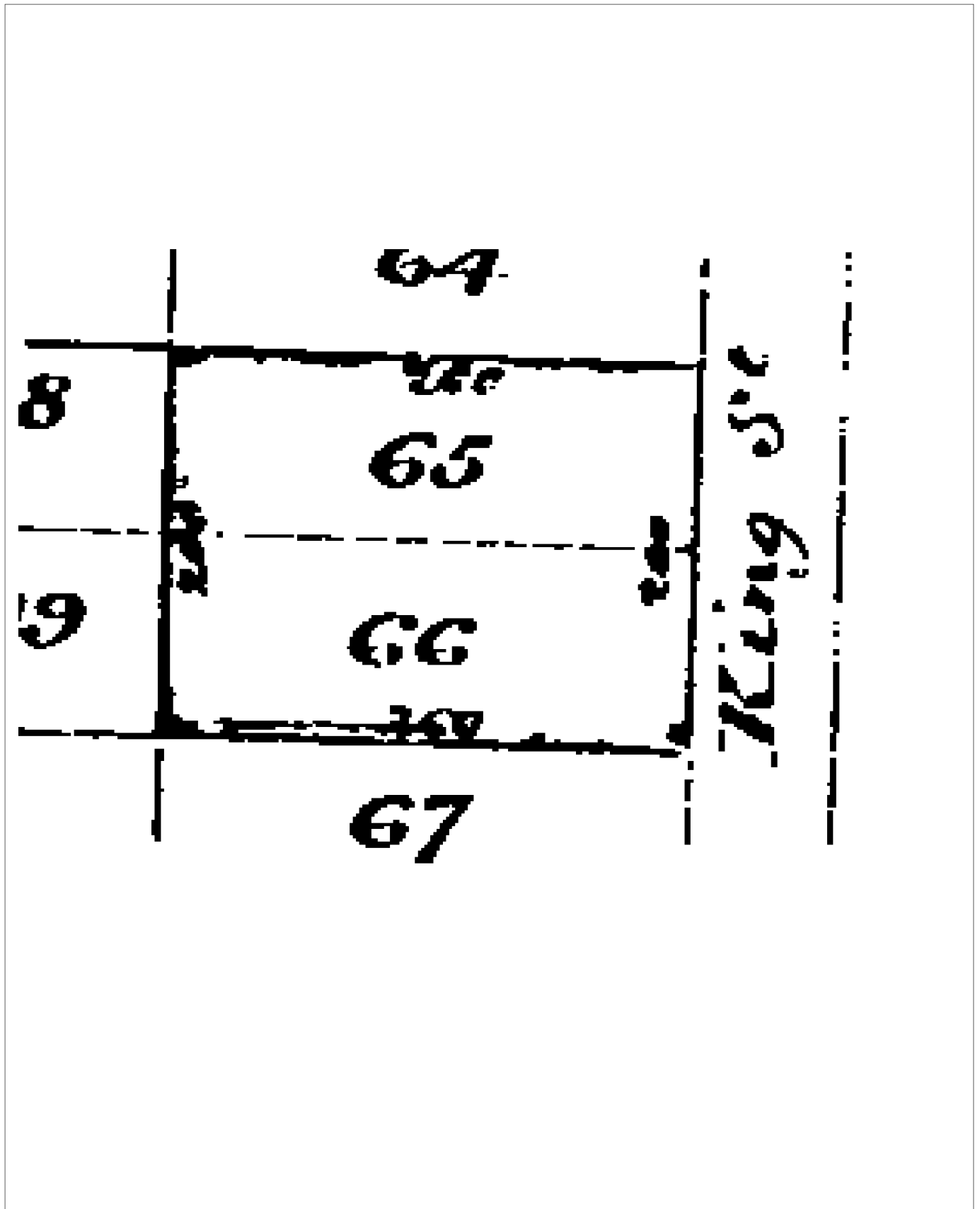
Registered Owners

Mountain Grove Limited

Interests

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

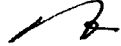
Identifier OT69/248





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




 R. W. Muir
 Registrar-General
 of Land

Identifier **OT72/82**
Land Registration District **Otago**
Date Issued 30 June 1884

Prior References

OT50/151

Estate	Fee Simple - Surface Only
Area	2448 square metres more or less
Legal Description	Allotment 67-68 Deposited Plan 207

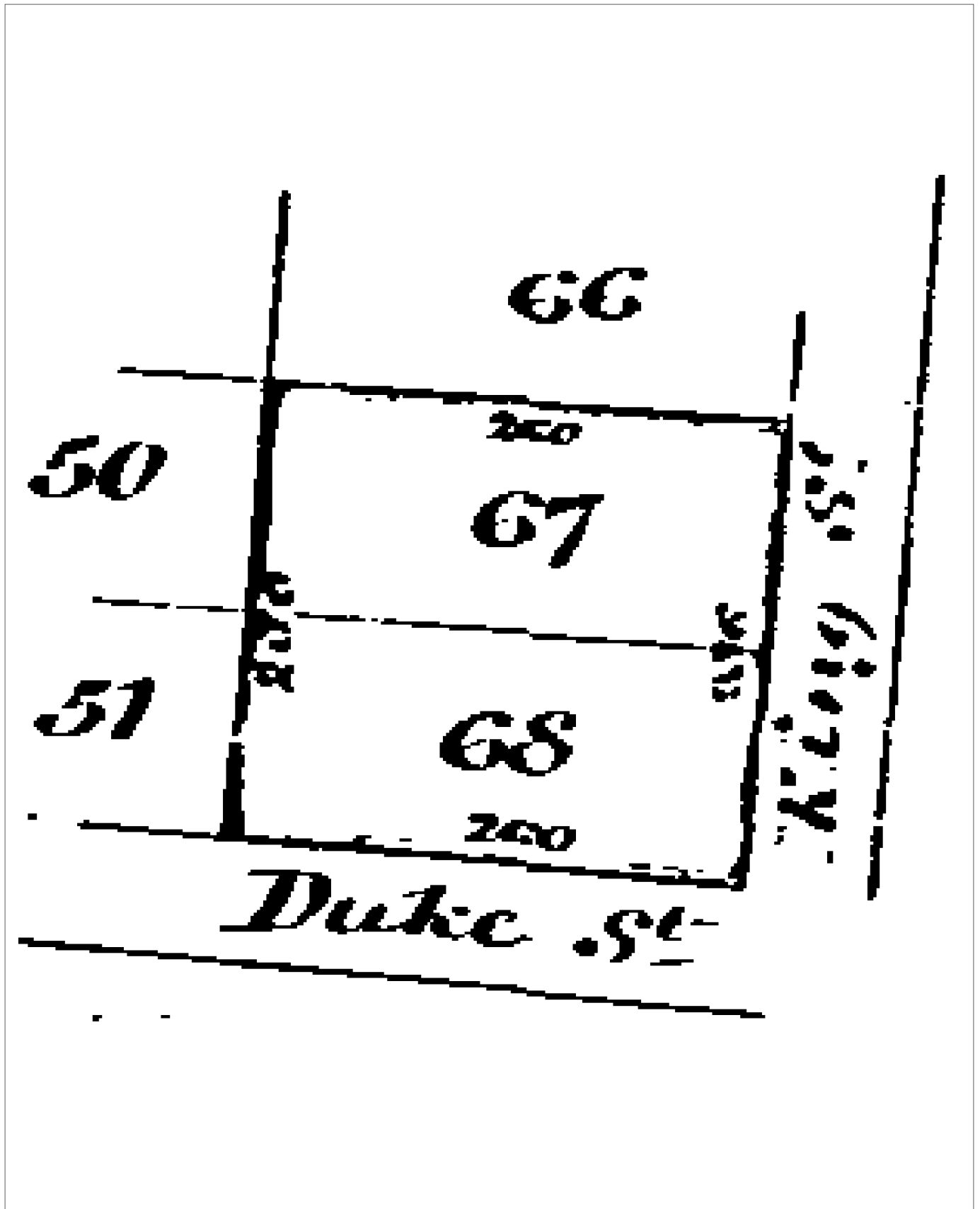
Registered Owners

Mountain Grove Limited

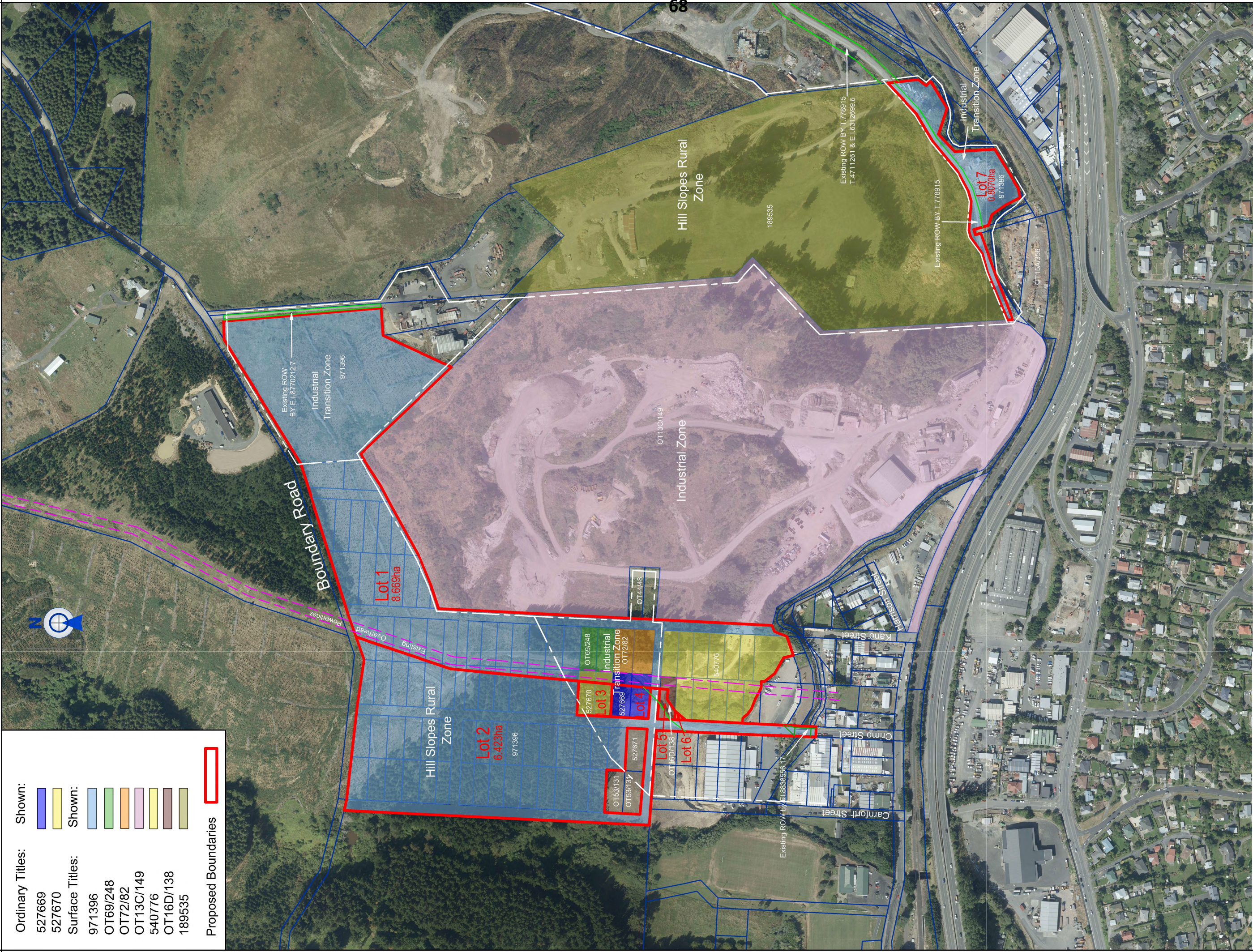
Interests

Appurtenant hereto is a right of way created by Easement Instrument 8838556.17 - 19.12.2012 at 7:29 am

Identifier OT72/82



REVISED PLANS



Ordinary Titles:	Shown:
527669	
527670	
Surface Titles:	Shown:
971396	
OT69/248	
OT72/82	
OT13C/149	
540776	
OT16D/138	
189535	

Proposed Boundaries

PATERSONPITTSGROUP

Surveying • Planning • Engineering

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0800 PPGROUP

PLOT DATE: 08 February, 2022 - 11:26 AM BY: Mark Wylie

Client Location:

Burnside Ltd.

45 Boundary Road

Green Island

Purpose/Drawing Title:

Proposed Subdivision

Surveved by:	Original Size:	Scale:	1:4000
Designed by:	A3		
Drawn by:	MSW		
Checked by:	LRH		
Approved by:	LRH		
Job Ref:	Sheet No:	Revision No:	Date Created:
D14270	1	D	10/1/2022

DO NOT SCALE
10/1/2022

COUNCIL OFFICERS' EVIDENCE



Memorandum

TO: Phil Marshall, Resource Consents
Robert Buxton, Consultant Planner

FROM: Elizabeth Schonwald, Parks and Recreation

DATE: 30 May 2022

SUBJECT: **SUB-2021-282 & LUC-2021-716_45 BOUNDARY ROAD, BURNSIDE**

Kia ora,

Thank you for the opportunity to comment on the above subdivision consent application. The proposed application is for the boundary adjustment of seven existing titles to realign property boundaries to enable portions of the site to be sold to a neighbouring property owner. The property also includes titles described as "*Surface Titles with the mineral deposits below the surface owned by another party*". The proposed subdivision will result in the following 7 lots:

- Lot 1, 8.669ha, will border the north and west of the existing Burnside Landfill and will be sold to the owners of the landfill to provide a buffer or "curtilage" around the landfill. It will also contain the Aurora power lines that run north-south through the site. Lot 1 will absorb all of titles OT69/248, OT72/82, the eastern quarter of titles 527670 and 527669, most of title 540776 and approximately the southeastern half of OT16D/138.
- Lot 2, 6.423ha, will include the western half of title 971396 and will include the right of ways (ROW) A and D for access for Lot 1 from the northern end of Crimp Street. Lot 2 looks like it will also provide ROW access to 5, 15 and 17 Crimp Street and the rear of 12 Boomer Street. Lot 2 will completely surround three small parcels (Ot53/131 and 527671) that do not form part of this application.
- Lot 3, 1578m², consists of the western three quarters of title 527670
- Lot 4, 1700m², consists of the western three quarters of title 527669 and will include ROW E for access to Lot 1
- Lot 5, 520m², consists of approximately the northwestern half of OT16D/138 and will include ROW C for access to Lot 1
- Lot 6, 64m², consists of the small triangle at the northwest corner title 540776 and will include ROW B for access to Lot 1.
- Lot 7, 0.807ha, will border the southeast corner of the existing Burnside landfill.

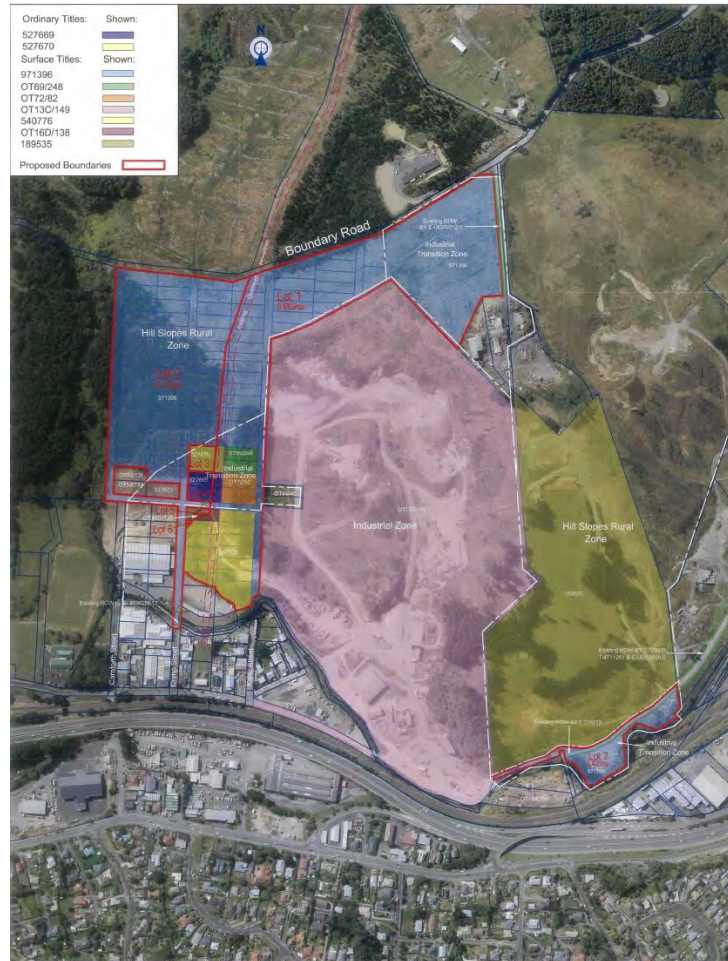


Figure 1: Plan of Proposed Subdivision

The site is located partly within the Industrial zone and in the Hill Slopes Rural zone. The Hazard 2 (flood) mapped overlay is applicable to the lower lying portions of the site. The applicant notes that 'a portion of the site is subject to a transition layer, indicating that it will transfer from rural to industrial land use once the necessary preconditions are fulfilled'. The applicant also identifies that there is an appeal regarding Aurora's sub-transmission lines across the site.

The site slopes to the south and surrounds the former Burnside Cement Works Marl Pit. Access is provided via extensions off Crimp Street, Boundary Road and McLeods Road. There are two parallel Aurora power lines that run through the site in north - south direction to a substation at 12 Boomer Street, to the south of the application site. There are also some power lines that run southwest-northeast near the southern boundary of proposed Lot 7.

Dunedin City Council (DCC) Parks and Recreation Services (PARS) have an interest in this resource consent application as the property being subdivided is adjacent to Kaikorai Stream. There is a statutory requirement for the creation of 20m wide esplanade reserve/strip where subdivisions occur next to streams, lakes and the coastal marine area, unless a resource consent waives or reduces the width of this requirement. The protection of waterway margins helps conserve environmental values and may also provide

opportunities for public access and recreational use, as provided for in s6(a) & (d) of the Resource Management Act (RMA) 1991.

In this case, Kaikorai Stream requires a 20m esplanade reserve on either side of the stream where the site abuts.

The conservation values identified for Kaikorai Stream in Appendix 10C of the Dunedin City Council's Second Generation District Plan (2GP) are *"Mitigating flooding and erosion. Lower reaches have tidal influence and high conservation value."*



Figure 2: Identifying opportunities for esplanade area top ups

The site is identified in the figure 1 above by the red border. The shaded green areas are the existing esplanade reserves of varying widths (3m – 15m) created through earlier subdivisions.

These consents are identified below:

- RMA30529 (subdivision approved February 1990) relates to areas 2, 3 and 4. The Department of Conservation waived a 20m wide esplanade reserves both north and south of the stream for a 3m esplanade reserve north of the stream.
- RMA 2004-0475 (resource consent granted June 2004) relates to areas 3 and 4. The council required a 20m esplanade reserve south of the stream and did not identify a top up to the reserve north of the stream as incorrectly assessed it was already 20m wide.
- SUB-2009-118 (subdivision consent granted April 2010) providing a 15m wide esplanade reserve north of the stream and a 5m wide reserve south of the stream between area 1 and 2.

It is recognised a lot has changed over the last 32 years when the original 3m wide esplanade reserve was created via the subdivision of the old concrete works site. Of most note is the location of the stream bed which has moved. There is also now an interest in riparian planting along waterways and providing green corridors for pedestrians and cyclists away from our roading network.

The protection of the margins of the waterways helps to conserve environmental values and provides opportunities for public access and recreational use, as provided for in Section 6(a), (c) and (d) of the RMA 1991. The Kaikorai Stream has a total catchment area of 55,4km² and is approximately 14.5km long flowing from Kaikorai Valley to the Pacific Ocean¹. The lower catchment of the stream prior to the entry to Kaikorai Estuary has poor water quality. The Kaikorai Stream flows through both residential and industrial areas, the water quality is compromised by the many stormwater outfalls that discharge into the stream². The low quality of the water is indicated by the number of bacteria (*E. coli*) identified in the water, lack of clarity and high turbidity of the water, and the levels of nitrogen in the water. It is these factors along with the low number of macroinvertebrates that indicate the poor health of the stream. Enhancement of the waterways through the removal of pest plants, and planting of natives would improve the water quality and encourage biodiversity.

A site visit with the applicant and applicant's consultant was made on Thursday 5 May 2022. In response to our conversations on site PARS make the following recommendations:

- an esplanade strip from the end of Crimp Street to the Kaikorai Stream on its south side identified as area 1 for the full width of the road corridor approximately 12m;
- a 20m esplanade strip from the northern side of the stream in area 1 for the full width of the private road approximately 12m;
- a top up of the esplanade reserve to 15m on the northern side of the stream opposite Kane Street identified as area 2, to make it consistent in width with the adjacent esplanade reserve created via SUB-2009-118;
- top up the existing esplanade reserves north of the stream in areas 3 and 4 to between 15 and 20m;
- to offset any wavier in esplanade width by providing an esplanade reserve between area 3 and 4 to provide continuity; and

¹ Land, Air, Water Aotearoa (LAWA) - Kaikorai Stream - <https://www.lawa.org.nz/explore-data/otago-region/river-quality/kaikorai-stream/>

² Land, Air, Water Aotearoa (LAWA) - Kaikorai Stream at Brighton Road - <https://www.lawa.org.nz/explore-data/otago-region/river-quality/kaikorai-stream/kaikorai-stream-at-brighton-road/>

- provide access to the esplanade reserve to enable Council to manage and maintain them via an easement or some other legal instrument.

PARS support the opportunity to top up the existing esplanade reserves (s236, RMA 1991) and the provision of an esplanade strip to better meet the purpose of esplanade areas as identified below:

- *To contribute to conservation values by, in particular, -*
 - *Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - *Maintaining or enhancing water quality; or*
 - *Maintaining or enhancing aquatic habitats; or*
 - *Protecting the natural values associated with the esplanade reserve or esplanade strip; or*
 - *Mitigating natural hazards; or*
- *To enable public access to or along any sea, river, or lake; or*
- *To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river or lake where the use is compatible with conservation values.*³

Ensuring our parks, natural landscapes, flora and fauna are treasured by the community is a key objective of the Dunedin City Council Parks and Recreation Strategy (2017). The provision for public access is to safeguard public access for the future, no matter the ownership of the land, ensuring the possibility for a continuous walkway or cycleway along the stream. An esplanade will also provide the opportunity to not only protect the biodiversity of the stream from the immediate effects of adjacent industrial activities, but also enable the ability for biodiversity monitoring and water quality testing.

PARS are very interested in meeting with applicant to discuss the above in more detail.

Please do not hesitate to contact us if you have any questions.

Regards,

Elizabeth Schonwald

Parks and Recreation Planner

Parks and Recreation Services

³ Esplanade Reserves – Section 229 - Purpose of esplanade reserves and esplanade strips RMA 1991 Resource Management Act 1991 No 69 (as at 12 April 2022), Public Act 229 Purposes of esplanade reserves and esplanade strips – New Zealand Legislation