

HEARINGS COMMITTEE AGENDA

WEDNESDAY, 22 NOVEMBER, 1.00 PM
Council Chamber, Dunedin Public Art Gallery,
30 The Octagon, Dunedin

MEMBERSHIP: Commissioner Ros Day-Cleavin, Councillors David Benson-Pope and Cherry Lucas

IN ATTENDANCE: Campbell Thomson (Senior Planner/Committee Advisor), Karen Bain (Associate Senior Planner), Luke McKinlay (Landscape Architect), Zoe Lunniss (Biodiversity Advisor) and Wendy Collard (Governance Support Officer)

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

1 RESOURCE CONSENT APPLICATION – SUB-2023-65, 233 Leith Valley Road, Dunedin

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Karen Bain

Refer to pages 1 - 42

The Applicant's Presentation

Application

Refer to pages 43 – 124

Amended Subdivision Plan

Refer to pages 125 – 126

Memorandum from the Applicant's Landscape Architect

Refer to pages 127 - 133

Council Officer's Evidence

- Memorandum from Landscape Architect
Refer to pages 134 - 146
- Memorandum from Biodiversity Advisor
Refer to pages 147 – 154

Recommended Consent Conditions

Refer to pages 155 – 163

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 – 233 Leith Valley Road, Dunedin	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Hearings Committee

FROM: Karen Bain, Associate Senior Associate Senior Planner

DATE: 22 November 2023

SUBJECT: **RESOURCE CONSENT APPLICATION SUB-2023-65**
233 LEITH VALLEY ROAD, DUNEDIN

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 8 November 2023. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] For the reasons set out below, I recommend that the proposal in its current form be **declined**.
- [3] Notwithstanding this, I consider that if the proposal is amended to remove RT OT263/100 (proposed lots 5, 6 and 9) from the proposed subdivision, together with the associated two building platforms, the resultant subdivision would have many positive benefits and would sit comfortably with 2GP provisions, and could be approved.

DESCRIPTION OF PROPOSAL

Background

- [4] The subdivision application that was initially lodged was for a proposal to subdivide the land at 233 Leith Valley Road to create nine lots from four existing titles. The proposal (and associated subdivision plan) was subsequently amended to include three additional lots (lots 10-12) and an additional title, as detailed under the *The Proposal* heading below. As a result of these changes, some of the detail and assessment set out in the application document is no longer accurate, or has been superseded.

The Proposal

- [5] The proposal seeks to subdivide the land at 233 Leith Valley Road to create 12 lots from five existing titles. Two of the lots are to be vested as road.
- [6] The subject sites are located on the western side of Leith Valley. While the topography varies, the land generally slopes downwards from the north-west to the south-east. Most of the site is used for pastoral farming, but the steeper slopes to the south-east are mostly covered in regenerating native bush, as shown in this aerial photograph from the application:



- [7] There is one existing dwelling and associated sheds within the overall area of the proposed subdivision (visible in the above image). Several watercourses and unformed paper roads traverse the site.
- [8] The five existing titles comprise four sites ranging in size from 5.67ha to 19.4426ha and a triangular land parcel of 3819m². The combined land area is approximately 52ha. One title is limited as to parcels, with an area given on the title as 9.5556ha, and it is the title containing the existing dwelling and outbuildings. The following configuration of new allotments is proposed:
- Lot 1 will have an area of 16.9 ha, and access to Thompson Road. It will be a rural-zoned site. The application offers that part the lot be set aside to provide space for a public car parking area to service visitors to the NZ Forest and Bird Protection Society's Moore's Bush Reserve, and offers an easement in gross in favour of the DCC to this effect. In response to a suggestion from the DCC Parks and Reserves Department, the applicant has also offered that a track that connects the carpark to the Morrisons Burns Access Road be established within this lot.
 - Lots 2, 3 and 4 will be held in a single title, and have a combined area of 19.42ha. Access will be from Thompson Road. The combined lots will be a rural zoned site.
 - Lot 5 will have an area of 2.4ha, and access from Thompson Road. It will be a rural residential site.
 - Lot 6 will have an area of 5.07ha and access to Thompson Road via right of way over Lot 5. It will be a rural residential site.
 - Lots 7 and 8 will have a total area of 0.10ha. The application indicates that these lots effectively function as part of Leith Valley Road, and offers for them to be vested as road.
 - Lot 9 will have an area of 2.02ha, and access to Thompson Road. It will contain the existing dwelling and farm buildings. This will be a rural residential site.

- Lots 10 and 11 will be held in a single title, and have a combined area of 5.67ha. The combined lots will be a rural residential site.
- Lot 12 will have an area of 0.38ha and will be a rural site. It is proposed that this lot be planted out with native species and either transferred to one of the adjoining reserves (one is owned by the Department of Conservation – “DoC”, the other by NZ Forest and Bird), or amalgamated with Lot 9.

- [9] Building platforms are identified within the five resultant sites proposed for new residential development, although no earthworks are proposed as part of the proposal. The application anticipates that consent notices detailing these as landscape building platforms will be registered on the relevant titles.
- [10] The application includes a landscape effects assessment report, prepared by landscape architect, Mr Mike Moore. A number of bush protection areas are shown on the subdivision plan.
- [11] The subject sites are held in Records of Title OT15B/129, OT202/225, OT263/100 (Limited as to Parcels), OT157/70 and OT15B/131).
- [12] A copy of the application is contained in Appendix 1 of this report. The subdivision plan has been amended following various discussions between the applicant’s agent and council staff. The amended plan, upon which the following assessment is based, is included as Appendix 1A. The changes made to the application since lodgement are discussed under the relevant headings in the effects assessment below.

ACTIVITY STATUS

- [13] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the “Operative District Plan”, and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [14] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Operative District Plan

- [15] The land is zoned Rural in the Operative District Plan. As the Proposed 2GP rules of relevance to this application are beyond challenge, the application has not been assessed against the Operative District Plan, which is deemed inoperative in accordance with Section 86F of the Resource Management Act 1991.

Proposed 2GP

- [16] The subject sites are zoned **Hill Slopes Rural** (three titles) and **Rural Residential 2** (two titles). All of the sites are within the Flagstaff- Mount Cargill Significant Natural Landscape Overlay Zone. Parts of the overall site lie within Designation D679 (DCC Water Catchment Areas and Raw Water Reservoirs).

- [17] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. As noted above, the Proposed 2GP rules of relevance to this application are beyond challenge, and are therefore deemed fully operative under Section 86F of the Resource Management Act 1991.

Subdivision

(Rural)

- [18] Rule 16.3.5.1.b lists general subdivision within a significant natural landscape as being a restricted discretionary activity in the rural zones, subject to performance standards.
- [19] The proposal does not comply with the minimum site size standard (Rule 16.7.4.1.d) which requires a minimum site size of 25ha in the Hill Slopes Rural zone. Proposed Lot 1 and the combined Lots 2-4 site do not meet this standard, and nor does Lot 12.
- [20] Nor does the proposal comply with Rule 9.3.3.1, which requires that resultant sites have access to sufficient water supplies for firefighting consistent with the SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.
- [21] The proposed subdivision is a **non-complying** activity, in accordance with Rule 16.7.4.3 (minimum site size) and a **restricted discretionary** activity in accordance with Rule 9.3.3.3.

(Rural Residential 2)

- [22] Rule 17.3.5.3.c determines that subdivision within a significant natural landscape area in the Rural Residential 2 zone is a **non-complying** activity.

Land Use

(Rural)

- [23] Rule 16.3.3.26 provides for residential activity in the Rural zones, subject to performance standards. The residential land use activity proposed for Lot 1, and for the lots 2, 3 and 4 amalgamated site, will comply with the density standard, and is a **permitted** activity (subject to compliance with performance standards).

(Rural Residential 2)

- [24] Rule 17.3.3.12.c provides for standard residential activity within a significant natural landscape area in the Rural Residential 2 zone as a permitted activity, subject to performance standards. Upon the creation of new titles for the proposed Lots 5, 6 and 9, the proposal complies with the relevant performance standards (including the density standard, Rule 17.5.2.1.c), and is a **permitted** activity. As the combined Lot 10/11 site is essentially a redefinition of RT OT15B/131, the status of residential activity on this site is unchanged and is also **permitted**.

Development Activity

- [25] No development is proposed as part of the application and, while the implication of the Significant Natural Landscape overlay is that any development of the resultant sites is

likely to require resource consent, no development activity consent is required at this time.

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("NES-CS")

- [26] The NES-CS came into effect on 1 January 2012, and applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites need to comply with permitted activity conditions specified in the NES-CS, or might require resource consent.
- [27] The site is not listed in the Otago Regional Council's HAIL database. The applicant obtained a HAIL search from the Dunedin City Council (refer HAIL-2023-57), which advised that no explicit information had been found regarding HAIL activities on this property. The applicant then considered the HAIL search report and concluded that it is more likely than not that no HAIL activity has been undertaken on the subject site, and therefore that the NES-CS does not apply. They noted that if any evidence to the contrary was to be discovered during the subdivision process, it would be brought to the attention of the applicant and the DCC.
- [28] Accordingly, on the basis of the information currently available, the NES-CS is not considered applicable to this application.
- [29] There are no other National Environmental Standards relevant to this application.

Overall Status

- [30] Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.
- [31] In this case, there is more than one rule involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is considered to be a **non-complying** activity.

WRITTEN APPROVALS

- [32] No affected persons forms were submitted with the application. No person or party is considered to be adversely affected by the activity because, for the reasons set out in the effects assessment below, the environmental effects of the proposal are limited to effects on parties that are less than minor.

EFFECTS ON THE ENVIRONMENT

Permitted Baseline

- [33] Under sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect. This is the permitted baseline.

- [34] The Proposed 2GP does not allow any subdivision to occur as of right. All subdivisions are either restricted discretionary activities or non-complying activities. The Council rarely declines consent for proposals that create new sites meeting the minimum lot size, access, servicing and other requirements of the District Plan. In such cases, the subdivision consent is a means of ensuring that all necessary subdivision matters (such as infrastructure) are adequately addressed to the Council's satisfaction; and not an indication that the proposal is deficient in some way.
- [35] In a significant natural landscape overlay zone within the Hill Slopes Rural zone, residential activity is a permitted activity on sites with a minimum area of 15 ha. New residential buildings with a footprint greater than 60m² require resource consent as a controlled, restricted discretionary or discretionary activity, depending on the size of the building and whether or not it is on a landscape platform.
- [36] In a significant natural landscape overlay zone within the Rural Residential 2 Zone, residential activity is a permitted activity on sites with a minimum area of 1ha. Again, new residential buildings with a footprint greater than 60m² require resource consent as a controlled, restricted discretionary or discretionary activity, depending on the size of the building and whether or not it is on a landscape platform.
- [37] Accordingly, in this instance, there is no permitted baseline for subdivisions and associated residential development.

Receiving Environment

- [38] The existing and reasonably foreseeable receiving environment is made up of:
- The existing environment and associated effects from lawfully established activities;
 - Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
 - The existing environment as modified by any resource consents granted and likely to be implemented; and
 - The environment as likely to be modified by activities permitted in the district plan.
- [39] For the subject site, the existing and reasonably foreseeable receiving environment comprises an approximately 52ha, split-zoned and semi-rural property held in multiple titles. There is an existing dwelling and associated sheds within the property, most of which is held in pasture, with regenerating native bush on the steeper slopes.
- [40] For adjacent land, the existing and reasonably foreseeable receiving environment comprises predominantly rural and rural residential land at the northern end of Leith Valley, between Mount Cargill to the east, and Swampy Summit to the west. Moore's Bush Reserve and the Leith Valley Scenic Reserve adjoin the property to the south-east.

Assessment Rules

Maintenance of Rural Land for Productive Rural Activities / Residential Development Potential (Proposed 2GP Assessment Rules 16.12.2.1, 16.12.5.6, 17.12.2.1 and 17.12.5.1)

- [41] Consideration is to be given to whether, in the rural zone, the proposed subdivision is designed to ensure that it will not increase in the number of sites that contravene the minimum site size, or result in an increase of the residential development potential of the land. The subdivision should be designed to ensure any future land use and development will maintain or enhance the productivity of rural activities; maintain highly productive land for farming activity; and maintain land in a rural rather than rural

residential use. In the Rural-Residential 2 zone, subdivision is not anticipated, unless it doesn't result in an increase in residential development potential.

The Application

[42] The application states¹:

... the site does not contain HPL [highly productive land] ...

Regarding rural land, the subject site contains three existing rural sites. Two of these are undersized but larger than 15 ha: RTs OT159/70 (19.4426 ha) and OT15B/129 (16.9811 ha). The proposal will change the size and boundaries of these sites, but these changes will not be significant. Following the proposed subdivision, the land held in RT OT159/70 will mostly be within Lot 1, which will have an area of 16.90 ha. The land held in RT OT15B/129 will mostly be within Lots 2–4, which will be a single 18.49 ha site that is ... zoned HSR.

The third rural site is RT OT202/225m a 3,755 m² leftover land parcel that is too small to be a productive farm or lifestyle block. ...²

Regarding productivity in the RR2 Zone, RT OT263/100 is a 9.5556 ha site that will be subdivided into three lots... However, notwithstanding ...the non-complying activity status of subdivision the RR2 Zone, the 2 ha minimum site size in the RR1 Zone clearly indicates that a 2 ha lifestyle block be productive. Lots 5, 6 and 9 will therefore all be large enough to be used for small-scale productive rural activities.

*Overall, we consider the proposal's adverse effects on long term maintenance of rural land for productive rural activities to be **nil**.*

Processing Planner's Assessment

[43] With regard to the **rural land** component of the proposal, none of the rural-zoned lots comply with the 25ha minimum site size. Nonetheless, I generally concur with the applicant's assessment, and agree that two of the existing three rural titles could be developed for residential use, and that the residential development potential will not increase as a result of the proposed subdivision. The proposed Lot 1 and combined Lots 2-4 are essentially a redefinition of two existing rural titles – RT OT159/70 and RT OT15B/129. The existing 19.4426 and 16.9811 titles are reversed in size to become sites of 16.9 and 19.42ha respectively. Lot 12 is essentially a resurvey of the third rural title, RT OT202/225, described above as a left over land parcel.

[44] In terms of the maintenance of rural land for productive rural activities, it is noted that Strategic Direction Objective 2.2.2 and Policy 2.2.2.1 indicate that "rural productive values" relate to food production and the location of highly productive land. As indicated in the application, the subject lands are not mapped as high class soils in the 2GP. It appears from observations made during a site visit that the sites are currently being used for grazing / farm activities, but at such a small scale that it is considered existing levels of productivity/rural activities could be maintained following the proposed subdivision.

¹ Statements in the application that are no longer applicable due to changes made since the application was lodged have not been included in excerpts from the application.

² Note: This title is now proposed to be Lot 12, and either transferred to one of the adjoining reserves or amalgamated with Lot 9.

- [45] With regard to the **rural residential land**, the applicant's observation about a 2ha block being potentially productive for small-scale rural activities is accepted, although it is noted that the 2GP indicates that in the rural residential zones, productive potential is to be maintained for lifestyle blocks or hobby farms, rather than rural activities.
- [46] Both existing rural residential titles are large enough for residential activity, but one already has a dwelling on it. In the Rural Residential 2 zone, a maximum of one residential activity per site is permitted. The 2GP description of Rural Residential 2 zones, set out under 17.1.1.2, states (emphasis added):

The Rural Residential 2 Zone typically occurs in coastal locations, or on hill slopes in proximity to urban areas. The Rural Residential 2 Zone recognises existing semi-developed clusters of small rural sites where there is already some rural residential activity, and provides for one residential activity per existing site.

- [47] This means that under the current title arrangement, only one additional residential activity could be established, whereas three are proposed.³ The effect of the proposal is to divide RT OT263/100 into three sites, where two additional dwellings can be established, once titles are issued for the resultant lots. The combined Lots 10/11 continue the site already existing as RT OT15B/131. In the context of subdivision in this zone not being provided for in the 2GP, the adverse effects associated with this increase in residential development potential are considered to be of some significance. The extent to which these effects might be managed or mitigated is discussed under the headings below.
- [48] Overall, the proposal will not increase the residential development potential of the rural land component of the proposal, and any effects on the maintenance of rural land for productive rural activities will be no more than minor.
- [49] The creation of two additional rural residential sites is expected to result in a greater domestication of the land through the introduction of additional residential activities and residential buildings. The 2GP describes the Rural Residential 2 zone thus:

...The Rural Residential 2 Zone recognises existing semi-developed clusters of small rural sites where there is already some rural residential activity, and provides for one residential activity per existing site.

In a zone where no intensification of residential activity is anticipated, it is considered that the introduction of two additional sites, and the associated buildings and development of these, has the potential to have an adverse effect on rural residential character and amenity. The extent of this effect is discussed further below. Natural Character and Landscape Values / Rural Character and Visual Amenity / Amenity of Surrounding Properties / Rural Residential Character and Amenity (Proposed 2GP Assessment Rules 10.8.2.1, 16.12.2.1 and 17.12.2.1)

- [50] These assessment rules require consideration of the extent to which subdivisions in the rural zones are designed to ensure any associated future land use and development maintain or enhance the rural character and visual amenity of the rural zones; and the character and amenity of the rural-residential zones is maintained. In assessing effects on landscape character, consideration of the extent to which effects on the landscape

³ It is noted that the existing rural-residential title for lots 10 and 11 (OT15B/131) comprises two lots, both of which are more than 1ha, so arguably, a s.226 certificate could be issued, thus creating two buildable lots where only one currently exists (albeit in a different location to the building platforms that are proposed).

values identified in 2GP Appendix A3 are avoided or mitigated is appropriate; together with assessment of the proposal against the design guidelines in Appendix A11.

[51] The Hill Slopes Rural Zone values are identified in 2GP Appendix A7.5 as:

1. *Backdrop/Enclosure: to a significant extent the Hill Slopes Rural Zone establishes the character and setting for the main urban parts of Dunedin, providing a predominantly unbuilt natural backdrop to the central city, harbour and Mosgiel.*
2. *Distinctive hill features: specifically, the elevated areas surrounding Dunedin provide one of the main components of its recognised distinctive character. The main features include Harbour Cone, Signal Hill, Mt Cargill, Flagstaff and Swampy Summit.*
3. *Recreation: sparsely inhabited, the Hill Slopes Rural Zone is close to the main urban parts of the city and therefore frequently used for recreation activities.*
4. *A predominance of natural features over human made features. The zone has a relatively low density of built structures and associated services. There is variability of settlement patterns, with more lifestyle block development on the Taieri slopes and closer to existing Dunedin urban areas. However, natural character is still largely dominant. With a diversity of land management, there is a potential for exotics such as gorse and broom to encroach on both pasture and native bush.*
5. *Pockets of important and varied biodiversity: there are significant areas of indigenous vegetation and habitats for indigenous fauna. Scattered indigenous vegetation dominated by kanuka is present in some marginal sites on the Taieri slopes. Further towards Flagstaff and Mt Cargill the zone is dominated by the naturalness of forest cover which contrasts with the urban area it borders. As well as its importance for biodiversity, the forest cover serves an important role in protecting key water supplies for the city, including the Leith and Cedar Farm catchments.*

[52] The Flagstaff-Mt Cargill Significant Natural Landscape is described in 2GP Appendix A3.3.2 thus:

This Significant Natural Landscape covers the hills to the north of urban Dunedin including Flagstaff (Whānau-paki), Swampy Summit (Whawha-raupō), and the lower slopes of Mount Cargill (Kapuketaumahaka), below the Mt Cargill ONL, to Signal Hill. The geology is largely volcanic and the hills reach elevations of 739 metres (Swampy Summit). The area is the catchment for numerous small rivers and streams, most notably the Waitati River, Water of Leith and Lindsay Creek. Land cover/land use is a mix of remnant indigenous vegetation (forest and grassland), agriculture, forestry, rural residential development and exotic scrub. The main northern approaches to Dunedin traverse these hills and the hills provide the northern backdrop to the city and the west harbour, as well as the southern backdrop to the Blueskin Bay area. The area is host to a number of utility structures, as well as quarries.

The peaks are a cultural identity marker for Manawhenua and are identified as a wāhi tūpuna.

[53] The values to be protected in the SNL are identified in 2GP Appendix A3.3.2.2, and also provide a useful background for the assessment of this proposal.

[54] The design guidelines set out in Appendix A11 include guidelines for buildings and structures, and associated earthworks. While no specific development is proposed as

part of this subdivision proposal, the application is clear that the resultant sites are intended to be developed. Therefore, the guidelines are pertinent to an assessment of the effects of this proposal. The guidelines state:

A11.2 Buildings and structures, and associated earthworks

1. *Where possible, locate a new building or structure in association with a stronger natural feature e.g. a group of trees. Ensure that it has a backdrop of land or vegetation rather than sky as seen from main viewpoints. Seek to avoid prominent ridgelines, spurs and hilltops.*
2. *Consider planting vegetation to integrate buildings and structures with their landscape or coastal setting.*
3. *In siting, take care to minimise the need for any earthworks and align the buildings with the direction of the landform. Blend any cut and fill required with the surrounding natural contours.*
4. *Locate at a distance from adjacent roads where appropriate to retain the spaciousness of the rural landscape. Take care not to block or detract from any significant views.*
5. *Where other buildings already exist, locate the new buildings or structures to visually relate to the group rather than be seen as an isolated element.*
6. *Aim to relate the building or structure to the land by keeping it as low as possible. The proportions should be wider rather than higher. Relate floor levels to the ground level and avoid high foundations.*
7. *Traditional, simple, non-fussy designs are likely to integrate most readily into the rural setting. Where practicable, relate roof shapes to the lie of the land and break up large wall and roof planes. Provide for eaves and the shadow line they create which helps to tie the building or structure visually with the land.*
8. *Use materials which occur naturally in the area e.g. local stone or timber, or materials that have traditionally been used in rural buildings e.g. appropriately coloured corrugated iron. Materials with a rough, coarse texture will help to minimise reflectivity of light. Do not use a great variety of different materials. Keep the effect simple.*
9. *Minimise the visual impact of buildings by using colours which blend with, or provide subtle contrast with, the background landscape. Avoid sharp colour contrasts. Generally, roofs should be darker than walls to help visually relate the buildings and structures to the land.*
10. *Glazing should be designed (placement and glazing type) to minimise the potential for glare effects.*
11. *Lighting should be kept to a minimum and designed to minimise effects on landscape and natural character values, including impacts on indigenous fauna.*

The Application

[55] The application observes that the proposal will result in “5 additional nodes” of built form within the upper Leith Valley Landscape. It notes that access tracks to the resultant sites are largely existing, and suggests that, as a result, visual effects will result primarily from the new dwellings and the earthworks required to construct them. It also suggests that the naturalness of the landscape increases from the floor of the upper Leith Valley up to the Swampy skyline, and therefore the development proposed has been restricted to the lower parts of the site to ensure that “the amenity and coherence of the landscape is preserved”.

[56] The application concludes:

The proposal will result in additional development in an area with recognised natural landscape values, so it will have some adverse effects on landscape and character. However, regarding the degree of these effects, the site's modest visual prominence, the proposal's minimal effects on the upper slopes of Leith Valley and the proposed mitigation measures will ensure that the existing landscape pattern and the character and amenity of the area are maintained.

[57] The application includes a landscape effects assessment prepared by landscape architect Mr Mike Moore. Mr Moore has recommended the following mitigation measures, to ensure that the proposed development integrates with the rural character of the landscape; and has minimal adverse effects on landscape values:

1. *All buildings, including dwellings, accessory buildings and buildings associated with rural land use, are to be located within the identified building platforms on each lot...*
2. *Dwellings shall be no higher than 5 m and other buildings no higher than 4 m above existing or modified ground level.*
3. *Buildings shall be designed to minimize the need for earthworks, and any earthworks shall be designed to blend seamlessly with the natural landforms surrounding. Any retaining walls are to be screened so as not to be visible from public roads.*
4. *Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), building colours for new buildings are to be selected to ensure that contrast with the dominant hues of the surrounding rural landscape is minimized. Light reflectivity values (LRV) shall be no more than 20%.*
5. *All services are to be located below ground.*
6. *Water tanks are to be coloured, sited, and buried and/or screened (by planting) to have minimal visual impact from beyond the property.*
7. *All fencing is to be confined to rural post and wire fencing no greater than 1.2m high, or 2m for deer fencing, or stone walls using locally appropriate rock, no higher than 1.5m.*
8. *Driveways are to have a rural character with metal surfacing and no kerb and channel. There is to be no driveway lighting or monumental gates.*
9. *Other than for amenity plantings below 2 m mature height within 20 m of a dwelling, or fruit trees, any tree and shrub plantings are to be comprised of indigenous species appropriate to the area. A planting list is provided in Appendix A of the report as a guide.*
10. *The 'bush protection' areas ... are to be protected and managed to maintain and enhance their natural values and / or impact in mitigating the visual impact of built form. This shall include fencing to protect from stock browsing, control of animal pests, removal / control of pest /weed plant species, and facilitation of natural regeneration of indigenous species.*
11. *Mitigation planting ... is to be established within 1 year of the commencement of building on the site. Planting shall be established and managed in accordance with the guidelines outlined in Appendix A of the report.*

The application has adopted these mitigation measures as part of the application.

[58] Mr Moore has assessed the landscape effects of the proposal, and concludes:

The proposed development will result in additional built elements within an area with recognised natural landscape values and to this extent, the nature of its effects will be adverse.

In terms of the degree of these effects however, the property has modest levels of visual prominence, and the development will have minimal impact on iconic upper slope areas that contribute to the setting of urban Dunedin. The development proposed will retain the existing landscape pattern and coherence and is consistent with the protection of landform legibility and naturalness. The existing high levels of rural visual amenity will be retained. I consider that the 'outer town belt' effect associated with the rural / natural character of the hill context north of urban Dunedin will not be significantly impacted. I am unaware of any adverse effects on cultural or heritage landscape values.

Overall, assuming adoption of the recommended mitigation conditions, it is my assessment that the effects of the development will be adverse / very low.

DCC Landscape Architect's Advice

- [59] The DCC landscape architect, Mr Luke McKinlay has considered that application and Mr Moore's landscape effects assessment. In terms of the view location photographs included with Mr Moore's assessment, Mr McKinlay observes:

There is some doubt around the potential extent of future development visible on these lots. Development within the building platform locations is shown as being either "screened" or "partially screened". In most cases screening, where identified, appears to be provided by landform. Given the large building platforms, it seems likely that the degree to which future dwellings would be screened from surrounding locations will be influenced to some extent by exactly where within the 30 x 40m platform they would be located. As such, it is difficult to determine, with certainty, the degree of screening likely to be provided. Further, it is unclear if the screening effect of proposed mitigation planting has been considered when assessing the extent of the development that will likely be visible.

No contour lines are shown on Figure 7 of the LEA or the amended subdivision plan. Their addition on these plans would help to communicate the relationship between the proposed building platforms and topography. For example, it would help to illustrate that the proposed building platform location on Lot 1 is located on a local high point.

- [60] With regard to the 11 mitigation measures proposed by Mr Moore and the applicant, Mr McKinlay considers that, in general, these are appropriate, but advises:

With regards to the proposed bush protection areas, it would make sense to join some of the smaller fragments, with additional enhancement planting ... to make larger patches that would provide greater benefits from both an ecological and natural character perspective. Bolstering some thin fragments of existing remnant indigenous vegetation with addition native revegetation is also recommended, such as immediately south of the building platform on proposed Lot 2.

It is considered that given the open spatial character of the parts of the site proposed for dwellings on both Lots 5 and 6, mitigation planting associated with these lots should be prioritised and required prior to building commencing, if possible.

Given the hillock-top location of the proposed building platform location on Lot 1, it is recommended that either additional mitigation planting is proposed on the slopes to the east of the proposed platform to bolster the existing bush fragment, or consideration is given to moving the platform to the north, off the high point. Additional planting would provide visual mitigation both from close proximity

locations, such as from Dryden Road (Figure 4 of the LEA) and from longer distant views from Cowan Road (figure 6 of the LEA).

Bush remnants are identified as bush protection areas on Lots 1-6. It is unclear why existing patches of bush on Lots 10 and 11 are not also to be protected. It is considered that their ongoing protection and potential enhancement would contribute to the natural character values of the site.

[61] Mr McKinlay goes on to consider the effects of the proposal on existing landscape values, concluding that:

- the proposed development will not impact on the naturalness values of the more elevated parts of the SNL;
- the site is not highly prominent from urban parts of Dunedin and will not have significant impact on the broader values of the SNL as a backdrop to urban Dunedin;
- visual effects from State Highway 1, Dryden Road and Leith Valley Road will be relatively low; and
- the adverse visual effects of new dwellings on Rural Residential Lots 5 and 6 will be moderate/more than minor initially and will require the establishment of proposed mitigation planting (5-10 years) for effects to reduce to a low level.

[62] Mr McKinlay concludes his advice with the following recommendations:

- i. It is recommended that proposed mitigation planting associated with building platforms on proposed Lot 5 and 6 are undertaken prior to building commencing on these lots.*
- ii. Additional mitigation planting is provided to the east of the proposed building platform on Lot 1 to bolster the existing thin fragment of remnant indigenous vegetation.*
- iii. Additional mitigation planting is provided to the southeast of the proposed building platform on Lot 2 to bolster the existing thin fragment of remnant indigenous vegetation.*
- iv. Where there are several nearby small fragments of remnant native vegetation identified to be protected, these should be connected with the addition of new locally appropriate native revegetation planting to make larger patches that would provide greater benefits from both an ecological and natural character perspective.*
- v. Bush protection and enhancement areas should also be included on Lots 10 and 11.*
- vi. If consent is granted, all the mitigation measures proposed in the LEA should be adopted as conditions, with the above amendments.*

The above recommendations (I-V) could potentially be integrated into an ecological management plan for the site, if it is determined that that is appropriate.

[63] The full text of Mr McKinlay's advice is included as Appendix 2.

[64] Following lodgement of the original application, Mr McKinlay's advice was provided to the applicant, and a meeting between the applicant's agents and council staff was held subsequently. In addition to the mitigation measures set out in the application, the following further landscape and visual amenity related measures have since been confirmed by the applicant:

- the establishment of proposed Lot 12, which is to be planted out with native species and either transferred to one of the adjoining reserves, or amalgamated with Lot 9

- the platforms within lots 1 and 6 to be reduced in size
- the inclusion of a consent notices to restrict the size of dwellings within lots 1, 2, 5, 6 and 10 to 400m²
- early/immediate mitigation plantings within lots 5 and 6
- additional mitigation plantings within lot 1

Processing Planner's Assessment

[65] Mr Moore has concluded that with mitigation measures in place, effects on landscape values will be adverse/very low (equating to "less than minor" on his 7-point scale). Mr McKinlay considers that without mitigation, adverse effects associated with development within lots 5 and 6 will be moderate, and will require establishment of proposed mitigation planting and a growth period of 5-10 years for effects to reduce to a low level.

[66] Taking this advice into account, It is noted that both landscape experts have indicated that adverse effects on landscape values will be either low or very low (i.e. less than minor) with mitigation measures in place. Therefore, it is considered that the mitigation measures, particularly the plantings to screen the more visually accessible lots 5 and 6, are an essential aspect of mitigating the visual impact of future development within the lots. The plantings should be undertaken immediately, and in accordance with the Mitigation Planting Specification included as Appendix A in Mr Moore's assessment.

[67] Notwithstanding this, it is noted that a decision of the High Court (*Trilane Industries Ltd v Queenstown Lakes District Council* [2020] NZHC 1647) confirmed that a consent authority, when undertaking its notification assessment, cannot ignore temporary effects on the grounds those effects will be mitigated in a relatively short timeframe. The Court stated:

A consent authority cannot ignore temporary effects in undertaking its notification assessment. It also cannot average out effects over time to say that a temporary moderate adverse effect which will, in due course, reduce to a low or extremely low effect is therefore a minor or less than minor effect. While the Council says that the assessment must necessarily consider the broad range of effects and how they might change over time, that does not justify ignoring a temporary adverse effect, on the grounds it will be ameliorated in a relatively short timeframe having regard to the life span of the proposed activity. That may, of course, be appropriate in deciding whether to grant the resource consent, but it is not appropriate when making a notification decision, which is intended to allow the public a right of audience if any adverse effects, whether temporary or permanent, will be more than minor.⁴

[68] In this instance, adverse effects on landscape values are a potential effect associated with registering landscape building platforms on lots 1, 2 5, 6 and 10 as part of this subdivision proposal. The implication of the Court's decision is that if effects on landscape values are more than minor, public notification of the subdivision proposal is required.

[69] Noting that Mr McKinlay has recommended that proposed mitigation plantings associated with the building platforms on proposed Lot 5 and 6 be undertaken prior to building commencing on these lots, the Court's decision was referred to the applicant, who subsequently provided an additional assessment from their landscape architect, Mr Moore.

⁴ Paragraph 58, *Trilane Industries Ltd v Queenstown Lakes District Council* [2020] NZHC 1647

- [70] In his assessment, Mr Moore addressed the representative viewpoints considered in his initial assessment, together with the additional upper Cowan Road viewpoint discussed by Mr McKinlay. He advises:

Landscape and visual effects are assessed against the landscape values. The level of visibility does not directly relate to the degree of effect per se. It is my assessment that whilst having some visibility, in particular from Cowan Road, building development as controlled by the proposed mitigation measures, will integrate well with the rural landscape character and values of this part of Leith Valley. I consider that the visual effects associated with development on the identified platforms on Lots 5 and 6 will be adverse due to a small increase in the impact of built form, but that the degree of effect will be very low. The reasons for my very low rating are:

- *The lots 5 and 6 sites have low levels of visibility from surrounding areas generally. Where visible, development will be seen at considerable distances, which assist to minimise impact.*
- *The comprehensive suite of proposed mitigation measures will effectively minimise the visual impact and prominence of built form and its effects on rural character (including openness and naturalness). The proposed planting will help to reduce impacts as it matures but is not relied upon to achieve a very low level of immediate adverse impact due to the other controls proposed.*
- *The proposed mitigation controls will effectively minimise any adverse effects on landform / natural landform legibility and avoid adverse effects associated with exotic contextual plantings.*
- *The proposed building platforms are located on amenable landforms, and low in the landscape within a rural / rural residential context where rural dwellings are not unexpected and are part of the local character. The proposed residential density is not inappropriate in this setting.*

As per the NZILA Landscape Assessment Guidelines (see my report), this equates to an adverse effect that is less than minor in my assessment – both in the short and long terms.

- [71] Mr Moore's additional assessment is included as Appendix 3.
- [72] Mr McKinlay has not been available to provide a review of the additional information from Mr Moore. However, on the basis of Mr Moore's status as a qualified and registered landscape architect, his advice is accepted. Accordingly, it is considered that any adverse effects on landscape values arising from the establishment of landscape building platforms on the proposed lots, and lot 5 and 6 in particular, will be low / no more than minor.
- [73] Mr McKinlay will be available at the hearing, to respond to any questions the Committee might have. If the Committee disagrees with Mr Moore's assessment and considers there are landscape effects that are more than minor, in accordance with the provisions of Section 104(3)(d) of the Resource Management Act 1991, it may require that this application be publicly notified.
- [74] Overall, I consider that the protection and enhancement of the existing areas of indigenous vegetation within the lots, and securing of lot 12 as an additional area to be protected and preserved for indigenous vegetation will have a beneficial effect.

Nonetheless, as discussed below under the *Biodiversity Values* heading, all plantings should be guided by an Ecological Restoration and Management Plan (“ERP”).

- [75] With regard to Lot 12, it is noted that a condition to transfer the lot to DoC or Forest and Bird, or an amalgamation condition to hold the lot together with Lot 9, will be required. In addition, a consent notice is recommended, to ensure the ongoing protection of the mitigation plantings within the lot.
- [76] Subject to consent conditions that reflect those promoted by Mr Moore and Mr McKinlay, I consider that the character and amenity of the Hill Slopes Rural and Rural Residential 2 zones will be maintained and enhanced. This is because the proposed addition of two dwellings within the Rural zoned land and three within the Rural Residential land is in keeping with the residential density anticipated by the 2GP (i.e. 15ha and 1ha); and mitigation measures will ensure that the buildings integrate with the surrounding environment, and the extent of indigenous vegetation is bolstered.
- [77] Similarly, the landscape values of the Flagstaff-Mt Cargill SNL will be augmented by the protection and enhancement of indigenous vegetation, and implementation of the mitigation measures will ensure that the future development of the lots is compatible with the design guidelines set out in Appendix A11.2.
- [78] Consent conditions that reflect the matters discussed above are included in Appendix 5.

Biodiversity Values (Proposed 2GP Assessment Rules 10.8.2.1, 16.12.2.1 and 17.12.2.1)

- [79] These assessment rules require consideration of the extent to which biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna.

The Application

- [80] The application suggests that the proposed subdivision and future residential development will have a number of positive benefits, the most positive of which will be effects on biodiversity values.
- [81] The original subdivision plan shows numerous “bush protection areas”, with areas of regenerating bush to be protected by way of covenant, and additional planting of indigenous species to be undertaken. The application considers that these bush protection areas are particularly useful, because the sites adjoin two reserves, one of which is identified as an area of significant biodiversity value.⁵ It suggests that the proposal will enhance the biodiversity of these areas and connectivity with the extensive area of indigenous vegetation above the site.
- [82] The landscape effects assessment report by Mr Moore does not specifically address biodiversity values, but Mr Moore does suggest that the proposal will protect areas of existing indigenous vegetation within the property.

DCC Biodiversity Advisor’s Advice

- [83] The proposal has been assessed by the DCC Biodiversity Advisor, Ms Zoe Lunniss. She provides the following description of the ecological context of the site:

⁵ i.e. the Leith Valley Scenic Reserve, ASCV C039.

The subject site supports indigenous vegetation, mostly remnant or regenerating patches within steep topography and gully systems.

Aerial and satellite imagery indicate gully and bush fragments are likely podocarp broadleaf/forest⁶, many of which connect with Swampy Summit (scheduled for inclusion as an ASBV in Variation 3). It is likely these areas contain species listed as protected indigenous species in the 2GP (Appendix 10A). Moore's Reserve, an ASBV, adjoins the south-eastern corner of the subject site.

The vegetation contributes to ecological connectivity, linking Swampy Summit with Moore's Reserve.

All indigenous vegetation on the subject site sits within the L4.1a Level IV Land Environment which is classified as 'acutely threatened' with less than 10% indigenous vegetation cover remaining nationally⁷. This means any indigenous vegetation present on the site is likely to meet 2GP ASBV criteria for rarity (Policy 2.2.3.2.b.ii).

The Water of Leith runs adjacent to lots 10 and 11, a waterbody listed in Appendix 10c. It holds values including flood and erosion mitigation, additionally, it supports native fish species in significant lifecycle stages. Tributaries of this river, including the one traversing through proposed lots 10 and 11, are acknowledged in Appendix 10c for their significance to lamprey, longfin eel, and koura. These waterbodies are also within a catchment with high regional rank as identified by the Otago Regional Council. Notably, the traversing tributary, though unnamed, is recognised for its 'Water Supply Values' (Schedule 1B, Regional Plan for Water in Otago).

- [84] Ms Lunniss observes that the vegetation clearance baselines in the 2GP are determined per title, meaning that subdividing into more lots elevates the permitted indigenous vegetation clearance for the given area, allowing each lot to clear to the extent provided for under Rule 10.3.2 every three years.
- [85] She considers that the proposed subdivision might contribute to habitat fragmentation, noting that fragmented habitats tend to support smaller populations of species making them susceptible to isolation and rapid encroachment from invasive species.
- [86] She notes that no bush protection areas had been proposed for lots 10 and 11, and observes that indigenous vegetation is apparent on the northern aspects of Lot 10; and that both lots 10 and 11 are traversed by a Water of Leith tributary. She considers that it is important to address the maintenance and enhancement of natural values in riparian areas and indigenous vegetation.
- [87] The full text of Ms Lunniss' advice is included as Appendix 4.

Processing Planner's Assessment

- [88] Following lodgement of the original application, the advice of Ms Lunniss was provided to the applicant, and, as noted in paragraph 64 above, a meeting between the applicant's agents and council staff was held subsequently. In addition to the further mitigation

⁶ Wildland Consultants Ltd (2020). Mapping of indigenous and exotic vegetation cover across Dunedin City District. Contract Report No. 4934 prepared for Dunedin City Council.

⁷ Cieraad E, Walker S, Price R, Barringer J. 2015. An updated assessment of indigenous cover remaining and legal protection in New Zealand's land environments. New Zealand Journal of Ecology 39(2)

measures detailed above, the following biodiversity-related measure has since been confirmed by the applicant:

- provision of an Ecological Restoration and Management Plan (“ERP”) and associated consent notices for its implementation.

[89] As discussed under the Natural Character and Landscape Values heading above, the protection and enhancement of the existing areas of indigenous vegetation within the lots, and securing of lot 12 as an additional area to be protected and preserved for indigenous vegetation will have a beneficial effect, provided all plantings are guided by an ERP prepared by an appropriately qualified person.

[90] I consider that, with consent conditions to ensure the implementation of the ERP and the ongoing protection and maintenance of plantings, the proposal will have a positive effect, in terms of the maintenance and enhancement of indigenous biodiversity within the site.

[91] Consent conditions that reflect the matters discussed above are included as Appendix 5.

Public Access (Proposed 2GP Assessment Rules 10.8.2.1, 16.12.2.1 and 17.12.2.1

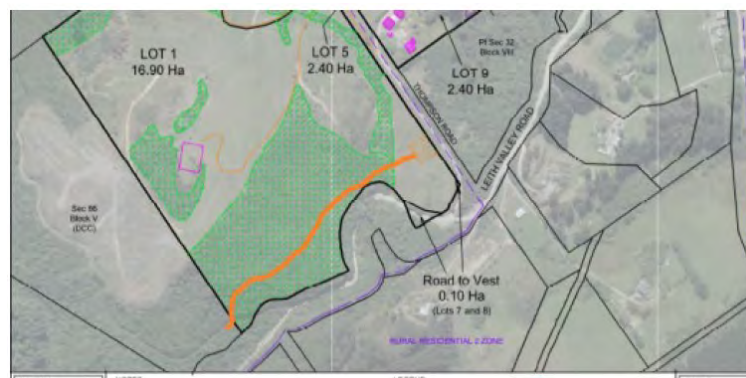
[92] Consideration of the extent to which a proposed activity will maintain and enhance access to coastlines, water bodies and other parts of the natural environment is required.

[93] The application proposes setting aside an area within Lot 1 for use as a public car parking area to service visitors to Moore’s Bush Reserve, and suggests that an easement in gross in favour of the DCC be established to secure this. It states:

...the proposal will ... positively affect public access to Moore’s Bush Reserve, which is currently served by a small parking area with very limited car parking capacity.

[94] This aspect of the proposal was referred to the DCC Parks and Recreation Department, as the department that would be the administering body for the carpark, should the easement in gross be established. The Parks and Recreation planner, Ms Katie Eglesfield, considered that the proposed carpark would provide an opportunity for improved access to the Moore’s Bush Reserve.

[95] Ms Eglesfield noted that the Leith Valley Scenic Reserve is located to the south of the site, and that access to that reserve (Morrison Burns Track) is further down Leith Valley Road, where there is limited car parking. She recommended that a link track be established between the proposed carpark and the Morrisons Burns Track, to provide suitable carparking and access for visitors and residents utilising both tracks. She suggested that the link track be located as shown with an orange line in the image below:



- [96] The suggested track was discussed at a meeting between the applicant's agents and council staff, following which the applicant's agent confirmed that the application was to be amended to include provision of a link track within Lot 1.
- [97] The biodiversity advisor, Ms Lunniss has noted that the proposed track would pass through the block of bush within Lot 1, and that formation of the track would require the removal of indigenous vegetation. As such, she recommended that a decision about location of the track be deferred until the significance assessment required as part of the ERP had been completed. She also suggested that an alternative track, that circles around the bush area, might be a better option.

Processing Planner's Assessment

- [98] It is considered that the establishment of a track between the car park and the Morrison Burns Track would enhance recreational opportunities in the area, by expanding and connecting to the existing track network. Nonetheless, Ms Lunniss's advice that location of the track be deferred until the significance of indigenous vegetation within the lot has been assessed is accepted as a prudent measure to avoid adverse effects on biodiversity.
- [99] Accordingly, a consent condition to require that the ERP include details of the recommended location and formation methodology for establishment of the link track, together with conditions requiring an easement in gross in favour of the DCC for the car park and link track, and that the park and track be established, are included in the recommended consent conditions set out in Appendix 5.
- [100] With these measures in place, it is considered that the proposed car park and link track will have a positive effect, and will enhance public access to the natural environment in this area.

Public Health and Safety / Efficiency and Affordability of Infrastructure / Service Connections (Proposed 2GP Assessment Rules 9.8.2.1 9.8.2.5, 16.12.2.1 and 17.12.2.1)

- [101] These assessment rules require consideration of the extent to which the proposal will maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure; and maintain or enhance people's health and safety.
- [102] The application states:

The site is in a rural area that is not provided with public water infrastructure. Consequently, the existing dwelling on the site has connections to electricity and telecommunications networks, but its water services are accommodated onsite.

The proposed resultant sites and RT OT15B/131 will have onsite water services installed at the time of future development. This will include sufficient water supply for firefighting in accordance with SNZ/PAS:4509 2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. All of these sites are large enough to accommodate onsite stormwater and wastewater disposal.

- [103] The application has been considered by Mr Andrew Budd, the subdivision support officer for the Council's 3 Waters Department, and Mr Andrew Roberts, the senior Plumbing and Drainage processing officer.
- [104] In terms of existing services, Mr Budd advises that there are no DCC reticulated services for water, stormwater or wastewater available nearby.

- [105] He notes that there are open **watercourses** located within the site, and advises that the property owner is responsible for a watercourse from where it enters their property to where it exits. This includes keeping it and any associated grates clear so the water can flow unimpeded. Any discharge of stormwater to the watercourse or work within the watercourse (such as piping or filling) must comply with the requirements of the Regional Plan: Water, and with any building consent requirements for related structures.
- [106] Mr Roberts advises that any onsite effluent disposal system within 50m of a watercourse/waterway will require approval from the Otago Regional Council.
- [107] Advice notes that reflect this advice in respect of watercourses are included in Appendix 5.
- [108] With regard to **water supply**, Mr Budd notes that the proposed subdivision is located outside the Rural Water Supply Areas as shown in Appendix B of the Dunedin City Council Water Bylaw 2011. Consequently, while no reticulated water supply is available to the proposed subdivision, he suggests that stormwater collected from roof surfaces might be used for domestic water supply and stored in suitably sized tank(s). Mr Roberts confirms this, advising that a minimum storage of 25,000 litres per lot is required.
- [109] On the matter of **water supply for fire fighting purposes**, Mr Budd advises that all aspects relating to the availability of the water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies.
- [110] A consent condition requiring confirmation that the new sites have access to sufficient water supplies for firefighting, consistent with the SNZ/PAS:4509:2008 was considered. Taking guidance from Policy 9.2.2.9 however, I am of the view that it is acceptable to defer this confirmation in this instance. That policy states:
- Require all new residential buildings, or subdivision activities that may result in new residential buildings, to have access to suitable water supply for firefighting purposes.*
- [111] On the basis of this policy, and noting that no development is proposed at this time, I consider that a consent condition is not necessary. The existing residential activity within Lot 9 is not a “new residential building”. With regard to lots 1, 2-4, 5, 6 and 10-11, the fire-fighting provisions set out under Rule 9.3.3 include references to the proximity of water supply and fire engine access to the fire risk/dwelling, and as such, it is considered more practical that fire-fighting provisions be assessed at any such time that it is proposed to establish a new dwelling within the respective lots. (Compliance with performance standard Rule 9.3.3 is both a subdivision and a development activity requirement, and will therefore be assessed at such time as a building consent application is made and assessed by the Planning Department.) An advice note to this effect is included in Appendix 5.
- [112] Regarding **stormwater**, Mr Budd advises there is no stormwater infrastructure or kerb and channel discharge points, and that disposal of stormwater will be to water tables and/or watercourses onsite, or to a suitably designed onsite soak-away infiltration system or rainwater harvesting system. He observes that stormwater is not to cause a nuisance to neighbouring properties or cause any downstream effects. An advice note to this effect is included in Appendix 5.
- [113] Similarly, with regard to **wastewater**, Mr Budd notes that in the absence of reticulated wastewater services, any effluent disposal must be to a septic tank and effluent disposal system designed by an approved septic tank and effluent disposal system designer.

- [114] Regarding the existing septic tank for wastewater serving the dwelling within Lot 9, Mr Roberts notes that there are no accurate drainage plans on file for the existing drainage. He advises that foul and stormwater are to be identified as to be discharging to an acceptable outfall, and existing drainage is to be identified as to be discharging within the new lot. A consent condition that reflects this advice is included in Appendix 5.
- [115] In terms of connection to **telecommunications networks**, I note that the *Broadband Map NZ* indicates that fibre, cable and VDSL are not available in this location, but wireless is. My understanding is that connection to wireless requires an antenna that has a line of sight to a provider's radio mast. As such, this is considered to be best dealt with at the time each lot is developed, and no easement for telecommunications is considered necessary.
- [116] **Services easements** in favour of the property they service are required where any private water supply pipes cross property boundaries. A standard consent condition provide for any easements for services, including private drainage, that might be incurred during the survey process is included in Appendix 5.
- [117] Overall, it is considered that, with the conditions and advice notes discussed above in place, the proposed subdivision will have no effect on the efficiency and affordability of public water supply, wastewater and stormwater; and people's health and safety will be maintained.

Safety and Efficiency of the Transport Network (Proposed 2GP Assessment Rules 6.13.2.1, 16.12.2.1 and 17.12.2.1)

- [118] The application indicates that existing Easement Certificate 833915.1 provides rights of way over Lot 13 DP 23005 (now Lot 2 DP 24525, 317 Leith Valley Rd) and Lot 16 DP 23005, (an esplanade reserve) in favour of RT OT15B/131. This easement will need to be carried forward to the new title issued for proposed lots 10 and 11.
- [119] A right of way easement over Lot 5 in favour of Lot 6 is proposed, and proposed lots 7 and 8 are to be vested as legal road, because they already function as part of Leith Valley Road.
- [120] In addition, as discussed above, the applicant proposes that part of Lot 1 be aside to provide space for a public car parking area to serve visitors to Moore's Bush.
- [121] The application considers that the proposal will generate a traffic volume that is generally anticipated by the 2GP; and that there is existing, compliant physical access to the resultant sites, and that onsite parking can be provided.
- [122] The proposal was referred to the DCC Transport Department for assessment. The transport planner/engineer, Mr Reese Martin, notes the existing access arrangements for Lot 9 and lots 10-11, and the proposed right of way for Lot 6, and goes on to advise:

Access

...

No dedicated vehicle access provision to the remainder of the new proposed lots is proposed as part of this proposal aside from access gained via the existing farm tracks, albeit it is acknowledged that vehicle access for each new residential lot is likely best deferred until the future development of each resultant lot. It is therefore advised that in the event of any future development on the site(s), Transport would assess provisions for access at the time of resource consent/building consent application. It is advised that a formal agreement be drawn up between the

owners/users of all private accesses in order to clarify their maintenance responsibilities.

- [123] In terms of **parking and manoeuvring**, he considers that the existing arrangements for the existing dwelling and sheds within Lot 9 are acceptable.
- [124] In terms of the potential future residential development within lots 1, 2-4, 5, 6 and 10-11, Mr Martin considers that adequate and compliant on-site parking and manoeuvring provision can likely be provided at the time of future development, and that the Transport Department will assess provisions for access, parking and manoeuvring at the time of resource consent/building consent application.
- [125] Regarding the proposed **vesting of lots 7 and 8**, Mr Martin notes that a small portion of the subject site appears to have historically extended and encroached over a section of the formed Thompson and Leith Valley roading formations. He advises that the Transport Department supports the proposed vesting.
- [126] In terms of **generated traffic**, Mr Martin has no concerns with the proposal.
- [127] On the matter of the proposed public carpark within Lot 1, Mr Martin notes that the Transport Department are generally supportive of this, and advises:

Given the current metalled condition of Thompson Road it would ... be unreasonable to require hard surfacing for the entrance and the surfacing of the carpark in strict accordance with Rule 6.6.1.5. On that basis we would be amenable for the carpark and vehicle entrance to be constructed using an adequate all weather metalled surface instead.

He recommends consent conditions that reflect this, for the formation of the car park and its vehicle access.

- [128] Subject to these conditions, Mr Martin has concluded that the effects of the proposed development on the transportation network will be less than minor.
- [129] Taking the advice of Mr Martin into account, I consider that by tidying up an historical encroachment, the proposed vesting of lots 7 and 8 will have a positive effect on the transport network. In terms of maintaining the safe and efficient functioning of the transport network, his advice regarding the formation requirements for the carpark and access within Lot 1 is accepted also. Consent conditions are included in Appendix 5 accordingly.
- [130] Overall, subject to the recommended consent conditions, it is considered that any effects on the safety and efficiency of the transport network arising from the proposed subdivision will be no more than minor.

Risk from Natural Hazards (Proposed 2GP Assessment Rule 11.5.2.5)

- [131] Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance. In addition, under section 106 of the Resource Management Act 1991, the Council may decline the subdivision consent, or it may grant the subdivision consent subject to conditions, if there is a significant risk from natural hazards.
- [132] The assessment of the risk from natural hazards requires a combined assessment of:

- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
- (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*
- (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*

[133] The application states:

Building platforms on the resultant sites will be located in areas sloping by less than 12°. The [Lot 10] building platform will be on steeper slopes, but this is not an effect arising from the proposed subdivision, and it is appropriate that any concerns with respect to stability are addressed at the time of building consent. If large scale earthworks are proposed in relation to future residential development on this site, the requirement for expert geotechnical advice can be considered at the time of land use consent.

There are multiple landslides within Leith Valley and on the hills above it, including some on and near the site, although we note that the site is not within a land instability hazard overlay. These landslides have been mapped as probably prehistoric, with possible to likely certainty and low to medium sensitivity. The landslides within the site itself are of likely certainty and medium sensitivity. We expect that the residential activity at greatest risk of landslide hazards will be that on Lot 5, as the identified building platform is adjacent to one of the landslides, although the existing dwelling on the subject site has been located on the same landslide for over 100 years. Additionally, the building platform on Lot 5 will be sloping by less than 12°. It is therefore likely that a new dwelling can safely be constructed within the proposed building platform, although expert geotechnical advice may be necessary prior to its construction. The building platforms on Lot 5 and [Lot 10] are located upslope of the nearby landslides.

The landslides above the subject site are all of low sensitivity and there is no record of their last movement. We therefore do not consider that they pose a risk to future residential activity...

[134] The proposal was referred to the Council's consultant engineers for assessment. Geotechnical engineer, Mr Edward Guerreiro, advised that the underlying geology consists of consists of third main eruptive phase volcanics and is undulating terrain from rolling slopes to steep vegetated gullies. He notes that the hazard information held by the Council indicates that indicates the proposed lots are within an area where the following potential hazard has been identified:

- Hazard ID 11965: Land Stability – Land Movement.

[135] Mr Guerreiro advises that the proposed subdivision is unlikely to have any effect on the existing natural hazards of the site. He considers that land stability is the primary concern and should be assessed on a case by case basis for building platforms and accessways. He recommends that the application not be declined on the ground of known natural hazards; and considers that the proposal will not create or exacerbate instabilities on this or adjacent properties.

[136] Mr Guerreiro recommends that the following conditions be required for any future earthworks or development of the above lots:-

- As-built records of the final extent and thickness of any un-engineered fill should be recorded
- Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding or concentrated runoff during storm rainfall events.
- Any earthworks on slopes steeper than 20 degrees shall be subject to design, supervision and certification by a suitably qualified engineer, confirming the site is suitably stable and that the works will not introduce any further instability.

[137] With regard to these recommended conditions, the first two are, in my opinion, more akin to advice notes, and, depending on the scale of development and earthworks proposed for each lot, potentially not relevant. The first would be relevant should the scale of development be such that an earthworks consent is required, in which case it is likely that the requirement to document un-engineered fill would be included as a resource consent condition. The second condition is generally reflected in the *Infrastructure* advice notes added as a consequence of the stormwater discussion in paragraph 112 above.

[138] With regard to the third recommended consent condition, the application indicates that the building platforms within lots 1, 2-4, 5 and 6 will be located in areas sloping by less than 12°, while the Lot 10 building platform will be on steeper slopes (up to 26°). Nonetheless, for clarity, and in the interests of drawing the attention of future owners to the potential land stability issues associated with development on the steeper land within all of the buildable lots, it is considered that a condition that reflects Mr Guerreiro's recommendation should be included within the consent notices for lots 1, 2-4, 5, 6 and 10-11.

[139] Overall, on the basis of the advice provided by Mr Guerreiro, it is considered that the proposed lots are suitable for their intended use; and the risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term.

Earthworks

[140] No earthworks are proposed as part of this subdivision application. Any earthworks, including those which might be required to establish a building platform or accessway within the new lots, must comply with 2GP Section 8A: Earthworks, or obtain a resource consent.

Effects Assessment Conclusion

[141] The above effects assessment has found that subject to consent conditions:

- Regarding **residential development potential**, the proposal will be neutral in terms of the rural land component of the proposal, and allow increased development in terms of the rural residential land (an increase of two additional residential sites).
- In terms of the **maintenance of rural land for productive rural activities**, effects will be no more than minor as no additional rural sites will be created and the development potential is not altered.

- The **character and amenity of the Hill Slopes Rural and Rural Residential 2 zones** will be maintained and enhanced as a consequence of the mitigation plantings and protection and enhancement of indigenous vegetation that are required by conditions of consent.
- Effects on the **landscape values of the Flagstaff-Mt Cargill SNL** arising from the establishment of landscape building platforms on the proposed lots will be no more than minor.
- With regard to the **maintenance and enhancement of indigenous biodiversity**, the protection and enhancement of the existing areas of indigenous vegetation within the lots, and securing of lot 12 as an additional area to be protected and preserved for indigenous vegetation will have a positive effect.
- Regarding **the enhancement of public access to the natural environment**, the proposed car park and link track will have a positive effect provided it does not adversely impact on biodiversity values from a loss of indigenous vegetation.
- In terms of **the efficiency and affordability of public water supply, wastewater and stormwater**, the proposal will have no effect, and **people's health and safety** will be maintained.
- effects on the **safety and efficiency of the transport network** arising from the proposed subdivision will be no more than minor.
- the **risk from natural hazards, and from the potential effects of climate change** on natural hazards, is no more than low, in the short to long term.

[142] To summarise, the effects assessment has found that the proposal will have:

- **positive effects** on the character and amenity of the Hill Slopes Rural and Rural Residential 2 zones, , indigenous biodiversity values and public access to the natural environment
- **neutral or low effects** in terms of the residential development potential of the Rural Zone, maintenance of rural land for productive rural activities, the landscape values of the the Flagstaff-Mt Cargill SNL, the risk from natural hazards, the efficiency and affordability of public water supply, wastewater and stormwater, people's health and safety, and the safety and efficiency of the transport network.

[143] Overall, I consider the effects of the proposal can be mitigated by conditions of consent so as to be no more than minor. In particular, the mitigation measures will ensure that the three landscape building platforms proposed for the Rural Residential 2 zone integrate with the surrounding environment.

NOTIFICATION ASSESSMENT

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.

- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application does not involve: a controlled activity, nor a boundary activity. As a result, public notification is not precluded under Step 2.

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the application that makes public notification desirable.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

Step 1: Certain affected groups and affected persons must be notified

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area; and, the activity is not on or adjacent to, or might affect, land that is the subject of a statutory acknowledgement.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.
- The application does not involve a controlled activity that is not a subdivision.

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

- The application does not involve a boundary activity.
- There are no persons where the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

[144] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or might result from allowing the activity.

[145] The application states:

The applicant has proposed several elements of the development that can be considered to be offsetting measures. These are—

- *Significant protection of existing areas of regenerating native bush.*
- *The legalisation of several pieces of land in which the existing public road formation passes across.*
- *The offer to set aside an area of land for future public car parking, which will support public access to nearby recreational areas.*

These measures will be provided as part of the subdivision process, at the applicant's cost. The proposed offsetting measures all serve to provide outcomes that are above and beyond what the applicant would otherwise be required to provide under the 2GP provisions.

[146] In addition, since lodging the original application, the applicant has proposed that Lot 12 (0.38ha) be planted out with native species and either transferred to one of the adjoining reserves (one is owned by DoC, the other by NZ Forest and Bird), or amalgamated with Lot 9.

[147] Regarding the first bullet point above (the protection of existing areas of regenerating native bush), *Royal Forest and Bird v Buller District Council, HC Christchurch, CIV-2013-409-0683* is considered relevant here. In that judgement, Judge Fogarty found:

...that the RMA keeps separate the relevant consideration of mitigation of adverse effects caused by the activity for which resource consent is being sought, from the relevant consideration of the positive effects offered by the applicant as offsets to adverse effects caused by the proposed activity.⁸

[148] In the environmental effects assessment above, the protection of regenerating native bush/indigenous vegetation was discussed as a method for mitigating adverse effects on landscape values and rural /rural-residential character and amenity. Therefore, in accordance with the direction set in *Royal Forest and Bird v Buller District Council*, the protection of regenerating native bush is considered to be mitigation, and not an offset.

[149] Similarly, the planting out of Lot 12 with native species and gifting of it to DoC or Forest and Bird, or amalgamating it with Lot 9, is also considered to be mitigation. This is because, given its proximity to the proposed building platforms on lots 5 and 6, the planting out of Lot 12 will have a screening function, and mitigate adverse effects on landscape and biodiversity values and rural /rural-residential character and amenity.

[150] With regard to the second bullet point (legalisation of the existing road formation that already functions as part of Leith Valley Road), it seems a stretch to claim the correction of an historical encroachment, which will have no physical or on the ground effect, as an

⁸ Paragraph 122, *Royal Forest and Bird v Buller District Council, HC Christchurch, CIV-2013-409-0683*

offset (noting that, if required, the Public Works Act would provide for acquisition of the land).

- [151] It is accepted that the offer to set aside an area of land for future public car parking (together with the link track between the car park and the Morrisons Burns Track that was subsequently offered by the applicant), is an offset. It is considered that this will have a positive effect, by providing improved public access to the walking tracks and reserves in the area.

NATIONAL POLICY STATEMENTS

- [152] In accordance with Section 104(1)(b)(iii) of the Resource Management Act 1991, the relevant provisions of a national policy statement must be taken into account when considering an application.

National Policy Statement for Highly Productive Land

- [153] The National Policy Statement for Highly Productive Land (“NPS-HPL”) came into effect on 17 October 2022, and seeks to ensure the availability of New Zealand’s most favourable soils for food and fibre production, now and for future generations. The NPS-HPL contains direction around urban and rural lifestyle rezoning and subdivision, and use and development of highly productive land.
- [154] In Dunedin, land currently treated as highly productive land (as per cl 3.5(7) of the NPS-HPL) is identified here: <https://www.dunedin.govt.nz/council/district-plan/monitoring-and-research/highly-productive-land-map>.
- [155] The subject sites are not located within a highly productive land mapped area, and consequently the NPS-HPL is not applicable to the current application.

National Policy Statement for Indigenous Biodiversity

- [156] The National Policy Statement for Indigenous Biodiversity (“NPS-IB”) came into effect on 4 August 2023, and seeks to to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity.
- [157] The DCC Biodiversity advisor, Ms Zoe Lunniss, has advised:

In accordance with Clause 3.8(6) of the National Policy Statement for Indigenous Biodiversity, a territorial authority is obliged to assess an area if it becomes evident (through a resource consent) that the area could potentially qualify as an SNA. The Council has now identified this property for a necessary significance assessment, which should be conducted as soon as practicable. This assessment can be carried out either on-site or through a desktop evaluation. Any areas that meet NPS-IB Appendix 1 criteria will be scheduled as an ASBV in the next district plan change.

- [158] Consent conditions requiring the preparation and implementation of an Ecological Restoration and Management Plan (“ERP”) have been recommended. Until such time as the significance assessment referred to by Ms Lunniss has been carried out, it is considered that the mitigation plantings and ERP provisions will ensure there is no overall loss in indigenous biodiversity within the subject sites. The proposal is therefore considered to be consistent with the objectives of the NPS-IB.

OBJECTIVES AND POLICIES ASSESSMENT

[159] In accordance with Section 104(1)(b)(vi) of the Resource Management Act 1991, the objectives and policies of the Dunedin City District Plan and the proposed 2GP were taken into account in assessing the application.

[160] The Proposed 2GP is now at an advanced stage. The zoning and rules of relevance to this application are operative, and the objectives and policies are not subject to appeal. Therefore, while regard has been had to the objectives and policies of the Operative District Plan that are listed below, these are not discussed further in this report because no weight has been given to them, and full weight has been given to the objectives and policies of the Proposed 2GP.

[161] List of **Operative Plan** objectives and policies that have been given regard to:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)**, which seek to maintain and enhance the amenity values of Dunedin.
- **Objective 4.2.2 and Policy 4.3.2 (Sustainability Section)**, which seek to ensure that the level of infrastructural services provided is appropriate to the potential density and intensity of development and amenity values of the area.
- **Objective 6.2.2 and Policies 6.3.4 and 6.3.5 (Rural Section)**, which seek to maintain and enhance the amenity values associated with the character of the rural area.
- **Objective 6.2.3 and Policies 6.3.3, 6.3.4, 6.3.7 and 6.3.14 (Rural Section)**, which seek to provide for rural residential development in a sustainable manner.
- **Objective 14.2.1 and Policy 14.3.1 (Landscape Section)**, which seek to ensure that the City's outstanding natural features and landscapes are protected.
- **Objective 14.2.3 and Policies 14.3.3 and 14.3.4 (Landscape Section)**, which seek to ensure that land use and development do not adversely affect the quality of the landscape.
- **Objective 14.2.4 and Policies 14.3.3 and 14.3.4 (Landscape Section)**, which seek to encourage the maintenance and enhancement of the quality of Dunedin's landscape.
- **Objective 16.2.1 and Policy 16.3.1 (Indigenous Vegetation and Fauna Section)**, which seek to enhance the indigenous biodiversity, ecosystem integrity, natural character and amenity values of the City through the retention of remaining areas of indigenous vegetation and habitats of indigenous fauna.
- **Objective 17.2.1 (Hazards and Hazardous Substances Section)**, which seeks to ensure the effects on the environment of natural and technological hazards are avoided, remedied or mitigated.
- **Objectives 18.2.1, 18.2.2 and 18.2.6 and Policies 18.3.5 and 18.3.7 (Subdivision Section)**, which seek to ensure that subdivision activity takes place in a coordinated and sustainable manner, that physical limitations are identified and taken into account at the time of subdivision activity, and the adverse effects of subdivision activities and subsequent land use activities on the City's natural, physical and heritage resources are avoided, remedied or mitigated.

- **Objective 20.2.2 and Policy 20.3.5 (Transportation Section)**, which seek to ensure that activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network, and that safe provision for vehicle accesses is implemented.

Proposed 2GP Objectives and Policies

[162] The relevant objectives and policies of the Proposed 2GP are discussed below.

Transportation Section

Objective/Policy	Assessment
Objective 6.2.3: <i>Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public.</i> Policy 6.2.3.9: <i>Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where:</i> a. <i>adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and</i> b. <i>any associated changes to the transportation network will be affordable to the public in the long term.</i> Policy 6.2.3.12: <i>Only allow subdivision activities where roads, private ways and pedestrian and cycling connections are appropriate to the scale and location of the subdivision and are designed to:</i> a. <i>provide for the safe and efficient movement of vehicles, pedestrians and cyclists within the subdivision;</i> b. <i>provide connections to surrounding areas and the wider transport network, particularly for buses, pedestrians, and cyclists, in a way that maximises opportunities for active mode and public transport connections to existing or planned:</i> i. <i>centres, public open spaces, schools, cycleways, walkways, public transport stops, and community facilities in the surrounding environment; and</i>	The application suggests that the proposal involves compliant parking and access arrangements, and does not involve any changes to the transport network that require public funding. <i>Processing Planner's Assessment</i> Taking Mr Martin's advice into account, and subject to compliance with the recommended conditions of consent, it is considered that the safety and efficiency of the transport network will be maintained, and the public parking area, vehicle access and crossing will be appropriately designed and located. Accordingly, the proposal is consistent with these objectives and policies.

Objective/Policy	Assessment
ii. <i>neighbouring urban land, including by providing appropriate connections to undeveloped land, whether zoned for future urban use or not, unless that land is inappropriate for urban development, based on the presence of overlay zones or mapped areas protecting significant values or indicating significant site constraints such as natural hazards; and</i> c. <i>use materials that provide good urban design outcomes and, where infrastructure is to be vested in Council, provide good value with respect to on-going costs to ratepayers for maintenance.</i> Objective 6.2.4: <i>Parking areas, loading areas and vehicle accesses are designed and located to:</i> a. <i>provide for the safe and efficient operation of both the parking or loading area and the transport network; and</i> b. <i>facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.</i> Policy 6.2.4.2: <i>Require driveways to be designed to ensure that:</i> a. <i>the surfacing and gradient of the driveway allows it to be used safely and efficiently;</i> b. <i>mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths;</i> c. <i>the width of the driveway is sufficient to allow the type and number of vehicles (including emergency vehicles), likely to be using it to do so safely and efficiently; and</i> d. <i>sufficient distance is provided between shared driveways and dwellings.</i>	

Public Health and Safety Section

Objective/Policy	Assessment

Objective/Policy	Assessment
(Strategic Direction Objective 2.7.1 and policies 2.7.1.1 and Policy 2.7.1.3) Objective 9.2.1: <i>Land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.</i> Policy 9.2.1.1: <i>Only allow land use or subdivision activities that may result in land use or development activities outside the wastewater serviced area, where:</i> a. NA b. <i>it will not lead to future pressure for unplanned expansion of wastewater public infrastructure; or</i> X. <i>an unplanned extension (and any necessary upgrade) to the public wastewater network to provide for the activities can be implemented prior to development with agreement from the DCC.</i> Policy 9.2.1.3: <i>Require subdivision activities to ensure future land use and development activities:</i> X. <i>have access to electricity and telecommunications networks;</i> Y. [n/a]; and - AA. [n/a]; Z. [n/a] Policy 9.2.1.4A: <i>Only allow land use or subdivision activities that may result in land use or development activities in an area without public water supply where:</i> a. <i>it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or</i> b. [n/a] Objective 9.2.2: <i>Land use, development and subdivision activities maintain or enhance people's health and safety.</i> Policy 9.2.2.9: <i>Require all new residential buildings, or subdivision activities that may result in new residential buildings, to have access to suitable water supply for firefighting purposes.</i>	The application advises that the resultant sites will have electricity and telecommunications connections but will have their water services accommodated onsite. <i>Processing Planner's Assessment</i> The resultant sites will be self-sufficient in terms of water supply and stormwater and wastewater management, and will have no effect on the efficiency and affordability of public infrastructure. In terms of people's health and safety it is considered more practical that fire-fighting provisions be assessed at any such time that it is proposed to establish a new dwelling within the respective lots (noting that compliance with performance standard Rule 9.3.3 is both a subdivision and a development activity requirement, and will therefore be assessed at such time as a building consent application is made and assessed by the Planning Department.) The proposed subdivision is therefore considered to be consistent with these objectives and policies.

Natural Environment Section

Objective/Policy	Assessment
(Strategic Direction Objective 2.2.3) Objective 10.2.1: <i>Biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna.</i> Policy 10.2.1.1: <i>Only allow land use, development and city-wide activities where biodiversity values are maintained or enhanced.</i> Policy 10.2.1.X: <i>Only allow land use, development and city-wide activities in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), where Policy 10.2.1.Y is met, or where all of the following are met:</i> <i>the values that contribute to the significance of the area are maintained or enhanced; and</i> <i>[n/a]; and</i> <i>significant adverse effects on other biodiversity values of the area or habitat are avoided; and</i> <i>other adverse effects on biodiversity values are avoided or minimised as far as practicable; and</i> <i>[n/a]; and</i> <i>[n/a].</i> Policy 10.2.1.11: <i>Only allow subdivision activities where the subdivision design will ensure any future land use or development will:</i> <i>maintain or enhance, on an on-going basis, biodiversity values;</i> <i>protect any areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and</i> <i>be in accordance with policies 10.2.1.X, 10.2.1.Y and 10.2.1.8.</i>	The application suggests that the proposal is consistent with these objectives and policies because: - it is not within an area of indigenous biodiversity - the proposed building platforms have been located outside areas of indigenous bush on the site - bush protection and planting are proposed (Objective 10.2.1) - with regard to Policy 10.2.4.3, the proposal provides an opportunity for improved public access to Moore's Bush Reserve by volunteering a part of Lot 1 to be used as a car parking area 2GP rules and the proposed mitigation measures will ensure that future development within the site area is consistent with Policies 10.2.5.11 and 10.2.5.12. Mr Moore considers that indigenous vegetation will be protected and managed to enhance its natural values, and that the development involves no significant impact on the distinctive hill features to the north of urban Dunedin. He observes that existing areas of indigenous vegetation will be protected / managed to enhance their natural values. <i>Processing Planner's Assessment</i> The protection and enhancement of the existing areas of indigenous vegetation within the lots, and securing of lot 12 as an additional area to be protected and preserved for indigenous vegetation will contribute to the protection and enhancement of biodiversity values (on the basis that all plantings will be guided by an Ecological Restoration and Management Plan). With the mitigation measures required by conditions of consent, the landscape values of the Flagstaff-Mt Cargill SNL will be maintained— future buildings will integrate with the surrounding

Objective/Policy	Assessment
Objective 10.2.4: <i>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.</i> Policy 10.2.4.3: <i>Require subdivision of land to enhance public access to the natural environment through:</i> a. [n/a]; and b. <i>where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads.</i> Objective 10.2.5: <i>Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced.</i> Policy 10.2.5.10: <i>Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9.</i>	environment and be compatible with the design guidelines set out in Appendix A11.2, and the extent of indigenous vegetation will be protected and enhanced. The proposed car park and link track will enhance recreational opportunities and public access to the natural environment. The proposed subdivision is therefore considered to be consistent with these objectives and policies.

Natural Hazards Section

Objective/Policy	Assessment
(Strategic Direction Objective 2.2.1) Objective 11.2.1: <i>Land use and development is located and designed in a way that ensures that the risk from natural hazards, and from the potential effects of</i>	The application suggests that the proposal is consistent with these objectives because the only building platform that will be located on slopes steeper than 12° is the Lots 10-11 amalgamated site, and the associated risk of land instability can be managed through the building consent

Objective/Policy	Assessment
<i>climate change on natural hazards, is no more than low, in the short to long term.</i>	process. It considers, given the lack of landslip history on the site, that the risk to residential activity associated with the landslides on and above the site will be no more than low. <i>Processing Planner's Assessment</i> While the subject sites are within an area where <i>Hazard ID 11965: Land Stability – Land Movement</i> has been identified as a potential hazard, the Council's consultant engineer has recommended that the application not be declined on the ground of known natural hazards; and considers that the proposal will not create or exacerbate instabilities on this or adjacent properties. A consent notice has been recommended to ensure future owners of lots 1, 2-4, 5, 6 and 10-11 are aware of the the potential land stability issues associated with development on the steeper land within all of the buildable lots. The proposed subdivision is therefore considered to be consistent with these objectives.

Rural Section

Objective/Policy	Assessment
(Strategic Direction Objective 2.2.2 and Policy 2.2.2.1, Strategic Direction Objective 2.2.4 and Policy 2.2.2.4, Strategic Direction Objective 2.3.1 and Policy 2.3.1.2, Strategic Direction Objective 2.4.6 and Policy 2.4.6.2) Objective 16.2.1: <i>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.</i> Policy 16.2.1.X: <i>Avoid subdivision activities that create one or more resultant</i>	The application suggests that the proposal is consistent with these objectives and policies because: - the proposed rural sites (Lot 1 and the lots 2–4 site) will have virtually the same size and layout as the existing rural sites, and will still be able to accommodate rural and conservation activities, as well as a compliant density of residential activity. The proposed subdivision will not increase the development potential for residential activity across the resultant sites. - The landscape effects assessment report concludes that natural elements will remain strongly dominant and the residential density

Objective/Policy	Assessment
<i>sites that contravene the minimum site size standard for the zone, unless:</i> <i>a. [n/a]; or</i> <i>b. the subdivision, considered as a whole:</i> <i>c. will not result in an increase in the number of sites that contravene the minimum site size; and</i> <i>d. will not result in an increase in the residential development potential of the subject land, beyond that provided for by the density land use performance standard and the minimum site size subdivision standard, and</i> <i>e. will meet policies 16.2.3.8 and 16.2.4.3.</i> Objective 16.2.3: <i>The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:</i> <i>a. a predominance of natural features over human made features;</i> <i>b. a high ratio of open space, low levels of artificial light, and a low density of buildings and structures;</i> <i>c. buildings that are rural in nature, scale and design, such as barns and sheds;</i> <i>d. a low density of residential activity, which is associated with rural activities;</i> <i>e. a high proportion of land containing farmed animals, pasture, crops, and forestry;</i> <i>f. extensive areas of indigenous vegetation and habitats for indigenous fauna; and</i> <i>g. other elements as described in the character descriptions of each rural zone located in Appendix A7.</i> Policy 16.2.3.2: <i>Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.</i> Policy 16.2.3.8: <i>Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance</i>	in the HSR Zone will be consistent with the 2GP. Mr Moore also considers that the proposal is consistent with these objectives and policies, because the buildings resulting from the subdivision (dwellings and sheds) are characteristic elements within rural areas, and rural land use will continue. Indigenous vegetation will be protected, and he considers that rural character and visual amenity will be retained. <i>Processing Planner's Assessment</i> In terms of the residential development potential of the rural land component of the proposal, two of the existing three rural titles could be developed for residential use, and two rural building platforms are proposed. The proposal will not result in an increase in the number of sites that contravene the minimum site size, and the residential development potential will not increase as a result of the proposed subdivision. Therefore, the application is consistent with <u>Objective 16.2.1</u> and <u>Policy 16.2.1.X</u>. The effects assessment above has found that the character and amenity of the Hill Slopes Rural zone will be maintained and enhanced. The proposed rural resultant sites (Lot 1 and the lots 2–4 site) comply with the 15ha density anticipated for residential development in this rural zone. The proposal is therefore consistent with <u>Objective 16.2.3</u> and <u>policies 16.2.3.2 and 16.2.3.8</u>. In terms of the maintenance of rural land for productive rural activities, the subject lands are not mapped as high class soils in the 2GP. It is noted that Strategic Direction Objective 2.2.2 and Policy 2.2.2.1 indicate that “rural productive values” relate to food production and the location of highly productive land. With regard to Policy 16.2.4.4, the Rural zone density provisions have presumably been calculated taking into account the

Objective/Policy	Assessment
<i>the rural character and visual amenity of the rural zones.</i> Objective 16.2.4: <i>The productivity of rural activities in the rural zones is maintained or enhanced.</i> Policy 16.2.4.3: <i>Only allow subdivision activities where the subdivision is designed to ensure any future land use and development will:</i> <i>a. maintain or enhance the productivity of rural activities;</i> <i>b. maintain highly productive land for farming activity, or ensure the effects of any change in land use are:</i> <i>i. insignificant on any high class soils mapped area; and</i> <i>ii. no more than minor on other areas of highly productive land;</i> <i>c. maintain land in a rural rather than rural residential land use; and</i> <i>d. not increase the potential for reverse sensitivity.</i> Policy 16.2.4.4: <i>Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities.</i>	requirements of productive rural activities. The proposal complies with these density provisions. The proposal is therefore considered to be consistent with <u>Objective 16.2.4</u> and <u>policies 16.2.4.3 and 16.2.4.4.</u>

Rural Residential Section

Objective/Policy	Assessment
(Strategic Direction Objectives 2.2.4 and 2.7.1, Strategic Direction Objective 2.4.3 and Policy 2.4.3.4 Strategic Direction 2.6.1 and Policy 2.6.1.4) Objective 17.2.1: <i>The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.</i> Policy 17.2.1.1: <i>Enable farming, grazing and conservation in the rural residential zones.</i>	The application suggests that the proposal is consistent with Objective 17.2.1, policies 17.2.1.1 and 17.2.1.2 and Objective 17.2.2 and Policy 17.2.8 because, although it is non-complying, the resultant RR2 sites will be larger than 2 ha, and large enough to accommodate lifestyle blocks and hobby farms, and compliant residential land use and development. The application and Mr Moore consider that with mitigation measures in place, the proposal is consistent with Objective 17.2.3 and Policy 17.2.3.5. <i>Processing Planner's Assessment</i>

Objective/Policy	Assessment
Policy 17.2.1.2: <i>Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.</i> Objective 17.2.2: <i>The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure:</i> <i>a. the potential for reverse sensitivity is minimised; and</i> <i>b. a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.</i> Policy 17.2.2.8: <i>Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.</i> Objective 17.2.3: <i>The character and amenity of the rural residential zones are maintained, elements of which include:</i> <i>a. a high presence of natural features such as trees, bush, gully systems and water bodies;</i> <i>b. a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and</i> <i>c. land maintained and managed for farming, grazing, conservation and rural residential activities.</i> Policy 17.2.3.5: <i>Only allow general subdivision where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the character and amenity of the rural residential zones.</i>	With regard to ensuring that residential activity in the rural residential zones is at a density that enables lifestyle blocks and hobby farms, within the Rural Residential 2 Zone, residential activity is a permitted activity on sites with a minimum area of 1ha. Therefore, the proposal is consistent with <u>Objective 17.2.1 and Policies 17.2.1.1 and 17.2.1.2.</u> In terms of minimising the potential for reverse sensitivity and ensuring a good level of amenity on surrounding properties, and requiring resultant sites to be of sufficient dimensions to support rural residential development, the proposed rural-residential resultant sites (Lots 5, 6, 9 and the Lots 10-11 site) comply with the 1ha density anticipated for residential development in this zone. With the mitigation planting measures in place, the proposal is consistent with <u>Objective 17.2.2 and Policy 17.2.2.8.</u> The effects assessment above has found that the character and amenity of the Rural Residential 2 zone will be maintained and enhanced. Also, as noted above, the proposed rural-residential resultant sites (Lots 5, 6, 9 and the Lots 10-11 site) comply with the 1ha density anticipated for residential development in this zone. The proposal is therefore consistent with <u>Objective 17.2.3 and Policy 17.2.3.5.</u>
Objective 17.2.4: <i>The productive potential of the rural residential zones for</i>	With regard to Objective 17.2.4 and policies 17.2.4.3 and 17.2.4.4, the

Objective/Policy	Assessment
<i>lifestyle blocks or hobby farms is maintained.</i> Policy 17.2.4.3: <i>Only allow general subdivision where resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living.</i> Policy 17.2.4.4: <i>Avoid general subdivision in the Rural Residential 2 Zone unless it does not result in an increase in residential development potential.</i>	application considers that the proposal is not inconsistent with Objective 17.2.4, although it is contrary to Policy 17.2.4.4. It states: <i>“Looking at the site overall, the proposed resultant site sizes and residential density will ... still allow for small-scale rural activities.</i> <i>...Policy 17.2.4.4 directs subdivision in the RR2 Zone to be avoided unless it does not result in an increase in residential development potential. The proposed subdivision is therefore contrary to this policy, but it will support Policy 17.2.4.3 (arguably more than the existing situation) and is not contrary to Objective 17.2.4 overall.”</i> The application concludes that <i>“...the proposal will create a net benefit for Dunedin, in a manner that enables a departure from Policy 17.2.4.4.</i> <i>Processing Planner’s Assessment</i> The proposal will maintain the productive potential of the rural residential zones for lifestyle blocks or hobby farms, because the proposed rural residential lots comply with the minimum 1ha density anticipated by the 2GP. The proposal is therefore consistent with <u>Objective 17.2.4</u>. Similarly, the resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock. The proposal is therefore consistent with <u>Policy 17.2.4.3</u>. The proposal will increase the residential development potential of the rural residential component of the overall site by two through subdivision, and it is therefore contrary to <u>Policy 17.2.4.4</u>.

Overall Objectives and Policies Assessment

- [163] The above assessment has found that the proposal is generally **consistent** with most of the relevant objectives and policies, but is **contrary to** Policy 17.2.4.4 (the avoidance of subdivision in the Rural Residential 2 zone unless it doesn’t result in an increase in residential development potential).

[164] While the rural land component of the subdivision sits comfortably with the 2GP objectives and policies, as does the subdivision of rural residential RoT OT15B/131 (proposed lots 10 and 11, to be held together), Policy 17.2.4.4 is considered to be a key consideration in the assessment of this subdivision proposal. The proposed subdivision of RoT OT263/100 to create proposed lots 5, 6 and 9 is at odds with this policy.

[165] I do not consider that this “avoid” policy can be disregarded. While the Rural Zone objectives and policies provide for subdivisions with resultant sites that contravene the minimum site size if they meet certain requirements (refer Policies 16.2.1.X, 16.2.3.8 and 16.2.4.3), there is no similar such softening of the “avoid” in Policy 17.2.4.4. As such, while I consider there are many positive benefits that would arise from the proposed subdivision and associated mitigation plantings and bolstering of indigenous vegetation, I am of the view that overall, substantial weight must be given to Policy 17.2.4.4; and consequently, that the proposal is **contrary to** the 2GP policy framework.

DECISION MAKING FRAMEWORK

Part 2 Matters

[166] It is considered that there is no invalidity, incomplete coverage or uncertainty within the Proposed 2GP. As a result, there is no need for an assessment in terms of Part 2 of the Resource Management Act 1991.

Other Matters

[167] 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 matters of precedent and Plan integrity are considered potentially relevant here. These issues have been addressed by the Environment Court, in *Frew v Dunedin City Council ENV-2019-CHC-129*, where the Court granted consent for the subdivision of a Rural Residential 2-zoned site into four lots, and land use consent for the residential development of the resultant lots. In that instance however, a number of relevant 2GP provisions were subject to appeal, and consequently the 2GP objectives and policies were given limited weight.

[168] In this case, the proposal is non-complying because the subdivision does not comply with the minimum site size standard which requires a minimum site size of 25ha in the Hill Slopes Rural zone; and because subdivision within the Rural Residential 2 zone is a **non-complying** activity.

[169] The relevant 2GP provisions are now beyond challenge, and, given the clear direction of the 2GP that subdivision in the Rural Residential 2 zone is not provided for, it is considered that granting consent to the proposal in its current form has the potential to create an undesirable precedent, and undermine the integrity of the 2GP.

Section 104D

[170] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of Section 104D require either that the adverse effects on the environment will be no more than minor, or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or proposed plan.

[171] As discussed above in the assessment of effects, overall I consider that the actual and potential effects associated with the proposed subdivision will be able to be mitigated

by imposing consent conditions so as to be **no more than minor** and therefore the first limb of Section 104D is met.

[172] In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of the plan. In order to be deemed contrary, an application needs to be repugnant to the intent of the District Plan and abhorrent to the values of the zone in which the activity was to be established. It is noted that in this instance, the proposal is assessed as being **contrary to** the 2GP policy framework. The proposed subdivision therefore fails the second limb of Section 104D.

[173] However, only one of the two tests outlined by Section 104D need be met in order for Council to be able to assess the application under Section 104 of the Act, and therefore it is appropriate for the Committee to undertake a full assessment of the application in accordance with Section 104 of the Act; and to consider granting the consent.

CONCLUSION

[174] Having regard to the above assessment, I recommend that the application in its current form be **declined**.

[175] Notwithstanding this, taking into account the multiple titles and dual zoning of the subject sites, together with the existing situation as it pertains to RoT OT15B/131 (proposed lots 10 and 11), I consider that if the proposal is amended to remove RoT OT263/100 (proposed lots 5, 6 and 9) from the proposed subdivision, together with the associated two building platforms, the resultant subdivision would have many positive benefits and sit comfortably with 2GP provisions, and could be approved.

[176] Should the Committee be of a mind to grant consent, recommended consent conditions are included as Appendix 5.

RECOMMENDATION

That:

1. *This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.*
2. *Pursuant to Part 2 and sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, and the provisions of the Operative Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **declines** a non-complying activity being the proposal to subdivide the land at 233 Leith Valley Road to create 12 lots from five existing titles, with two of the lots to be vested as road.*

Report prepared by:



Karen Bain
Associate Senior Planner

Report checked by:



John Sule
Senior Planner

Date: 8 November 2023

Date: 8 November 2023

APPENDIX 1:

The Application



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We

(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:

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:

Legal description:

Certificate of Title:

Contact details

Name: (applicant agent (tick one))

Address:

Postcode:

Phone (daytime):

Email:

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?

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):

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

Email Address of Deposit Payee:

Daytime contact phone number:

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:

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).

(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.

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.

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site?

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.

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.

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.

(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.

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):

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:

D18645 233 Leith Valley Rd
Rev B

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



3 June 2023

City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Attn: The Senior Planner

RESOURCE CONSENT APPLICATION

233 Leith Valley Rd, Leith Valley, Dunedin

On behalf of our client, we submit for consideration by the Dunedin City Council a resource consent application prepared in accordance with sch 4 of the Resource Management Act 1991.

The application seeks subdivision consent for a **non-complying** activity.

The following supporting documents are attached:

- Form 9
- Subdivision scheme plan rev D, Paterson Pitts Group, dated 230402
- Landscape effects assessment report, Mike Moore, dated 230405
- HAIL assessment report rev A, Paterson Pitts Group, dated 230603
- Records of Title OT15B/129, OT15B/131, OT202/225, OT263/100 and OT159/70

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

Vyvienne Evans
Planner

M: 021-198-0716
T: 03-477-3245
E: vyvienne.evans@ppgroup.co.nz

DUNEDIN:

P.O. Box 5933,
Dunedin 9058.
T 03 477 3245

CHRISTCHURCH:

P.O. Box 160094,
Christchurch 8441.
T 03 928 1533

ALEXANDRA:

P.O. Box 103,
Alexandra 9340.
T 03 448 8775

CROMWELL:

P.O. Box 54,
Cromwell 9342.
T 03 445 1826

QUEENSTOWN:

P.O. Box 2645,
Queenstown 9349.
T 03 441 4715

WANAKA:

P.O. Box 283,
Wanaka 9305.
T 03 443 0110

1 THE SITE

The subject site is the land at 233 Leith Valley Rd which has an area of 52.0248 ha and is owned by Leith Valley Properties Limited (the applicant). Technically, the subject site comprises five sites held in separate fee simple records of title.

- RT OT15B/129 contains Lots 2 and 10 Deposited Plan 23005 and Part Section 80 Block V Dunedin & East Taieri Survey District (16.9811 ha).
- RT OT15B/131 contains Lot 5 and 12 Deposited Plan 23005 (5.67 ha).
- RT OT202/225 contains Part Section 32 Block VII North Harbour and Blueskin Survey District (3755 m²).
- RT OT263/100 contains Part Sections 33 and 34 Block VIII North Harbour and Blueskin Survey District (9.5556 ha).
- RT OT159/70 contains Sections 64 and 65 Block V Dunedin & East Taieri Survey District (19.4426 ha).

The site is located on the western side of Leith Valley and has an undulating topography, but it generally slopes downhill to the southeast. The majority of the site is used for pastoral farming, but its steeper slopes are mostly covered in regenerating native bush. However, RT OT15B/131 is mostly covered in exotic trees areas of regenerating indigenous bush. Existing development on the site consists of a dwelling and sheds, all located on Pt Sec 33. Several small watercourses cross the site, and a more significant (but still unnamed) watercourse crosses the eastern end of RT OT15B/131. Additionally, the site is divided by multiple unformed legal roads (paper roads).

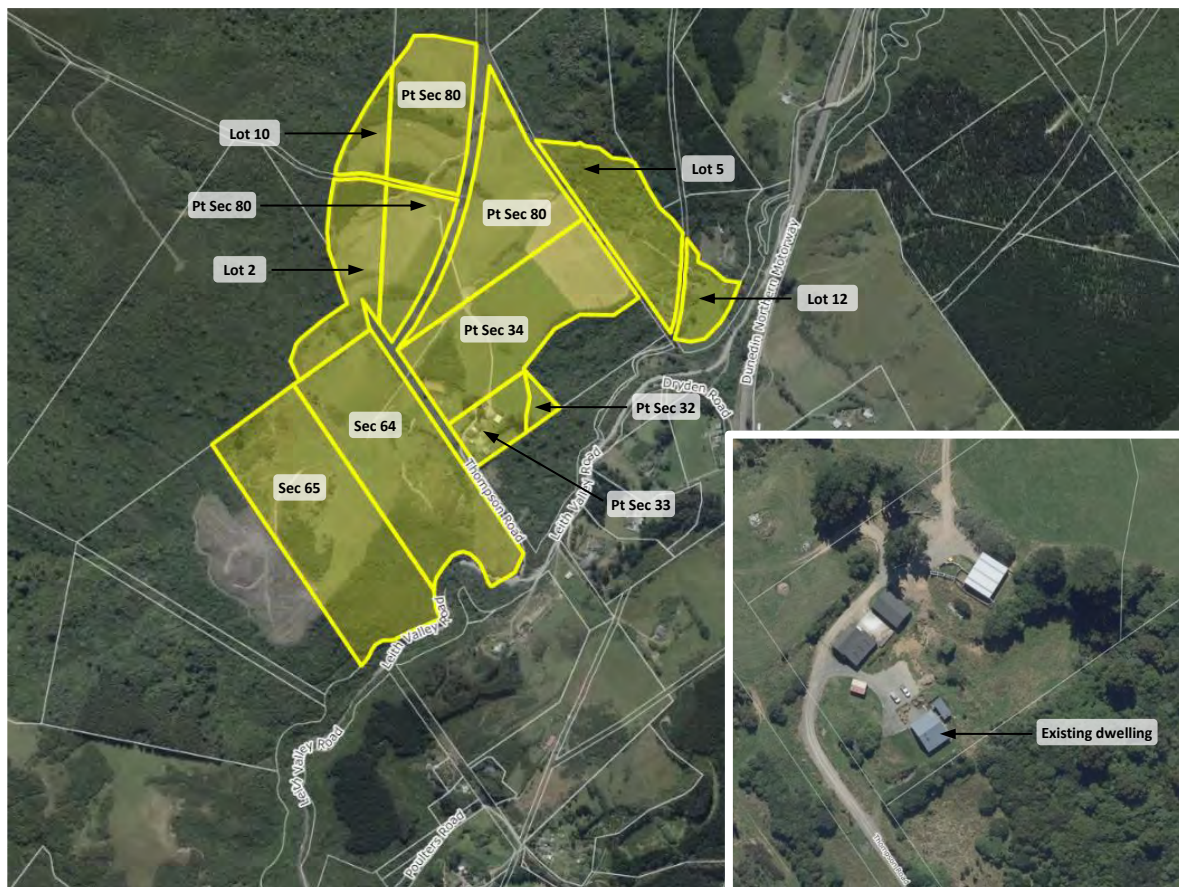


Figure 1. Aerial photo of the subject site (marked in yellow). Inset shows the existing development on Pt Sec 33 in more detail (source: www.grip.co.nz, retrieved 25 May 2023).

Under the Second Generation Dunedin District Plan (2GP), most of the site (RTs OT15B/129, OT159/70 and OT202/225) is zoned Hill Slopes Rural (HSR). However, RTs OT15B/131 and OT263/100 are zoned Rural Residential 2 (RR2). The subject site therefore contains three rural sites (although one is very small) and two rural residential sites, one containing an existing dwelling. The entire site is within the Flagstaff–Mt Cargill Significant Natural Landscape Overlay Zone (FMC-SNL). Additionally, small areas of Pt Sec 80 and Sec 65 are within Designation D679, which protects water catchments areas and raw water reservoirs for Dunedin’s water supply, including the Leith Valley catchment.

Key features of the site are described further below in relation to the proposal.

2 SURROUNDING ENVIRONMENT

Leith Valley runs southward, and is located between Mt Cargill to the east and Swampy Summit and Flagstaff to the west. The southern end of Leith Valley is mostly residential, and it becomes increasingly rural to the north. The site is located at the northern end of the valley, near its head. Accordingly, the site’s immediate surrounding environment comprises rural and rural residential land, local roads and paper roads (Figure 2).

- To the southeast, most of the site is bounded by Leith Valley Rd, which the 2GP classifies as a Local Road. However, the southeastern boundaries of Pt Secs 32–34 adjoin two reserves: Forest and Bird’s Moore’s Bush Reserve and the Leith Valley Scenic Reserve, which is public land administered by the Department of Conservation. The 2GP identifies Leith Valley Scenic Reserve as Area of Significant Biodiversity Value (ASBV) C039.
- The Water of Leith is located to the southeast of the site and is generally within the Leith Valley Rd corridor, except where it passes through Moore’s Bush Reserve and an existing esplanade reserve.
- To the northeast, the site is bounded by 317 and 383 Leith Valley Rd. These sites are described in more detail in Table 1 and can be seen in Figure 2.
- The remaining site boundaries to the north, west and southwest adjoin the Leith Valley water catchment, which the Dunedin City Council (DCC) Rates Map identifies as a DCC Water Supply Reserve administered by 3 Waters. This is reserve is within land zoned HSR.

Looking further afield, the upper Leith Valley RR2 Zone contains multiple sites (including 317 Leith Valley Rd) that are significantly smaller than 4 ha, but are large enough to contain residential activity at a compliant density (at least 1 ha). These sites are labelled letters A–G in Figure 2 and range in size from 0.4202 ha (55 Poulter Rd, labelled ‘B’) to 2.3088 ha (282 Leith Valley Rd, labelled ‘F’).

Table 1. Summary of the site’s immediate neighbours, although they only adjoin RT OT15B/131.

ADDRESS	AREA	LOCATION	SITE DESCRIPTION
317 Leith Valley Rd	2 ha	Northeast of site	A RR2 site with a dwelling at its southern end, approximately 30 m from the RT OT15B/131’s northeastern boundary. The area between the dwelling and the site contains a shed but is otherwise vegetated.
383 Leith Valley Rd	16.81 ha	Northeast of site	A HSR site covered in a mix of regenerating indigenous forest and exotic forestry.

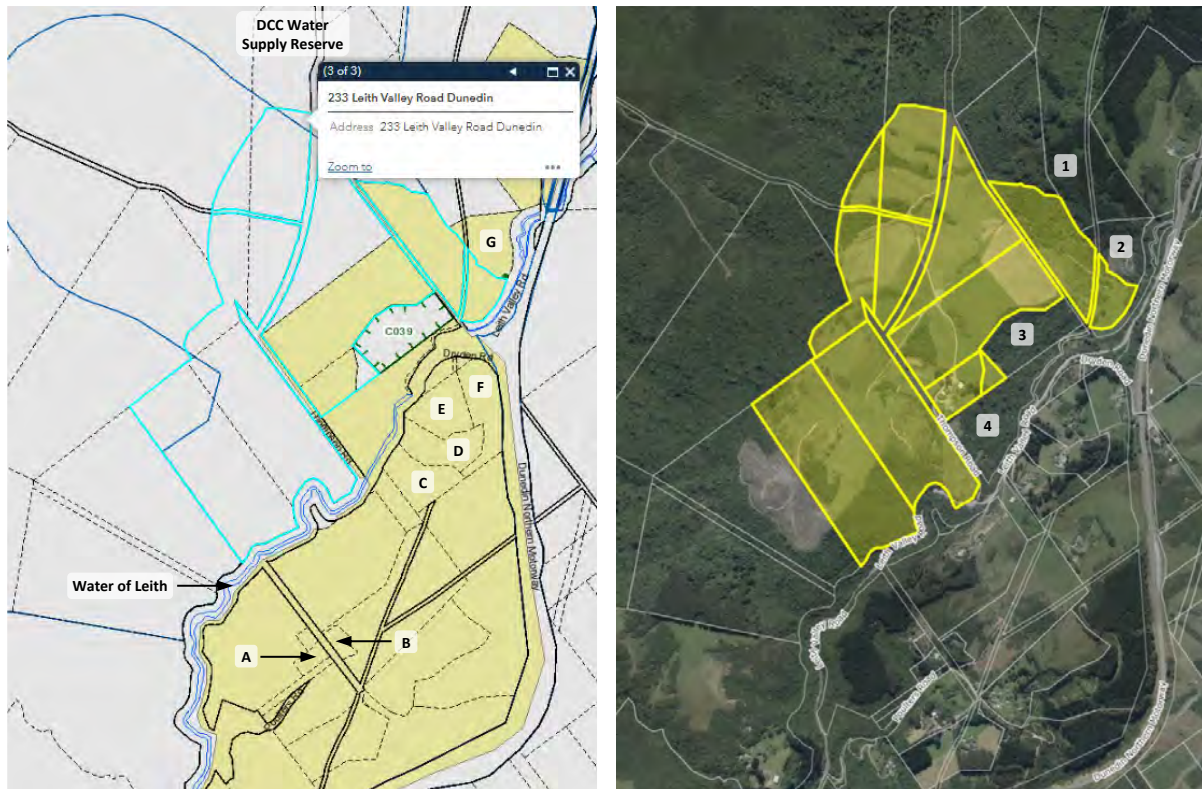


Figure 2. Excerpt of the 2GP Planning Map showing the zoning of the subject site and its surrounding environment (left) and an aerial photo of the site its surrounding environment (right). The site is marked in blue in the map excerpt and in yellow in the aerial photo. Letters A–G mark RR2 sites with areas of at least 1 ha but less than 4 ha. Numbers 1 and 2 mark 383 and 317 Leith Valley Rd, respectively. Numbers 3 and 4 mark the Leith Valley Scenic Reserve and Moore’s Bush Reserve, respectively. The dark blue line denotes Designation 679, which protects the Leith Valley water catchment (*aerial photo source: grip.co.nz, both retrieved 25 May 2023*).

3 THE PROPOSAL

The applicant proposes to subdivide the site, creating five new fee simple sites. Building platforms have been identified on each of the resultant sites and on RT OT15B/131.

- Lot 1 will be a 16.90 ha HSR site.
- Lots 2–4 will be a single 18.49 ha, mostly HSR site (a small part of Lot 4 will be in the RR2 Zone). They are individual lots as they are separated by paper roads.
- Lot 5 will be a 2.40 ha RR2 site.
- Lot 6 will be a 6.00 ha, mostly RR2 site. It will contain part of Pt Sec 80, so a small part of it will be zoned HSR.
- Lot 9 will be a 2.40 ha, mostly RR2 site that contains the existing dwelling and farm buildings. It will contain Pt Sec 32, so 3755 m² of it will be zoned HSR.

With RT OT15B/131 being an existing 5.67 ha RR2 site, the proposal will result in the subject site’s existing land area accommodating six sites in total, each able to contain a dwelling. However in effect, only one additional site will be created. Proposed Lots 7 and 8 are functionally part of Leith Valley Rd, and the applicant is satisfied that these parcels can be vested to DCC as legal road (assuming that this is a desirable outcome for DCC).

Key elements of the proposal are described further below and are illustrated by the subdivision scheme plan.

3.1 Legal matters

The only relevant interest on the existing titles is Easement Certificate 833915.1. This created rights of way (ROWS) over Lot 13 DP 23005 (Lot 2 DP 24525, 317 Leith Valley Rd) and Lot 16 DP 23005, (an esplanade reserve) in favour of RT OT15B/131. These rights will be unaffected by the proposed subdivision.

The only proposed easement is a ROW over Lot 5 in favour of Lot 6. However, the proposal involves protecting existing bush on the site (see section 3.6), and this will be achieved by a covenant.

3.2 Natural hazards

According to the 2GP and the ORC Natural Hazards Database, the only natural hazard associated with the site is land instability. As section 1 mentioned, the site has an undulating topography. It is located on the relatively gentle mid-slopes on the western side of Leith Valley, but there are still steeper areas within the site, and in some places, it is sloping by more than 26°. These more extreme slopes are at the southern end of the site, where it slopes downhill to the Water of Leith.

The building platforms on all the resultant sites have been located in areas sloping by less than 12°. On RT OT15B/131, the identified building platform is at the edge of a steeper area, where slopes range from less than 12° up to 26°. This location has been chosen because it is high enough to enjoy good sunlight access and views, it is not covered in regenerating indigenous bush, and it is near an existing farm track.

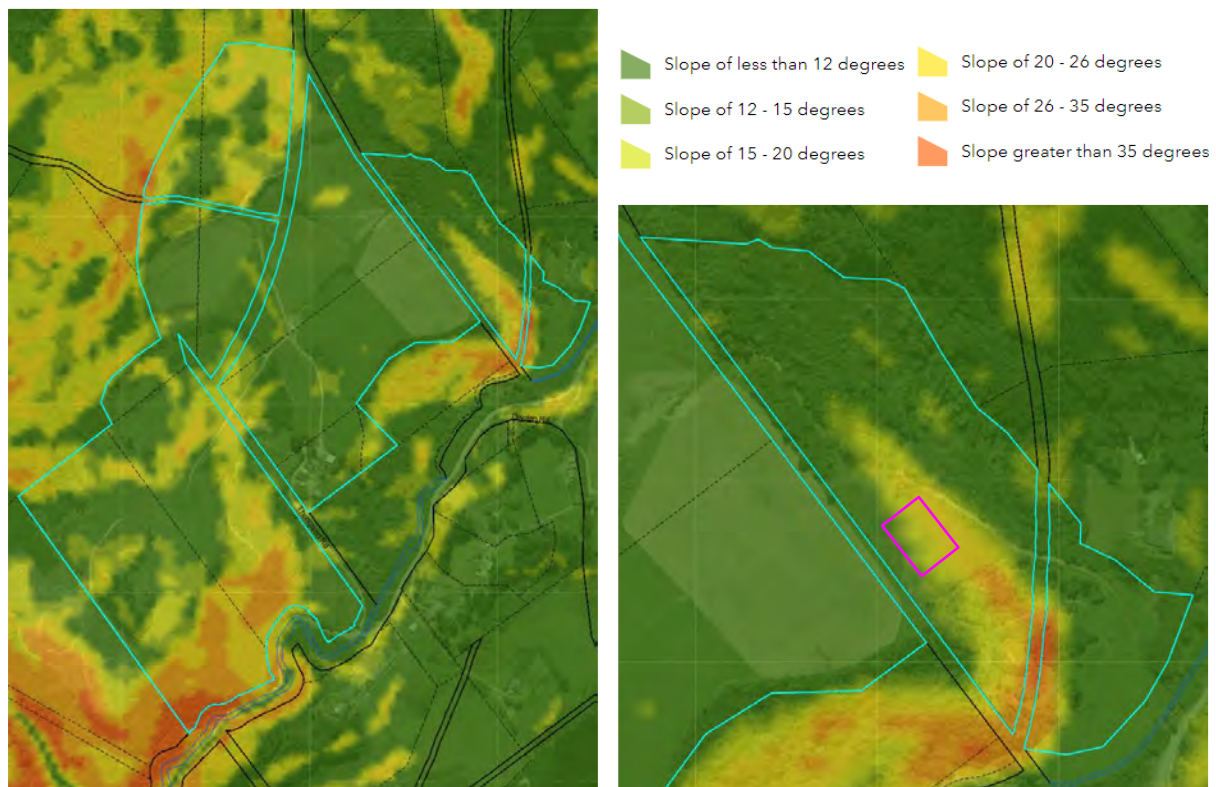


Figure 3. 2GP Data Map excerpts showing the slope of the subject site (marked in blue). The excerpt on the left shows the entire site, and the excerpt on the right shows RT OT15B/131 in more detail, and the approximately location of its building platform (*retrieved 29 May 2023*).

The greater concern with respect to land instability is the site's proximity to landslides. ORC mapping shows there are landslides on the site itself, and larger landslides above it. There is limited information about all these landslides, and no record their activity. However, they are all mapped as probably prehistoric, having a possible-to-likely certainty and a low or medium sensitivity. The landslides on the site itself are of medium sensitivity and likely certainty. The building platforms on Lots 5, 6 and RT OT15B/131 are closest to these landslides, with the Lot 5 building platform being located adjacent to the larger one. Additionally, the existing dwelling on Lot 9 is located within the same landslide and is over 100 years old (see the attached HAIL assessment report). The building platforms on Lot 6 and RT OT15B/131 are upslope from the landslides within the site (Table 2, Figure 4).

Table 2. Summary of the key features of the landslides on and above the subject site.

LANDSLIDE ID	CERTAINTY	SENSITIVITY	TIME OF INITIATION	ACTIVITY
101070	Likely	Medium	Probably prehistoric	Unknown
101215	Likely	Medium	Probably prehistoric	Unknown
101211	Likely	Low	Probably prehistoric	Unknown
101210	Possible	Low	Probably prehistoric	Unknown
101072	Likely	Low	Probably prehistoric	Unknown



Figure 4. ORC Natural Hazards Database landslide mapping excerpt showing the landslides on the subject site and on the hills to the north and west. Inset shows the landslides on the site in more detail, and the approximate location of the building platforms on Lots 5, 6 and RT OT15B/131 (left to right) (retrieved 30 May 2023).

3.3 Transportation

The site has frontage to Leith Valley Rd and multiple paper roads. One of these roads, Thompson Rd, is partially formed with gravel up to Pt Sec 33, where the existing dwelling is located. There are several farm tracks off Thompson Rd that run through the site. There is also vehicle access to the site via a formed driveway within the ROW over 317 Leith Valley Rd described in section 3.1, which becomes a farm track where it enters RT 15B/131.

RT OT15B/131's existing access arrangement, via the ROW over 317 Leith Valley Rd, will be unaffected by the proposal. The resultant sites will be accessed from the existing farm tracks off Thompson Rd, which are shown on the subdivision scheme plan. In the case of Lot 5, this will be provided for by the proposed ROW mentioned above.

We also note that:

- As section 3 mentioned, Lots 7 and 8 are to be vested with DCC as legal road, because they already function as part of Leith Valley Rd.
- We propose that, if DCC wishes, part of Lot 1 is set aside to provide space for a public car parking area, which could serve visitors to Moore's Bush. If this was a desirable outcome for DCC, an easement gross could be provided as part of the subdivision to formally protect part of Lot 1 in a manner that will enable future public car parking to be readily established.

3.4 Infrastructure

The site is in a rural area that is not provided with public water infrastructure. Consequently, the existing dwelling on the site has connections to electricity and telecommunications networks, but its water services are accommodated onsite.

The proposed resultant sites and RT OT15B/131 will have onsite water services installed at the time of future development. This will include sufficient water supply for firefighting in accordance with SNZ/PAS:4509 2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. All of these sites are large enough to accommodate onsite stormwater and wastewater disposal.

3.5 Earthworks

Earthworks will be required for future residential development of the site, to construct dwellings, bury services and finish construction of (some of) the farm tracks. However, no earthworks are required for the proposed subdivision.

3.6 Landscape and rural character values

The proposal involves subdividing land that is not only in the HSR and RR2 Zones, but also the FMC-SNL. Consequently, the applicant engaged Mike Moore, landscape architect, to assess its effects on the landscape and rural character values of the area and recommend any necessary mitigation measures. Mike Moore has prepared the attached landscape effects assessment report, which our later discussion of the proposal's effects on landscape and rural character values relies upon. The report's description of the site's relevant landscape context, the upper Leith Valley, is summarised below.

The upper Leith Valley is a broad valley landform and is traversed by the main northern access to and from Dunedin—the Dunedin–Waitati Highway, which is Part of State Highway 1 (SH 1). There are a mix of land uses in this area, and consequently its landscape is of mixed quality.

The western side of the valley (including the site and its surrounds) has high natural character and coherence values due to extensive indigenous vegetation cover, low impact of built form and a legible natural landform.

- There is an attractive gradation in land cover from the Swampy skyline down to the valley floor: there is indigenous grassland/shrubland at the sky, remnant and regenerating indigenous bush on the valley's upper slopes, and farmland and dwellings dominate the valley's mid-slopes and floor.
- There is regenerating indigenous bush within the subject site, and adjoining reserve land contains remnant and regenerating podocarp/ broadleaved hardwood forest.
- The character of the upper Leith Valley is generally rural, but there is also an area of rural residential land. This area sits comfortably within the more rural and natural setting described above, and generally has low visibility from nearby roads.
- The pattern of gentler slopes being used for pasture and regenerating indigenous bush cover on steeper slopes is coherent on the natural landform and supports landform legibility and rural amenity. This pattern is present on the subject site.

The eastern side of Leith Valley has a less pronounced natural character and a lower landscape quality due to the effects of exotic forestry in this area.

The report recommends multiple mitigation measures to ensure that the proposed subdivision (and future residential development on the resultant sites and RT OT15B/131) integrates well with the landscape.

1. All buildings, including dwellings, accessory buildings and buildings associated with rural land use, are to be located within the identified building platforms on each lot.
2. Dwellings shall be no higher than 5 m and other buildings no higher than 4 m above existing or modified ground level.
3. Buildings shall be designed to minimize the need for earthworks, and any earthworks shall be designed to blend seamlessly with the natural landforms surrounding. Any retaining walls are to be screened so as not to be visible from public roads.
4. Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), building colours for new buildings are to be selected to ensure that contrast with the dominant hues of the surrounding rural landscape is minimized. Light reflectivity values (LRV) shall be no more than 20%.
5. All services are to be located below ground.
6. Water tanks are to be coloured, sited, and buried and/or screened (by planting) to have minimal visual impact from beyond the property.
7. All fencing is to be confined to rural post and wire fencing no greater than 1.2 m high, or 2 m for deer fencing, or stone walls using locally appropriate rock, no higher than 1.5 m.
8. Driveways are to have a rural character with metal surfacing and no kerb and channel. There is to be no driveway lighting or monumental gates.
9. Other than for amenity plantings below 2 m mature height within 20 m of a dwelling, or fruit trees, any tree and shrub plantings are to be comprised of indigenous species appropriate to the area. A planting list is provided in Appendix A of the report as a guide.
10. The 'bush protection' areas are to be protected and managed to maintain and enhance their natural values and / or impact in mitigating the visual impact of built form. This shall include fencing to protect from stock browsing, control of animal pests, removal / control of pest / weed plant species, and facilitation of natural regeneration of indigenous species.
11. Mitigation planting is to be established within 1 year of the commencement of building on the site. Planting shall be established and managed in accordance with the guidelines outlined in Appendix A of the report.

4 REASONS FOR APPLICATION

The documents referred to in s 104(1)(b) of the Resource Management Act 1991 (RMA) with rules and regulations relevant to the proposal are:

- The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
- The 2GP.

The proposal is assessed against the relevant rules and regulations of these documents below.

Note, the site does not contain any highly productive land (HPL), so the National Policy Statement for Highly Productive Land 2022 (NPS-HPL), does not apply to the proposal (see also section 9.2).

4.1 NES-CS

The NES-CS came into force on 1 January 2012. It applies when a person wants to do an activity described in reg 5(2)–(6) on a piece of land described in reg 5(7) or 5(8), unless the requirements of reg 5(9) are met.

- A piece of land described in reg 5(7) is one on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being, has been or is more likely than not to have been undertaken.
- Reg 5(8) describes when the NES-CS applies to a piece of land that is production land.
- Reg 5(9) states that the NES-CS does not apply if a Detailed Site Investigation shows that any contaminants in or on a piece of land are at, or below, background concentrations.

The proposal involves subdividing residential and production land, and establishing residential activity on some of the production land. Therefore, if the site contains a piece of land described by reg 5(7), the proposal will involve the activities described in regs 5(4) and 5(5) and the NES-CS will apply.

The attached HAIL assessment report concludes that more likely than not, no HAIL activity has been undertaken on the site. It therefore does not contain a piece of land described in reg 5(7) and the NES-CS does not apply.

4.2 2GP

As section 1 mentioned, the site is zoned both Hill Slopes Rural (HSR) and Rural Residential 2 (RR2) and is within the FMC–SNL. Additionally, small parts of the site (Pt Sec 80 and Secs 64–65, which will be the Lots 2–4 site and Lot 1) are within Designation D679. However, the proposed building platforms on Lots 1 and 2 will be outside the designation.

SUBDIVISION ACTIVITIES

The proposal involves a fee simple subdivision. This meets the definition of general subdivision, an activity in the subdivision activities category. General subdivision is a restricted discretionary activity in rural zones if it complies with the relevant performance standards (rule 16.3.5.1). However, general subdivision (unless it is for biodiversity, reserves, access/roading or network utilities) is a non-complying activity in the RR2 Zone (rule 17.3.5.3).

For this reason, and because the proposal will contravene the minimum site size standard for the HSR Zone (Table 3), the proposed subdivision is **non-complying** activity.

We note that the standards for firefighting, service connections, minimum site size and shape do not apply to sites used solely as roads. They therefore do not apply to Lots 7 and 8, which will become part of Leith Valley Rd.

Table 3. Compliance of the proposed subdivision with relevant the performance standards.

PERFORMANCE STANDARD	COMPLIANCE	COMMENT
Access Rules 6.8.1, 16.7.1, 17.7.1	Complies	—
Esplanade reserves and strips Rules 10.3.1, 16.7.2, 17.7.2	Not applicable	—
Firefighting Rules 9.3.3, 16.7.3, 17.7.3	Complies	—
Service connections Rules 9.3.7, 17.7.4	Complies	The resultant sites (and RT OT15B/131, although this is an existing site) will have telecommunications and power in accordance with rule 9.3.7.X. However, as they are not in an area that is provided with public water infrastructure, their water services will be accommodate onsite.
Minimum site size Rules 16.7.4, 17.7.5	Does not comply	The minimum site size in the HSR Zone is 25 ha (rule 16.7.4.1.d). Lot 1 and the Lots 2–4 site will be smaller than 25 ha, although we note that they will be virtually the same size as the two existing rural sites (therefore the subdivision between the existing titles is best described as a boundary adjustment subdivision). The 25 ha minimum site size also applies to Lots 6 and 9, as they will contain some land in this zone, and they will not comply with it. None of the exemption rules for surplus dwelling subdivision are relevant, so this aspect of the proposal is a non-complying activity (rule 16.7.4.3). We note that in the RR1 Zone, the minimum site size is 2 ha (rule 17.7.5.1), and Lots 5, 6 and 9 will all be larger than 2 ha. However, subdivision in the RR2 is not anticipated at all, and accordingly the proposed subdivision is considered to be non-complying under 17.7.5.3.
Shape Rules 16.7.5, 17.7.6	Complies	The resultant sites containing building platforms (Lots 1, 2, 5 and 6) will comply with this standard. Lot 9 contains an existing dwelling, so the parts of this standard relating to building platforms do not apply to this site (rules 17.7.6.1–17.7.6.2). The RT OT15B/131 building platform will be located on slopes greater than 12°. However, this is an existing site, so none of the subdivision performance standards actually apply.

Setback from National Grid Rules 5.6.1.X, 16.7.X 15.7.X	Not applicable	—
Structure plan mapped area performance standards Rule 17.8	Not applicable	—

LAND USE ACTIVITIES

The proposal will result in the resultant sites and RT OT15B/131 being used for being used for residential activity at a domestic scale, which meets the definition of standard residential, an activity in the residential activities category. Standard residential is permitted activity in the RR2 and HSR zones, provided it complies with the relevant performance standards (rules 16.3.3.26, 17.3.3.12,). Residential activity on all the resultant sites and RT OT15B/131 will be able to comply with the relevant performance standards and is therefore a **permitted** activity. We note that none of the circumstances specified in rule 16.5.10.1 apply, so the separation distances performance standard is not relevant.

It is worth discussing the relevant density standards in more detail. On HSR sites, the minimum site size to establish a residential is 15 ha (rule 16.5.2.1.d). Under rule 16.5.2.1.j:

- If a site is crossed by a boundary between two or more rural zones, the maximum density of the standard residential activity must meet the density required for the rural zone in which it is to be established.
- The total site size must meet the minimum site size for the zone in which the residential activity is to be established.
- For each new residential activity per site, a minimum of 2 ha of the site per residential activity must be located within the rural zone in which the activity is to be established.

In the RR2 Zone, a single residential activity is permitted on each site that has an area of at least 1 ha (17.5.2.1.d). In the RR1 Zone, the minimum site size per residential activity is 2 ha (rule 17.5.2.1.a). We note that on the resultant sites containing leftover pieces of HSR land (Lots 6 and 9), building platforms are proposed on within their RR2 area, so the rural residential provisions apply.

Lot 1 and the Lots 2–4 site will be larger than 15 ha, and Lots 5, 6 and 9 will all be larger than 2 ha. Notwithstanding the non-complying activity status of the subdivision component, the resultant sites can accommodate standard residential activity at a compliant density. Additionally, new residential activities can already be established as a permitted activity on RTs OT15B/129, OT159/70 and RT15B/131 (although the relevant development performance standards would apply, and any dwellings would most likely need land use consent under the area, number and location of buildings and structures standard). Establishing residential activity on Pt Sec 32 (RT OT202/225) would be a non-complying activity (rule 16.5.2.3).

DEVELOPMENT ACTIVITIES

The erection of new buildings (an activity in the development activities category and the buildings and structures sub-category) is a permitted activity in the HSR and RR2 zones (rules 16.3.4.5, 17.3.4.5). However, we note that new buildings in a SNL must meet the standards for area, number and location of buildings and structures (rules 10.3.5, 16.6.6, 17.6.X) and reflectivity (rules 16.6.9, 17.6.8).

Under rule 10.3.5, only buildings with a footprint smaller than 60 m² are permitted, but the erection of larger buildings is a controlled activity if they are located on a landscape building platform (LBP) and do not have a gross floor area (GFA) greater than 400 m². If a building on a LBP exceeds the

400 m² GFA limit, its erection is a discretionary activity. The identified building platforms will be registered as LBPs. Additionally, the erection of buildings in the HSR generally is also only a permitted activity if they have a GFA smaller than 400 m² (rule 16.6.6.Y.b).

Under rule 16.6.9, buildings are required to have an LRV of 30% or less. The proposed mitigation measures include a maximum LRV of 20%, so future dwellings on the resultant sites and RT OT15B/131 will comply with this standard.

CITY-WIDE ACTIVITIES

Earthworks are a city-wide activity in the earthworks activities category. Earthworks – small scale and earthworks – large scale are sub-activities of earthworks.

- Provided they comply with the relevant performance standards, earthworks – small scale are a permitted activity and earthworks – large scale are a restricted discretionary activity (rules 8A.3.2.2 and 8A.3.2.3, respectively).
- Earthworks listed in rule 8A.5.1.1 are always considered small scale. All other earthworks must not exceed the scale thresholds in rules 8A.5.1.3–8A.5.1.5 to be considered small scale (rule 8A.5.1.2.a).

The proposal does not involve earthworks, but earthworks will be required as part of future residential development on the resultant sites and RT OT15B/131. Consequently, for completeness, we note that in this case the relevant scale thresholds are more restrictive than those that usually apply to rural and rural residential sites, because of the SNL. For maximum change in finished ground level the threshold is 1.5 m (rule 8A.5.1.3.v). The maximum area of earthworks is 200 m². For maximum volume of combined cut and fill, the overall volume is 50³ where the site is sloping by no more than 26°. No fill is permitted where slopes are greater than this, but we do not expect that future earthworks will be undertaken on such steep slopes.

4.3 Overall activity status

In summary, the proposal requires resource consent under the 2GP for the following reasons:

- General subdivision is a restricted discretionary activity in rural zones (rule 16.3.5.1).
- General subdivision is a non-complying activity in the RR2 Zone (rule 17.3.5.3).
- General subdivision that contravenes the minimum site size is a non-complying activity in the rural zones (rule 16.7.4.3).

Overall, we consider the proposal's activity status to be **non-complying**.

5 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Under s 104B of the RMA, after considering an application for a discretionary or non-complying activity, a consent authority may exercise unrestricted discretion in granting or refusing consent. There are therefore no matters to which the consideration of this application is restricted.

Nevertheless, our assessment of environmental effects (AEE) for the proposal responds to the 2GP matters of discretion relevant to subdivision in rural, rural residential zones and SNLs and the contravention of the minimum site size performance standard (Table 4) as well as to other relevant effects.

Table 4. 2GP matters of discretion relevant to the proposal.

ACTIVITY/PERFORMANCE STANDARD	MATTERS OF DISCRETION
General subdivision in rural zones	• Effects on long term maintenance of rural land for productive rural activities (rule 16.10.4.1.a) • Effects on rural character and visual amenity (rule 16.10.4.1.b) • Positive effects on biodiversity values or the natural character of the coast (rule 10.6.3.1) • Effects on biodiversity values and natural character values of riparian margins and coast (rules 10.6.3.5.a, 16.10.4.1.c) • Effects on public access (rules 10.6.3.5.b, 16.10.4.1.d) • Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 16.10.4.1.e) • Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7, 16.10.4.1.f)
General subdivision in the RR1 Zone	• Effects on onsite amenity (rule 17.10.4.1.a) • Effects on rural residential character and visual amenity (rule 17.10.4.1.b) • Effects on long term maintenance of rural land for productive rural activities (rule 17.10.4.1.c) • Positive effects on biodiversity values or the natural character of the coast (rule 10.6.3.1) • Effects on biodiversity values and natural character of riparian margins and the coast (rules 10.6.3.5.a, 17.10.4.1.d) • Effects on public access (rules 10.6.3.5.b, 17.10.4.1.e) • Effects on efficiency and affordability of infrastructure (rules 9.6.2.2, 9.6.2.2.a, 17.10.4.1.g) • Effects of stormwater from future development (rule 9.6.2.2.b) • Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7, 17.10.4.1.h) • Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 17.10.4.1.i)
General subdivision in SNL	• Positive effects on biodiversity values or the natural character of the coast (rule 10.6.3.1) • Effects on landscape values (rules 16.10.5.3, 17.10.5.2)

5.1 Positive effects

Although the proposal is for a non-complying subdivision, it will have several positive effects on the environment. First, it will provide for lifestyle farming on already fragmented rural land, thereby reducing the pressure for subdivision on the more productive parts of the rural environment.

Second, the proposal will result in the existing, very small rural site within the subject site (RT OT202/225) becoming part of a 2.40 ha rural residential site. As section 5.2 discusses, this will positively effect the productivity of rural land.

Third, having the building platforms on the site considered together means a holistic approach that considers their combined effects can be taken to determining their locations and appropriate mitigation measures. In comparison, dwellings could already be erected independently of each other on RTs OT15B/129, OT159/70, RT15B/129 and potentially on OT202/225, if land use consent was obtained.

Finally, the proposed mitigation measures will not only reduce the adverse effects of the proposed subdivision and future residential development, but will also have positive effects.

- The most significant positive effects will be on biodiversity values (which is a relevant assessment matter under rule 10.6.3.1). The areas of regenerating bush on the site will be protected through a covenant, and additional planting of indigenous species will be undertaken. The proposed bush protection is particularly useful in this case, as the site adjoins two reserves, one of which is identified as an ASB. The proposal will therefore help to enhance the biodiversity of these areas and connectivity with the extensive area of indigenous vegetation above the site.
- If DCC supports the proposed parking area, the proposal will also positively affect public access to Moore's Bush Reserve, which is currently served by a small parking area with very limited car parking capacity.
- Additionally, we consider that the proposed mitigation measures will have better outcomes for the landscape and rural character and amenity, compared to what could be expected if the existing sites were developed independently. In addition to the bush protection and planting, a suite of development mitigation measures are proposed, and these will restrict the visual effects of earthworks, LRVs, the visibility of services and the design of fences and driveways beyond the requirements of the 2GP.

5.2 Effects on long term maintenance of rural land for productive rural activities (rules 16.10.4.1.a, 17.10.4.1.c)

In this case, the site contains both HSR and RR2 land, and the proposal needs to ensure that the productivity of rural activities is maintained in accordance with the expectations for each zone. We note that RT OT15B/131 is an existing site whose productivity will be unaffected by the proposal, and that the site does not contain HPL (see also section 9.2).

Regarding rural land, the subject site contains three existing rural sites. Two of these are undersized but larger than 15 ha: RTs OT159/70 (19.4426 ha) and OT15B/129 (16.9811 ha). The proposal will change the size and boundaries of these sites, but these changes will not be significant. Following the proposed subdivision, the land held in RT OT159/70 will mostly be within Lot 1, which will have an area of 16.90 ha. The land held in RT OT15B/129 will mostly be within Lots 2–4, which will be a single 18.49 ha site that is mostly zoned HSR.

The third rural site is RT OT202/225m a 3,755 m² leftover land parcel that is too small to be a productive farm or lifestyle block. As mentioned above, it will become part of Lot 9, a 2.40 ha RR2 site that will contain the existing development on the subject site. This will enhance rural productivity by removing the possibility of RT OT202/225 being sold as a separate site, rendering it suitable only for residential activity (although this would be a non-complying activity).

Regarding productivity in the RR2 Zone, RT OT263/100 is a 9.5556 ha site that will be subdivided into three lots: with Lot 5 being entirely RR2 land (2.40 ha), Lot 9 containing RT OT202/225 (2.40 ha) and Lot 6 containing part of RT OT15B/129 (6.00 ha). The proposed subdivision will mean farming at the scale currently possible on RT OT263/100. However, notwithstanding this and the non-complying activity status of subdivision the RR2 Zone, the 2 ha minimum site size in the RR1 Zone clearly indicates that a 2 ha lifestyle block be productive. Lots 5, 6 and 9 will therefore all be large enough to be used for small-scale productive rural activities

Overall, we consider the proposal's adverse effects on long term maintenance of rural land for productive rural activities to be **nil**.

5.3 Effects on landscape, character and amenity

To avoid repetition, this section will address all of the following: effects on landscape values (rules 16.10.5.3, 17.10.5.2); effects on rural character and visual amenity (rule 16.10.4.1.b) and effects on rural residential character and visual amenity (rule 17.10.4.1.b)

There are a few general considerations to address first.

- The proposal will result in 5 additional nodes of built form within the upper Leith Valley landscape. Access tracks to the resultant sites are largely existing and in general, follow the contours of the landform. Consequently, the proposal's visual effects will result primarily from future dwellings on the resultant sites and the earthworks required to construct them.
- The subdivision layout, building platform locations and mitigation measures have been modified in response to advice from Mike Moore, to ensure that the future development within the area of the subject site integrates well into the landscape.
- In particular, the applicant recognises that the naturalness of the landscape increases from the floor of the upper Leith Valley up to the Swampy skyline, and that the upper slopes of the valley are iconic and contribute to the setting of Dunedin. Consequently, development has been restricted to the lower parts of the site to ensure that the naturalness of the upper slopes, and therefore the amenity and coherence of the landscape, is preserved.
- Although residential density will increase as a result of the proposal, it will remain within the range anticipated within and characteristic of the HSR and RR2 Zones.

A full assessment against all the relevant values of the FMC-SNL and the HSR Zone is provided in Appendix 3 of the landscape effects assessment report.

PHYSICAL EFFECTS

The earthworks required to construct dwellings on the identified building platforms will have gentle gradients and the proposed mitigation measures will ensure that their effects on the landform will be limited to an appropriate degree. Additionally, any earthworks that exceed the scale thresholds will require a separate land use consent, and their effects will be considered in detail through that process.

Regarding the dwellings themselves, the proposed mitigation measures will ensure that their effects on the landscape and rural character are modest. Further, the proposed bush protection and planting will ensure that the naturalness and coherence of the landscape are protected and enhanced. In particular, the existing pattern of pasture on gentler slopes and indigenous bush on steeper slopes will be retained and protected.

VISUAL EFFECTS

The landscape effects assessment report identified that the site is visible within the upper Leith Valley from the motorway, Leith Valley Rd and Cowan Rd, as well as from higher viewpoints on the surrounding hills and from a few dwellings in the area. The visual effects of the proposal were assessed from three public viewpoints considered to be representative of viewpoints in the area: SH1, Leith Valley Rd and Cowan Rd. Photos taken from these viewpoints are provided in Figure 2–Figure 6 of the report.

From SH1 and Leith Valley Rd, rural visual amenity values are high. The site is seen as rolling pastoral farmland with fingers of indigenous bush running through it. It is set against a foreground of regenerating indigenous bush (with exotic species mixed in) and a backdrop of extensive vegetation

on the slopes above it. From these viewpoints, the existing farm tracks integrate well with the landform and the visibility of future dwellings on the resultant sites will generally be minimal due to screening by the landform and bush. A future dwelling on Lot 1 will be partially visible from Leith Valley Rd, but the effects of this will be mitigated by viewing distance, screening and the proposed development mitigation measures. These measures will also help to ensure that any visibility of future dwellings on the resultant sites will not be incongruous in the settled rural landscape.

From Cowan Rd, the site is seen as part of the settled rural landscape at the floor/on the mid-slopes of the upper Leith Valley. The coherent pattern of pasture and indigenous vegetation is visible and contributes significantly to rural amenity and aesthetic values in the area of the site. Naturalness and coherence are more modified where exotic forestry is present, including on the adjacent sites to the northeast. From this viewpoint, the existing farm tracks still integrate well with the landform. From this viewpoint, a future dwelling on RT OT15B/131 will be completely screened, dwellings on Lots 1 and 2 will be largely screened, and a dwelling on Lot 6 will be partially screened. A future dwelling on Lot 5 will be visible, but its effects will be mitigated by the proposed development controls, along with its location adjacent to a larger area of bush.

More generally, the site is not high or visually prominent enough to significantly affect the backdrop to urban Dunedin, it has modest visibility from urban Dunedin and public roads, and the proposal will have no effects the iconic landmark features of Dunedin.

Overall, the proposed mitigation measures, especially the proposed bush protection, planting and development controls, will ensure that future development on the resultant sites and RT OT15B/131 will integrate acceptably into the existing landscape.

RURAL RESIDENTIAL CHARACTER AND AMENITY

It is worth addressing the effects on the RR2 Zone specifically, as it is in this zone that all subdivision has a non-complying activity status. The policy behind this is discussed further in section 8, but we note that in general, the 2GP anticipates RR1 zoning as appropriate for clusters of sites where the average site size is greater than 2 ha but less than 4 ha, while RR2 zoning is generally appropriate for clusters of sites with an average site size between 4 ha and 10 ha. When taken as a whole, the Leith Valley RR2 Zone evidently meets the criteria for RR2. However, we note that the site is in a part of this zone where there is an enclave of sites in the order of 2 ha, and there are two sites significantly smaller than 1 ha to the southwest.

We therefore consider that another factor that will help to ensure the new RR2 sites (Lots 5, 6, and 9) are compatible within their zoning and integrate acceptably into the landscape is their proximity to an area of sites in the order of 2 ha.

SUMMARY

The proposal will result in additional development in an area with recognised natural landscape values, so it will have some adverse effects on landscape and character. However, regarding the degree of these effects, the site's modest visual prominence, the proposal's minimal effects on the upper slopes of Leith Valley and the proposed mitigation measures will ensure that the existing landscape pattern and the character and amenity of the area are maintained.

The landscape effects assessment report therefore concludes that the proposed subdivision and future residential development on the resultant sites will have very low adverse effects on landscape values and existing character in the area, and can occur without compromising either one. We adopt this conclusion here.

Overall, we consider the proposal's adverse effects on landscape, character and amenity to be **less than minor**.

5.4 Effects on onsite amenity (rule 17.10.4.1.a)

The resultant sites will all meet the applicable minimum site size for a residential activity to be established. They will also enjoy extensive views—some over the surrounding hills and others out over Leith Valley and urban Dunedin.

Overall, we consider the proposal's adverse effects on onsite amenity to be **nil**.

5.5 Effects on the amenity of surrounding sites

As section 2 mentioned, the site only adjoins two privately owned rural residential zones, and only 317 Leith Valley Rd is occupied by residential activity—383 Leith Valley Rd is vacant and is currently primarily a forestry block. Moreover, both these sites adjoin RT OT15B/131, which will be unaffected by the proposal except that it will have an identified LBP. They will be very distant from the rest of the site.

Nevertheless, we note that the existing dwelling on 317 Leith Valley Rd is set well back from the subject site, and there is vegetation along both sides of the shared boundary between the sites. More importantly, the RT OT15B/131 building platform is located a significant distance and uphill from 317 Leith Valley Rd, so noise and visual amenity effects of future residential activity will be amenity. The proposal will not result in any increase in the volume of traffic using the ROW over 317 Leith Valley Rd beyond what is already anticipated by the 2GP.

Overall, we consider the proposal's adverse effects on the amenity of surrounding sites to be **less than minor**.

5.6 Effects on the natural environment and public access

This section addresses the following assessment matters: effects on biodiversity values and natural character values of riparian margins and coast (rules 10.6.3.5.a, 16.10.4.1.c, 17.10.4.1.d); and effects on public access (rules 10.6.3.5.b, 16.10.4.1.d, 17.10.4.1.e)

There are areas of regenerating indigenous bush on the site, and although these are not identified as significant, the proposed building platforms have been located outside these areas, on land that has already been cleared. Additionally, the proposal involves protecting the existing indigenous vegetation on the site through a covenant, and undertaking additional planting of indigenous species. The assessment guidance for subdivisions in rural and rural residential land identifies this as a circumstance that may support an application.

The proposal's positive effects on the proposal on biodiversity and public access have been discussed in section 5.1. We also note that the subject site does not directly adjoin the Water of Leith, so no esplanade reserve is required, and the proposal will not affect the riparian margin of this river.

Overall, we consider the proposal's adverse effects on the natural environment and public access to be **less than minor**.

5.7 Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 16.10.4.1.e, 17.10.4.1.g)

There is an existing standard residential activity on Lot 9, and the proposal support the establishment of new five new standard residential activities—although four could already be undertaken. Table 11.1.3A of the 2GP classifies residential activities as natural hazards sensitive activities.

Building platforms on the resultant sites will be located in areas sloping by less than 12°. The RT OT15B/131 building platform will be on steeper slopes, but this is not an effect arising from the proposed subdivision, and it is appropriate that any concerns with respect to stability are addressed at the time of building consent. If large scale earthworks are proposed in relation to future residential development on this site, the requirement for expert geotechnical advice can be considered at the time of land use consent.

There are multiple landslides within Leith Valley and on the hills above it, including some on and near the site, although we note that the site is not within a land instability hazard overlay. These landslides have been mapped as probably prehistoric, with possible to likely certainty and low to medium sensitivity. The landslides within the site itself are of likely certainty and medium sensitivity. We expect that the residential activity at greatest risk of landslide hazards will be that on Lot 5, as the identified building platform is adjacent to one of the landslides, although the existing dwelling on the subject site has been located on the same landslide for over 100 years. Additionally, the building platform on Lot 5 will be sloping by less than 12°. It is therefore likely that a new dwelling can safely be constructed within the proposed building platform, although expert geotechnical advice may be necessary prior to its construction. The building platforms on Lot 5 and RT OT15B/131 are located upslope of the nearby landslides.

The landslides above the subject site are all of low sensitivity and there is no record of their last movement. We therefore do not consider that they pose a risk to future residential activity on the resultant sites and RT OT15B/131 that would make this activity inappropriate.

There are no other known natural hazards associated with the subject site.

Overall, we consider the proposal's adverse effects with respect to risk from natural hazards to be **less than minor**.

5.8 Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7, 16.10.4.1.f, 17.10.4.1.h)

The proposal will comply with the density standards for the HSR and RR2 Zones, and in reality will only create one additional RR2 title. There is only provision for a single dwelling on each of the resultant sites. It will therefore generate a traffic volume that is generally anticipated by the 2GP. Additionally, there is existing, compliant physical access to the resultant sites and onsite parking can be provided. We also note that future alterations to the existing farm tracks will be subject to the parking, loading and access standards.

Overall, we consider the proposal's adverse effects on the safety and efficiency of the transport network to **less than minor**.

5.9 Effects on infrastructure and of stormwater from future development, (rules 9.6.2.2, 9.6.2.2.a, 9.6.2.2.b 17.10.4.1.g)

The proposal will comply with the density standards for the HSR and RR2 Zones, and water infrastructure on the resultant sites and RT OT15B/131 will be accommodated onsite.

Overall, we consider the proposal's adverse effects on infrastructure and the effects of stormwater from future development to be **nil**.

5.10 Cumulative effects

The adverse effects of this proposal will not add to the existing effects on the subject site or on adjoining sites such that its cumulative effects are more than minor, particularly with respect to rural productivity, landscape values and the character and amenity of the HSR and RR2 Zones.

5.11 Overall effects

Based on the above assessment, we conclude that the proposal's adverse effects on the environment will be **less than minor**.

6 NOTIFICATION ASSESSMENT

There are no rules in a plan or national environmental standard that require public or limited notification of the application. The proposal's adverse environmental effects will not be more than minor, and no affected persons have been identified under s 95E. We therefore believe it is appropriate for the application to be processed on a non-notified basis.

7 OBJECTIVES AND POLICIES ASSESSMENT

Overall, the proposal is not contrary to the relevant objectives and policies of the 2GP, although it is contrary to Policy 17.2.4.4 Table 5).

Table 5. Consistency of the proposal with the relevant objectives and policies of the 2GP.

OBJECTIVES AND POLICIES	ASSESSMENT
Objective 6.2.3 Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public. 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 practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network. 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 and development activities or subdivision activities that may lead to land use or development activities, where: - adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and - any associated changes to the transportation network will be affordable to the public in the long term.	The proposal is consistent with this objective and its relevant supporting policies. The proposal involves compliant parking and access arrangements and does not involve any changes to the transport network that require public funding.
Objective 9.2.1 Land use, development 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 outside the wastewater serviced area, where: - NA - it will not lead to future pressure for unplanned expansion of wastewater public infrastructure; or X. an unplanned extension (and any necessary upgrade) to the public wastewater network to provide for the activities can be implemented prior to development with agreement from the DCC. Policy 9.2.1.Z	The proposal is consistent with this objective and its relevant supporting policies. The resultant sites and RT OT15B/131 will have electricity and telecommunications connections but will have their water services accommodated onsite.

Only allow multi-unit development; supported living facilities; subdivision; or development that contravenes the impermeable surfaces performance standard, where: a. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through DCC stormwater public infrastructure at any point: i. there is adequate capacity in the stormwater public infrastructure; or ii. any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor; and b. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through a private, natural/informal stormwater system, or Otago Regional Council public infrastructure at any point, that stormwater system or public infrastructure has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites (public or private), including but not limited to, adverse effects from an increase in overland flow or ponding. Policy 9.2.1.3 Require subdivision activities to ensure future land use and development activities: X. have access to electricity and telecommunications networks; Y. in areas where there is water or wastewater public infrastructure, have access to this infrastructure in a way that will maintain its efficiency and affordability; and - AA. in the commercial and mixed use zones and Recreation Zone, have access to piped stormwater public infrastructure, where available; Z. unless, for either (X), (Y) or (AA), allowing development without access will have long term positive effects on the public infrastructure or relevant network utility, or any adverse effects will be insignificant. Policy 9.2.1.4A Only allow land use or subdivision activities that may result in land use or development activities in an area without public water supply where: a. it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or b. an unplanned extension (and any necessary upgrade) to the public water supply network to provide for the activities can be implemented prior to development with agreement from the DCC.	
Objective 9.2.2 Land use, development and subdivision activities maintain or enhance people's health and safety. Policy 9.2.2.X Activities on land that has a history of land use that may have resulted in contamination are managed in accordance with the Resource Management (National Environmental Standard for Assessing and	The proposal is consistent with this objective and its relevant supporting policy. In accordance with the NES-CS we have assessed the most up-to-date information about the site, including a search of Dunedin City Council records (HAIL-2023-57).

Managing Contaminants in Soil to Protect Human Health) Regulations 2011, including by: - at the time of subdivision, land use or when land development activities involving soil disturbance take place, identifying and assessing risk to human health from contaminants in soil, where practicable; and - if necessary based on the intended use of the land, remediating or managing the contaminants to make it safe for human use.	Based on this evidence, we have concluded that it is more likely than not that no HAIL activity has been undertaken on the site.
Objective 10.2.1 Biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna. Policy 10.2.1.11 Only allow subdivision activities where the subdivision design will ensure any future land use or development will: - maintain or enhance, on an on-going basis, biodiversity values; - protect any areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and - be in accordance with policies 10.2.1.X, 10.2.1.Y and 10.2.1.8.	The proposal is consistent with this objective and its relevant supporting policy. The proposal is not within an area of indigenous biodiversity, the proposed building platforms have been located outside areas indigenous bush on the site, and bush protection and planting are proposed.
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. Policy 10.2.4.3 Require subdivision of land to enhance public access to the natural environment through: - requiring an esplanade reserve or esplanade strip of an appropriate width and location adjacent to identified water bodies and the coast; and - where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads.	The proposal is consistent with this objective and its relevant supporting policy. The site does not directly adjoin the Water of Leith. However, it does provide an opportunity for improved public access to Moore's Bush Reserve by volunteering a part of Lot 1 to be used as a car parking area.
Objective 10.2.5 Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced. Policy 10.2.5.9 Only allow ... large buildings and structures, earthworks - large scale, ... in the Significant Natural Landscape Overlay Zone (SNL) where adverse effects on the landscape values of the SNL, as identified in Appendix A3, are avoided or, if avoidance is not practicable: - no more than minor or; - where there are no practicable alternative locations, adequately mitigated. Objective 10.2.5.10	The proposal is consistent with this objective and its relevant supporting policies. Based on its assessment of the proposal against the relevant SNL and rural character values, the landscape effects assessment report concludes that the proposal is consistent with Policies 10.2.5.9 and 10.2.5.10 and Objective 10.2.5. We also note that both the 2GP rules and the proposed mitigation measures will ensure that future development within the site area is

Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9. Policy 10.2.5.11 Require large buildings on landscape building platforms in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to be of a size, design and appearance that ensures that adverse effects on the landscape values identified in Appendix A3 are avoided or, if avoidance is not practicable, adequately mitigated. Policy 10.2.5.12 Require buildings and structures in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or minimise, as far as practicable, adverse visual effects caused by reflectivity.	consistent with Policies 10.2.5.11 and 10.2.5.12.
Objective 11.2.1 Land use and development is located and designed in a way that ensures that the risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term. Policy 11.2.1.12 In all hazard overlay zones, the swale mapped area, the dune system mapped area, or in any other areas that the DCC has information to suspect there maybe risk from a natural hazard, only allow subdivision activities where there is a reasonable level of certainty that any future land use or development will meet Policies 11.2.1.1–11.2.1.11.	The proposal is consistent with this objective and its relevant supporting policy. Only the RT OT15B/131 building platform will be located on slopes steeper than 12°, and the associated risk of land instability can be managed through the building consent process. Given the lack of landslide history on the site, we expect that the risk to residential activity associated with the landslides on and above the site will be no more than low.
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.X Avoid subdivision activities that create one or more resultant sites that contravene the minimum site size standard for the zone, unless: - the subdivision is provided for under Policy 16.2.1.10; or - the subdivision, considered as a whole: - will not result in an increase in the number of sites that contravene the minimum site size; and - will not result in an increase in the residential development potential of the subject land, beyond	The proposal is consistent with this objective and its relevant supporting policies. The proposed rural sites, Lot 1 and the Lots 2–4 site, will have virtually the same size and layout as the existing rural sites that are larger than 15 ha. Accordingly, they will still be able to accommodate rural and conservation activities, as well as a compliant density of residential activity. RT OT202/225 will become part of a 2.40 ha RR2 site, increasing its productive potential.

that provided for by the density land use performance standard and the minimum site size subdivision standard, and iii. will meet policies 16.2.3.8 and 16.2.4.3. Policy 16.2.1.7 Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless: X. it is the result of a surplus dwelling subdivision; or Y. the residential activity will be associated with long term land management and/or capital investment that will result in: i. significant positive effects for rural productivity; and/or ii. a significant contribution to the enhancement or protection of biodiversity values. Policy 16.2.1.10 Only allow the subdivision of a surplus dwelling where: a. the subdivision meets policies 16.2.3.8 and 16.2.4.3.a, b and d; b. the dwelling is habitable and in good condition; and c. the subdivision will not result in any additional development potential for residential activity across resultant sites than would otherwise be provided for by the minimum site size standard.	Accordingly, the proposed subdivision will not actually increase the development potential for residential activity across the resultant rural sites.
Objective 16.2.3 The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include: a. a predominance of natural features over human made features; b. a high ratio of open space, low levels of artificial light, and a low density of buildings and structures; c. buildings that are rural in nature, scale and design, such as barns and sheds; d. a low density of residential activity, which is associated with rural activities; e. a high proportion of land containing farmed animals, pasture, crops, and forestry; f. extensive areas of indigenous vegetation and habitats for indigenous fauna; and g. other elements as described in the character descriptions of each rural zone located in Appendix A7. Policy 16.2.3.2 Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones. Policy 16.2.3.8 Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones.	The landscape effects assessment report concludes that the proposal is consistent with this objective and its relevant supporting policies. In particular, it notes that natural elements will remain strongly dominant and the residential density in the HSR Zone will be consistent with the 2GP. The proposal will have no significant effects on the distinctive hill features to the north of urban Dunedin.
Objective 16.2.4 The productivity of rural activities in the rural zones is maintained or enhanced.	The proposal is consistent with this objective and its relevant supporting policies.

Policy 16.2.4.3 Only allow subdivision activities where the subdivision is designed to ensure any future land use and development will: a. maintain or enhance the productivity of rural activities; i. maintain highly productive land for farming activity, or ensure the effects of any change in land use are: ii. insignificant on any high class soils mapped area; and b. no more than minor on other areas of highly productive land; c. maintain land in a rural rather than rural residential land use; and d. not increase the potential for reverse sensitivity. Policy 16.2.4.4 Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities.	As discussed above in relation to Objective 16.2.1, the proposal will result in a compliant density of residential activity on the HSR sites and will not increase the development potential of these sites.
Objective 17.2.1 The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities. Policy 17.2.1.1 Enable farming, grazing and conservation in the rural residential zones. Policy 17.2.1.2 Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.	The proposal is consistent with this objective and its relevant supporting policies. Although the proposed subdivision is non-complying, the resultant RR2 sites will be larger than 2 ha, and will therefore be large enough to accommodate lifestyle blocks and hobby farms.
Objective 17.2.2 The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure: a. the potential for reverse sensitivity is minimised; and b. a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces. Policy 17.2.2.8 Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.	The proposal is consistent with this objective and its relevant supporting policy. The resultant RR2 sites will be larger than 2 ha, will be able to accommodate compliant residential land use and development and will enjoy extensive views over Dunedin and its surrounding hills.
Objective 17.2.3 The character and amenity of the rural residential zones are maintained, elements of which include: a. a high presence of natural features such as trees, bush, gully systems and water bodies; b. a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and c. land maintained and managed for farming, grazing, conservation and rural residential activities. Policy 17.2.3.5	The landscape effects assessment report concludes that the proposal is consistent with this objective and its relevant supporting policy.

Only allow general subdivision where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the character and amenity of the rural residential zones.	
Objective 17.2.4 The productive potential of the rural residential zones for lifestyle blocks or hobby farms is maintained. Policy 17.2.4.3 Only allow general subdivision where resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living. Policy 17.2.4.4 Avoid general subdivision in the Rural Residential 2 Zone unless it does not result in an increase in residential development potential.	The proposal is not inconsistent with Objective 17.2.4, although it is contrary to Policy 17.2.4.4. The proposal involves subdividing an existing RR2 site into three sites. However, Lot 9 will contain the existing development on the subject site and either Lot 5 or Lot 6 can be seen as replacing the very undersized HSR site, RT OT202/225. This is a desirable outcome with respect to both productivity and amenity, as it prevents RT OT202/225 being developed as a separate, site that will provide only for large lot residential living. Looking at the site overall, the proposed resultant site sizes and residential density will allow still allow for small-scale rural activities. The proposed subdivision would be compliant in the RR1 Zone. However, Policy 17.2.4.4 directs subdivision in the RR2 Zone to be avoided unless it does not result in an increase in residential development potential. The proposed subdivision is therefore contrary to this policy, but it will support Policy 17.2.4.3 (arguably more than the existing situation) and is not contrary to Objective 17.2.4 overall. Overall, the proposal's adverse effects will be less than minor, partly due to the proposed pattern of development be consistent with the existing pattern of development on nearby RR2 sites. In contrast, its positive effects include bush protection, road legalisation, potential provision of public car parking, and the prevention of a rural site being used solely for large lot residential living. We therefore consider that the proposal will create a net benefit for Dunedin, in a manner that

	enables a departure from Policy 17.2.4.4.
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8 SECTION 104D ASSESSMENT

Under s 104D of the RMA, resource consent for a non-complying activity may only be granted if a consent authority is satisfied that the proposal will meet at least one of two gateway tests. These tests require that *either* the proposal's adverse effects on the environment will be no more than minor, *or* it is not contrary to the objectives and policies of the relevant plan and/or proposed plan.

The proposal's activity status is non-complying, so s 104D applies. The AEE and policy assessments above demonstrates that the proposal meets at least the effects limb of the two tests. It can therefore be assessed under s 104, and consideration can be given to granting it resource consent.

9 SECTION 104 ASSESSMENT

Additional matters that must be considered under s 104 of the RMA are discussed below.

9.1 Offsetting or compensation measures

S 104(1)(ab) requires a consent authority to have regard to any measure proposed or agreed to by the applicant to offset or compensate for any adverse effects that the proposal will or may have on the environment.

The applicant has proposed several elements of the development that can be considered to be offsetting measures. These are—

- Significant protection of existing areas of regenerating native bush.
- The legalisation of several pieces of land in which the existing public road formation passes across.
- The offer to set aside an area of land for future public car parking, which will support public access to nearby recreational areas.

These measures will be provided as part of the subdivision process, at the applicant's cost. The proposed offsetting measures all serve to provide outcomes that are above and beyond what the applicant would otherwise be required to provide under the 2GP provisions.

9.2 Relevant planning provisions

Sch 4 requires the proposal to be assessed against any relevant provisions of a document referred to in s 104(1)(b). The proposal has already been assessed against the relevant provisions of the NES-CS and 2GP, but another s 104(1)(b) document that needs to be considered is the NPS-HPL, which came into force on 17 October 2022. The NPS-HPL provides direction to local authorities on identifying and mapping HPL and managing its subdivision, use and development so that it is protected for use in land-based primary production.

Until councils have completed mapping HPL, a transitional definition of HPL applies (cl 3.5(7)). This defines land zoned general rural or rural production and classed LUC 1, 2 or 3 as HPL for the purposes of the NPS-HPL.

In this case, no part of the site contains HPL. It is not within the Highly Class Soils Mapped Area, and the 2GP Data Map shows it does not contain any land classed LUC 1–3. Additionally, the Manaaki Whenua Our Environment Map shows the entire site is LUC 6 land, i.e. non-arable land that is suitable for pasture, tree crops, forestry and in some cases vineyards. LUC 6 land has slight to moderate limitations to pastoral use, with the dominant limitation usually erosion. The NPS-HPL therefore does not apply to the proposal.

9.3 Other matters

S 104(1)(c) requires a consent authority to have regard to any other matters it considers relevant and reasonably necessary to determine the application. A matter considered relevant here is whether granting consent will set a practical precedent that undermines the integrity of the 2GP.

Case law has established that the resource consent decisions set a practical precedent rather than a strict legal precedent, and that this is not an effect on the environment. Practical precedent therefore cannot be included in the AEE or a consent authority's s 104(a) assessment. However, if practical precedent is addressed by a relevant provision of a s 104(1)(b), it may be considered under this subsection. If not, it may still be considered under the catch-all s 104(1)(c). There are no 2GP provisions addressing practical precedent relevant to the proposal, so it should be considered under s 104(1)(c).

In this case, although all the resultant sites will be undersized, the rural component of the subdivision is more akin to a boundary adjustment between the two existing undersized rural sites held in RTs OT15B/129 and OT159/70. Consequently, the only part of the proposal that actually departs from what is anticipated by the 2GP—and therefore has the potential to set an undesirable practical precedent—is the subdivision of RR2 land. With respect to this departure, we consider that a fairly unique set of circumstances apply to the proposal.

- It will only create one additional title, and it will potentially provide better outcomes for rural productivity, character and amenity than the existing situation.
- The RR2 subdivision will be part of a larger subdivision that includes HSR land, all the resultant sites will comply with the applicable residential density standards, and the new RR2 sites will still be larger than 2 ha.

- The site is situated between DCC reserve land to the west, north-west, north and north-east, and between conservation land to the south-east. The proposed bush protection will therefore visually integrate well against these conservation backdrops.
- The local RR2 environment contains a pattern of development that is at a scale consistent with the proposed subdivision layout; it is occupied by multiple existing sites in the order of 2 ha, so the new RR2 sites will not (when they are visible) appear out of place.
- For the reasons described above, and due to proposed mitigation measures, the activity will have less than minor adverse effects on landscape and rural character values, as determined by an expert assessment. It will also have less than minor adverse effects on surrounding sites.

Consequently, we consider that the proposal meets the threshold to be considered a true exception and that the development will not set an undesirable practical precedent that would undermine the integrity of the 2GP.

10 PART 2 ASSESSMENT

Pt 2 of the RMA (ss 5–8) sets out the purpose and principles of the Act. S 5 identifies the purpose and s 6 outlines a number of matters of national importance that must be recognised and provided for. S 7 sets out other matters to be given particular regard by all persons exercising functions and powers under the RMA, and s 8 requires the principles of the Treaty of Waitangi to be taken into account.

Sch 4 of the Act requires all resource consent applications to assess proposals against the matters set out in pt 2. This requirement has been met by the above assessment of the proposal against the provisions of the relevant planning documents. Based on this assessment, we conclude that the proposal will therefore achieve the purpose of the RMA.

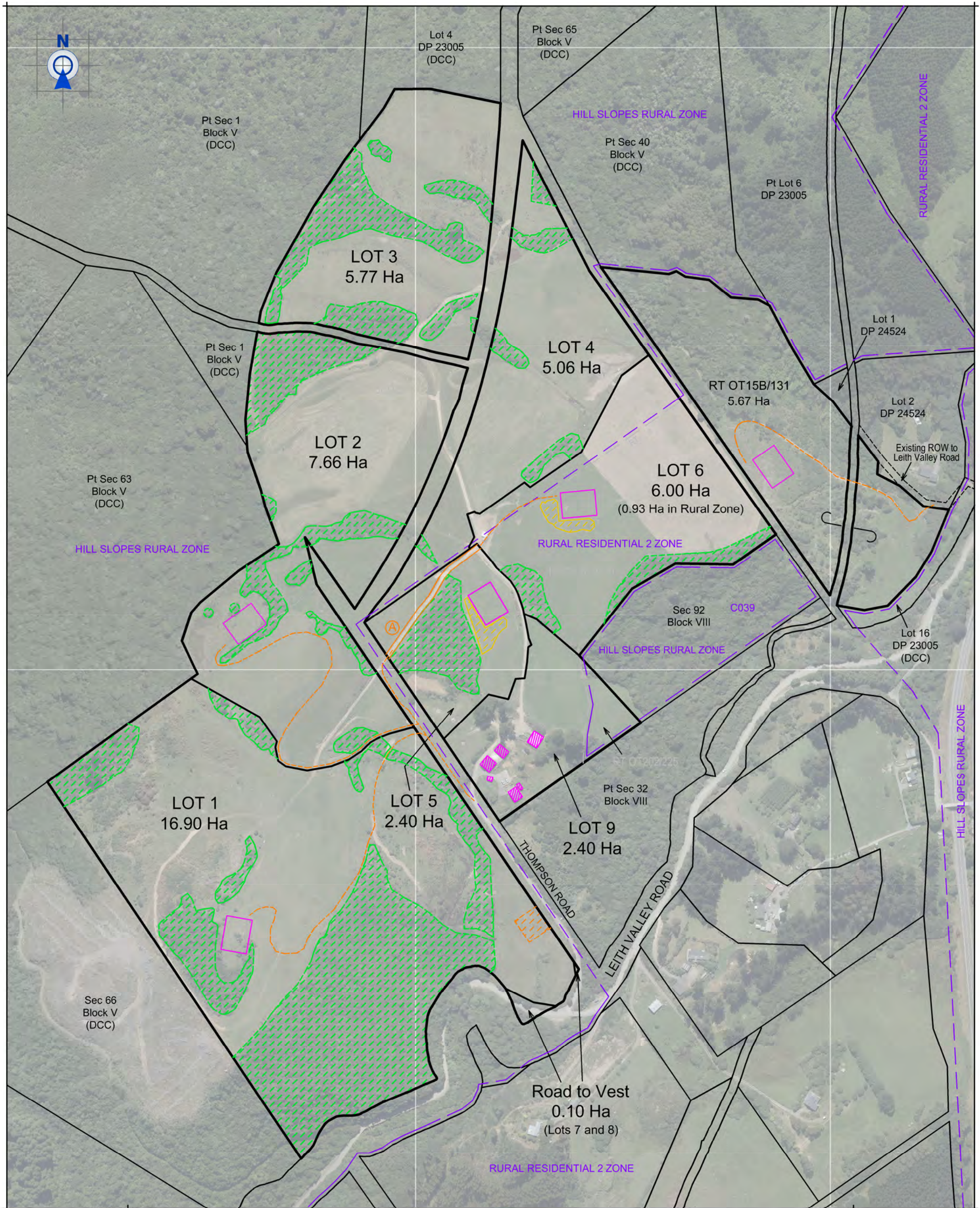
11 CONCLUSION

The applicant proposes to subdivide the subject site into five fee simple sites, two rural and two rural-residential, with the intention that each resultant site will accommodate a residential activity.

The proposal has a **non-complying** status and requires:

- **Subdivision consent** under the 2GP to subdivide land in the HSR and RR2 Zones into five fee simple sites, and for the resultant HSR sites to be undersized.

We consider that the proposal's adverse environmental effects are less than minor and have not identified any affected persons. Overall, the proposal is not contrary to the objectives and policies of the 2GP, although it is contrary to one policy directing subdivision in the RR2 Zone to be subdivided. Regardless, it meets at least one of the s 104D tests, and due to the small scale of its adverse effects we believe it is appropriate for this application to be processed on a non-notified basis.



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NOTES:

1. Lots 2, 3 and 4 are to be held in a single Record of Title (18.87 Ha).
2. Proposed building platforms measure 30m by 40m.
3. Lots 7 and 8 are to be vested to Dunedin City Council as Legal Road.
4. The area marked 'C039' is protected in the District Plan for biodiversity conservation.
5. Easement A is a proposed Right-of-Way over Lot 5 in favour of Lot 6.

LEGEND:

- Existing Farm Structures
- Proposed Building Platform
- Area of Possible Public Carparking
- Bush Protection Area
- Mitigation Planting Area
- District Plan Zone Boundary
- Site Accessway

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Client/Location:

Graeme and Delwyn Paton
233 Leith Valley Road
Records of Title: OT159/70, OT15B/129,
OT263/100, OT202/225 and 15B/131.

Purpose/Drawing Title:

Lots 1-9 being a Proposed Subdivision of Lots 2, 5, 10 & 12 DP 23005, Sections 64 & 65 and Pt Section 80 Block V Dunedin & East Taieri SD, and Pt Sections 33 & 34 Block VIII North Harbour & Blueskin SD.
Proposed Building Platform on RT OT15B/131.

Surveyed by:	
Designed by:	KAB
Drawn by:	KAB
Checked by:	KAB
Approved by:	KAB
Job Ref:	D18645

Original Size:	A3	Scale:	1:4,000
Sheet No:	1 of 1	Revision No:	D
Date Created:	02/04/2023	DO NOT SCALE	



1. Lots 2, 3 and 4 are to be held in a single Record of Title (18.87 Ha).
2. Proposed building platforms measure 30m by 40m.
3. Lots 7 and 8 are to be vested to Dunedin City Council as Legal Road.
4. The area marked 'C039' is protected in the District Plan for biodiversity conservation.
5. Easement A is a proposed Right-of-Way over Lot 5 in favour of Lot 6.

 Existing Farm Structures
 Proposed Building Platform
 Area of Possible Public Carparking
 Bush Protection Area
 Mitigation Planting Area
 District Plan Zone Boundary
 Site Accessway

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3 June 2023

City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Attn: The Senior Planner

HAIL ASSESSMENT REPORT

233 Leith Valley Rd, Leith Valley, Dunedin

1 INTRODUCTION

This report is provided in support of the attached resource consent application, which seeks consent to further develop and then subdivide the land at 233 Leith Valley Rd (the subject site). The purpose of the report is to provide an initial assessment of the proposal against the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).

The NES-CS applies when a person wants to do an activity described in reg 5(2)–(6) on a piece of land described in reg 5(7) or 5(8), unless the requirements of reg 5(9) are met.

- A piece of land described in reg 5(7) is one on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being, has been or is more likely than not to have been undertaken.
- Reg 5(8) describes when the NES-CS applies to a piece of land that is production land.
- Reg 5(9) states that the NES-CS does not apply if a Detailed Site Investigation (DSI) shows that any contaminants in or on a piece of land are at, or below, background concentrations.

Under the Second Generation Dunedin District Plan the site is zoned Hill Slopes Rural and Rural Residential 2. It contains an existing dwelling, and its remaining area—where not covered by regenerating indigenous bush—is used for pastoral farming (production land). As the application discusses, the proposal involves subdividing the site and will support the establishment of five new residential activities on identified building platforms. The NES-CS does not apply to the parts of the site remaining as production land. However, if any of the identified building platforms contains a piece of land described in reg 5(7), the proposal will involve the activity described in reg 5(5) (subdividing a piece of land) and the NES-CS will apply.

In accordance with reg 6 of the NES-CS, this report is based on the most up-to-date information about the site held by the Dunedin City Council (DCC); we lodged a HAIL search request with the DCC on 22 May 2023 (HAIL-2023-57). We also searched for the site in the Otago Regional Council (ORC) Contaminated Land Database.

2 ASSESSMENT

The site is not recorded as a HAIL site in the ORC Contaminated Land Database and it is not adjacent to any recorded HAIL sites. The HAIL-2023-57 summary advises that no explicit information was found in the DCC records regarding HAIL activity, but for completeness, it notes that:

- Building products containing asbestos were widely used in New Zealand. If there are and/or were any buildings containing asbestos products in a deteriorated condition, HAIL Category E1 (Asbestos products manufacture or disposal including sites with buildings containing asbestos products known to be in a deteriorated condition) may apply.
- Long term use of lead-based paints on buildings and structures can cause soil contamination. In such a situation, HAIL Category I (Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment) may apply.

2.1 Land use history

Amongst other records, the HAIL search report contains an extract from W. T. Neill's Military Topographical Maps dated 1901 and aerial photos of the site from the following years: 1945, 1958, 1962, 1967, 1971, 1972, 1975, 1979, 1985, 1990, 2000, 2006/2007, 2013 and 2018/2019.

The consent record for the site does not include any documentation relating to the erection of the existing dwelling; the earliest record relating to it is for alterations in 1994 (building consent ABA-1994-326222). The 1901 map extract indicates there may have been a dwelling or other farm building on the site in the vicinity of the existing dwelling at this time. It also indicates that where not covered by bush, the site was used for low-intensity pastoral farming. In an email dated 23 May 2023, the DCC archivist advised that in 1916–1918 the site was listed as house and land. Based on aerial photos and plans associated with later erections to the existing dwelling on the site, it is most likely that the existing dwelling is the original dwelling erected on the site. Farm buildings were erected on the site under building consent H-1918-6126 (a barn and shed), and also under building consent ABA-2012-976 (a wool shed). Overall, the site has changed little since the early 20th century, as the aerial photos in Figure 1–Figure 3 in Appendix A demonstrate. The only notable change over this period is to the extent of bush on the site.

There is no explicit evidence that lead paint has been used on the site, or of livestock dips (HAIL Category A8). However, if these categories did apply, it would only be in the vicinity of the existing development on the site, and therefore distant from all the identified building platforms.

SUMMARY

The site has a long history of being used for low-intensity pastoral farming, primarily grazing sheep, and the existing dwelling has been on the site since the early 20th century.

2.2 NES-CS assessment

Overall, the information above does not provide absolute evidence that no HAIL activity has been undertaken on the site. However, it does suggest that it is more likely than not that no HAIL activity has been undertaken. The site therefore does not contain a piece of land described by reg 5(7) and the NES-CS does not apply.

3 CONCLUSION

The proposal involves subdividing production land, parts of which will become residential, and residential land. However, it is more likely than not that no HAIL activity has been undertaken on the subject site, so the NES-CS does not apply. If we discover evidence to the contrary during our involvement with the proposed subdivision, we will bring it to the attention of the applicant and the DCC.

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

Yours faithfully,
PATERSON PITTS GROUP

Vyvienne Evans
Planner

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APPENDIX A SITE AERIAL PHOTOS



Figure 1. Aerial photo of the subject site dated 1952.



Figure 2. Aerial photo of the subject site dated 1967.

D18645 233 Leith Valley Rd
Rev A



Figure 3. Aerial photo of the subject site dated 2018/2019.

Proposed Subdivision 233 Leith Valley Road, Dunedin

Landscape Effects Assessment Report

5 April 2023



Prepared by

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Introduction

Graeme and Delwyn Paton have applied for Resource Consent to subdivide their 52 ha property at 233 Leith Valley Road, Dunedin. The property falls within both the Rural Residential 2 Zone (RR2) and the Rural – Hill Slopes Zone (RHS) in the Dunedin City District Plan (DCDP) and is also within the Flagstaff Mt Cargill Significant Natural Landscape Overlay (FMCSNL).

In terms of Rules 16.3.2 and 17.3.2 the proposed activity is a non-complying activity as it does not comply with the minimum lot size standard in the RHS zone and involves subdivision in the RR2 zone.

This report addresses the landscape effects of the proposed activity and will be structured as follows:

- Methodology.
- Site and area description.
- Landscape Values.
- The proposed development.
- Recommended mitigation measures.
- Landscape effects.
- Dunedin City District Plan provisions assessment.
- Conclusion.

Methodology

This assessment follows the concepts and principles outlined in the New Zealand Institute of Landscape Architects (NZILA) Best practice guidelines¹, and has been informed by a review of the relevant statutory provisions and a site visit on 17 February 2023.

¹ Te Tangi a te Manu, Aotearoa New Zealand Landscape Assessment Guidelines, Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022.

Site and area description

As illustrated in **Figure 1**, the site is a 52 ha rural property located on the western side of Leith Valley approximately 2km north of urban Dunedin, and accessed from Leith Valley Road. The property adjoins Leith Valley Road, the Forest and Bird Moore's Bush Reserve and an adjacent DoC Scenic Reserve on its south-east side. To the north-east, a rural residential property at 317 Leith Valley Road adjoins RT OT158/131. The remaining boundaries to the north, west and south-west are with DCC water catchment reserve.

Leith Valley runs southward, between Mt Cargill to the east, and Swampy Summit and Flagstaff to the west. The geology of the area is basalt from the third main eruptive phase of the Dunedin volcano. The property occupies relatively gentle mid-slopes on the western side of the valley toward its head, and the topography is undulating, falling generally toward the south-east. The land rises more steeply above, and in the southern part of the site at least, falls away more steeply below to the valley floor. Several minor watercourses drain through the property and a more significant (un-named) stream runs near the north-eastern boundary of RT OT158/131.

The property is currently predominantly managed for stock grazing, with one dwelling present (on proposed Lot 9) along with farm sheds. The more gently sloping areas of the site are in pasture whilst the steeper parts are in regenerating (mainly) indigenous scrub and forest. Several mature podocarp trees (rimu and miro) remain in higher parts of the site. There are several farm tracks formed along with rural fences. The property is divided by a number of unformed legal roads, and a driveway formation on one of these (Thompson Road) provides physical access to the site. The RT OT158/131 site exhibits a different character to the rest of the property and is characterised by a mix of native and exotic trees and areas of regenerating (mainly native) shrubland. Access to this site is via ROW from Leith Valley Road.

In my assessment, the relevant landscape context of the site is the upper Leith Valley. The main northern access to and from Dunedin traverses this area, which has a broad valley landform and a mixed land use / landscape character, including areas of pasture,

forestry, exotic scrub and indigenous forest. Generally, residential density is low, and the character is rural, but there is an area with rural residential character (and zoning) between the motorway and Leith Valley Road near the site to the east. This has low visibility in general, from the adjacent roads. On the western side of the valley in particular, the upper slopes and skyline has a strongly natural character due to indigenous vegetation cover. This is less pronounced on the eastern side due to the influence of exotic forestry.

Figures 2 - 6 illustrate the character of the site and area.

Landscape Values

The upper Leith Valley is within the FMCSNL in the DCDP. Values listed in Appendix A3.3.2.2, that I consider relevant to this site and its context include the following:

a. Biophysical values:

- *The extent and integrity of the natural landscape elements including wildlife.*
- *Volcanic Peaks and associated landforms including the summits of Flagstaff and Swampy Summit and the sequence of legible and largely intact eroded volcanic spurs which extend below the summit.*
- *Podocarp Broadleaf forests e.g. Moore's Bush.*
- *Cloud forest (Libocedrus and podocarps) on Leith Saddle.*
- *Regenerating indigenous forest on the slopes of Flagstaff.*

b. Sensory values:

- *Volcanic landscape which remains expressive of its formative processes.*
- *Legibility of the natural landform and associated visual coherence of the landscape i.e. patterns of land use reflecting the topography.*
- *Low impact of built elements, earthworks, and exotic tree plantings, and the significant relative dominance of natural landscape elements.*
- *Naturalness of elevated landforms.*
- *Landform and vegetative altitudinal connectivity present.*
- *The extent and quality of views across the landscape from public roads and tracks.*

- Forms much of the backdrop to urban Dunedin.
- The landforms are striking and memorable and many are iconic landmark features of Dunedin.
- Native vegetation cover and vegetation patterns that reflect the natural topography and natural skylines.
- Has very high levels of visibility from significant population centres and major roads.
- High rural amenity value.
- Transient values include the cloud cap and seasonal snow cover and wildlife.
- Overall, the landforms are striking and memorable and many are iconic landmark features of Dunedin.

c. *Associative values:*

- *The ring of encircling hills has been referred to as the outer town belt.*
- *The hilltops are distinctive city landmarks and provide a natural approach to the city.*
- *Heritage landscape qualities including the legibility of the previous more intensive dairy farming land use.*

Appendix A7.5 lists the values recognised for the Hill Slopes Rural Zone. Those considered relevant to this site and its context are as follows:

1. *Backdrop/Enclosure: to a significant extent the Hill Slopes Rural Zone establishes the character and setting for the main urban parts of Dunedin, providing a predominantly unbuilt natural backdrop to the central city, harbour and Mosgiel.*
2. *Distinctive hill features: specifically, the elevated areas surrounding Dunedin provide one of the main components of its recognised distinctive character. The main features include Mt Cargill, Flagstaff and Swampy Summit.*
3. *Recreation: sparsely inhabited, the Hill Slopes Rural Zone is close to the main urban parts of the city and therefore frequently used for recreation activities.*
4. *A predominance of natural features over human made features. The zone has a relatively low density of built structures and associated services. There is variability of settlement patterns, with more lifestyle block development on the Taieri slopes and closer to existing Dunedin urban areas. However, natural character is still largely dominant. With a diversity of land management, there is a potential for exotics such as gorse and broom to encroach on both pasture and native bush.*

5. *Pockets of important and varied biodiversity: there are significant areas of indigenous vegetation and habitats for indigenous fauna. Scattered indigenous vegetation dominated by kanuka is present in some marginal sites on the Taieri slopes. Further towards Flagstaff and Mt Cargill the zone is dominated by the naturalness of forest cover which contrasts with the urban area it borders. As well as its importance for biodiversity, the forest cover serves an important role in protecting key water supplies for the city, including the Leith and Cedar Farm catchments.*

In my assessment, the upper Leith Valley is a landscape of rather mixed quality. In places (including in the site and adjacent areas) it has high natural character and coherence values based on the significant presence of indigenous vegetation, low impact of built form and legible natural landform highlighted by the patterns of vegetation (indigenous forest on steeper areas). Reserve land adjacent to the site has remnant and regenerating podocarp / broadleaved – hardwood forest of considerable natural character value and there are also areas within the property where indigenous forest is regenerating. Elsewhere within the upper valley landscape quality is lower, particularly due to the impact of exotic forestry, which often in patterns that are incoherent on the landform.

The western (site) side of the valley exhibits an attractive gradation from indigenous grassland / shrubland, through indigenous forest to a more settled / modified valley floor with farmland and dwellings. The existing rural-residential area sits comfortably within this setting and does not have significant visual impact from the State highway or other public roads. The pattern of pasture and regenerating forest within the site which is coherent on the natural landform contributes positively to aesthetic landscape values and rural amenity.

The proposed development

As shown in Figure 7, the application seeks consent to subdivide the 52 ha property as follows:

Within the RHS zone:

- Lot 1 (16.9 ha) with a building platform identified.
- Lots 2 – 4, to be held in a single record of title (18.49 combined) with a building platform identified on Lot 2.

Within the RR2 zone:

- Lot 5 (2.40 ha) with a building platform identified.
- Lot 6 (6.00 ha) with a building platform identified.
- Lot 9 (2.40 ha) incorporating the existing dwelling and sheds.
- RT OT158/131 (5.67 ha) with a building platform identified.

Possible bush protection covenants have been identified on Lots 1 – 6, and an area for possible provision for public car parking has been identified on Lot 1, associated with recreational access to Moore's Bush Reserve.

Access to all the proposed new lots will be off Thompson Road and farm tracks to the proposed building platform sites are already formed. Access to RT OT158/131 will be via an existing ROW off Leith Valley Road.

Recommended mitigation measures

To ensure that the proposed development integrates well with the rural character of the landscape and has minimal adverse effects on landscape values, the following mitigation conditions are recommended.

- 1. All buildings, including dwellings, accessory buildings and buildings associated with rural land use, are to be located within the identified building platforms on each lot, and shown in Figure 7.*
- 2. Dwellings shall be no higher than 5m and other buildings no higher than 4m above existing or modified ground level.*

3. *Buildings shall be designed to minimize the need for earthworks, and any earthworks shall be designed to blend seamlessly with the natural landforms surrounding. Any retaining walls are to be screened so as not to be visible from public roads.*
4. *Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), building colours for new buildings are to be selected to ensure that contrast with the dominant hues of the surrounding rural landscape is minimized. Light reflectivity values (LRV) shall be no more than 20%.*
5. *All services are to be located below ground.*
6. *Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property.*
7. *All fencing is to be confined to rural post and wire fencing no greater than 1.2m high, or 2m for deer fencing, or stone walls using locally appropriate rock, no higher than 1.5m.*
8. *Driveways are to have a rural character with metal surfacing and no kerb and channel. There is to be no driveway lighting or monumental gates.*
9. *Other than for amenity plantings below 2m mature height within 20m of a dwelling, or fruit trees, any tree and shrub plantings are to be comprised of indigenous species appropriate to the area. The planting list in **Appendix A** provides a guide.*
10. *The 'bush protection' areas marked in Figure 7 are to be protected and managed to maintain and enhance their natural values and / or impact in mitigating the visual impact of built form. This shall include fencing to protect from stock browsing, control of animal pests, removal / control of pest / weed plant species, and facilitation of natural regeneration of indigenous species.*
11. *Mitigation planting as shown in Figure 7 is to be established within 1 year of the commencement of building on the site. Planting shall be established and managed in accordance with the guidelines outlined in Appendix A.*

Landscape effects

Landscape effects are defined as follows:

‘An adverse or positive outcome for a landscape value as a consequence of changes to a landscape’s physical attributes.’²

I assess the landscape effects of the development (assuming my recommended mitigation measures are adopted) against the landscape values discussed above, and those inherent in the relevant statutory provisions. Landscape effects may be positive or adverse in nature, and I rate the degree of effect in terms of the following 7 point rating scale. The relationship of this scale to the relevant RMA terminology is also shown.

Degree of effect assessment scale

<i>Very low</i>	<i>Low</i>	<i>Low-mod</i>	<i>Moderate</i>	<i>Mod-high</i>	<i>High</i>	<i>Very high</i>
<i>Less than minor</i>	<i>Minor</i>		<i>More than minor</i>		<i>Significant</i>	

Physical effects

The proposed development will result in 5 additional nodes of built form within the upper Leith valley landscape. The access tracks to these sites are already largely existing and in general, follow the contours without major change to the landform. There will be earthworks associated with development on the building platforms, but these have gentle gradients and as controlled by the proposed conditions, landform impacts will not be unduly significant. The proposed mitigation conditions will ensure that the impact of future buildings on the landscape character is modest. More widely, these conditions will also protect and enhance naturalness and landscape coherence by protecting existing areas of indigenous planting, requiring and encouraging additional indigenous planting, and avoiding use of exotic species. Forestry, which involves the possibility of major landscape change to this site is controlled by the DCDP provisions³.

² Te Tangi A Te Manu, Aotearoa New Zealand Landscape Assessment Guidelines. Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022.

³ DCDP Rules 16.3.3 and 17.3.3

Overall, it is my assessment that, considering the mitigation measures recommended, the landscape scale and pattern is such that the proposed smaller rural lots and additional rural residential lots can be accommodated without compromising the physical landscape values or the existing landscape character.

Visual effects

The site is visible within the upper Leith Valley area from State Highway 1, Leith Valley Road and Cowan Road. It is also visible from higher viewpoints on the hills surrounding and from a few dwellings in the area surrounding. The following tables provide an analysis of the visual effects of the proposed development from selected public viewpoints considered generally representative of viewpoints in the area generally.

State Highway 1 (see Figures 2 and 3)

<i>Relevance of viewpoint</i>	<i>State Highway 1 is a major entrance to Dunedin and public thoroughfare. These views, along with those from Leith Valley Road are generally indicative of the effects from dwellings in the vicinity.</i>
<i>Distance to site</i>	<i>490m (Figure 2), 100m (Figure 3).</i>
<i>Existing view</i>	<i>These views are representative of intermittent views toward the site available where not screened by roadside vegetation from State Highway 1. The site is seen as rolling pasture country with fingers of bush running through with a backdrop of natural scrub and forest covered higher slopes. Rural visual amenity values are high.</i>
<i>Effects of the proposed development</i>	<i>The already existing driveways integrate well with the landform and any visibility of built form will be minimal due to landform screening and the proposed height and colour mitigation measures. Any visibility of (low, recessively coloured) buildings would not appear incongruous or particularly adverse in this settled rural landscape.</i>

Leith Valley Road (see Figures 4 and 5)

<i>Relevance of viewpoint</i>	<i>Leith Valley Road is a minor public thoroughfare. These views, along with those from State Highway 1 are generally indicative of the effects from dwellings in the vicinity.</i>
<i>Distance to site</i>	<i>115m (Figure 4), 40m (Figure 5).</i>
<i>Existing view</i>	<i>These views are representative of intermittent views toward the site available where not screened by roadside vegetation from Leith Valley Road, or nearby. The existing dwelling can be glimpsed, and the site is seen beyond the foreground bushland as rolling pasture country with fingers of bush running through with a backdrop of natural scrub and forest covered higher slopes. Rural visual amenity values are high.</i>
<i>Effects of the proposed development</i>	<i>The already existing driveways integrate well with the landform. Built form on Lot 1 will be partially visible (see Figure ...) and its impact will be effectively mitigated by viewing distance (approx. 700m / 870m), partial landform screening, low height and recessive colours. No other development on other building platforms will be visible. Visibility of (low, recessively coloured) buildings would not appear incongruous or particularly adverse in this settled rural landscape.</i>

Cowan Road (see Figure 6)

<i>Relevance of viewpoint</i>	<i>This viewpoint is indicative of higher elevation views of the upper Leith Valley from the Mt Cargill side.</i>
<i>Distance to site</i>	<i>1.2km</i>
<i>Existing view</i>	<i>This is a view north-westward across Leith Valley toward Swampy Summit from the lower slopes of Mt Cargill. The site is seen as part of the rural valley floor – mid-slope landscape within the context of highly natural upper slopes. State Highway 1 can be seen near the valley base and built development in the rural residential zoned area has minimal visibility due to screening by plantings. The coherent pattern of pasture and indigenous vegetation cover on the landform contributes significantly to rural amenity</i>

	<i>and aesthetic values in the area of the site. Naturalness and coherence values are more modified where exotic forestry is present up valley and to the north-east of the site.</i>
<i>Effects of the proposed development</i>	<i>The access drives are already largely present and these integrate well with the landform. Their visual impact will reduce as recently constructed batter slopes revegetate. Built form on RT OT158/131 will be completely screened by landform and development on the Lots 1 and 2 platforms will be almost entirely screened. The proposed mitigation measures will ensure built form on these sites has minimal visual prominence. Built development on Lot 5 will be visible and its impact mitigated by the proposed development controls, along with its location adjacent to a larger area of bush. Development on Lot 6 will be partially screened by landform and mitigated by the proposed development controls.</i> <i>The existing pasture / bush landscape pattern will be protected and in my assessment the additional built form, controlled to have low prominence, will integrate acceptably in this rural setting.</i>

Landscape effects discussion and conclusion

The proposed development will result in additional built elements within an area with recognised natural landscape values and to this extent, the nature of its effects will be adverse.

In terms of the degree of these effects however, the property has modest levels of visual prominence, and the development will have minimal impact on iconic upper slope areas that contribute to the setting of urban Dunedin. The development proposed will retain the existing landscape pattern and coherence and is consistent with the protection of landform legibility and naturalness. The existing high levels of rural visual amenity will be retained. I consider that the 'outer town belt' effect associated with the rural / natural character of the hill context north of urban Dunedin will not be significantly impacted. I am unaware of any adverse effects on cultural or heritage landscape values.

Overall, assuming adoption of the recommended mitigation conditions, it is my assessment that the effects of the development will be adverse / very low.

Dunedin City District Plan provisions assessment

In terms of Rules 16.3.2 and 17.3.2, the proposed development is a non-complying activity. In the table below, I copy the DCDP provisions I consider relevant to the landscape effects of the proposed subdivision and provide brief comment.

Objective 10.2.5 <i>Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced.</i>	I consider that the proposed development is consistent with this objective. See comments below regarding Appendix A3.
Policy 10.2.5.9 <i>Only allow ... large <u>buildings</u> and <u>structures</u>, <u>earthworks</u> - <u>large scale</u>, ... in the Significant Natural Landscape Overlay Zone (<u>SNL</u>) where adverse effects on the landscape values of the <u>SNL</u>, as identified in Appendix A3, are avoided or, if avoidance is not practicable:</i> <i>a. no more than minor or;</i> <i>b. where there are no practicable alternative locations, adequately mitigated.</i>	The proposed subdivision will provide for houses and earthworks. See comments below regarding Appendix A3. I consider that adverse effects on the landscape values of the FMCSNL will be no more than minor.
Policy 10.2.5.10 <i>Only allow <u>subdivision activities</u> in ... Significant Natural Landscape (<u>SNL</u>) overlay</i>	I consider that the proposed development is consistent with this policy. See comments below regarding Appendix A3 and above

zones where the <u>subdivision</u> is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in <u>Appendix A3</u> and will be in accordance with <u>policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9.</u>	regarding Policy 10.2.5.9.
Objective 16.2.3 <i>The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:</i> <i>a. a predominance of natural features over human made features;</i> <i>b. a high ratio of open space, low levels of artificial light, and a low density of <u>buildings</u> and <u>structures</u>;</i> <i>c. <u>buildings</u> that are rural in nature, scale and design, such as barns and sheds;</i> <i>d. a low density of residential activity, which is associated with <u>rural activities</u>;</i> <i>e. a high proportion of land containing farmed animals, pasture, crops, and <u>forestry</u>;</i> <i>f. extensive areas of <u>indigenous vegetation</u> and habitats for indigenous fauna; and</i> <i>g. other elements as described in the character descriptions of each rural zone located in Appendix A7.</i>	In my assessment, the proposed development, including the proposed mitigation measures, is consistent with maintenance and enhancement of rural character and amenity values. Natural elements will still be strongly dominant and the residential density in the RHS part of the site will be consistent with the DCDP minimum site size provision as per Rule 16.5.2. The buildings resulting from the subdivision will be dwellings and sheds – both characteristic elements within rural areas, and rural land use will continue. Indigenous vegetation will be protected and managed to enhance its natural values. The development involves no significant impact on the distinctive hill features to the north of urban Dunedin.
Policy 16.2.3.2 <i>Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.</i>	The subdivision will result in residential density in the RHS part of the site, that is consistent with the minimum site size rule (16.5.2) for this zone. In my assessment, considering the mitigation measures proposed, rural character values and visual amenity will be maintained.

Policy 16.2.3.8 <i>Only allow <u>subdivision</u> <u>activities</u> where the <u>subdivision</u> is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones.</i>	As per comments above regarding Policy 16.2.3.2, I consider that the proposed subdivision is consistent with this policy.
Objective 17.2.3 <i>The character and amenity of the rural residential zones are maintained, elements of which include:</i> <i>a. a high presence of natural features such as trees, bush, gully systems and water bodies;</i> <i>b. a semi-rural level of development, with a higher proportion of open space and lower density of <u>buildings</u> than in urban areas; and</i> <i>c. land maintained and managed for <u>farming, grazing, conservation</u> and rural <u>residential activities</u>.</i>	In my assessment and considering the mitigation measures proposed, the proposed development is consistent with this objective.
Policy 17.2.3.5 <i>Only allow <u>general</u> <u>subdivision</u> where the <u>subdivision</u> is designed to ensure any associated future land use and development will maintain or enhance the character and amenity of the rural residential zones.</i>	In my assessment and considering the mitigation measures proposed, the proposed development is consistent with this policy.

Appendix A3.3.2.2 Flagstaff – Mt Cargill SNL, Values to be protected

Value	Comment
a. Biophysical values	
<i>The extent and integrity of the natural landscape elements including wildlife.</i>	The proposed subdivision is designed to integrate with the natural character of the site and will not involve significant modification to landforms. Existing areas of indigenous vegetation will be protected / managed to enhance their natural values.
<i>Flagstaff Peak patterned ground is a regionally significant geopreservation <u>site</u>.</i>	Not relevant.
<i>Volcanic Peaks and associated landforms including the summits of Flagstaff and Swampy Summit and the sequence of legible and largely intact eroded volcanic spurs which extend below the summit.</i>	The pasture / bush land use pattern existing on the property contributes significantly to landform legibility of the eroded volcanic landscape in the upper Leith Valley area. The proposed subdivision has been designed to integrate with landform character and includes mitigation conditions to protect landscape coherence.
<i>Podocarp Broadleaf forests e.g. Moore's Bush.</i>	The proposed subdivision includes measures to protect existing areas of native scrub and forest and to encourage additional indigenous plantings.
<i>Cloud forest (Libocedrus and podocarps) on Leith Saddle.</i>	Existing podocarp trees on the property will be protected.
<i>Broadleaf forest e.g. Burns Park.</i>	The proposed subdivision includes measures to protect existing areas of native scrub and forest.

<i>Regenerating indigenous forest on the slopes of Flagstaff.</i>	The proposed subdivision includes measures to protect existing areas of native scrub and forest and to encourage additional indigenous plantings.
Ozothamnus/Dracophyllum shrublands at Swampy Summit.	Not relevant.
<i>Snow tussocklands on Flagstaff.</i>	Not relevant.
b. Sensory values	
<i>Volcanic landscape which remains expressive of its formative processes.</i>	The pasture / bush land use pattern existing on the property contributes significantly to landform legibility of the eroded volcanic landscape in the upper Leith Valley area. The proposed subdivision has been designed to integrate with landform character and includes mitigation conditions to protect landscape coherence.
<i><u>Legibility</u> of the natural landform and associated visual coherence of the landscape i.e. patterns of land use reflecting the topography.</i>	See comment above.
<i>Low impact of built elements, <u>earthworks</u>, and exotic tree plantings, and the significant relative dominance of natural landscape elements.</i>	The proposed subdivision includes mitigation measures to ensure built form, earthworks and exotic tree planting have minimal impact on the natural values of the site and area.
<i>Naturalness of elevated landforms.</i>	The site is located at mid – low slope within the upper Leith Valley and the proposed development will have no impact on elevated landforms.
<i>Landform and vegetative altitudinal connectivity</i>	The proposed development will have no adverse effects of any significance on natural

<i>present.</i>	landforms or existing vegetation patterns.
<i>The extent and quality of views across the landscape from public roads and tracks.</i>	In my assessment, the proposed development will have minimal impact on the landscape character in the upper Leith Valley, nor on the extent and quality of views from public places.
<i>Naturalness attributes of the rural landscape which provides backdrop and containment to the discrete harbourside settlements.</i>	Not relevant.
<i>Naturalness of the foreground to the Mt Cargill <u>ONL</u> above.</i>	Not relevant. The site is on the lower slopes of Swampy Summit on the western side of the valley.
<i>Forms much of the backdrop to urban Dunedin.</i>	The site is not high or visually prominent enough to have any significant impact on the backdrop to urban Dunedin.
<i>The landforms are striking and memorable and many are iconic landmark features of Dunedin.</i>	The proposed development will have minimal effect on natural landforms, and no effect on the iconic landmark features of Dunedin.
<i>Native vegetation cover and vegetation patterns that reflect the natural topography and natural skylines.</i>	The proposed development protects and enhances existing native vegetation cover and includes measures to protect landform legibility. The site is within the upper valley and does not impact skylines in general.
<i>Has very high levels of visibility from significant population <u>centres</u> and major roads.</i>	Being located at mid – low level within the upper Leith Valley, the site has only modest levels of visibility from urban Dunedin and public roads.
<i>High rural amenity value.</i>	The property contributes significantly to rural amenity in the upper Leith Valley. In my assessment, considering the mitigation

	measures proposed, the proposed development will have adverse effects on rural amenity values that are less than minor.
<i>Transient values include the cloud cap and seasonal snow cover and wildlife.</i>	The proposed development will have no impact on transient values in general. The proposed indigenous forest protection may have positive effects on wildlife habitat in the long term.
<i>The ridges and peaks are connected by a network of popular walks and mountain bike tracks incorporating scenic recreation and nature reserves.</i>	The proposed development will have no impact on recreational tracks or on reserve land.
<i>Expansive and panoramic views over Dunedin city and beyond are afforded from the accessible summits.</i>	Not relevant.
<i>Overall, the landforms are striking and memorable and many are iconic landmark features of Dunedin.</i>	The proposed development will have minimal impact on landforms generally, and no impact on iconic landmark features of Dunedin.
c. Associative values	
<i>Flagstaff (<u>Whānau-paki</u>) is considered wāhi tupuna, is referred to in mihi as a cultural identity and is a boundary marker between <u>hapū</u>.</i>	Not relevant.
<i>Both Flagstaff (<u>Whānau-paki</u>) and Swampy Summit (<u>Whawharaupō</u>) were part of traditional trails (<u>ara tawhito</u>) running between the Taieri Plain and Blueskin Bay.</i>	The traditional trail ran along the summit ridge and is not located near the property.
<i>The ring of encircling hills has been referred to as the outer town belt.</i>	In my assessment, the proposed development will involve minimal change to the landscape character and will have less than minor impact

	on 'outer town belt' attributes associated with rural and natural character.
<i>The hilltops are distinctive city landmarks and provide a natural approach to the city.</i>	Not relevant.
<i>Flagstaff refers to the flagpole that was used in early European times to alert the wider population that a ship had entered the harbour. An alternative explanation is that the name refers to the poles that were used to mark the original track northwards from Dunedin which ran along the Flagstaff and Swampy summit tops to Hightop.</i>	Not relevant.
<i>Historic <u>buildings</u> and <u>structures</u> and shelter and amenity plantings are present.</i>	There are no heritage structures or plantings on the property that I am aware of.
<i>Heritage landscape qualities including the <u>legibility</u> of the previous more intensive dairy <u>farming</u> land use.</i>	The property does not have any special heritage landscape significance that I am aware of, and patterns or elements of historic land use are not particularly legible in the landscape. The smaller scale settlement pattern proposed is likely to be a reasonable fit with a more intensive dairy farming historic landscape character.

Appendix A7.5 Hill Slopes Rural Zone - Values

Value	Comment
1. <i>Backdrop/Enclosure: to a significant extent the Hill Slopes Rural Zone establishes the character and setting</i>	In my assessment, the proposed subdivision will have less than minor adverse effects on rural and natural character attributes within

<i>for the main urban parts of Dunedin, providing a predominantly unbuilt natural backdrop to the central city, harbour and Mosgiel.</i> 2. <i>Distinctive hill features: specifically, the elevated areas surrounding Dunedin provide one of the main components of its recognised distinctive character. The main features include Harbour Cone, Signal Hill, Mt Cargill, Flagstaff and Swampy Summit.</i> 3. <i>Recreation: sparsely inhabited, the Hill Slopes Rural Zone is close to the main urban parts of the city and therefore frequently used for recreation activities.</i> 4. <i>A predominance of natural features over human made features. The zone has a relatively low density of built <u>structures</u> and associated services. There is variability of settlement patterns, with more lifestyle block development on the Taieri slopes and closer to existing Dunedin urban areas. However, natural character is still largely dominant. With a diversity of land management, there is a potential for exotics such as gorse and broom to encroach on both pasture and native bush.</i> 5. <i>Pockets of important and varied <u>biodiversity</u>: there are significant areas of <u>indigenous vegetation</u> and habitats for indigenous fauna. Scattered <u>indigenous vegetation</u> dominated by kanuka is present in some marginal sites on the Taieri slopes. Further towards Flagstaff and Mt Cargill the zone is dominated by the naturalness of forest cover</i>	upper Leith Valley. The site is located at mid – low slope within upper Leith Valley and the development will have minimal impact on distinctive hill features. The proposed development will not impact recreation activities. Considering the mitigation measures proposed, natural elements will remain strongly dominant. Built density will increase as a result of the subdivision but will remain within the range anticipated within and characteristic of both the RHS and RR2 zones. The proposed development protects areas of existing indigenous vegetation on the property.
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<i>which contrasts with the urban area it borders. As well as its importance for <u>biodiversity</u>, the forest cover serves an important role in protecting key water supplies for the city, including the Leith and Cedar Farm catchments.</i>	
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Conclusion

This application seeks consent for subdivision within the RHS and RR2 zones in the upper Leith Valley, an area covered by the FMCSNL overlay. The key landscape values in this area are associated with the natural character and rural amenity of the distinctive hill context to urban Dunedin.

The proposed subdivision will enable development of a density that is generally compatible with RHS and RR2 zones in my assessment. It also includes a suite of proposed mitigation measures to minimise prominence of built elements and to protect and enhance the natural qualities of the site.

It is my assessment that effects on landscape values will be adverse / very low (less than minor) and that the proposed development is consistent with the landscape related provisions of the DCDP.



Mike Moore

Registered NZILA Landscape Architect

Appendix A: Mitigation Planting Specification

The following species are to be planted in accordance with the specification below in the areas shown as 'mitigation planting' in Figure 7.

Botanical name	Common name	Approx % of planting
<i>Carpodetus serratus</i>	<i>Putaputaweta</i>	5
<i>Coprosma propinqua</i>	<i>Mingimingi</i>	10
<i>Cordyline australis</i>	<i>Cabbage tree</i>	5
<i>Fuchsia excorticata</i>	<i>Tree fuchsia</i>	5
<i>Griselinia littoralis</i>	<i>Broadleaf</i>	5
<i>Hebe salicifolia</i>	<i>Koromiko</i>	5
<i>Kunzea robusta</i>	<i>Kanuka</i>	5
<i>Leptospermum scoparium</i>	<i>Manuka</i>	5
<i>Melicytus remiflorus</i>	<i>Mahoe</i>	5
<i>Olearia ilicifolia</i>	<i>Mountain holly</i>	5
<i>Phormium tenax</i>	<i>Flax</i>	10
<i>Pittosporum eugenioides</i>	<i>Lemonwood</i>	5
<i>Pittosporum tenuifolium</i>	<i>Kohuhu</i>	10
<i>Podocarpus totara</i>	<i>Totara</i>	2.5
<i>Pseudopanax crassifolius</i>	<i>Lancewood</i>	5
<i>Pseudowintera colorata</i>	<i>Pepper tree</i>	5
<i>Schefflera digitata</i>	<i>Pate</i>	5
<i>Sophora microphylla</i>	<i>Kowhai</i>	2.5

Planting maintenance and management

1. Where required, fencing should be carried out to protect the areas to be planted from grazing by stock.
2. The areas to be planted are to be sprayed to kill existing grasses using a non-residual systemic herbicide.
3. Planting densities are to be approximately 1.5m
4. Plant grades are to be Pb3 or equivalent, minimum.
5. One slow release fertilizer tablet will be used per plant.

6. A circle of mulch (100mm deep woodchip or sacking or similar) is to be applied around each plant to assist in plant establishment and weed suppression.
7. The area around each plant is to be maintained weed free until well established by hand weeding or spraying where this is possible without adversely affecting the plants.
8. Plants should be watered as / if required during dry spells until well established.
9. Survival should be monitored and any dead plants replaced immediately. Animal pests should be controlled and if required, plants should be provided with an eco-shelter for protection against rabbit and possum browse.
10. The plantings are to be managed to ensure their ongoing health and vitality.



Figure 1: Proposed Subdivision 233 Leith Valley Road, Dunedin. Location and Photo-points Plan



Figure 2: View toward the site from State Highway 1 south-east of the site

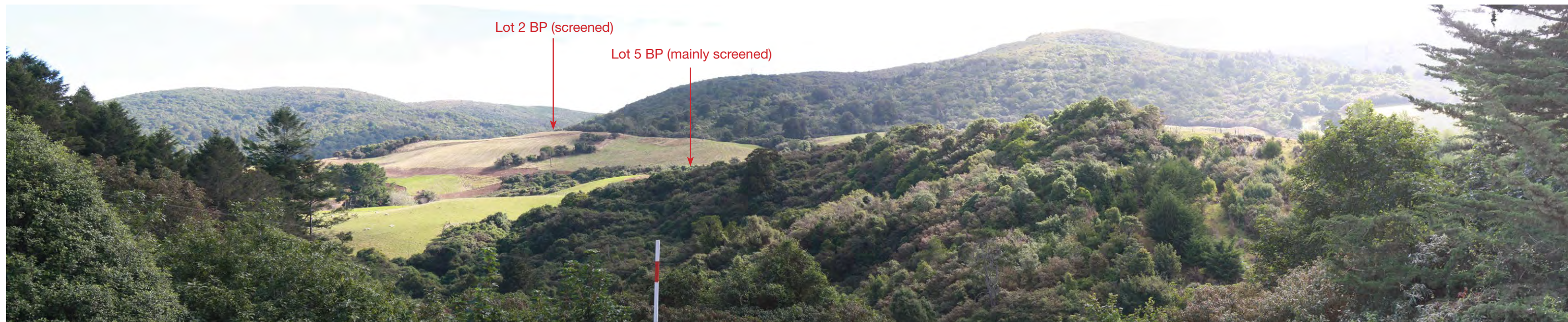


Figure 3: View toward the site from State Highway 1 north-east of the site



Figure 4: View toward the site from Dryden Road adjacent to Leith Valley Road

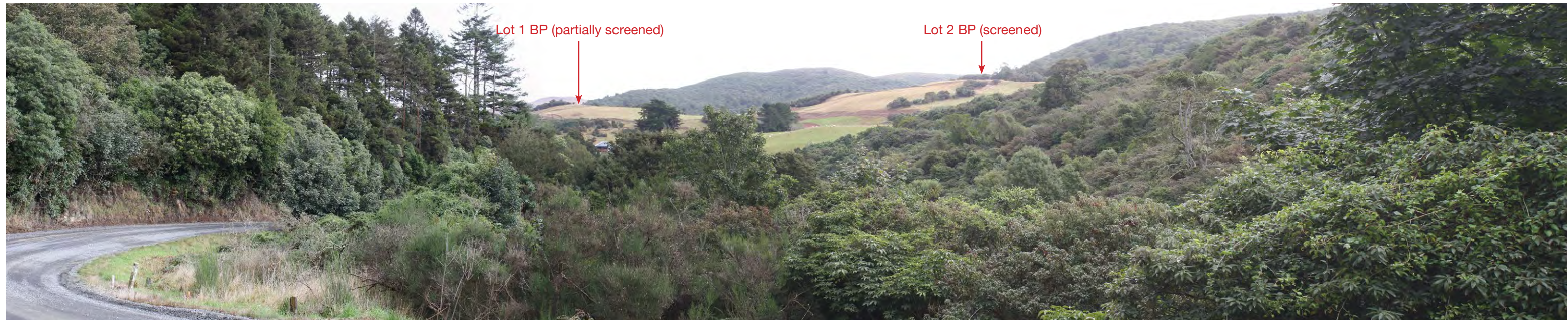


Figure 5: View toward the site from Leith Valley Road north of its intersection with Dryden Road

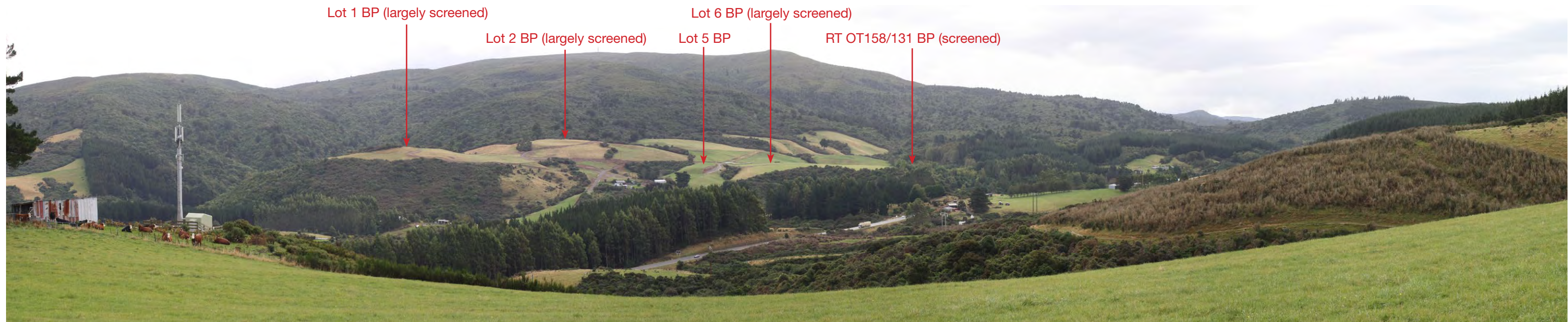


Figure 6: View toward the site from Cowan Road



Scale 1:4000 (A3)

Key

Proposed Building Platform (30 x 40m)

Bush Protection Area

Mitigation Planting

Figure 7: Proposed Subdivision, 233 Leith Valley Road, Dunedin.
Landscape Mitigation Concept



RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy




 R.W. Muir
 Registrar-General
 of Land

Identifier **OT15B/129**

Land Registration District **Otago**

Date Issued 16 September 1993

Prior References

OT140/186 OT291/224 OT98/138

Estate	Fee Simple
Area	16.9811 hectares more or less
Legal Description	Lot 2 and Lot 10 Deposited Plan 23005 and Part Section 80 Block V Dunedin & East Taieri Survey District

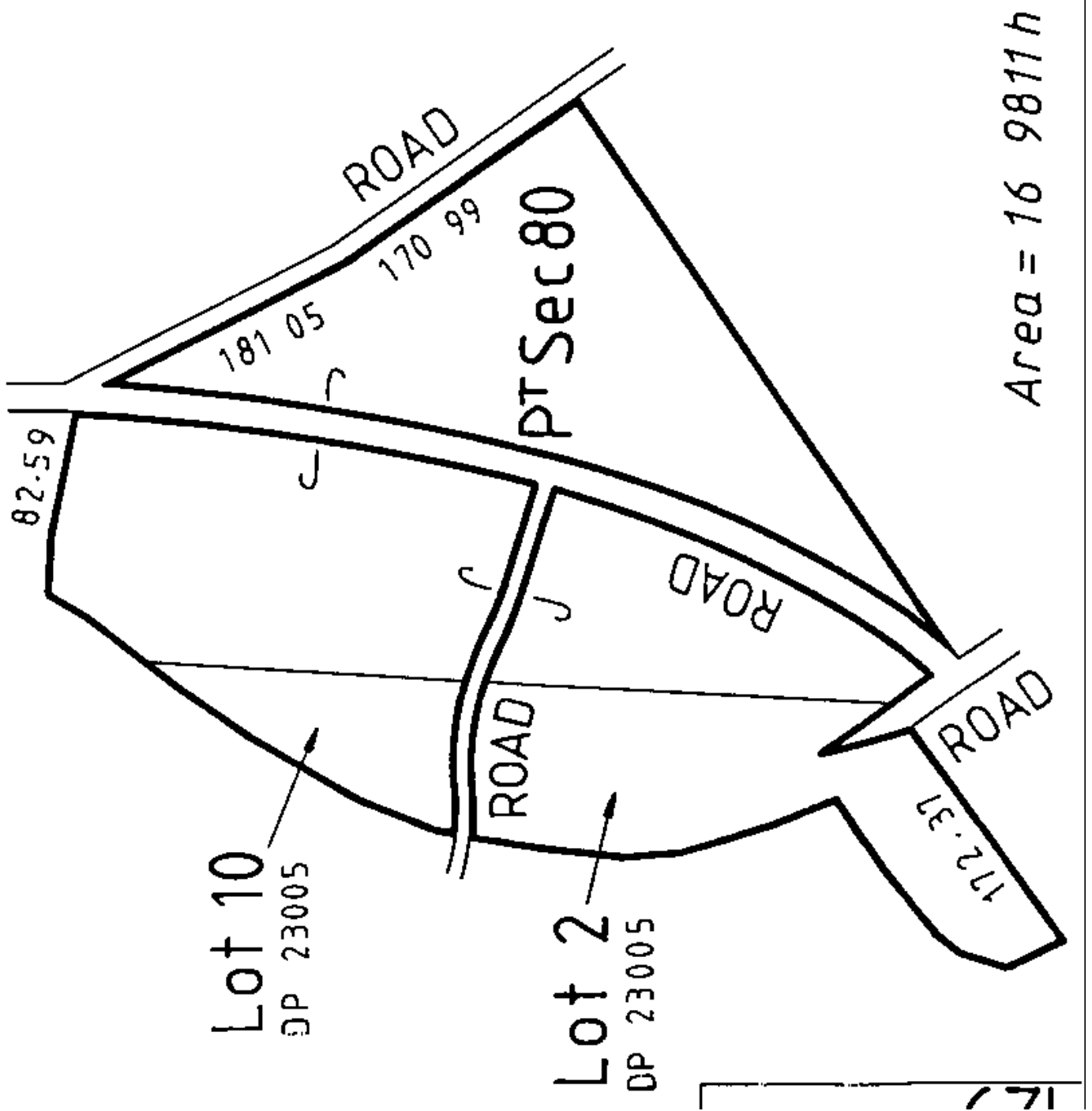
Registered Owners

Leith Valley Properties Limited

Interests

Subject to Section 241 (2) Resource Management Act 1991(See DP 23005)

12651159.2 Mortgage to ASB Bank Limited - 16.2.2023 at 3:19 pm





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



R.W. Muir
Registrar-General
of Land

Identifier **OT15B/131**
Land Registration District **Otago**
Date Issued 16 September 1993

Prior References
OT146/15

Estate Fee Simple
Area 5.6700 hectares more or less
Legal Description Lot 5 and Lot 12 Deposited Plan 23005 and
Excepting such parts of mines of coal or
other minerals under the surface of the
within land not taken by Proclamation 1743

Registered Owners
Leith Valley Properties Limited

Interests

Subject to Section 241 (2) Resource Management Act 1991 - (See DP 23005)

833915.1 Easement Certificate specifying the following easements - 16.9.1993

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Right of way	Lot 13 Deposited Plan 23005 - CT OT15B/133	C DP 23005	Lot 5 and Lot 12 Deposited Plan 23005 - herein	Section 243 (a) Resource Management Act 1991
Right of way	Lot 16 Deposited Plan 23005 - CT OT15B/138	D DP 23005	Lot 5 and Lot 12 Deposited Plan 23005 - herein	Section 243 (a) Resource Management Act 1991

17A/325 Deed of Easement - 12.9.1995 at 10.34 am

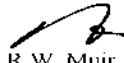
Type	Servient Tenement	Easement Area	Dominant Tenement
Right of way	Water of Leith	B DP 24524	Lot 5 and Lot 12 Deposited Plan 23005 - herein

12651159.2 Mortgage to ASB Bank Limited - 16.2.2023 at 3:19 pm



RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
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 R.W. Muir
 Registrar-General
 of Land

Identifier **OT202/225**

Land Registration District **Otago**

Date Issued 23 August 1923

Prior References

DI M182 WA 4/223

Estate	Fee Simple
Area	3819 square metres more or less
Legal Description	Part Section 33-34 Block VIII North Harbour & Blueskin Survey District

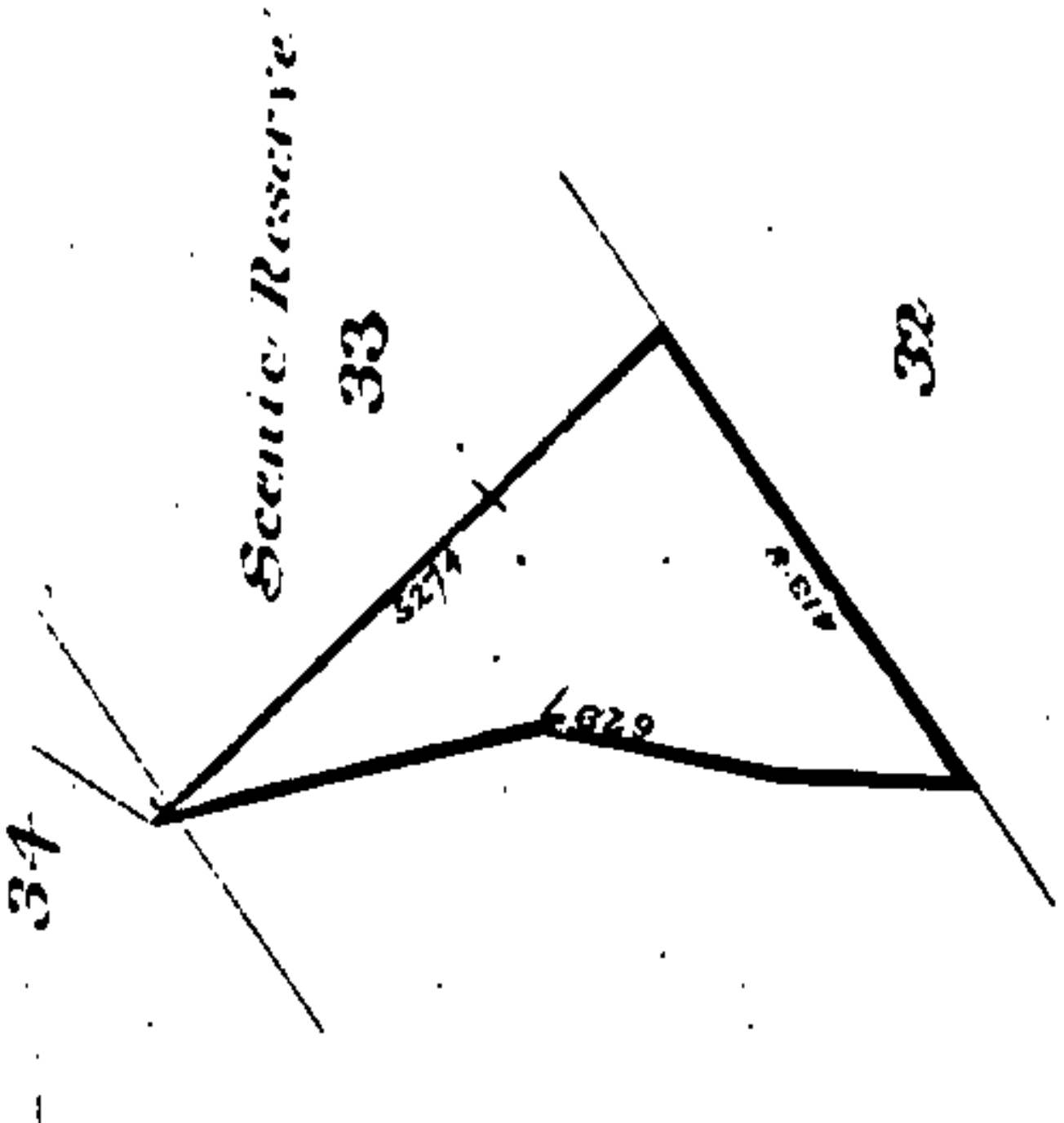
Registered Owners

Leith Valley Properties Limited

Interests

The within land has no frontage to a public road

12651159.2 Mortgage to ASB Bank Limited - 16.2.2023 at 3:19 pm





RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
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Limited as to Parcels
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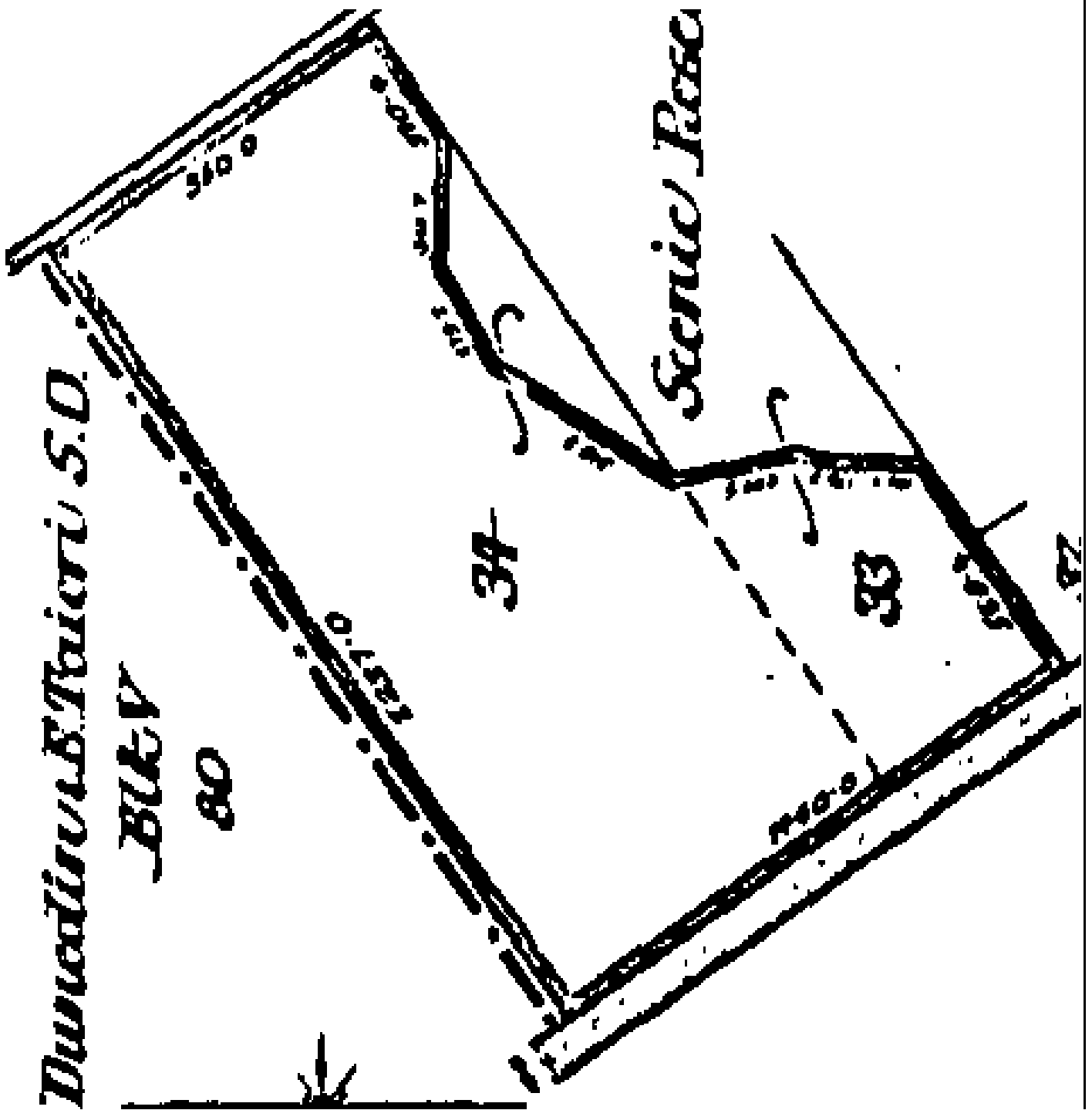
Identifier **OT263/100**
Land Registration District **Otago**
Date Issued 14 October 1933

Prior References
 DI X176

Estate	Fee Simple
Area	9.5556 hectares more or less
Legal Description	Part Section 33-34 Block VIII North Harbour & Blueskin Survey District

Registered Owners
 Leith Valley Properties Limited

Interests
 12651159.2 Mortgage to ASB Bank Limited - 16.2.2023 at 3:19 pm





RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
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R.W. Muir
 Registrar-General
 of Land

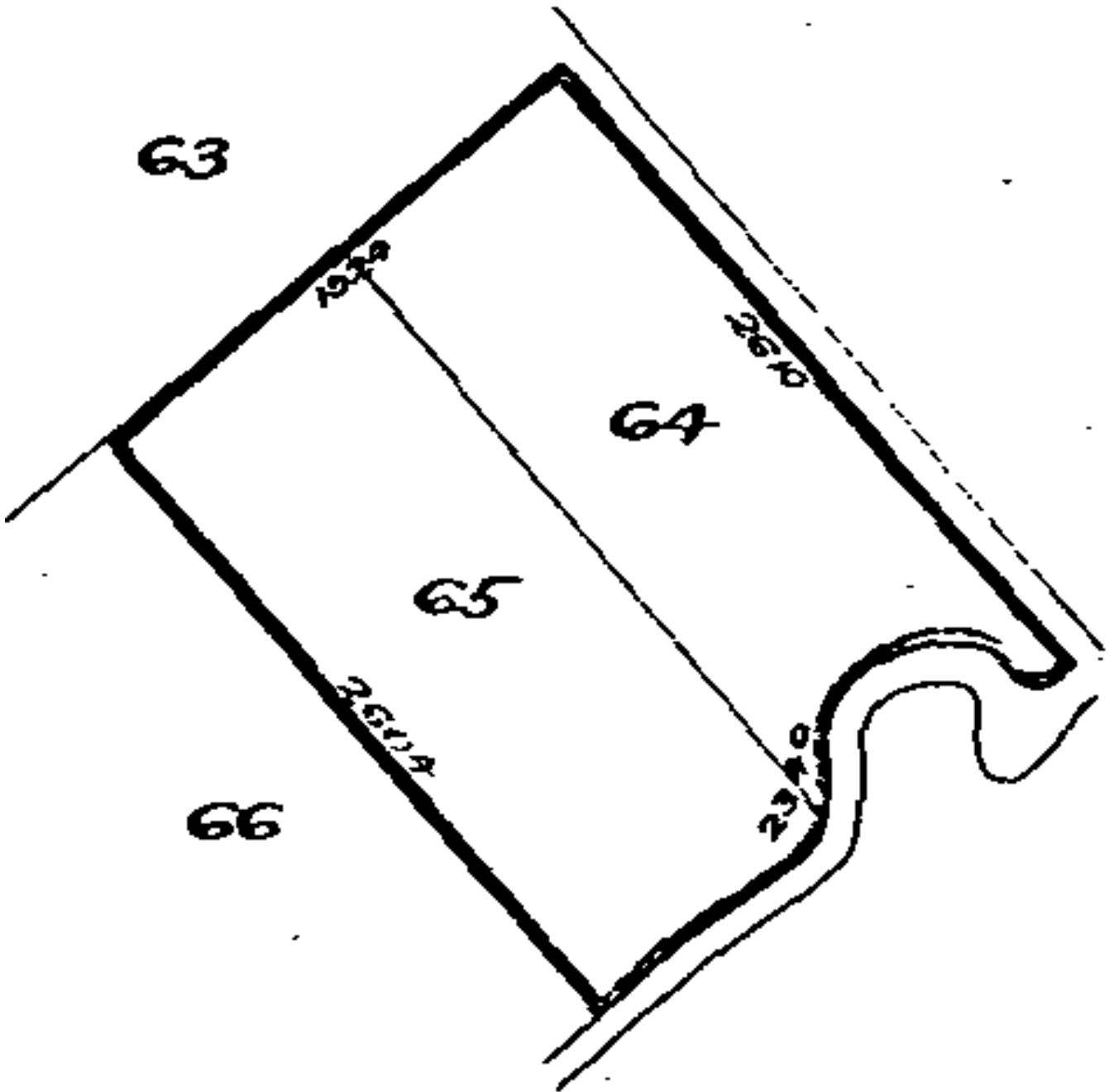
Identifier **OT159/70**
Land Registration District **Otago**
Date Issued 14 September 1910

Prior References
 OT100/141 OT4/124

Estate Fee Simple
Area 19.4426 hectares more or less
Legal Description Section 64-65 Block V Dunedin & East
 Taieri Survey District

Registered Owners
 Leith Valley Properties Limited

Interests
 12651159.2 Mortgage to ASB Bank Limited - 16.2.2023 at 3:19 pm



APPENDIX 1A:
Amended Subdivision Plan

APPENDIX 2:
Memorandum from the Applicant's Landscape
Architect, Mr Mike Moore

MIKE MOORE*BSc, Dip LA, MRRP, ANZILA*

LANDSCAPE ARCHITECT

Memorandum

To Vyvienne Evans
Paterson Pitts Group

From Mike Moore

Date 27 October 2023

**Subject Proposed subdivision, 233 Leith Valley Road – visual effects
assessment, proposed Lots 5 and 6**

Introduction

As requested, the following is my assessment of the visual effects of lots 5 and 6, proposed subdivision, 233 Leith Valley Road. This is in response to the assessment of Luke McKinlay, Dunedin City Council Landscape Architect, that the visual effects of new dwellings on these lots will be adverse and more than minor initially, reducing to low in 5 – 10 years with the establishment of planting¹.

My assessment will address the representative viewpoints considered in my initial assessment (dated 5 April 2023) as well as the additional upper Cowan Road viewpoint discussed by Mr McKinlay. The figures referred to are those in my April report.

¹ Luke McKinlay memorandum, SUB-2023-65 dated 25 August 2023.

Visual effects assessment

State Highway 1 (see Figures 2 and 3)

<i>Relevance of viewpoint</i>	<i>State Highway 1 is a major entrance to Dunedin and public thoroughfare. These views, along with those from Leith Valley Road are generally indicative of the effects from dwellings in the vicinity.</i>
<i>Distance to site</i>	<i>490m (Figure 2), 100m (Figure 3).</i>
<i>Existing view</i>	<i>These views are representative of intermittent views toward the site available where not screened by roadside vegetation from State Highway 1. The site is seen as rolling pasture country with fingers of bush running through with a backdrop of natural scrub and forest covered higher slopes. Rural visual amenity values are high.</i>
<i>Effects of the proposed development</i>	<i>Buildings on Lot 6 will have no visibility from the highway. Buildings on Lot 5 will be almost entirely screened. Any visibility of built form will have negligible visual effect due to screening and the mitigation controls proposed.</i>
<i>Visual effects rating</i>	<i>Adverse / very low</i>

Leith Valley Road (see Figures 4 and 5)

<i>Relevance of viewpoint</i>	<i>Leith Valley Road is a minor public thoroughfare. These views, along with those from State Highway 1 are generally indicative of the effects from dwellings in the vicinity.</i>
<i>Distance to site</i>	<i>115m (Figure 4), 40m (Figure 5).</i>
<i>Existing view</i>	<i>These views are representative of intermittent views toward the site available where not screened by roadside vegetation from Leith Valley Road, or nearby. The existing dwelling can be glimpsed, and the site is seen beyond the foreground bushland as rolling pasture country with</i>

	<i>fingers of bush running through with a backdrop of natural scrub and forest covered higher slopes. Rural visual amenity values are high.</i>
<i>Effects of the proposed development</i>	<i>Buildings on Lot 6 will have no visibility from Leith Valley Road. Buildings on Lot 5 will be almost entirely screened. Any visibility of built form will have negligible visual effect due to screening and the mitigation controls proposed.</i>
<i>Visual effects rating</i>	<i>Adverse / very low</i>

Cowan Road (see Figure 6)

<i>Relevance of viewpoint</i>	<i>This viewpoint is indicative of higher elevation views of the upper Leith Valley from the Mt Cargill side.</i>
<i>Distance to site</i>	<i>1.2km</i>
<i>Existing view</i>	<i>This is a view north-westward across Leith Valley toward Swampy Summit from the lower slopes of Mt Cargill. The site is seen as part of the rural valley floor – mid-slope landscape within the context of highly natural upper slopes. State Highway 1 can be seen near the valley base and built development in the rural residential zoned area has minimal visibility due to screening by plantings. The coherent pattern of pasture and indigenous vegetation cover on the landform contributes significantly to rural amenity and aesthetic values in the area of the site. Naturalness and coherence values are more modified where exotic forestry is present up valley and to the north-east of the site.</i>
<i>Effects of the proposed development</i>	<i>Built development on Lot 5 will be visible and its impact mitigated by the proposed development controls, along with its location adjacent to a larger area of bush. Development on Lot 6 will be partially screened by landform and mitigated by the proposed development controls. The development will result in a slightly increased presence of dwellings seen within a pastoral landscape context at a lower level in the valley. The proposed built density will not appear out place in this context. The development controls (particularly building height and colour) will result in low visual</i>

	<i>prominence of built form. In time the proposed plantings will reduce impact further. The proposed controls over planting of exotic species will protect the rural amenity (naturalness) values of the pastoral landscape contexts of these sites.</i>
<i>Visual effects rating</i>	<i>Short – medium term (prior to mitigation planting becoming visually significant) – Adverse / very low Medium – long term (once mitigation planting is visually significant) – Adverse / very low.</i>

Cowan Road – upper end (see wide-angle photograph below)

<i>Relevance of viewpoint</i>	<i>This viewpoint is a higher, more distant variant on the Cowan Road viewpoint discussed above. Views toward the site will soon be blocked by adjacent forestry and I do not consider that this is a viewpoint of any particular significance.</i>
<i>Distance to site</i>	<i>Approx 2.7km</i>
<i>Existing view</i>	<i>This is a view westward across Leith Valley toward Swampy Summit from the upper slopes of Mt Cargill. The site is seen as part of the rural valley floor landscape within the context of highly natural upper slopes. The coherent pattern of pasture and indigenous vegetation cover on the landform contributes significantly to rural amenity and aesthetic values in the area of the site. Naturalness and coherence values are more modified where exotic forestry is present up valley and to the north-east of the site.</i>
<i>Effects of the proposed development</i>	<i>Built development on Lot 5 will be visible and its impact mitigated by the proposed development controls, along with its location adjacent to a larger area of bush. Development on Lot 6 will be visible and mitigated by the proposed development controls. The development will result in a slightly increased presence of dwellings seen within a pastoral landscape context at a lower level in the valley. The proposed built density will not appear out place in this context. The development controls (particularly building height and colour), combined with significant viewing distance will result in low visual prominence of built form. In time the proposed plantings will reduce impact further. The proposed controls over planting of exotic species will</i>

		<i>protect the rural amenity (naturalness) values of the pastoral landscape contexts of these sites.</i>
<i>Visual rating</i>	<i>effects</i>	<i>Short – medium term (prior to mitigation planting becoming visually significant) – Adverse / very low</i> <i>Medium – long term (once mitigation planting is visually significant) – Adverse / very low.</i>



Wide-angle photograph illustrating the view toward the site from the upper part of Cowan Road (27 October 2023)

Discussion and conclusion

Landscape and visual effects are assessed against the landscape values. The level of visibility does not directly relate to the degree of effect per se. It is my assessment that

whilst having some visibility, in particular from Cowan Road, building development as controlled by the proposed mitigation measures, will integrate well with the rural landscape character and values of this part of Leith Valley. I consider that the visual effects associated with development on the identified platforms on Lots 5 and 6 will be adverse due to a small increase in the impact of built form, but that the degree of effect will be very low. The reasons for my very low rating are:

- The lots 5 and 6 sites have low levels of visibility from surrounding areas generally. Where visible, development will be seen at considerable distances, which assist to minimise impact.
- The comprehensive suite of proposed mitigation measures will effectively minimise the visual impact and prominence of built form and its effects on rural character (including openness and naturalness). The proposed planting will help to reduce impacts as it matures but is not relied upon to achieve a very low level of immediate adverse impact due to the other controls proposed.
- The proposed mitigation controls will effectively minimise any adverse effects on landform / natural landform legibility and avoid adverse effects associated with exotic contextual plantings.
- The proposed building platforms are located on amenable landforms, and low in the landscape within a rural / rural residential context where rural dwellings are not unexpected and are part of the local character. The proposed residential density is not inappropriate in this setting.

As per the NZILA Landscape Assessment Guidelines (see my report), this equates to an adverse effect that is less than minor in my assessment – both in the short and long terms.

Mike Moore

Registered NZILA Landscape Architect

APPENDIX 3:

**Advice from the Landscape Architect, Mr Luke
McKinlay**

Memorandum

TO: Karen Bain, Planner

FROM: Luke McKinlay, Landscape Architect

DATE: 25th August 2023

SUBJECT: **SUB-2023-65: 233 LEITH VALLEY ROAD. LA COMMENTS**

Hi Karen,

The following is in response to your request for comment on the above application to subdivide land at 233 Leith Valley Road to create 11 lots from five existing titles.

These comments review the following documents:

- Landscape Effects Assessment Report (5 April 2023), prepared by Mike Moore, Landscape Architect.
- Resource Consent Application. 233 Leith Valley Rd, Leith Valley, Dunedin. 3 June 2023. Prepared by Paterson Pitts Group.

I undertook a visit to the site and surrounding area on the 7th and 9th of August 2023 to inform the following comments. Photographs taken during these visits are attached in Appendix 1.

Review of Landscape Effects Assessment (LEA) Report

The following peer review is structured in accordance with the recommendations of *Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines, July 2022*. Specifically, it will consider whether the LEA, prepared by Mike Moore, dated 5 April 2023, follows a sound methodology that includes the following elements:

- An assessment of landscape effects in the context of the relevant statutory provisions and any 'other matters'
- A description, interpretation, and evaluation of relevant landscape character values.
- An analysis of the effects on landscape values in a balanced and reasoned way.
- A series of credible findings supported by a clear rationale.
- A set of appropriate recommendations and/or conclusions.

The purpose of this review is an appraisal of the assessment. It is not a parallel assessment.

Methodology:

The LEA contains a methodology statement, which is consistent with the NZILA Landscape Assessment Guidelines Te Tangi a Te Manu, July 2022. In general, the method is appropriate for the purpose of the assessment, the nature of the surrounding rural/rural-residential landscape, the potential landscape issues and the scale of the proposal and its potential effects.

The LEA is structured as follows:

- *Site and area description.*
- *Landscape Values.*
- *The proposed development.*
- *Recommended mitigation measures.*

- *Landscape effects.*
- *Dunedin City District Plan provisions assessment.*
- *Conclusion.*

Existing landscape/Site Context:

The LEA identifies the relevant context within which the proposed subdivision is located, which I agree with. In summary, Mr Moore identifies the relevant landscape context as follows:

The relevant landscape context of the site is the upper Leith Valley. The main northern access to and from Dunedin traverses this area, which has a broad valley landform and a mixed land use / landscape character, including areas of pasture, forestry, exotic scrub and indigenous forest. Generally, residential density is low, and the character is rural, but there is an area with rural residential character (and zoning) between the motorway and Leith Valley Road near the site to the east. This has low visibility in general, from the adjacent roads. On the western side of the valley in particular, the upper slopes and skyline has a strongly natural character due to indigenous vegetation cover. This is less pronounced on the eastern side due to the influence of exotic forestry.

With regards to the western side of the valley, where the site is located, he makes the following comments:

The western (site) side of the valley exhibits an attractive gradation from indigenous grassland / shrubland, through indigenous forest to a more settled / modified valley floor with farmland and dwellings. The existing rural-residential area sits comfortably within this setting and does not have significant visual impact from the State highway or other public roads. The pattern of pasture and regenerating forest within the site which is coherent on the natural landform contributes positively to aesthetic landscape values and rural amenity.

In general, it is considered that there is an adequate description, interpretation, and evaluation of landscape character values.

Proposal:

In general, the proposal is described clearly in the LEA and application documents. The following components of the proposal are identified:

- Lots 1, 2-4 in Rural Hill Slopes zone
- Lots 5, 6, 9 & RT OT158/131 in the Rural Residential 2 zone.
- Potential bush protection covenant areas on Lots 1 – 6.
- An area for possible provision for public car parking has been identified on Lot 1, associated with recreational access to Moore's Bush Reserve.
- Access to all the proposed new lots is identified as being off Thompson Road and farm tracks to the proposed building platform sites, which are already formed.
- Access to RT OT158/131 will be via an existing ROW off Leith Valley Road.

In general, sufficient detail, including a range of graphic material, is provided to understand the various aspects of the proposal. As listed above, earthworks associated with the accessways to the various lots have already been undertaken. New post and rail timber fencing at the accessway entrances and subdivision signage (*Toru Peaks*) has also been established.

With regards to the graphic material that supports the LEA, view location photos are provided, and the location of potentially visible lots are annotated. There is some doubt around the potential extent of future development visible on these lots. Development within the building platform locations is shown as

being either “screened” or “partially screened”. In most cases screening, where identified, appears to be provided by landform. Given the large building platforms, it seems likely that the degree to which future dwellings would be screened from surrounding locations will be influenced to some extent by exactly where within the 30 x 40m platform they would be located. As such, it is difficult to determine, with certainty, the degree of screening likely to be provided. Further, it is unclear if the screening effect of proposed mitigation planting has been considered when assessing the extent of the development that will likely be visible.

No contour lines are shown on Figure 7 of the LEA or the amended subdivision plan. Their addition on these plans would help to communicate the relationship between the proposed building platforms and topography. For example, it would help to illustrate that the proposed building platform location on Lot 1 is located on a local high point.

Statutory planning provisions:

The assessment appears to identify and is framed in response to the relevant provisions of the 2GP. The assessment identifies that the 2GP sets out the relevant planning framework for the consideration of the resource consent for the subdivision.

The subdivision is assessed in the context of the relevant values of the Flagstaff Mount Cargill Significant Natural Landscape (A3.3.2.2). It is also assessed against the listed values of the Hill Slopes Rural Zone (A7.5). Comments are provided by Mr Moore regarding consistency, or otherwise, with relevant Objectives and Policies of Sections 10 (Natural Environment), 16 (Rural Zones) and 17 (Rural Residential Zones) of the District Plan

Proposed Mitigation Measures

A suit of mitigation measures is proposed to address potential adverse effects on existing landscape values, these comprise:

1. *All buildings, including dwellings, accessory buildings and buildings associated with rural land use, are to be located within the identified building platforms on each lot, and shown in Figure 7.*
2. *Dwellings shall be no higher than 5m and other buildings no higher than 4m above existing or modified ground level.*
3. *Buildings shall be designed to minimize the need for earthworks, and any earthworks shall be designed to blend seamlessly with the natural landforms surrounding. Any retaining walls are to be screened so as not to be visible from public roads.*
4. *Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), building colours for new buildings are to be selected to ensure that contrast with the dominant hues of the surrounding rural landscape is minimized. Light reflectivity values (LRV) shall be no more than 20%.*
5. *All services are to be located below ground.*
6. *Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property.*
7. *All fencing is to be confined to rural post and wire fencing no greater than 1.2m high, or 2m for deer fencing, or stone walls using locally appropriate rock, no higher than 1.5m.*
8. *Driveways are to have a rural character with metal surfacing and no kerb and channel. There is to be no driveway lighting or monumental gates.*
9. *Other than for amenity plantings below 2m mature height within 20m of a dwelling, or fruit trees, any tree and shrub plantings are to be comprised of indigenous species appropriate to the area. The planting list in Appendix A provides a guide.*

10. *The 'bush protection' areas marked in Figure 7 are to be protected and managed to maintain and enhance their natural values and / or impact in mitigating the visual impact of built form. This shall include fencing to protect from stock browsing, control of animal pests, removal / control of pest / weed plant species, and facilitation of natural regeneration of indigenous species.*
11. *Mitigation planting as shown in Figure 7 is to be established within 1 year of the commencement of building on the site. Planting shall be established and managed in accordance with the guidelines outlined in Appendix A.*

In general, it is considered that the above mitigation measures are appropriate for the site. With regards to the proposed bush protection areas, it would make sense to join some of the smaller fragments, with additional enhancement planting, where necessary, to make larger patches that would provide greater benefits from both an ecological and natural character perspective. Bolstering some thin fragments of existing remnant indigenous vegetation with addition native revegetation is also recommended, such as immediately south of the building platform on proposed Lot 2.

It is considered that given the open spatial character of the parts of the site proposed for dwellings on both Lots 5 and 6, mitigation planting associated with these lots should be prioritised and required prior to building commencing, if possible.

Given the hillock-top location of the proposed building platform location on Lot 1, it is recommended that either additional mitigation planting is proposed on the slopes to the east of the proposed platform to bolster the existing bush fragment, or consideration is given to moving the platform to the north, off the high point. Additional planting would provide visual mitigation both from close proximity locations, such as from Dryden Road (Figure 4 of the LEA) and from longer distant views from Cowan Road (figure 6 of the LEA).

Bush remnants are identified as bush protection areas on Lots 1-6. It is unclear why existing patches of bush on Lots 10 and 11 are not also to be protected. It is considered that their ongoing protection and potential enhancement would contribute to the natural character values of the site.

Landscape effects/effects on the Flagstaff-Mt Cargill SNL.

Mr Moore reaches the following conclusions regarding effects on existing landscape values:

- *The proposed subdivision is designed to integrate with the natural character of the site and will not involve significant modification to landforms. Existing areas of indigenous vegetation will be protected / managed to enhance their natural values.*
- *The pasture / bush land use pattern existing on the property contributes significantly to landform legibility of the eroded volcanic landscape in the upper Leith Valley area. The proposed subdivision has been designed to integrate with landform character and includes mitigation conditions to protect landscape coherence.*
- *The proposed subdivision includes measures to protect existing areas of native scrub and forest and to encourage additional indigenous plantings.*
- *The proposed subdivision includes mitigation measures to ensure built form, earthworks and exotic tree planting have minimal impact on the natural values of the site and area.*
- *The site is located at mid – low slope within the upper Leith Valley and the proposed development will have no impact on elevated landforms.*
- *The proposed development will have no adverse effects of any significance on natural landforms or existing vegetation patterns.*
- *The proposed development will have minimal impact on the landscape character in the upper Leith Valley, nor on the extent and quality of views from public places.*

- *The site is not high or visually prominent enough to have any significant impact on the backdrop to urban Dunedin.*
- *Being located at mid – low level within the upper Leith Valley, the site has only modest levels of visibility from urban Dunedin and public roads.*
- *The property contributes significantly to rural amenity in the upper Leith Valley. In my assessment, considering the mitigation measures proposed, the proposed development will have adverse effects on rural amenity values that are less than minor.*
- *In my assessment, the proposed development will involve minimal change to the landscape character and will have less than minor impact on ‘outer town belt’ attributes associated with rural and natural character.*

The following points are agreed upon:

- The proposed development will not impact on the naturalness values of the more elevated landforms near the site, such as Swampy Summit, given the physical separation of the site from these upper slopes.
- The site is not visually prominent enough to have a significant impact on the broader values of the SNL as a backdrop to urban Dunedin.
- The site, or parts of the site, are visible from SH1, upper Leith Valley, and the mid and lower slopes of Mount Cargill (that are oriented towards the site), higher viewpoints on the hills surrounding and from a few dwellings in the area surrounding.
- It is agreed that the development will not have significant adverse effects on natural landforms or existing vegetation patterns and there appears to be some opportunities to protect and enhance existing bush patches

It is also agreed that the property currently contributes to the rural amenity of the upper Leith Valley. Aspects of the site that contribute to existing rural amenity values include the open spatial character of the site and the related low levels of built development. Pastoral areas extend over most of the flat-to-gently sloping parts of the site. Indigenous bush fragments predominantly line, or partially line, a series of gullies and are also present on other steeper parts of the site. Built development is absent from most parts of the site, except for the existing dwelling within Lot 9 and farm sheds, which are located on a lower part of the site, near Thompson Road. As noted in the site and area description of the LEA, there is an area of rural residential development between SH1 and Leith Valley Road to the east of the site, which generally has low visibility from adjacent roads. This low visibility is principally due to the location of these dwellings on low-lying land, near the base of the valley. Many of these dwellings are also at least partially screened by mature vegetation in the form of either small woodlots or shelterbelts. This pattern of existing development is evident in the view location photos attached in Appendix 1.

Visual effects are considered as a component of landscape effects in the LEA. The LEA considers visual effects from a range of surrounding locations, including parts of SH1 near the site, Leith Valley Road, and Cowan Road. In general, it is agreed that effects from SH1, Dryden and Leith Valley Road will be relatively low. From SH1, views towards the site are peripheral to the direction of travel and will be glimpsed where not screened by intervening vegetation. It appears that views of dwellings on the proposed building platform locations from SH1 will either be partially or entirely screened. From Leith Valley and Dryden Roads, it appears that most lots will be screened from view.

It is considered that adverse visual effects from some locations on Cowan Road are likely to be somewhat greater than effects from the closer proximity locations. As identified by Mr Moore, within this broad view *“the site is seen as part of the rural valley floor – mid-slope landscape within the context of highly natural upper slopes”*, and... *“built development in the rural residential zoned area has minimal visibility due to screening by plantings. The coherent pattern of pasture and indigenous vegetation cover on the landform contributes significantly to rural amenity”*. Given the broad view over the site from some Cowan Road locations there is the potential that the addition of new dwellings within this pastoral setting will detract from the unbuilt character of this side of the valley, as viewed from these locations.

With regards to the Rural Residential 2 zoned proposed lots (5 & 6), it appears that landform will provide some screening of Lot 6, however, the extent of this screening is difficult to accurately determine (in part due to the large building platform locations). The landform that would provide screening is relatively gently sloping and, to some extent, how earthworks are managed to form a building platform in this location will influence the degree to which the existing landform would provide useful screening. It is also noted that there are some views towards the site from the uppermost parts of Cowan Road, where the building platform on proposed Lot 6 will be visible (refer figure 2). This view location is more distant than the Cowan Road view location in the LEA (more than 2.5km from the site), is not representative of any nearby residential sites and the openness of this view is dependant on the production cycle of the current landuse (forestry). As such, it is not a primary view location, but is included for completeness and to indicate that landform screening for a dwelling on this lot will likely be most effective on the lower parts of Cowans Road.

While the building platform in Lot 5 is shown adjacent to an area of bush, this building platform is located on a relatively prominent small terrace, currently in pasture. The adjacent bush, which is largely within a gully would not provide visual screening of a dwelling of the building platform from Cowan Road locations, as represented by figure 6 of the LEA (or figure 1 of these comments). As such, mitigation will be reliant on proposed controls on building appearance and proposed mitigation planting.

It is considered than adverse visual effects associated with Lots 5 and, potentially Lot 6 (contingent of the exact location of the building platform and how it is formed), will likely be moderate initially from locations on Cowan Road with views across large parts of the site (such as shown in figure 6 of the LEA), only reducing to a low level once the proposed mitigation planting establishes. Prior to this occurring, the proposed dwellings on these lots (bearing in mind that the extent of proposed Lot 6 visible is difficult to determine) will likely contrast with the coherent pattern of open pastoral areas on these mid-slopes and rural residential development confined to the valley floor, typically screened by established plantings.

It is considered that it would require the implementation of all proposed mitigation measures and the establishment of proposed areas of mitigation planting around proposed Lots 5 and 6 for potential adverse landscape effects associated with these two lots to reduce to low levels. Prior to the establishment of this planting (5-10 years), effects of these two lots on existing landscape character could be adverse – moderate.

In general, it is agreed that the proposed building platform locations in the rural zone are located appropriately, at the edge of the open pastoral parts of the site and associated with remnant patches of native vegetation. As noted above, some additional mitigation planting associated with these remnants is recommended. Controls on light reflectance values of cladding will help to manage effects associated with visual prominence – dark colours will integrate with the darker patches of bush.

Conclusions

- I. The proposed development will not impact on the naturalness values of the more elevated parts of the SNL.
- II. The site is not highly prominent from urban parts of Dunedin and will not have significant impact on the broader values of the SNL as a backdrop to urban Dunedin.
- III. It is agreed that visual effects from SH1, Dryden and Leith Valley Roads will be relatively low.
- IV. It is considered that the adverse visual effects of new dwellings on Rural Residential Lots 5 and 6 will be more than minor initially and will require the establishment of proposed mitigation planting (5-10 years) for effects to reduce to a low level.

Recommendations:

- I. It is recommended that proposed mitigation planting associated with building platforms on proposed Lot 5 and 6 are undertaken prior to building commencing on these lots.

- II. Additional mitigation planting is provided to the east of the proposed building platform on Lot 1 to bolster the existing thin fragment of remnant indigenous vegetation.
- III. Additional mitigation planting is provided to the southeast of the proposed building platform on Lot 2 to bolster the existing thin fragment of remnant indigenous vegetation.
- IV. Where there are several nearby small fragments of remnant native vegetation identified to be protected, these should be connected with the addition of new locally appropriate native revegetation planting to make larger patches that would provide greater benefits from both an ecological and natural character perspective.
- V. Bush protection and enhancement areas should also be included on Lots 10 and 11.
- VI. If consent is granted, all the mitigation measures proposed in the LEA should be adopted as conditions, with the above amendments.

The above recommendations (I-V) could potentially be integrated into an ecological management plan for the site, if it is determined that that is appropriate.

Regards,

Luke McKinlay
Landscape Architect

Appendix 1: Site Photos

Figure 1: View from lower Cowan Road (Building platforms on proposed lots 1, 2 and 6 partially screened).



Figure 2: View from upper Cowan Road.



Figure 3: View from near entrance to Lot 1 towards Cowan Road (which follows the ridge). Existing Rural Residential development in foreground.



Figure 4: Existing rural residential development east of the site.



Figure 5: View towards proposed Lot 1 from within the site to the northeast.

Appendix 2: A3.3.2 Flagstaff - Mt Cargill Significant Natural Landscape Values

A3.3.2.2 Values to be protected

The following values have been identified as important to protect:

a. *Biophysical values:*

- i. The extent and integrity of the natural landscape elements including wildlife.
- ii. Flagstaff Peak patterned ground is a regionally significant geopreservation site.
- iii. Volcanic Peaks and associated landforms including the summits of Flagstaff and Swampy Summit and the sequence of legible and largely intact eroded volcanic spurs which extend below the summit.
- iv. Podocarp Broadleaf forests e.g. Moore's Bush.
- v. Cloud forest (*Libocedrus* and podocarps) on Leith Saddle.
- vi. Broadleaf forest e.g. Burns Park.
- vii. Regenerating indigenous forest on the slopes of Flagstaff.
- viii. *Ozothamnus/Dracophyllum* shrublands at Swampy Summit.
- ix. Snow tussocklands on Flagstaff.

b. *Sensory values:*

- i. Volcanic landscape which remains expressive of its formative processes.
- ii. Legibility of the natural landform and associated visual coherence of the landscape i.e. patterns of land use reflecting the topography.
- iii. Low impact of built elements, earthworks, and exotic tree plantings, and the significant relative dominance of natural landscape elements.
- iv. Naturalness of elevated landforms.
- v. Landform and vegetative altitudinal connectivity present.
- vi. The extent and quality of views across the landscape from public roads and tracks.
- vii. Naturalness attributes of the rural landscape which provides backdrop and containment to the discrete harbourside settlements.
- viii. Naturalness of the foreground to the Mt Cargill ONL above.
- ix. Forms much of the backdrop to urban Dunedin.
- x. The landforms are striking and memorable and many are iconic landmark features of Dunedin.
- xi. Native vegetation cover and vegetation patterns that reflect the natural topography and natural skylines.
- xii. Has very high levels of visibility from significant population centres and major roads.
- xiii. High rural amenity value.
- xiv. Transient values include the cloud cap and seasonal snow cover and wildlife.
- xv. The ridges and peaks are connected by a network of popular walks and mountain bike tracks incorporating scenic recreation and nature reserves.
- xvi. Expansive and panoramic views over Dunedin city and beyond are afforded from the accessible summits.
- xvii. Overall, the landforms are striking and memorable and many are iconic landmark features of Dunedin.

c. *Associative values:*

- i. Flagstaff (Whānau-paki) is considered wāhi tupuna, is referred to in mihi as a cultural identity and is a boundary marker between hapū.
- ii. Both Flagstaff (Whānau-paki) and Swampy Summit (Whawharaupō) were part of traditional trails (ara tawhito) running between the Taieri Plain and Blueskin Bay.
- iii. The ring of encircling hills has been referred to as the outer town belt.
- iv. The hilltops are distinctive city landmarks and provide a natural approach to the city.
- v. Flagstaff refers to the flagpole that was used in early European times to alert the wider population that a ship had entered the harbour. An alternative explanation is that the name refers to the poles that were used to mark the original track northwards from Dunedin which ran along the Flagstaff and Swampy summit tops to Hightop.
- vi. Historic buildings and structures and shelter and amenity plantings are present.
- vii. Heritage landscape qualities including the legibility of the previous more intensive dairy farming land use.

APPENDIX 4:

Advice from the Biodiversity Advisor, Ms Zoe Lunniss

TO: Karen Bain

FROM: Zoe Lunniss, Biodiversity Advisor

DATE: 25 August 2023

SUBJECT: **SUB-2023-65 – 233 LEITH VALLEY ROAD SUBDIVISION – BIODIVERSITY COMMENTS**

Tēnā koe Karen,

SECTION ONE: RESPONSE TO COMMENTS

Please find my biodiversity comments on application SUB-2023-65.

1. The application seeks resource consent for subdivision of 244 Leith Valley Road to create 11 lots from five existing titles.
2. This subdivision is non-compliant under Rules 16.7.4.3 and 17.7.5.
3. Several 'Bush Protection Areas' have been identified in the application (Figure 1).

Site

4. The site covers two zones, Rural Hill Slopes and Rural Residential 2 in the 2GP and is located within the Dunedin Ecological District¹.
5. The subject site supports indigenous vegetation, mostly remnant or regenerating patches within steep topography and gully systems.
6. Aerial and satellite imagery indicate gully and bush fragments are likely podocarp broadleaf/forest², many of which connect with Swampy Summit (scheduled for inclusion as an ASBV in Variation 3). It is likely these areas contain species listed as protected indigenous species in the 2GP (Appendix 10A). Moore's Reserve, an ASBV, adjoins the south-eastern corner of the subject site.
7. The vegetation contributes to ecological connectivity, linking Swampy Summit with Moore's Reserve.
8. All indigenous vegetation on the subject site sits within the L4.1a Level IV Land Environment which is classified as 'acutely threatened' with less than 10% indigenous vegetation cover remaining nationally³. This means any indigenous vegetation present on the site is likely to meet 2GP ASBV criteria for rarity (Policy 2.2.3.2.b.ii).

¹ McEwen WM (1987). Ecological regions and districts of New Zealand. Third revised edition (Part 4). New Zealand Biological Resources Centre publication No. 5.

² Wildland Consultants Ltd (2020). Mapping of indigenous and exotic vegetation cover across Dunedin City District. Contract Report No. 4934 prepared for Dunedin City Council.

³ Cieraad E, Walker S, Price R, Barringer J. 2015. An updated assessment of indigenous cover remaining and legal protection in New Zealand's land environments. New Zealand Journal of Ecology 39(2)

9. The Water of Leith runs adjacent to lots 10 and 11, a waterbody listed in Appendix 10c. It holds values including flood and erosion mitigation, additionally, it supports native fish species in significant lifecycle stages. Tributaries of this river, including the one traversing through proposed lots 10 and 11, are acknowledged in Appendix 10c for their significance to lamprey, longfin eel, and koura. These waterbodies are also within a catchment with high regional rank as identified by the Otago Regional Council. Notably, the traversing tributary, though unnamed, is recognised for its 'Water Supply Values' (Schedule 1B, Regional Plan for Water in Otago).

2GP

10. Policy 10.2.1.11 is applicable to any general subdivision application.
11. Policy 10.2.1.11: only allow subdivision activities where the subdivision design will ensure any future land use or development will:
 - a. **maintain or enhance**, on an on-going basis, biodiversity values;
 - b. **protect** any areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and
 - c. be in accordance with Policies 10.2.1.X, 10.2.1.Y and 10.2.1.8.

Ongoing maintenance of indigenous biodiversity

12. Should the application succeed, ensuring the subdivision design aligns with Policy 10.2.1.11 is important to maintain indigenous biodiversity at the site on an ongoing basis.
13. Subdivision carries the risk of exacerbating losses in indigenous biodiversity due to increased clearance and fragmentation caused by a larger number of properties within the same area. Moreover, potential clearance of permitted indigenous vegetation for structures, fences, and pathways could amplify this issue. Rural zones generally face higher permitted clearance baselines for indigenous biodiversity than other zones.
14. Vegetation clearance baselines are determined per title, meaning that subdividing into more lots elevates the permitted indigenous vegetation clearance for the given area, allowing each lot to clear the permitted baseline every three years.
15. Furthermore, the proposed subdivision may contribute to habitat fragmentation. Fragmented habitats tend to support smaller populations of species making them susceptible to isolation and rapid encroachment from invasive species.
16. It is noteworthy that no proposal for a bush protection area has been suggested for lots 10 and 11. Indigenous vegetation is apparent on the northern aspects of Lot 10, while both lots 10 and 11 are traversed by a Water of Leith tributary (Figure 2). Considering Policy 10.2.1.11, it's important to address the maintenance and enhancement of natural values in riparian areas and indigenous vegetation.

Conclusions

17. If the application is granted, the following recommendations should be included as conditions of consent to ensure the on-going maintenance and enhancement of indigenous biodiversity.
18. Additional bush protection areas should be protected under a consent notice in Lots 10 and 11, as depicted in Figure 3. Note that Figure 3 is a rough outline for protection. Area A should encompass all areas of indigenous vegetation; aerial assessment suggests exotic broadleaf

forest on the eastern aspect of Lot 10 which would not require protection. Area B should include a 10 m buffer on either side of the tributary (spans across Lots 10 and 11).

19. An Ecological Restoration Plan (ERP) should be developed, detailing enhancement measures for the site, including but not limited to:
 - a. Restoration of a 10 m buffer around the tributary of Lots 10 and 11. This section may require the removal of exotic and pest plant species before the supplementary planting of the riparian margin. The plan should outline the steps involved in preparing and restoring the site on an ongoing basis.
 - b. Control of exotic plant species, specifying species, areas, and methods.
 - c. Enhancement of indigenous biodiversity through supplementary plantings, connecting fragments, and buffering to improve ecological integrity of all bush protection areas.
 - d. The ERP should include general guidance, including ecologically appropriate species selection, spacing, timing, etc.
20. It may be appropriate to incorporate mitigation planting areas (and any additional areas potentially suggested by Landscape) within the ERP. This would ensure that species selection and connectivity between fragments are effectively achieved, enhancing existing habitat types in the area.
21. All bush protection areas proposed in the application, along with Figure 4 areas A and B, should be included in a consent notice with the Council. Conditions of the notice should include:
 - a. Prohibition of felling, removal, or damage to native plant species native to the Dunedin Ecological District. Exceptions require written consent from the covenantee if plants pose risks.
 - b. Restriction to planting, scattering, or sowing plant species native to Dunedin ecological district only.
 - c. Avoidance of any activities detrimental to biodiversity values.
 - d. Commitment to maintain, enhance, and manage bush protection areas in accordance with the ERP.
22. Given the protection of indigenous biodiversity at the site, as well as the development and implementation of an ERP, the effects on biodiversity are considered minor.

Additional advice notes:

23. Consent might be required from ORC for works over the tributary crossing Lots 10 and 11, in line with the NPS-FM and Regional Policy statements. A proposed site access way is evident crossing the water bodies in the proposed plan.
24. It is important to note Rule 10.3.2.3 which outlines restrictions to clearance of important species listed in Appendix 10A. Specifically, 10.3.2.3.a.ii which restricts the removal of any mature examples of important indigenous tree species listed in Appendix 10A.3 within Rural and Residential zones. It is evident from Figure 1 that some building platforms and other structures require the removal of trees. These should be assessed against Appendix 10A.3.
25. In accordance with Clause 3.8(6) of the National Policy Statement for Indigenous Biodiversity, a territorial authority is obliged to assess an area if it becomes evident (through a resource consent) that the area could potentially qualify as an SNA. The Council has now identified this property for a necessary significance assessment, which should be conducted as soon as practicable. This assessment can be carried out either on-site or through a desktop evaluation. Any areas that meet NPS-IB Appendix 1 criteria will be scheduled as an ASBV in the next district plan change.

SECTION TWO: RESPONSE TO PARS COMMENTS

1. Parks and Recreation have proposed a track connecting the carpark (Lot 1) to the Morrisons Burn Access Road. This suggested track would pass through the bush block of Lot 1, providing access for visitors and residents to use (Figure 4).
2. Recognising the value of this access and alignment with PARS policies, I'm concerned about potential impacts on biodiversity values the construction of the track would have.
3. The construction of a track would require a large cumulative area of indigenous vegetation to be removed.
4. A decision regarding the appropriateness of the track should be deferred until the completion of the significance assessment, as outlined in Section 1.
5. If the bush area of Lot 1 meets significance criteria the 2GP, regulatory restrictions will come into effect to mitigate potential ecological impacts. As indicated in Section 1, Paragraph 8, there is a likelihood that this area will be considered significant.

2GP

6. Rule 10.3.2.1.b states all indigenous vegetation clearance that occurs within an ASBV and is not included in Rule 10.3.2.1.a is a non-complying activity.
7. Assessment of this non-complying activity would require expert assessment in accordance with 10.8.2.2.

Conclusion

8. Given the anticipated significance of the Lot 1 bush area, constructing the proposed track is likely to adversely affect biodiversity. A comprehensive assessment of the track plan's alignment with 2GP requirements is essential to determine its appropriateness and potential effects.
9. Considering an alternative track design that encircles the bush area could be a better option.

Nāku iti noa, nā

Zoe Lunniss



Biodiversity Advisor

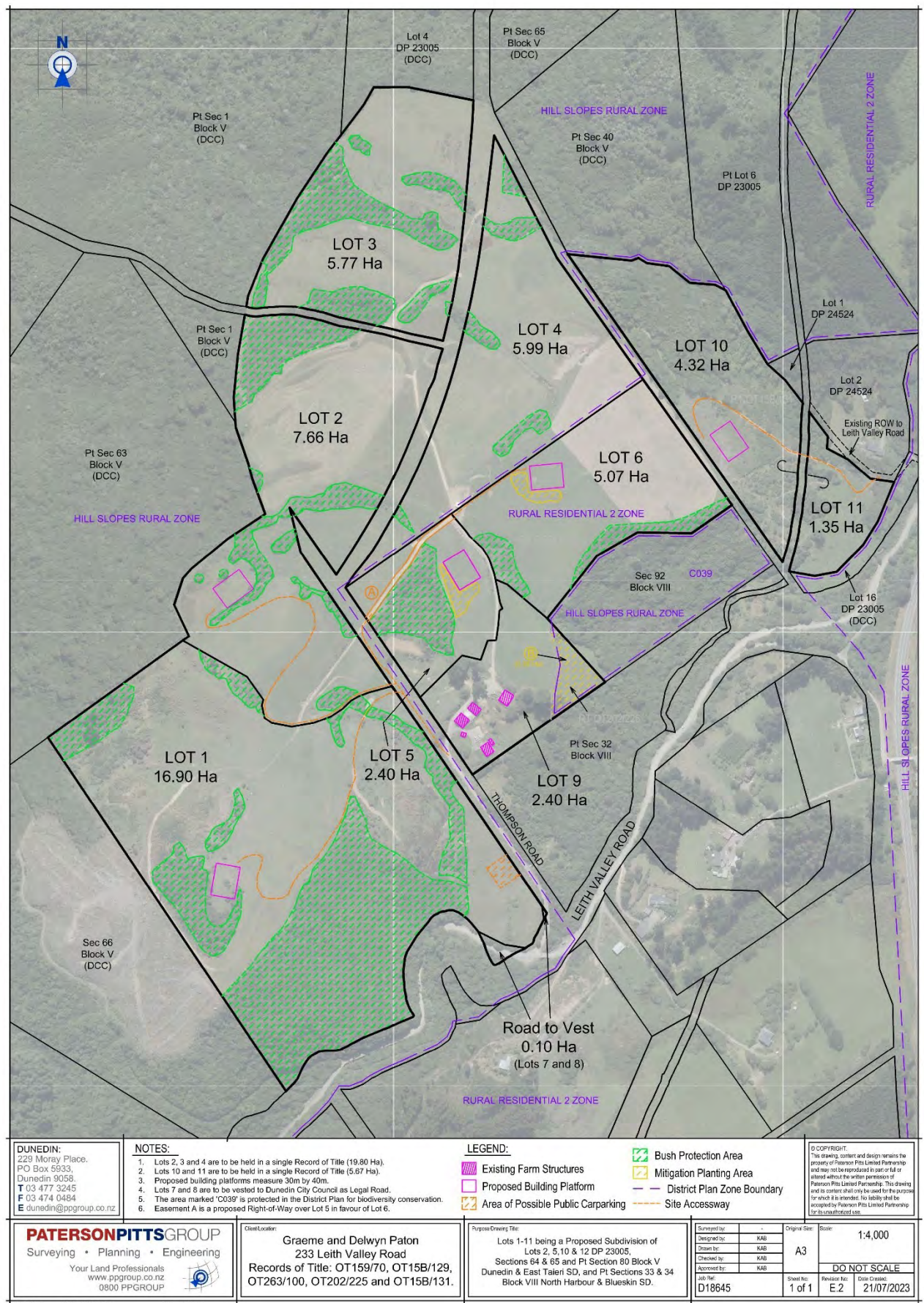


Figure 1: SUB-2023-65 Subdivision Plan provided with application

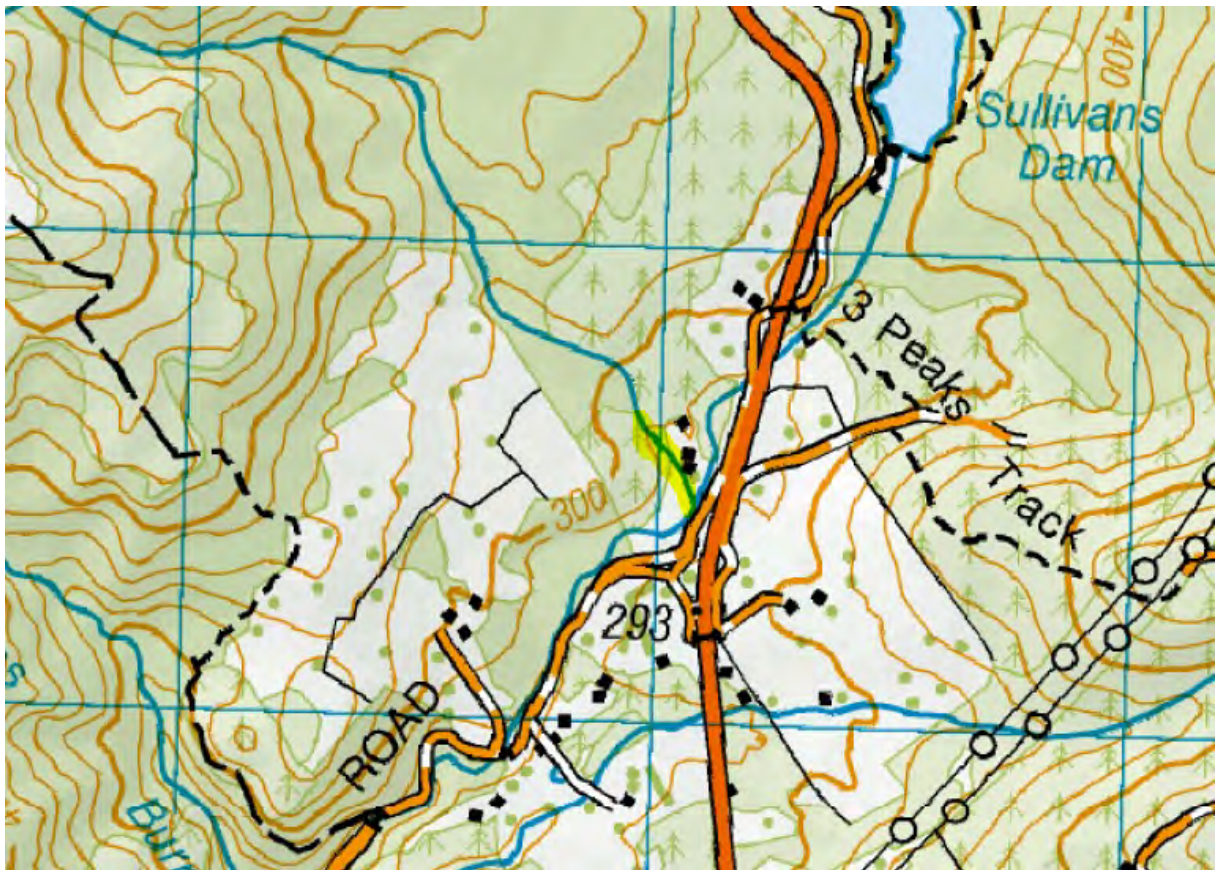


Figure 2: Topographical map showing waterways traversing 233 Leith Valley Road. Tributary crossing through proposed Lots 10 and 11 highlighted.



Figure 3: Proposed additional bush protection areas, Lots 10 and 11

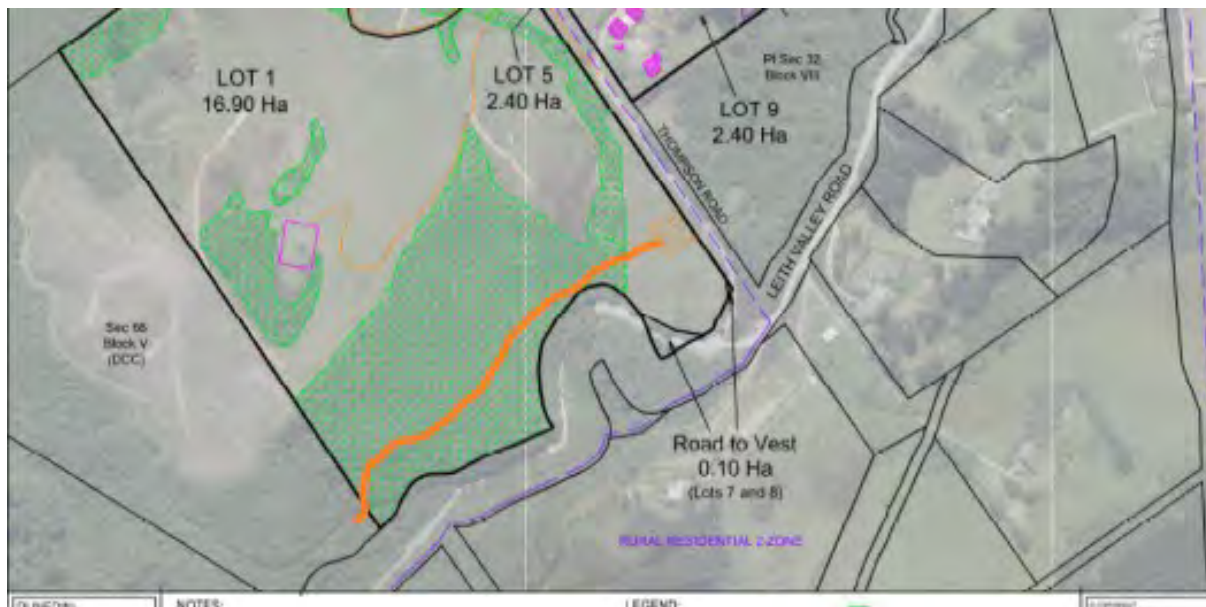


Figure 4: PARS proposed track from Lot 1 carpark to Morrisons Burns Access Road

APPENDIX 5:

Recommended Consent Conditions

Consent Type: Subdivision Consent

Consent Number: Sub-2023-65

Purpose: The subdivision of land to create 12 lots from five existing titles, two of which are to be vested as road.

Location of Activity: 233 Leith Valley Road, Dunedin.

Legal Description: Records of Title OT15B/129, OT202/225, OT263/100 (Limited as to Parcels), OT157/70 and OT15B/131).

Lapse Date: XX XXXX 2028, unless the consent has been given effect to before this date.

Conditions:

1. *The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One and Appendix Two, and the information provided with the resource consent application received by the Council on 6 June 2023, and further information received on 24 July and 4 October 2023, except where modified by the following conditions.*
2. *Prior to the commencement of any subdivision works, an Ecological Restoration and Management Plan must be prepared by a suitably qualified and experienced person, in consultation with the DCC Biodiversity Officer and the DCC Landscape Architect. The plan must:*
 - a) *detail the areas of existing indigenous vegetation across all lots*
 - b) *show the area within each lot where indigenous vegetation is to be protected and augmented*
 - c) *provide a methodology for the protection and augmentation of that vegetation; and for the control and removal of exotic and pest species*
 - d) *provide a schedule of ecologically appropriate species, and a planting and maintenance schedule*
 - e) *with regard to Lot 1, detail the recommended location and formation methodology for establishment of the link track between the public carpark within the lot towards the Morrisons Burns Access Track*
 - f) *provide for the restoration of a 10m riparian margin around the tributary within lots 10 and 11*
3. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset. Service*

easements in favour of the property they service are required where any private services cross property boundaries.

- b) A right of way easement over Lot 5 in favour of Lot 6 must be granted or reserved and shown in a Memorandum of Easements on the cadastral dataset.*
- c) The following easements in gross must be duly granted or reserved and shown in Memorandum of Easements on the cadastral dataset:*
 - i. Easements in gross B and C over Lot 1, providing for a public carpark area and a public track from the carpark towards the Morrisons Burns Track*
- d) The land shown on the survey plan as Lots 7 and 8 shall vest in Council as Road.*
- e) Existing Easement Certificate 833915.1 providing rights of way over Lot 13 DP 23005 (now Lot 2 DP 24525, 317 Leith Valley Rd) must be carried forward to the new title to be issued for proposed lots 10 and 11.*
- f) The following amalgamation conditions must be endorsed on the survey plan:*
 - i. That Lots 2, 3 and 4 hereon be held in the same record of title (CSN Request 1863217)*
 - ii. That Lots 10 and 11 hereon be held in the same record of title (CSN Request 1866973)*
- g) **Either:***
 - i. The following amalgamation condition must be endorsed on the survey plan:*

‘That Lots 9 and 12 hereon be held in the same record of title (CSN request.....)’

Note: This condition must be discussed with the Council’s subdivision planner prior to lodging an application for section 223 certification.

or

- ii. The ownership of Lot 9 must be transferred to the Department of Conservation*

or

- iii. The ownership of Lot 9 must be transferred to the Royal Forest and Bird Protection Society of New Zealand.*

- 4. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the subdivider must complete the following:*

- a) Existing foul and stormwater drains serving Lot 9 must be:*
 - i. Identified as discharging to an acceptable outfall; and*
 - ii. located entirely within that lot or provided for by easement.*

Confirmation of these matters must be provided to the DCC Plumbing and Drainage Department.

- b) Mitigation plantings within lots 1, 5 and 6 must be completed. The plantings must provide screening of the building platforms within these lots; and be undertaken in accordance with the 'Planting Species, and Management and Maintenance Specification' attached as Appendix Two.*
- c) Lot 12 must be planted out with indigenous species, in accordance with 'Planting Species, and Management and Maintenance Specification' attached as Appendix Two.*
- d) A plan that depicts the building platforms within Lots 1, 5, 6, the amalgamated Lots 2, 3 and 4 and the amalgamated lots 10 and 11, as shown on the approved plan attached as Appendix One, must be prepared and included with the consent notices required by condition 4(j) below.*
- e) The vehicle access to the carpark within Lot 1 must be a minimum 5.0m formed width, comprise an all-weather surface and be adequately drained for its full duration.*
- f) The surface of the public carpark within Lot 1, associated access and manoeuvring areas must be formed, comprise of an adequate all-weather surface and be adequately drained for their entirety.*
- g) The link track within Lot 1 must be established in accordance with the details set out in the Ecological Restoration and Management Plan required by condition 2 above.*
- h) The Ecological Restoration and Management Plan required by condition 2 above must be included with the consent notices required by condition 4(j) below.*
- i) The 'Planting Species, and Management and Maintenance Specification' attached as Appendix Two and referred to in condition 4(c) must be included with the consent notice required by condition 4(k) below.*
- j) Consent notices must be prepared and registered on each of the records of title for Lots 1, 5, 6, the amalgamated Lots 2, 3 and 4 and the amalgamated lots 10 and 11 hereon, for the following ongoing conditions:*
 - i. All buildings, including dwellings, accessory buildings and any buildings associated with rural land use, must be located within the building platform identified on the appended plan*
 - ii. Dwellings must be no higher than 5m, and other buildings no higher than 4m above existing or modified ground level*
 - iii. Earthworks must be minimised and designed to blend with the natural landforms; and any retaining walls must be screened so as not to be visible from public roads*
 - iv. Any earthworks on slopes steeper than 20 degrees will require design, supervision and certification by a suitably qualified engineer, to confirm the site is suitably stable and that the works will not introduce any further instability*
 - v. Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), colours for new buildings must appear recessive within the surrounding landscape. Light reflectivity values (LRV) must be no more than 20%*

- vi. *All services must be located below ground.*
- vii. *Water tanks must be coloured, sited, and buried (or screened by plantings) to ensure they have minimal visual impact from beyond the property*
- viii. *All fencing is to be confined to:*
 - 1. *rural post and wire fencing no greater than 1.2m high, or 2m for deer fencing; or*
 - 2. *stone walls using locally appropriate rock, no higher than 1.5m*
- ix. *Driveways must have a rural character with metal surfacing and no kerb and channel. There is to be no driveway lighting or monumental gates*
- x. *The plantings and ecological restoration and management methodology detailed in the attached Ecological Restoration and Management Plan must be implemented within 12 months of any construction commencing within the lot, and must be maintained in perpetuity*
- xi. *Any plantings of non-indigenous species must be confined to amenity plantings below 2m mature height within 20m of the dwelling, or fruit trees.*
- k) *A consent notice must be prepared and registered on the record of title for Lot 12 hereon, for the following ongoing condition:*
 - i. *The indigenous species established within this lot as a result of condition 4(c) of subdivision consent SUB-2023-65 must be maintained in perpetuity, and in accordance with the appended Planting Species, and Management and Maintenance Specification.*

Advice Notes:

Firefighting

- 1. At such time as it is proposed to establish a new residential activity within to lots 1, 2-4, 5, 6 and 10-11, confirmation that all aspects relating to the availability of the water for fire-fighting are in compliance with SNZ PAS 4509:2008 (being the Fire Service Code of Practice for Fire Fighting Water Supplies) will be required, unless an alternative is approved by the New Zealand Fire Service, and details of this approval are provided to the DCC.

Transportation

- 2. The vehicle crossing between the road carriageway and Lot 1 is within legal road and will therefore require a separate Vehicle Entrance Approval from DCC Transport to ensure that the vehicle crossing is constructed/upgraded in accordance with the Dunedin City Council Vehicle Entrance Specification (note: this approval is not included as part of the resource consent process).

Earthworks

- 3. No earthworks are authorised as part of this subdivision consent. Any earthworks, including those which might be required to establish a building platform or accessway within the new lots, must comply with 2GP Section 8A: Earthworks, or obtain a resource consent.

Infrastructure

4. Subdivision activities are required to provide telecommunication infrastructure (including broadband) and power supply to resultant sites. These connections can be implemented at such time as the new lots are developed and building consent is applied for.
5. The requirements of Parts 4, 5 and 6 (Stormwater Drainage, Waste Water and Water Supply) of the Dunedin Code of Subdivision and Development 2010 are to be complied with.
6. The consent holder is to ensure that all practicable measures are used to mitigate erosion and to control and contain sediment-laden stormwater run-off from the site during any stages of site disturbance. The following documents are recommended as best practice guidelines for managing erosion and sediment control measures for small sites:
 - *Dunedin City Council "Silt and Sediment Control for Smaller Sites"*
 - *The Erosion & Sediment Control Toolbox for Canterbury found on the ECan website at <http://esc.canterbury.co.nz>.*
7. Should any stormwater discharge from the site not connect to the Council's reticulated network, the Otago Regional Council should be consulted before works commence, to determine if the discharge of stormwater will enter any waterway and what level of treatment and/or discharge permit might be required.
8. Any work within a watercourse (including piping) or discharge of stormwater to the watercourse must comply with the requirements of the Regional Plan: Water, and with any building consent requirements for related structures. It is recommended that the consent holder contact the Otago Regional Council to discuss whether a resource consent from them is required.

The consent holder is responsible for:

- Ensuring that there are no obstructions or impediments in the watercourse which may inhibit the flow of water.
- Ensuring that any grates or outlets within your property are always kept clear of debris.

Any onsite effluent disposal system within 50m of a watercourse/waterway requires consideration from ORC to discharge.

<https://www.orc.govt.nz/media/1653/12a-discharge-of-human-sewerage.pdf>.

More information on watercourses can be found at:

http://www.dunedin.govt.nz/data/assets/pdf_file/0008/338552/Watercourse-Information-2014v2.pdf

General

9. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
10. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.

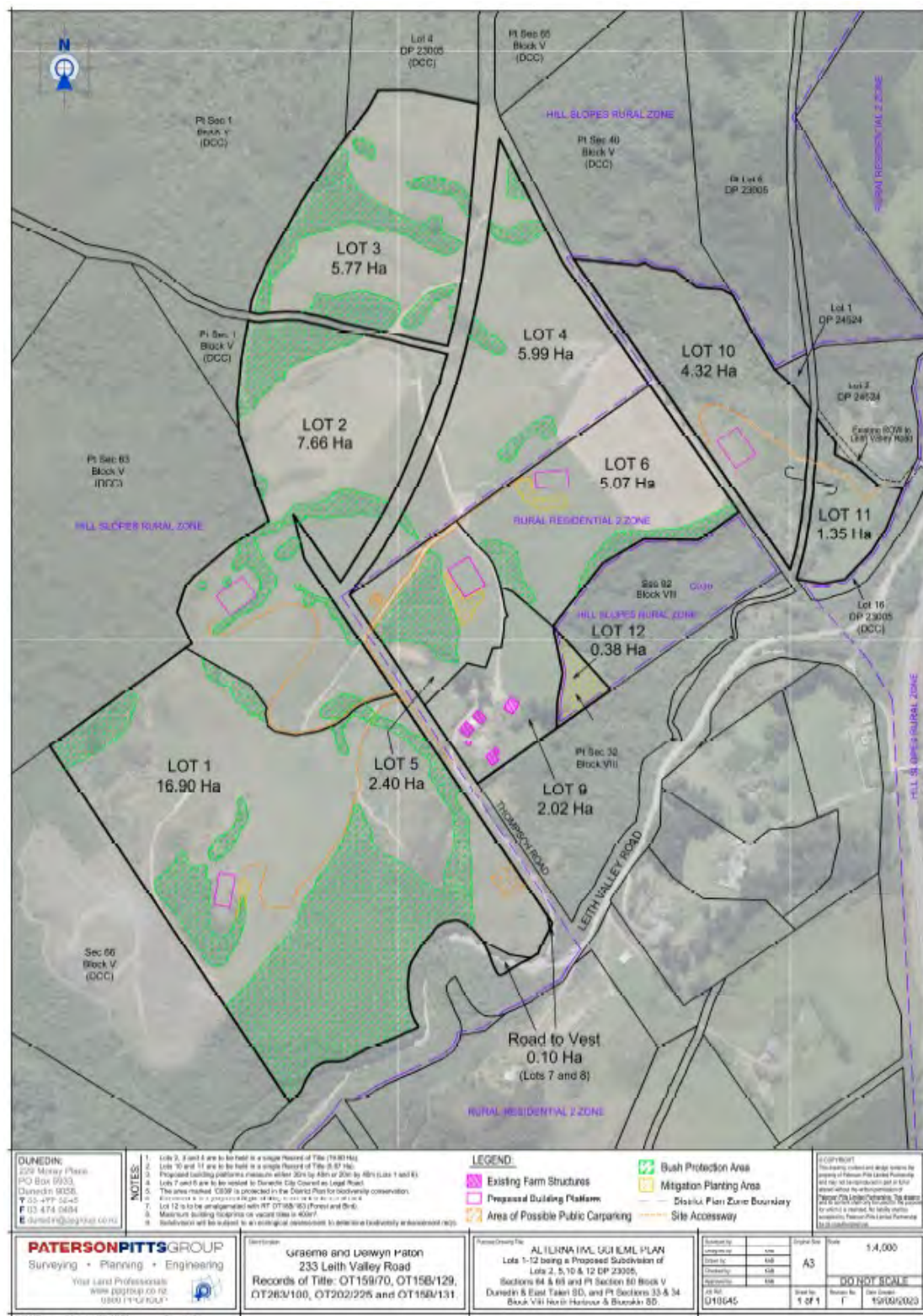
11. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
12. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

Issued at Dunedin on XX XXXXXX XXXX

(Name)

Hearings Committee Chairperson

Appendix One: Approved Plan for SUB-2023-65 (scanned image, not to scale)



Appendix Two –Planting Species, and Management and Maintenance Specification

<i>Botanical name</i>	<i>Common name</i>	<i>Approx % of planting</i>
<i>Carpodetus serratus</i>	<i>Putaputaweta</i>	5
<i>Coprosma propinqua</i>	<i>Mingimingi</i>	10
<i>Cordyline australis</i>	<i>Cabbage tree</i>	5
<i>Fuchsia excorticata</i>	<i>Tree fuchsia</i>	5
<i>Griselinia littoralis</i>	<i>Broadleaf</i>	5
<i>Hebe salicifolia</i>	<i>Koromiko</i>	5
<i>Kunzea robusta</i>	<i>Kanuka</i>	5
<i>Leptospermum scoparium</i>	<i>Manuka</i>	5
<i>Melicytus remiflorus</i>	<i>Mahoe</i>	5
<i>Olearia ilicifolia</i>	<i>Mountain holly</i>	5
<i>Phormium tenax</i>	<i>Flax</i>	10
<i>Pittosporum eugenioides</i>	<i>Lemonwood</i>	5
<i>Pittosporum tenuifolium</i>	<i>Kohuhu</i>	10
<i>Podocarpus totara</i>	<i>Totara</i>	2.5
<i>Pseudopanax crassifolius</i>	<i>Lancewood</i>	5
<i>Pseudowintera colorata</i>	<i>Pepper tree</i>	5
<i>Schefflera digitata</i>	<i>Pate</i>	5
<i>Sophora microphylla</i>	<i>Kowhai</i>	2.5

Planting maintenance and management

1. Where required, fencing should be carried out to protect the areas to be planted from grazing by stock.
2. The areas to be planted are to be sprayed to kill existing grasses using a non-residual systemic herbicide.
3. Planting densities are to be approximately 1.5m
4. Plant grades are to be Pb3 or equivalent, minimum.
5. One slow release fertilizer tablet will be used per plant.
6. A circle of mulch (100mm deep woodchip or sacking or similar) is to be applied around each plant to assist in plant establishment and weed suppression.
7. The area around each plant is to be maintained weed free until well established by hand weeding or spraying where this is possible without adversely affecting the plants.
8. Plants should be watered as / if required during dry spells until well established.
9. Survival should be monitored and any dead plants replaced immediately. Animal pests should be controlled and if required, plants should be provided with an eco-shelter for protection against rabbit and possum browse.
10. The plantings are to be managed to ensure their ongoing health and vitality.