

11 May 2021

City Planning
Dunedin City Council
PO Box 5045
Moray Place
Dunedin 9058

Dear Sir/Madam,

RE: RESOURCE CONSENT APPLICATION – 140 THREE MILE HILL ROAD, DUNEDIN

Please find enclosed an application for resource consent prepared by 4Sight Consulting Limited (4Sight) for the proposed rural-residential subdivision at 140 Three Mile Hill Road, Dunedin.

Can you please invoice the Applicant for the resource consent deposit fee:

Andy Nailard
c/- Motel on York
47 York Place
Dunedin

By email: andy@flagstaffpacas.nz

Please also record myself as the key point of contact for the applicant moving forward.

Please do not hesitate to contact me should you wish to discuss the application on either my cell 027 696 1009 or email emmas@4sight.co.nz.

Kind Regards,



Emma Spalding
Senior Planning and Policy Consultant
4Sight Consulting Ltd



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
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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:
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LAND. PEOPLE. WATER.

TWO LOT RURAL-RESIDENTIAL SUBDIVISION

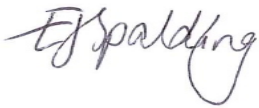
For Andy Nailard and Vicki Cullen

140 Three Mile Hill Road

Assessment of Environmental Effects

May 2021

REPORT INFORMATION AND QUALITY CONTROL

Prepared for:	Andy Nailard and Vicki Cullen	
Author:	Emma Spalding Senior Planning and Policy Consultant	
Reviewer:	Melissa Shipman Senior Planning and Policy Consultant	
Approved Release:	for Nigel Bryce Principal Planning and Policy Consultant	
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APPLICANT AND PROPERTY DETAILS

Site Address:	140 Three Mile Hill Road, Dunedin
Applicant's Name	Andy Nailard and Vicki Cullen
Address for Service:	4Sight Consulting Ltd Level 1, The Chamberson 77 Stuart Street Dunedin 9016 Attention: Emma Spalding
Address for Fees:	Motel on York 47 York Place Dunedin
Owner:	Andrew Nailard
Owner Address for Service:	As above
Occupier (s):	N/A
Occupiers Address for Service:	N/A
Legal Description:	Lot 1 DP 26149 (Record of Title OT18A/1019)
Site Area:	3.87 ha
Plan Name:	Second Generation Dunedin District Plan (2GP)
Plan Zone:	Rural Residential 1
Plan Designations, Limitations, or Overlays:	Wāhi Tūpuna Mapped Area
Brief Description of Proposal:	Two lot rural-residential subdivision
Overall activity status of resource consent:	Non-complying

Locality Plan:



Figure 1: 140 Three Mile Hill Road, Dunedin (Source DCC Rates Map)

1 INFORMATION REQUIREMENTS

1.1 General

This application has been prepared in accordance with the requirements of Schedule 4 of the Resource Management Act 1991 ("the Act").

2 THE PROPOSAL

The proposal involves a two-lot subdivision of an existing 3.87 ha rural-residential site at 140 Three Mile Hill Road. The subdivision layout has been designed to follow existing fence lines on the site and to ensure each of the two lots has an area suitable for a future residential dwelling. Residential building platforms are proposed on each lot.

The subdivision will be configured as follows:

- Proposed Lot 1 will have an area of 2 ha and covers the western and southern parts of the existing site, and contains the existing farm buildings. A building platform is proposed in the location of the existing farm buildings, in the south-east corner of the site, approximately 55m x 35m in area. An existing farm building straddles the building platform boundary on Lot 1 but will be removed.
- Proposed Lot 2 will have an area of 1.87 ha and is located in the north-eastern corner of the existing site. Proposed Lot 2 will contain a building platform in the eastern portion of the site, approximately 40m x 30m in area.

Both lots will gain vehicle access via the existing driveway off Three Mile Hill Road, which will form part of Lot 2. A right of way easement will be provided over the driveway for proposed Lot 1 to gain access and convey electricity and telecommunications services.

It is noted that a main trunk water supply pipe runs diagonally through the site. An easement is proposed in favour of the Dunedin City Council over this pipeline, and no building platforms will be positioned over this easement.

The site is not connected to Council services. It is anticipated that all water, wastewater and stormwater issues will be dealt with at building consent stage for any future dwellings constructed on site.

3 BACKGROUND

3.1 Consultation

3.1.1 Pre-Application Meeting

An initial meeting was held with Council's Senior Planner, Mr John Sule in September 2020 to discuss the subdivision concept. Mr Sule commented that there is nothing in the policy framework that would appear to frustrate a subdivision of the site, given the receiving environment contains similar sized sites and the proposal does not diverge significantly from the minimum site size.

Mr Sule noted that environmental effects also look capable of being managed by subdivision design and dwelling location. Mr Sule did not consider that the application would need to be fully publicly notified. However, he noted that as only one rural residential lot is anticipated on the site, an assessment will be required regarding the effects on directly adjoining neighbours that may have views of both future dwellings.

Mr Sule noted that Council has processed similar applications on a non-notified basis when the sites are consistent with the receiving environment and when relevant affected party approvals have been obtained. As will be discussed in more detail in the assessment below, none of the directly adjoining neighbours are considered to be affected in this case. Key to that assessment is the lack of view and outlook towards both proposed building platforms.

3.1.2 Consultation with Mana Whenua

A portion of the site within the road reserve is within a Wāhi Tupuna Mapped Area - A4.50 Whakaehu (Silverstream Catchment).

Appendix A4 contains the following description of the area, and lists the values to be protected, and the principal threats to those values:

A4.50.1 Description of area

Silverstream is related to the myths of the taniwha Matamata whose reposed remains are represented by Saddle Hill. Matamata slithered down Whakaehu and then the lower Taieri, searching for his master chief Te Rakitauneke, and in the process creating the winding form of the Taieri River.

A4.50.2 Values to be protected

Wāhi taoka (Resources, places and sites treasured by Manawhenua)

Wai māori (Freshwater areas important to Māori)

Mahika kai (Silverstream river) (The customary gathering of food or natural materials and the places where those resources are gathered)

A4.50.3 Principal threats to values

Activities affecting water quality, including earthworks, forestry harvesting

Native vegetation clearance

Activities that affect views of the peaks and ridgelines, including buildings, structures, public amenities, network utilities, mining, forestry, earthworks, new roads or additions and alterations to existing roads.

Activities that affect access to Silverstream, including buildings, structures and public amenities close to the river.

In this instance, consultation with Mana Whenua was not considered necessary for the proposed subdivision. Although the site is within a Wāhi Tupuna Mapped Area, subdivision is not listed as a principal threat to values in Appendix A4, and the development will not result in any native vegetation clearance. The site contains several mature native trees, which will all be retained on site. Additionally, no buildings are proposed as part of this consent application, however, building platforms have been identified in carefully selected locations which will ensure any future buildings will avoid potential adverse effects on views of any nearby peaks or ridgelines from public roads and places.

3.2 Any other activities that are part of the proposal

Clause 2(1)(d) of Schedule 4 of the Act requires the applicant to identify other activities that are part of their proposal. This is intended to capture things which need permission or licensing outside of the Act, for example, activities under the Building Act 2004 or the Hazardous Substances and New Organisms Act 1996. Building consents will be obtained for any future buildings on the site, and the associated services.

4 THE SITE & SURROUNDING ENVIRONMENT

4.1 The Site

The site is located on the northern side of Three Mile Hill Road. The site is 3.87 hectares in area and is legally described as Lot 1 DP 26149 (RT 18A/1019). There are no limitations or interests listed on the record of title that are relevant to this application.

The site is zoned Rural Residential 1 under the 2GP and is within a Wāhi Tupuna Mapped Area - A4.50 Whakaehu (Silverstream Catchment). Three Mile Hill Road is classified as a strategic road in the plan's roading hierarchy. The Halfway Bush-Roxburgh A National Grid Corridor Mapped Area is located to the south-east of the site.

The site is currently used for grazing alpaca and contains several farm sheds associated with this activity. The site does not currently contain any residential dwellings.

The site has gently undulating topography, generally rising towards the north-east corner of the site. There are several minor watercourses/natural gully areas in the south-west portion of the site. There are two flat areas in the eastern part of the site which are proposed to be utilised for the subdivision building platforms.

The site is currently fenced using standard rural post and wire materials, with some areas of stone walling.

The Council's water services in relation to the site are shown in Figure 2 below. The site is not connected to any DCC services, however a DCC water supply line crosses the site in a diagonal direction. This water main trunk pipe will be physically located on site and an easement will be created over this Council owned infrastructure. The proposed building platforms have been situated on site so that no buildings will be constructed over this pipe.

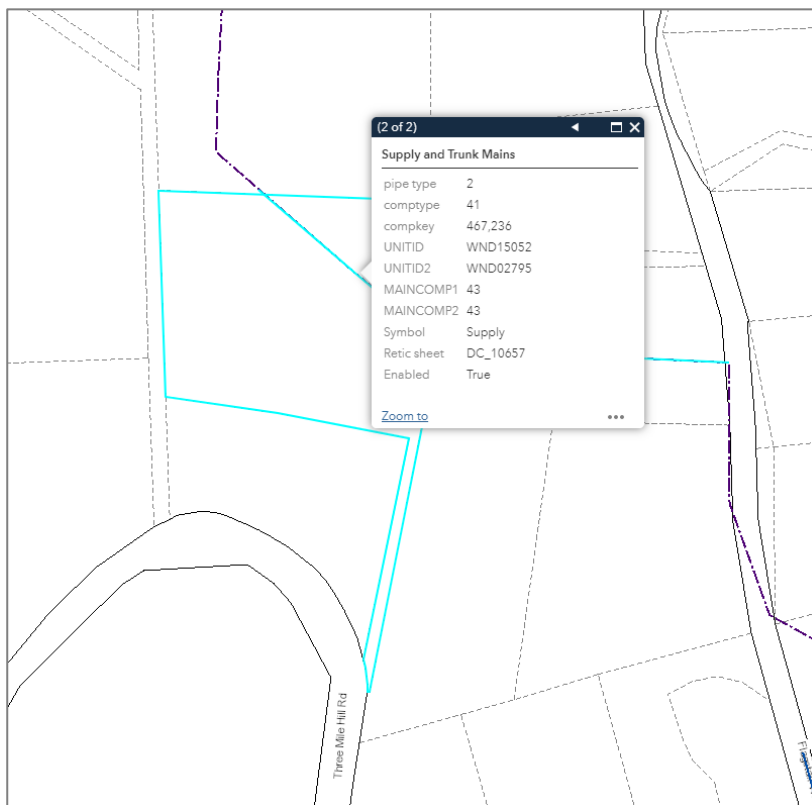


Figure 2: Council Water Services Map

There are areas of mature vegetation within the site, including NZ beech, cabbage tree, kowhai, totara, and NZ Cedar. There is also significant shelterbelt planting along the south and east site boundaries, predominantly located on neighbouring properties.

The vehicle access to the site splits into three separate directions within the road reserve, and serves five separate properties (132, 134, 136, 138 and 140 Three Mile Hill Road). The driveway to the subject site also provides access to 138 Three Mile Hill Road.

The site is located up a long driveway (approximately 180m long), behind the site at 138 Three Mile Hill Road. The driveway leads to a flat area of the site containing two farm buildings associated with the alpaca farm activity which is currently undertaken on site. This area is proposed as the first building platform. The driveway also extends further to the north, to a large flat area behind a stand of trees, which is the site for the second proposed building platform.

4.2 Surrounding Environment

The site is on the north-western corner of a large rural-residential zone on the slopes above Halfway Bush and Brockville. The immediate surrounding environment is characterised by a small cluster of 12 rural-residential properties bound by rural zoned land to the north and west, Flagstaff-Whare Flat Road to the east and Three Mile Hill Road to the south. This cluster of properties was previously zoned Rural under the Operative Plan, but re-zoned to Rural-Residential 1 under the 2GP.

Within this cluster of rural residential properties, there are two under-size sites directly to the east of the subject site: 53 Flagstaff-Whare Flat Road (1.6046 ha) and 63 Flagstaff-Whare Flat Road (1.6352 ha), each containing a residential dwelling.

The site to the north is zoned Hill Slopes Rural, and contains a large radio transmitter mast, surrounded by paddocks, owned by Radio Rhema. To the west is a strip of abandoned land, with exotic plantation forestry land beyond (owned by City Forests Ltd) which is also zoned Hill Slopes Rural. Surrounding sites to the south and east are zoned rural-residential and contain residential dwellings.

To the south-east is a National Grid Corridor Mapped Area, and approximately 200m to the north east is the edge of the Landscape Overlay Zone for Flagstaff-Mt Cargill, which is classified as a Significant Natural Landscape (SNL).



Figure 3: 2GP Zone Map Identifying National Grid Corridor Mapped Area and the SNL alignment

5 REASONS FOR THE APPLICATION

An assessment of the proposal against the relevant statutory documents has been undertaken and the following reasons for consent are identified.

5.1 Proposed District Plan

Resource consents sought under the Dunedin City Council Second Generation District Plan (2GP) are:

Subdivision

Rule 17.3.5 lists general subdivision as being a restricted discretionary activity in the rural residential zones subject to performance standards. Proposed Lot 2 does not meet the minimum site size of 2ha in Rule 17.7.5.1. Rule 17.7.5.3 states that subdivision activities that do not meet the 2ha minimum site size are non-complying, except in the following circumstances where the subdivision is discretionary:

Requirement	Comment
All resultant sites are at least 75% of the minimum site size	<i>Complies</i> The resultant sites have areas of 2.0ha and 1.87ha, which are both over 1.5ha (75% of the 2ha minimum site size)
A minimum of 50% of the resultant sites are not less than the minimum site size	<i>Complies</i> Proposed Lot 1 will have an area of 2.0 ha, therefore 50% of the sites are not less than the minimum site size
The average area of the resultant sites is not less than the minimum site size	<i>Does not comply</i> The average lot size of the two proposed sites is less than 2.0ha (1.935 ha)

Therefore, the proposed subdivision does not meet the third requirement of Rule 17.7.5.3 and is a **non-complying activity**.

Land Use Activity

The proposed residential land use of the resultant sites will not comply with the relevant density standards which require a minimum site size of 2ha per residential activity. Lot 1 will comply, with an area of 2 ha, while Lot 2 will be below the 2ha requirement, with an area of 1.87ha. The activity is therefore considered to be a **non-complying activity** pursuant to Rule 17.5.2(2).

Development Activity

The Performance Standards in 17.6 apply to all development activities. No new buildings or structures are proposed as part of the proposal. The proposed building platforms on each of the lots are considered to be of sufficient size to ensure they can accommodate complying residential buildings in the future.

Overall, the proposed land use is a **non-complying activity**.

5.2 Operative District Plan

The site is zoned Rural under the Operative District Plan and is within the Flagstaff-Mt Cargill Landscape Conservation Area.

It is noted that there are no outstanding appeals in relation to the relevant 2GP rules outlined above, and they are deemed operative, in accordance with section 86F of the Act. Therefore, consent is not required under the Operative Plan.

5.3 Overall Status of the Application

Overall, resource consent is required for a **non-complying** activity.

Non-Complying Activities – s87A, s104B and s104D

As a non-complying activity, there is no limitation in the matters that can be considered providing they are resource management related. The consent authority may decline consent or it may only grant consent with or without conditions providing the requirements of s104D are met.

6 SCHEDULE 4 RMA – ASSESSMENT OF ENVIRONMENTAL EFFECTS

6.1 Introduction

Having reviewed the relevant plan provisions, visited the site and taking into account the matters that must be addressed by an assessment of environmental effects as outlined in Clause 7 of Schedule 4 of the Act, the following environmental effects warrant consideration as part of this application.

As this application is for a non-complying activity, relevant effects that the council can consider are unlimited. Notwithstanding the ability of council consider all effects, we consider that only the following effects are relevant:

- Visual Amenity and Landscape Character
- Transportation and Access
- Infrastructure/Services
- Cultural Effects
- Effects on Waterbodies
- Positive Effects

An assessment of these effects, that corresponds with the scale and significance of the effects that the activity may have on the environment, is provided below in the remaining parts of section 6. Clause 7(2) notes that the requirement to address matters in the assessment of environmental effects is subject to the provisions of any policy statement or plan. The relevant documents have been assessed in Section 7 of this report.

6.1.1 Permitted Baseline

The permitted baseline is relevant to both the assessment under sections 95A – 95G and section 104 of the Act. Under these sections, a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. This is the permitted baseline. It is only the adverse effects over and above those forming a part of the baseline that are relevant when considering an application.

The purpose of the permitted baseline test is to isolate and make irrelevant, the effects of activities on the environment that are permitted by the plan. When applying the permitted baseline, such effects cannot then be taken into account when assessing the effects of a particular resource consent application. The baseline has been defined by case law as comprising the 'existing environment' and non-fanciful (credible) activities that would be permitted as of right by the plan in question.

It is noted that there is no relevant permitted baseline for subdivision, as all subdivision activities require consent.

In terms of residential density, it is noted in Rule 17.12.1.4 that with respect to section 104(2) of the RMA, Council will not consider family flats as part of the permitted baseline in considering residential density effects in the rural residential zones. As such, the permitted baseline is considered to comprise one residential activity on the subject site.

The plan contains performance standards for residential buildings, including a maximum height of 10m, and setback from side and rear boundaries of 10m. Therefore, the permitted baseline includes one residential building located up to 10m from a side or rear boundary, and up to 10m in height.

6.1.2 Receiving environment

In assessing the potential adverse effects on the environment, the receiving “environment” for effects must be considered.

The receiving environment is a mandatory consideration defined by caselaw and is the environment beyond the subject site upon which a proposed activity might have effects. This includes the future state of the environment upon which effects will occur, including:

- The environment as it might be modified by the utilisation of rights to carry out permitted activities; and
- The environment as it might be modified by implementing resource consents that have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

In this case the receiving environment is as described in Section 4 of this report.

6.1.3 Other considerations

Sections 95D(d)-(e) and 104(3)(a) of the Act require that assessments must disregard:

- Trade competition, or the effects of trade competition; and
- Any effect on a person who has given written approval to this application.

Trade competition and written approval are not relevant to this application.

6.2 Visual Amenity and Landscape Character Effects

The subject site is within a cluster of rural residential zoned properties, with lot sizes ranging from 1.6ha to 3.87ha as shown in Figure 4 below. The proposed subdivision creates two lots with areas of 2.0ha and 1.87ha. The proposed lot sizes do not diverge significantly from the minimum site size. Further, given the receiving environment contains similar sized (and smaller) sites than what is proposed, the subdivision is considered to be consistent with the existing environment and development in the immediate vicinity. Overall, the proposal is considered to be in keeping with the existing rural-residential character of the area.



Figure 4: Surrounding Lot Sizes (Source DCC Rates Map)

The subject site is a rear site, set behind existing rural residential properties, and is screened from neighbouring sites and the road by existing shelter belt planting and vegetation. This screening is proposed to be enhanced by additional shelter belt planting on the subject site along the southern and eastern boundaries.

The existing farm sheds on proposed Lot 1 are in the approximate proposed position for the building platform on Lot 1. Beyond this building platform is a stand of mature vegetation planted by the applicant, which acts as a backdrop for building platform 1 when viewed from the south, and provides significant screening of the remainder of the site to the north. A second building platform is located beyond this stand of trees. While building platforms are located on the eastern side of both lots close to the access, these trees prevent two buildings platforms from being seen in any one view of the site, and concentrate the built form close to the existing rural residential cluster of development, leaving the balance areas to the west to retain an open appearance and a rural character.

To assess the visual amenity and landscape effects associated with the future development of residential buildings on the site, an assessment has been prepared by Landscape Architect Mike Moore, dated 19 April 2021 (refer to Appendix C).

In his report, Mr Moore provides a detailed description of the site and area, outlines the proposal, and recommends several mitigation measures he considers to be appropriate. These mitigation measures are agreed to by the applicant and form part of the application. These mitigation measures are proposed in order to minimize any potential visual impacts of the proposed development on the amenity of the adjacent properties and as seen from Three Mile Hill Road, and will ensure any adverse effects will be less than minor. They include the following:

- a) Houses are to be located within the building platforms illustrated on the subdivision scheme plan (Accessory buildings can be located outside the building platforms);
- b) Houses are to be no higher than 7m above ground level and accessory buildings are to be no higher than 4m above ground level;
- c) All buildings are to be finished in colours that have low levels of contrast with the colours of the rural / rural-residential landscape setting. Painted elements are to have a light reflectivity rating of no more than 30%;
- d) The access driveway is to retain a rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting is not permitted;
- e) Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property;
- f) Fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock;
- g) All services are to be located below ground;
- h) The existing native trees identified in Figure 7 of the landscape assessment are to be retained and managed to facilitate their ongoing health and vitality; and
- i) Boundary planting is to be established in the areas shown in Figure 7 of the landscape assessment, to ensure that there is vegetative screening provided for on the proposed new lots, and to contribute to existing screening from adjacent residences. These plantings are to be established in general accordance with the guidelines outlined in Appendix A of the landscape assessment, and shall be planted prior to any building proceeding on the proposed lots.

In the attached landscape assessment, Mr Moore identifies the existing landscape values in the area and assesses the landscape effects of the proposal on the wider environment. Mr Moore also carries out a thorough assessment of the potential visual effects, from both Three Mile Hill Road and from the four directly adjacent sites at 136 and 138 Three Mile Hill Road, and 63 and 65 Flagstaff-Whare Flat Road, which will be discussed in the notification section (section 9.1.3.1) of this report.

Mr Moore concludes that any visual amenity or landscape effects will be very low (less than minor):

The site is within an area with an existing rural residential character and with no specially recognized landscape values. The proposed subdivision is a non-complying activity because at 1.87ha, proposed Lot 2 is marginally under the required 2.0ha minimum lot size. The effects of the development to be assessed then, relate to those associated with two rather than one new dwelling (along with associated development and planting).

Controls are proposed to ensure that development integrates well with the rural residential landscape character and avoids and mitigates adverse visual amenity effects on neighbours. The key measures proposed include identifying building platforms, limits to building height, and colour controls, protection of existing trees, and establishment of new screen plantings.

My assessment of visual amenity effects on users of the adjacent Three Mile Hill Road and on adjacent residents, concludes that considering the permitted baseline and the proposed development controls, effects of the proposed development will be no more than adverse / very low (less than minor), and will in some cases, be positive. In terms of landscape character, I find that the development will have effects that are no more

than adverse / very low (less than minor), and will integrate readily. I consider that the proposed subdivision is consistent with the DCDP objectives and policies relevant to this site and landscape and visual effects.

Based on the expert landscape assessment undertaken by Mr Moore, it is considered that the proposed subdivision and future residential use of the new lots will have less than minor adverse effects on the environment.

6.3 Transportation and Access

Access to the proposed subdivision is via Three Mile Hill Road, which is classified as a Strategic Road in Council's Roding Hierarchy. The vehicle access is existing, and splits into three directions within the road reserve, to serve five separate properties (132, 134, 136, 138 and 140 Three Mile Hill Road). The proposed lots will rely on an existing vehicle crossing onto Three Mile Hill Road which will continue to serve all properties. This vehicle crossing is approximately 6m wide and adjoins a large road reserve area where the three main driveways converge.

It is proposed to retain the existing gravel driveway which provides access to the site. A right of way easement will be created over the existing driveway to ensure appropriate legal and physical access to both newly created lots.

It is anticipated that parking and manoeuvring requirements will be assessed as part of any future resource consent or building consent application, however, it is considered that both proposed lots are of a sufficient size and gradient to allow for adequate on-site parking and manoeuvring, to ensure vehicles can exit the site in a forward direction. Although the subdivision will create additional demand on the existing access to Three Mile Road, the existing 6m vehicle crossing and large road reserve area provides adequate space for vehicles to access the sites safely and for two vehicles to pass one another at the entrance to the sites.

A small increase in traffic generation onto Three Mile Hill Road will be produced by the proposed subdivision and residential activity. An average of 8.5 daily trips could generally be anticipated per residential dwelling, and it is considered that this would have a negligible effect on Three Mile Hill Road (a Strategic Road), and the wider transportation network.

Overall, the effects of the proposed development relating to transportation and access are considered to be less than minor. Reliance on the existing vehicle access and driveway is satisfactory for the proposed subdivision and level of development anticipated.

6.4 Infrastructure/Services

No reticulated water supply is available to the proposed subdivision. There are also no reticulated wastewater services available for connection or stormwater infrastructure or kerb and channel discharge points.

Any future dwellings on the proposed lots will be self-serviced by roof-fed rainwater collection systems for domestic water supply, and will ensure sufficient storage is available for firefighting purposes, in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies.

Effluent disposal systems will be designed and approved as part of the building consent process for any new dwelling on the sites. There is sufficient space available on both proposed Lots 1 and 2 for these systems to be installed.

It is anticipated that any future development on the site will comply with the Dunedin Code of Subdivision and Development 2010.

In terms of power supply and telecommunications, an easement has been proposed to convey electricity and telecommunications to the proposed new lots.

Overall, it is considered that any adverse effects on relating to infrastructure will be less than minor. Any potential adverse effects are able to be mitigated through the building consent process, or by appropriate conditions of consent or advice notes.

6.5 Effects on Cultural Values

As noted, the site is within a Wāhi Tupuna Mapped Area (A4.50 Whakaehu – Silverstream Catchment) and the principal threats to values are identified as:

- Activities affecting water quality, including earthworks, forestry harvesting
- Native vegetation clearance
- Activities that affect views of the peaks and ridgelines, including buildings, structures, public amenities, network utilities, mining, forestry, earthworks, new roads or additions and alterations to existing roads.
- Activities that affect access to Silverstream, including buildings, structures and public amenities close to the river.

The proposal to subdivide the site is not anticipated to create any adverse effects on cultural values. The mature native trees identified on site are proposed to be retained, and a condition of consent is proposed by the applicant to restrict the height of any future buildings on site to 7m. This will ensure that any buildings are below the level of surrounding shelter belt planting, and will not affect views of peaks or ridgelines from any public viewpoint.

6.6 Effects on Waterbodies

The building platforms have been situated to avoid the location of the minor waterbodies detailed at Section 4.1 of this report which extend into the western portion of the site.

At the time of construction of future buildings on the site, it is anticipated that standard sediment control measures will be implemented to ensure that no sediment enters any waterbody on site.

6.7 Positive Effects

When compared to what could be constructed on the site under the permitted baseline, the proposal (incorporating the mitigation measures proposed by Mr Mike Moore) will have positive effects. Any future building will be restricted to 7m in height (compared to 10m permitted under the plan) which will avoid potential adverse visual effects. The building platform locations will also ensure that mature native trees on site are not impacted, and it is proposed to retain all native trees identified on Figure 7 of the landscape assessment. Additional planting proposed along the southern and eastern boundaries will create positive effects in terms of amenity, and will ensure that screening of future buildings is not reliant on planting on neighbouring sites.

In addition, it is noted that Dunedin is currently experiencing pressures of increasing growth on housing supply. The proposal will have positive effects in terms of the provision of additional housing capacity, as granting of this consent will provide for additional rural residential living in close proximity to the city.

6.8 Environmental Effects Assessment Summary

Overall, from the assessment undertaken above the proposal will have actual and potential effects that are considered to be less than minor.

7 STATUTORY ASSESSMENT

Section 104(1) requires that when considering an application for a resource consent, the consent authority must have regard to the matters set out in 104(1)(a), (ab), (b) and (c). These matters are addressed below, and all are subject to Part 2 of the Act.

7.1 Section 104(1)(a) of the Act

Section 104(1)(a) requires the consent authority to have regard to 'any actual and potential effects on the environment of allowing the activity'.

As assessed in Section 6 above, the proposal will have actual and potential effects that are less than minor, and will also have positive outcomes for the landscape setting due to the mitigation measures proposed.

7.2 Section 104(1)(ab)

Section 104(1)(ab) requires that the consent authority consider “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 may result from allowing the activity”.

In the case of this particular application, the proposal is not of a scale or nature that would require specific offsetting or environmental compensation measures to ensure positive effects on the environment.

7.3 Section 104(1)(b) of the Act

Section 104(1)(b) requires the consent authority must to have regard to:
any relevant provisions of –

- (i) a national environmental standard;
- (ii) other regulations;
- (iii) a national policy statement;
- (iv) a New Zealand coastal policy statement;
- (v) a regional policy statement or proposed regional policy statement;
- (vi) a plan or proposed plan

An assessment of the relevant statutory documents that corresponds with the scale and significance of the effects that activity may have on the environment has been provided below.

7.3.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

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

Based on a review of the property file, and the ORC database it is considered more likely than not, that no HAIL activities have been undertaken on the site. There is no evidence of land use which would indicate the potential for contaminated soils to be present. The current owner of the site has owned the site for approximately 22 years and has confirmed that he is not aware of any activities that may have been undertaken on the site in the past that would appear on the HAIL list. As such, the soil contamination National Environmental Standard is not applicable to the proposal.

7.3.2 Otago Regional Policy Statement

Objective 4.5 of the RPS seeks to ensure “Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.”

Supporting Policy 4.5.1 provides for urban growth and development in a strategic and co-ordinated way, including by ensuring that there is sufficient housing and business land development capacity available in Otago.

It is noted that the subject site was previously zoned Rural under the Operative District Plan (2006) however was re-zoned to rural-residential as part of the development of the Second Generation District Plan (2GP). Therefore, this site has been specifically re-zoned as it was deemed suitable for rural-residential development, and the proposal is therefore considered to be 'strategic and coordinated' development, as expected by the above Objective and Policy.

Overall, the proposal is considered to be consistent with the relevant objectives and policies within the Otago Regional Policy Statement.

7.3.3 Dunedin City Second Generation District Plan (2GP)

Relevant objectives and policies

2GP Provision	Assessment
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 17.2.1.2 <i>Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.</i>	It is considered that although one of the lots would be below the 2ha minimum, it would still be large enough to enable a rural-residential lifestyle block or hobby farm activity to be undertaken on the site. The proposed lot sizes are 2 ha (Lot 1) and 1.87 ha (Lot 2). Lot 1 will comply with the minimum lot size for the Rural Residential 1 Zone, while Lot 2 would be close to complying with the 2ha minimum. Both the resultant lots are considered large enough to enable use for lifestyle blocks or hobby farms and large enough to keep a small number of livestock. The subdivision layout has also been designed to follow existing fence lines, therefore each proposed lot will contain existing usable paddocks which are fully fenced, enabling continued use of each site as individual lifestyle blocks or hobby farms. It is also noted that the applicant intends on selling Lot 1, and retaining Lot 2 (the smaller of the two lots) and building a home, while continuing to graze alpaca on the surrounding paddocks.
Objective 17.2.2 <i>Ensure 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> a) <i>the potential for reverse sensitivity is minimised; and</i> b) <i>a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.</i> Policy 17.2.2.3 <i>Require all new buildings to be located an adequate distance from site boundaries to ensure a good level of amenity for residential activities on adjoining sites.</i> Policy 17.2.2.8	The subdivision has been carefully designed to fulfil the requirements of these provisions. Although no buildings are proposed at this stage, building platforms on Lots 1 and 2 have been carefully located to minimise potential adverse effects on amenity of adjacent rural-residential properties, while also maintaining adequate separation distances from forestry activity on the site to the west. Visual amenity effects have been assessed by Mr Mike Moore, Landscape Architect, who concluded that any adverse effects on adjacent sites will be less than minor. As noted above, the proposed subdivision has been designed to follow natural landforms and existing fence lines, and each of the two lots are considered large enough to support rural residential activity.

<i>Requires 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 17.2.3.1 <i>Require buildings and structures to be set back from boundaries and of a height that maintains the character and visual amenity of the rural residential zones.</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>	Again, it is considered that the subdivision has been designed to ensure the character and amenity of the rural residential zone is maintained and enhanced. The building platform on Lot 1 is located in the same area as the existing built form on the site (currently comprising several farm sheds). The building platform on Lot 2 is proposed in a flat area of land to the north, which is screened from the platform on Lot 1 by an existing stand of vegetation and mature trees, planted by the applicant several years ago. None of the surrounding neighbours will have views of more than one of the proposed building platforms, due to the existing and proposed planting on the subject site as well as the location of existing shelter planting on neighbouring sites. The majority of the site will maintain an open, rural character, and the existing small water courses extending into the western portion of the site will not be affected by the subdivision. Existing mature native trees on site will be retained, and additional shelter-belt type planting will be established along the eastern and southern boundaries. Conditions of consent are anticipated to ensure that any future dwellings on the site are kept to a maximum height of 7m. The plan requires a boundary setback of 10m, and the proposed building platforms comply with this requirement. Therefore the setbacks proposed are considered adequate to ensure a good level of amenity for residential activities on adjacent sites. The Landscape Assessment prepared by Mike Moore concludes that any adverse visual amenity or landscape effects will be less than minor subject to implementation of recommended conditions. Based on this assessment it is considered that the proposal will be consistent with these provisions.
Objective 17.2.4 <i>The productive potential of the rural residential zones for 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 block or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living.</i>	As noted above, the proposed lot sizes are 2 ha (Lot 1) and 1.87 ha (Lot 2) and are considered large enough to enable use for lifestyle blocks or hobby farms. The subdivision layout has been designed to follow existing fence lines, therefore each proposed lot will contain existing usable paddocks which are fully fenced, enabling continued use of each site as individual lifestyle blocks or hobby farms.

7.4 Section 104(1)(b) Summary

The above assessments demonstrate that the proposal will be consistent with the relevant objectives and policies of the relevant statutory documents, subject to fair and reasonable conditions being imposed as recommended in Section 8.

7.5 Section 104(1)(c) of the Act

In addition to the matters of regard covered under sections 104(1)(a), (ab) and (b), section 104(1)(c) states that consideration must be given to "any other matters that the consent authority considers relevant and reasonably necessary to determine the application."

As the proposal is non-complying, the issues of precedent and plan integrity are relevant.

In this case, the proposal is non-complying because under the 2GP the proposed lot size does not comply with the minimum lot size of 2ha in the Rural Residential 1 Zone, as it has an area of 1.87ha.

As noted in the effects assessment, any adverse effects will be less than minor, and significantly less than effects associated with a building that could be developed on site under the permitted baseline. The applicant is volunteering to reduce the scale of any future buildings from what would be allowed as of right (proposing a 7m height limit for dwellings, as opposed to the 10m height permitted by the 2GP), as well as proposing additional planting along site boundaries, and retention of existing native trees on site. Therefore, it is considered that any precedent set could not be considered undesirable.

As discussed above, the physical character of the area is rural-residential, and there are adjacent sites which are also under the 2ha minimum lot size. The site is within a small, clearly defined cluster of properties which have recently been re-zoned from Rural to Rural-Residential, to reflect the existing character of the area (most surrounding properties in this cluster have already been developed into lifestyle block properties). Due to the existing character of this area, and the location of the site within a discrete cluster of existing lifestyle block properties containing existing under-size sites, approval of the application will not undermine the integrity of the 2GP. The proposed subdivision will have less than minor effects on the environment, and will be consistent with the objectives and policies of the 2GP.

8 OTHER RELEVANT SECTIONS OF THE ACT

8.1 Section 104D Test for Non-Complying Activities

To be able to grant consent to a non-complying activity, a council must be satisfied that either the adverse effects of the activity on the environment will be minor (s104D(1)(a)), or the proposed activity will not be contrary to the objectives and policies of a proposed plan and/or plan (s104D(1)(b)). This consideration is commonly known as the 'threshold test' or the 'gateway test'. If either of the limbs of the test can be passed, then the application is eligible for approval, but the proposed activity must still be considered under Section 104. There is no primacy given to either of the two limbs, so if one limb can be passed then the 'test' can be considered to be passed.

As identified in the assessment above, the adverse effects of the activity on the environment will be less than minor and the proposed activity will not be contrary to the objectives and policies of the plan. As such the application can be considered under Section 104 and a determination made on the application as provided by Section 104B.

8.2 Section 108 – Recommended conditions of consent

As identified in the preceding assessment there are a number of recommended conditions of consent that will avoid, remedy or mitigate the potential adverse effects of the proposed activity on the environment. It is anticipated that the Council will adopt conditions relating to the following matters.

- 1) Consent notice to be registered on the titles of the new lots outlining the ongoing requirements and mitigation measures for future development on the sites, as outlined in section 6.2 of this report.

It is requested that the draft conditions be provided to 4Sight in advance of a decision being made on the application.

8.3 Section 125 – Lapsing of consent

The Act prescribes a standard consent period of five years in which all works must be undertaken, but this may be amended as determined to be appropriate by the Council. It is requested that the standard five year provision be applied in this case.

8.4 Section 35 – Monitoring charges

The Council is required to monitor the exercise of resource consents under Section 35 of the Act.

The applicant accepts a reasonable monitoring fee in accordance with the Council's monitoring fee system and that the Council may carry out its monitoring functions by way of inspections of the site during development of the proposal.

9 NOTIFICATION ASSESSMENT – SECTIONS 95A TO 95G OF THE ACT

9.1 Public Notification Assessment

Section 95A requires a council to follow specific steps to determine whether to publicly notify an application. The following is an assessment of the application against these steps:

9.1.1 Step 1: Mandatory public notification in certain circumstances

An application must be publicly notified if, under section 95A(3), it meets any of the following criteria:

- (3) *(a) the applicant has requested that the application be publicly notified:*
- (b) public notification is required under section 95C:*
- (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

It is not requested the application be publicly notified and the application is not made jointly with an application to exchange reserve land. Therefore Step 1 does not apply and Step 2 must be considered.

9.1.2 Step 2: Public notification precluded in certain circumstances

An application must not be publicly notified if, under section 95A(5):

- (5) *(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:*
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:*
 - (i) a controlled activity:*
 - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:*

In this case public notification is not precluded, therefore Step 2 does not apply and Step 3 must be considered.

9.1.3 Step 3: Public notification required in certain circumstances

An application is required to be publicly notified if one of the following circumstances are met, under section 95A(8):

- (8) (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;*
- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

There is no rule or environmental standard that requires public notification however an assessment of adverse effects is required.

9.1.3.1 Section 95D(a) – Adjacent Land

In terms of section 95D(a), the following land is adjacent to the subject site.

- 138 Three Mile Hill Road
- 136 Three Mile Hill Road
- 63 Flagstaff-Whare Flat Road
- 65 Flagstaff-Whare Flat Road
- 89 Flagstaff-Whare Flat Road (Radio Rhema site to the north)
- 111 Flagstaff-Whare Flat Road (City Forest blocks to the west)

The sites at 89 and 111 Flagstaff-Whare Flat Road do not contain residential dwellings and have not been considered in the assessment below.

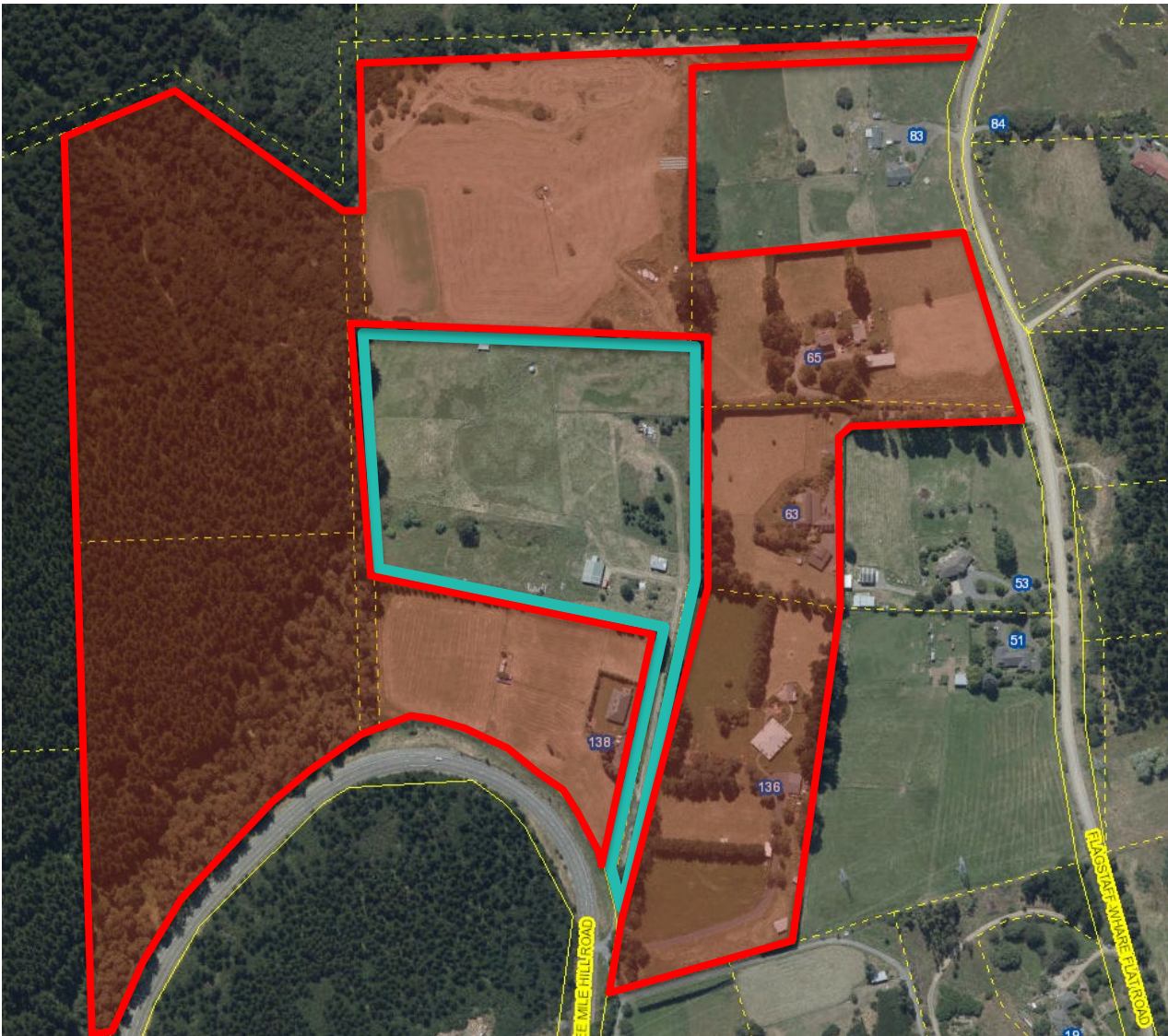


Figure 5: Adjacent Sites (highlighted in red)

The assessment of environmental effects undertaken in Section 6 concluded that the activity will have less than minor effects on the environment as a whole. When excluding positive effects and adjacent land – and taking into account the permitted baseline, and the receiving environment as addressed in Section 6 of this report, the adverse effects on the environment will be less than minor. In particular, landscape and visual amenity effects are considered to be less than minor.

9.1.3.2 Step 3 Summary

With respect to section 95D, the adjacent land (discussed above) and permitted baseline were considered as part of the assessment of environmental effects undertaken in Section 6 of this report, which found that the adverse effects on the environment will be less than minor. Therefore Step 3 does not apply and Step 4 must be considered.

9.1.4 Step 4: Public notification in special circumstances

Section 95A (9) states that a council must publicly notify an application for resource consent if it considers that ‘special circumstances’ exist, notwithstanding that Steps 1 to 3 above do not require or preclude public notification.

Special circumstances are not defined in the Act. Case law though has identified special circumstances as something outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification. The council should be satisfied that public notification may elicit additional information on the aspects of the proposal requiring resource consent.¹

However, special circumstances must be more than:

- where a council has had an indication that people want to make submissions;
- the fact that a large development is proposed;
- the fact that some persons have concerns about a proposal.

There are no special circumstances that exist to justify public notification of the application because:

- The proposal involves a two-lot subdivision of rural-residential zoned land and so it is neither exceptional or unusual.
- The project is not considered to be controversial or of significant public interest.
- The application and its supporting material have been prepared by a set of qualified professionals with input from a qualified landscape architect. It is very unlikely that notification would elicit any additional, relevant information.
- The proposal is self-contained and is not a prelude or first step towards a wider development.

9.1.5 Public Notification Summary

From the assessment above it is considered that the application does not need to be publicly notified, but assessment of limited notification is required.

9.2 Limited Notification Assessment

If the application is not publicly notified, a consent authority must follow the steps of section 95B to determine whether to give limited notification of an application.

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

The application must be limited notified to the relevant persons if the following are determined, as specified by section 95B(2) and (3):

¹ *Far North District Council v Te Runanga-a-iwi o Ngati Kahu* [2013] NZCA 221 at 36–37

- (2) (a) *affected protected customary rights groups; or*
 (b) *affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*
- (3) (a) *whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and*
 (b) *whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*

There are no protected customary rights groups or customary marine title groups or statutory acknowledgement areas that are relevant to this application. Therefore Step 1 does not apply and Step 2 must be considered.

9.2.2 Step 2: Limited notification precluded in certain circumstances

In the following circumstances an application must not be limited notified to any persons, as specified by section 95B(6):

- (6) (a) *the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*
 (b) *the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).*

There is no rule in the plan or national environmental standard that precludes notification. The application is not for a controlled activity nor a prescribed activity. Therefore Step 2 does not apply and Step 3 must be considered.

9.2.3 Step 3: Certain other affected persons must be notified

Other affected persons must be notified in the following circumstances specified by section 95B(7) and (8):

- (7) *In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.*
- (8) *In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.*

The proposal is not for a boundary activity nor is it a prescribed activity.

In deciding who is an affected person under section 95E, a council under section 95E(2):

- (2) (a) *may disregard an adverse effect of an activity on a person if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the “permitted baseline”);*
- (b) *must disregard an adverse effect that does not relate to a matter for which a rule or environmental standard reserves control or restricts discretion; and*
- (c) *must have regard to every relevant statutory acknowledgement made in accordance with a statute set out in Schedule 11 of the Act.*

A council must not consider that a person is affected if they have given their written approval or it is unreasonable in the circumstances to seek that person’s approval.

With respect to section 95B(8) and section 95E the permitted baseline was considered as part of the assessment of environmental effects undertaken in Section 6 of this report, which found that the potential adverse effects on the environment will be less than minor.

The following properties have been identified as adjacent sites:

- 138 Three Mile Hill Road
- 136 Three Mile Hill Road
- 63 Flagstaff-Whare Flat Road
- 65 Flagstaff-Whare Flat Road
- 89 Flagstaff-Whare Flat Road (Radio Rhema site to the north)
- 111 Flagstaff-Whare Flat Road (City Forest blocks to the west – separated from the subject site by a narrow strip of ‘abandoned land’)

Under the permitted baseline, a dwelling could be erected on the property 10m from the property boundary, up to 10m in height. Therefore, the key effects to be considered are those relating to a second residential dwelling constructed on the site. Also of relevance are the proposed mitigation measures which are being offered to be included in a consent notice to be registered on the title of the new lots as part of this application:

- a) Houses are to be located within the building platforms illustrated on the subdivision scheme plan (accessory buildings can be located outside the building platforms);
- b) Houses are to be no higher than 7m above ground level and accessory buildings are to be no higher than 4m above ground level;
- c) All buildings are to be finished in colours that have low levels of contrast with the colours of the rural / rural-residential landscape setting. Painted elements are to have a light reflectivity rating of no more than 30%;
- d) The access driveway is to retain a rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting is not permitted;
- e) Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property;
- f) Fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock;
- g) All services are to be located below ground;
- h) The existing native trees identified in Figure 7 of the landscape assessment are to be retained and managed to facilitate their ongoing health and vitality; and
- i) Boundary planting is to be established in the areas shown in Figure 7 of the landscape assessment, to ensure that there is vegetative screening provided for on the proposed new lots, and to contribute to existing

screening from adjacent residences. These plantings are to be established in general accordance with the guidelines outlined in Appendix A of the landscape assessment, and shall be planted prior to any building proceeding on the proposed lots.

Mr Moore discusses the visual effects on the directly adjacent rural-residential properties in his landscape assessment (Appendix C) and concludes that any adverse effects on adjacent sites will be less than minor:

Visual effects from 138 Three Mile Hill Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 138 Three Mile Hill Road, much as per the current proposal for Lot 1, except that a house could be up to 10m rather than 7m high as proposed, and minus the other recommended mitigation measures. As illustrated in Figure 4, there is already significant vegetative screening in place on the 138 Three Mile Hill Road property, and the proposed development includes provisions to augment this screening with boundary plantings on the Lot 1 along the boundary. As proposed, the addition of a second dwelling on the Lot 2 building platform will have minimal visual effect from the house environs at 138 Three Mile Hill Road, because it will be located behind (and screened by) the Lot 1 building and will be approx. 140m distant. It is my assessment that the visual amenity effects of the proposed subdivision from this property will be no more than adverse / very low (less than minor), and may be positive given the building design and planting mitigation measures proposed.

Visual effects from 136 Three Mile Hill Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 136 Three Mile Hill Road, much as per the current proposal for Lot 1, except that a house could be up to 10m rather than 7m high as proposed, closer to the boundary, and minus the other recommended mitigation measures. Whilst there is presently a gap in the existing screening vegetation between this property and the site, this will be planted out, and the viewing distance from the house at 136 Three Mile Hill Road and the proposed Lot 1 building platform is considerable (approx. 100m). As illustrated in Figure 5, there is significant existing tree screening (largely on 63 Flagstaff Whare Flat Road) between this property and the building platform on proposed Lot 2, and the viewing distance is approx. 175m. The proposed boundary plantings will augment this screening and the proposed building design and appearance controls will also contribute to ensuring that any effects of an additional dwelling are minimal. Overall, I consider that it is unlikely that more than one additional house will be visible from this property and assess the visual amenity effects of the proposed subdivision as no more than adverse / very low (less than minor), and possibly positive, given the building design and planting mitigation measures proposed.

Visual effects from 63 Flagstaff Whare Flat Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 63 Flagstaff Whare Flat Road, closer and higher than development proposed for either of the proposed building platforms. As illustrated in Figures 5 and 6, there is dense evergreen hedging and / or a block of trees existing on the property at 63 Flagstaff Whare Flat Road which, along with the other mitigation measures, will ensure that there are minimal visual effects of the proposed development. The proposed additional boundary treatment on the site will further augment this. It is my assessment that the presence of an additional dwelling on the site will have negligible effects from 63 Flagstaff Whare Flat Road, and that the proposed mitigation measures proposed will have positive effects compared with what could be developed under the permitted baseline. Overall, I assess the visual amenity effects from this property as positive.

Visual effects from 65 Flagstaff Whare Flat Road

In terms of the permitted baseline, a house could be erected on the property 10m from the boundary with 65 Flagstaff Whare Flat Road, although given the lay of the land, this would be unlikely. Both building platforms

proposed are at a lower level than the dwelling on 65 Flagstaff Whare Flat Road and screened by existing vegetation (on 63 and 65 Flagstaff Whare Flat Road). I consider that the location and mitigation measures proposed for the closest building platform (Lot 2) provide for higher visual amenity than could be the case with potential development under the permitted baseline. The additional dwelling (Lot 1) will be approx. 180m distant and screened by existing vegetation. Additionally, it appears (from aerial photography) that the house and outdoor living spaces at 65 Flagstaff Whare Flat Road orientate northward and away from the site. Overall, I consider that visual amenity effects associated with the proposed development from 65 Flagstaff Whare Flat Road will be adverse / very low (less than minor) at worst.

Therefore, it is considered that no persons will be affected to a minor or more than minor degree.

9.2.3.1 Statutory Acknowledgements

There are no statutory acknowledgements that are relevant to this application.

9.2.4 Step 3 Summary

Overall, the adverse effects on any persons are considered to be less than minor. Therefore Step 3 does not apply and Step 4 must be considered.

9.2.5 Step 4: Further notification in special circumstances

As required by section 95B(10), a council must determine the following:

(10) whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons)

The proposal is for a two-lot rural residential subdivision and consideration of effects on any person has been undertaken at Step 3 where it was considered these are less than minor. As such it is not considered there are any other persons who would warrant notification of the application.

9.2.6 Limited Notification Assessment Summary

Overall, from the assessment undertaken Steps 1 to 4 do not apply and there are no affected persons.

9.3 Notification Assessment Conclusion

Pursuant to sections 95A to 95G it is recommended that the Council determine the application be non-notified for the following reasons:

- In accordance with section 95A Step 1, mandatory public notification is not required;
- In accordance with section 95A Step 2, public notification is not precluded;
- In accordance with section 95A Step 3, the circumstances requiring public notification do not apply, including that the adverse effects on the environment will be less than minor;
- In accordance with section 95A Step 4, there are no special circumstances to warrant public notification.
- In accordance with section 95B Step 1, there are no groups to whom the application must be limited notified;
- In accordance with section 95B Step 2, limited notification is not precluded;
- In accordance with section 95B Step 3 and section 95E, there are no such classes of affected persons;
- In accordance with section 95B Step 4, there are no special circumstances to warrant limited notification.

10 PART 2 ASSESSMENT

We consider that those aspects of the 2GP relevant to this application have been ‘competently prepared under the Act’, in the sense referred to by the Court of Appeal². The council is therefore not obliged to conduct an evaluation under Part 2 of the Act, and Part 2 considerations should not be used to override the plan provisions. However, for the sake of completeness, and to remove any doubt, the following assessment against Part 2 has also been undertaken.

Section 5 in Part 2 identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out a number of matters of national importance, none of which are considered to be of relevance to this proposal.

Section 7 identifies a number of "other matters" to be given particular regard to in the consideration of any assessment for resource consent.

Matters relevant to this application include:

- (c) the maintenance and enhancement of amenity values.

As noted in the assessment of effects, any adverse amenity effects will be less than minor.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi, and this has also informed our assessment under section 104 of the Act.

Overall, the application is considered to be consistent with the relevant provisions of Part 2 of the Act, as expressed through the objectives, policies and rules that we reviewed in earlier sections of this application. Given that consistency, we conclude that the proposal achieves the purposes of sustainable management set out by section 5 of the Act.

² R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316, paras 74 and 75

11 CONCLUSION

The applicant seeks resource consent to undertake a two-lot, rural-residential subdivision at 140 Three Mile Hill Road, Dunedin.

In terms of section 104(1)(a) of the Act, the actual and potential effects of the proposal will be less than minor, as discussed in sections 6 and 7 of this report. In particular, it is noted that the applicant is offering several measures to avoid and mitigate any potential adverse effects of future residential development on the new allotments, including identifying building platforms, imposing a 7m height restriction, retention of existing mature trees and establishment of additional boundary planting, as well as controls on colour of buildings, undergrounding of services, construction of fencing and maintaining the rural character of the driveway (no kerbs or monumental gates etc). It is considered that these measures will ensure the character and amenity of the surrounding rural-residential neighbourhood will be maintained.

The above mitigation measures will result in positive effects (when compared to the permitted baseline and potential effects associated with a 10m high building with no associated planting and mitigation measures), as well as providing additional residential capacity.

In terms of section 104(1)(b) of the Act, the proposal is considered to be consistent with the objectives and policies of the proposed 2GP, as the subdivision has been carefully designed to maintain the character of the surrounding rural-residential area, as well as ensuring the sites are able to continue to be used for lifestyle blocks or hobby farms.

The proposal is also considered to be consistent with the Otago Regional Policy Statement and Part 2 of the Act.

It is also considered that the proposal will have less than minor adverse effects on the wider environment; no persons will be adversely affected by the proposal and there are no special circumstances. As such the application does not need to publicly or limited notified. The Landscape Assessment prepared by Mr Mike Moore concludes that with the mitigation measures volunteered by the applicant, any landscape or visual amenity effects experienced by adjacent sites will be less than minor.

Hence, in accordance with section 104B and section 104D in relation to non-complying activities, it is considered appropriate for consent to be granted on a non-notified basis, subject to fair and reasonable conditions.

Appendix A:

Certificate of Title



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

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**



R.W. Muir
Registrar-General
of Land

Identifier **OT18A/1019**

Land Registration District **Otago**

Date Issued 31 October 1997

Prior References

OT13B/1391

Estate Fee Simple
Area 3.8700 hectares more or less
Legal Description Lot 1 Deposited Plan 26149
Registered Owners
Andrew Charles Leslie Nailard

Interests

770858.13 Easement Certificate specifying the following easements - 15.1.1991 at 9.58 am and varied 773728 - 25.2.1991 at 9.58 am and 775750.2 - 25.3.1991 at 9.10 am

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Convey telephone communications	Lot 4 Deposited Plan 21753 - CT OT13B/1388	D & G DP 21753	Lot 1 Deposited Plan 26149 - herein	Section 309(1)(a) Local Government Act 1974
Convey telephone communications	Lot 3 Deposited Plan 21753 - CT OT13B/1387	A DP 21753	Lot 1 Deposited Plan 26149 - herein	Section 309(1)(a) Local Government Act 1974
Convey electricity	Lot 4 Deposited Plan 21753 - CT OT13B/1388	G DP 21753	Lot 1 Deposited Plan 26149 - herein	Section 309(1)(a) Local Government Act 1974

773728 Variation of the easement specified in Easement Certificate 770858.13 - 25.2.1991 at 9.58 am

775750.2 Variation of the easement specified in Easement Certificate 770858.13 - 25.3.1991 at 9.10 am

938794.2 Easement Certificate specifying the following easements - 31.10.1997 at 10.20 am

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Right of way	Lot 1 Deposited Plan 26149 - herein	B DP 26149	Lot 2 Deposited Plan 26149 - CT OT18A/1020	Section 243 (a) Resource Management Act 1991
Convey telephone communications	Lot 1 Deposited Plan 26149 - herein	A DP 26149	Lot 2 Deposited Plan 26149 - CT OT18A/1020	Section 243 (a) Resource Management Act 1991
Right of way	Lot 1 Deposited Plan 26149 - herein	C DP 26149	Lot 2 Deposited Plan 26149 - CT OT18A/1020	Section 243 (a) Resource Management Act 1991

Convey telephone communications	Lot 1 Deposited Plan 26149 - herein	B DP 26149	Lot 2 Deposited Plan 26149 - CT	Section 243 (a) Resource Management Act 1991
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OT18A/1020

938794.3 Transfer creating the following easements in gross - 31.10.1997 at 10.20 am

Type	Servient Tenement	Easement Area	Grantee	Statutory Restriction
Convey electricity	Lot 1 Deposited Plan 26149 - herein	A DP 26149	Dunedin Electricity Limited	Section 243 (a) Resource Management Act 1991
Convey electricity	Lot 1 Deposited Plan 26149 - herein	B DP 26149	Dunedin Electricity Limited	Section 243 (a) Resource Management Act 1991

10973968.2 Mortgage to Kiwibank Limited - 8.12.2017 at 3:53 pm

Diagram B
Not to Scale

Memorandum of Easements	
Purpose	Shaded
Right of Way	Lot 1
Right of Way	Lot 2
Right of Way	Lot 3
Right of Way	Lot 4
Right of Way	Lot 6
Right of Way	Lot 7
Right of Way	Lot 8

Approved

Registered Owner

Assigned pursuant to Section 223 of the Resource Management Act 1991 on the 1st day of February 1997 Subject to the granting or reserving of the easements set out in the Memorandum hereto.

The Common Seal of the Dunedin City Council is affixed hereto in the presence of

[Signature]
Authorized Officer

[Signature]
Mayor

In witness to Section 224(c) of the Resource Management Act 1991 I hereby certify that the conditions of the Subdivision consent have been complied with in the subdivision of the Dunedin City Council

Dated this 2nd day of February 1997

[Signature]
Authorized Officer

Total Area 5.8700 ha

Contained in CT 138/1391 (P.1)

[Signature]
Registered Surveyor

Registered Surveyor and holder of an annual practicing certificate for the year 1996 as a registered surveyor pursuant to section 26 of the Survey Act 1980 hereby certify that the above plan and map have been prepared and made in accordance with the Survey Act 1980 and the regulations made in pursuance thereof.

Dated at Dunedin on the 8th day of February 1997

[Signature]
Surveyor

Field Book

Measure

Approved as to Survey

171 4 1 97

Deposited this 31 day of October 1997

[Signature]
District Land Registrar

DP 26149

LAND DISTRICT OF Otago

Survey Blk. & Dist. IV Dunedin & E Toiari

NZMS 261 Sheet 144 Record Map No.

Lots 1 & 2 being a subdivision of

Lot 7 DP 21753

Surveyed by WF Wicks

Scale 1: 1000

Date May 1996

TERRITORIAL AUTHORITY Dunedin City

Appendix B:

Subdivision Scheme Plan



Lot 14
DEEDS 260
RT 236759
City Forests Ltd

Part Lot 15
DEEDS 260
RT 236759
City Forests Ltd

Deeds Index W40 Abandoned Land

Lot 1
2.00ha

Lot 2
1.87ha

Lot 6 DP 21753
RT OT13B/1390
Radio Rhema Ltd

Lot 4 DP 21753
RT OT13B/1388
JAS & MI Lynn

Lot 3 DP 21753
RT OT13B/1387
JM Connor &
AB Kennelly

Lot 2 DP 26149
RT OT18A/1020
HA & JC Moody

Lot 8 DP 21753
RT OT13B/1392
NE & MW Rietveld

THREE MILE HILL ROAD

PROPOSED EASEMENTS

Purpose	Shown	Servient Tenemt (Burdened Land)	Dominant Tenemt (Benefited Land)
Right of Way	(A)	Lot 2 hereon	Lot 1 hereon
Right of Way Right to Convey Electricity & Telecomms	(B)	Lot 2 hereon	Lot 1 hereon
Right to Convey Water	(C)	Lot 2 hereon	Dunedin CC

PROVISIONAL ONLY
DETAIL, AREAS & DIMENSIONS
SUBJECT TO RESOURCE
CONSENT & FINAL SURVEY

Scale: 1:2000 @ A4

0 10 20 30 40 50 100 150

Lots 1 & 2 being a Proposed Subdivision of Lot 1 DP 26149

Comprised in: RT OT18A/1019 Owners: ACL Nailard Area: 3.8700ha

terramark
setting new boundaries

Surveying, Resource Management & Engineering
Dunedin 03-4774783 Mosgiel 03-4897107 Balclutha 03-4180470

Job No: 12328

Scale: 1:2000 @ A4

Date: Apr 2021

Plan #: **12328-3**

Appendix C:

Landscape Assessment

Proposed Subdivision, 140 Three Mile Hill Road, Dunedin

Landscape and Visual Effects Assessment Report

19 April 2021



Prepared by

MIKE MOORE

BSc, Dip LA, MRRP, ANZILA

LANDSCAPE ARCHITECT

Po box 5076, Dunedin

Tel (03)479 0833 . fax (03) 479 0834 . cell 0274 360 163

Email m.moore@clear.net.nz

Introduction

Andy Nailard and Vicki Cullen are applying for Resource Consent to undertake a two lot subdivision of their 3.87ha property at 140 Three Mile Hill Road, Dunedin. The property is zoned Rural Residential 1 in the Dunedin City District Plan (DCDP), and the proposed activity is a Non-complying Activity in terms of Rule 17.3.5(3).

This report addresses the landscape character and visual amenity effects arising from the proposed subdivision. It will be structured as follows:

- Site and area description
- Landscape Values
- The proposed development and mitigation measures
- Landscape and visual effects
- Dunedin City District Plan Assessment
- Conclusion

Site and area description

As illustrated in **Figure 1**, the property is located to the north side of Three Mile Hill Road where it crosses the broad ridgeline below Flagstaff, separating the Silverstream and Kaikorai catchments. The property itself, is on the western side of this ridge and drains to Silverstream. The underlying geology is volcanic and the topography is gently sloping with a generally south-westward aspect. Minor watercourses extend into the site from the western boundary.

The property is accessed via a leg-in from Three Mile Hill Road and is within an area of existing rural residential character located to the west of Flagstaff Whare Flat Road. This area is characterised by well screened dwellings and sheds set within a framework of small paddocks and mature, largely exotic shelter trees. Block sizes range from approx. 3.8 – 1.6ha and the scale is rural residential and considerably smaller than rural. To the west, is a large area of exotic plantation forestry. The property directly adjacent to the north is zoned rural, under pasture cover and occupied by a radio mast.

The site itself, is currently utilized for grazing and there are two existing farm sheds. The landform has been flattened in the areas of both proposed building sites but is otherwise largely natural in character. Notable features include some sections of stone walling and along with a few exotic trees, some mature natives including NZ beech, cabbage tree, kowhai, totara, and NZ Cedar. The southern and eastern boundaries are largely bordered by mature shelter and screening trees on the neighbouring properties.

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

Landscape Values

The site is not within any landscape management overlay in the DCDP and has no specially recognized values. Section 17 of the DCDP however refers to rural residential zones having ‘their own level of rural or semi-rural character and amenity’, and the zone description for the RR1 zone (Section 17.1.1.1) discusses RR1 areas in elevated locations providing a ‘highly visible rural context for nearby residential and urban areas’. Objective 17.2.3 refers to the character and amenity of the rural residential zones and discusses elements of these as including:

- ‘A high presence of natural features such as trees, bush, gully systems and water bodies.
- A semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas.
- Land maintained and managed for farming, grazing, conservation and rural residential activities.

The site is within an area with strongly expressed rural residential character and scale. Features of the site that contribute to local amenity include the mature native trees, the natural waterway landforms, and the presence of stone walling – which lends it a heritage character to some extent. Despite its location adjacent to a major road, the area is not highly visible given its location on a relatively level, broad spur form, and screening from surrounding places by landform and vegetation.

The proposed development and mitigation measures

As illustrated in **Figure 7**, the proposed development involves subdivision of the 3.87ha site into two lots of 2.00ha and 1.87ha respectively. Building platforms have been identified as follows:

- Lot 1 – approx. 55 x 35m in area, located to incorporate an area of levelled ground and where the existing two farm sheds are sited.
- Lot 2 – approx. 40 x 30m in area, located to incorporate an area of levelled ground and where it appears there may have been a building previously. The siting and extent of this platform is constrained to an extent by the location of a DCC watermain which runs through the property.

To minimize the visual impacts of the proposed development on the amenity of the adjacent properties and as seen from Three Mile Hill Road, the following mitigation conditions are proposed. Note that the proposed building platform on Lot 2 is located to ensure that mature native trees can be retained.

- (a) Houses are to be located within the building platforms shown in Figure 7.
- (b) Houses are to be no higher than 7m above ground level and accessory buildings are to be no higher than 4m above ground level.
- (c) All buildings are to be finished in colours that have low levels of contrast with the colours of the rural / rural-residential landscape setting. Painted elements are to have a light reflectivity rating of no more than 30%.
- (d) The access driveway is to retain a rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting is not permitted.
- (e) Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property.

- (f) Fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock.
- (g) All services are to be located below ground.
- (h) The existing native trees identified in Figure 7 are to be retained and managed to facilitate their ongoing health and vitality.
- (h) Boundary planting is to be established in the areas shown in Figure 7, to ensure that there is vegetative screening provided for on the proposed new lots, and to contribute to existing screening from adjacent residences. These plantings are to be established in general accordance with the guidelines outlined in Appendix A, and shall be planted prior to any building proceeding on the proposed lots.

Landscape and visual effects

Landscape effects describe the impact of the proposal on the landscape elements, patterns, and processes, and its character. Their significance is determined with reference to the value and sensitivity of the landscape, and the scale and character of the proposal.

Visual effects describe the impact of the proposal on the views available to people and the impact of this on amenity values. Their significance is determined with reference to the sensitivity of viewers to change and the value placed on existing views, and the scale and character of the proposal.

The nature of landscape and visual effects may be positive, neutral or adverse. The magnitude of adverse effects will be assessed on the basis of the following rating scale (source: QLDC, 2019)

Effect rating	Use and definition
Very high	Total loss of key elements / features / characteristics / values, i.e. amounts to a very significant negative change in landscape character and / or landscape values, and / or visual amenity.
High	Major modification or loss of most key elements / features / characteristics / values i.e. little of the pre-development landscape character / visual amenity remains and amounts to a significant negative change in landscape character and / or landscape values and / or visual amenity. <u>Concise Oxford English Dictionary Definition</u> High: adjective – Great in amount, value, size, or intensity
Moderate - high	Modifications of several key elements / features / characteristics / values i.e. the pre-development landscape character / or landscape values and / or visual amenity remains evident but materially changed.
Moderate	Partial loss of or modification to key elements / features / characteristics / values i.e. the pre-development landscape character and / or landscape values and / or visual amenity remains evident but is changed. <u>Concise Oxford English Dictionary Definition</u> Moderate: adjective – average in amount, intensity, quality or degree
Moderate - low	Minor loss of or modification to one or more key elements / features / characteristics / values i.e. new elements are not uncharacteristic within the receiving landscape / visual environment and do not disturb the pre-development landscape character and / or landscape values and / or visual amenity.
Low	Very little material loss of or modification to key elements / features / characteristics / values i.e. new elements integrate seamlessly into the pre-development landscape character and / or landscape values and / or visual environment. <u>Concise Oxford English Dictionary Definition</u> Low: adjective – 1. Below average in amount, extent, or intensity.
Very low	Negligible loss of or modification to key elements / features / characteristics / values of the baseline i.e. influence of new elements on landscape character and / or landscape values and / or visual environment is barely discernible.

Visual effects

One dwelling is permitted on the property, and the visual effects to be assessed, are those relating to the additional dwelling (with attendant accessory buildings and plantings) which will result from the subdivision. The viewers impacted by the proposed development will be users of Three Mile Hill Road nearby, and the residents of the properties adjacent. It is my assumption that road users will have relatively low sensitivity to visual change in this setting given the short term / transient nature of their views of the site, and given the lack of any recognized landscape values in this area of special significance. I assume however, that adjacent residents are likely to have higher sensitivity to visual change given that the area forms part of their wider living environment.

Visual effects from Three Mile Hill Road

As illustrated in Figure 2, for viewers travelling westward (toward the Taieri Plain) on Three Mile Hill Road, the paddocks within the properties at 138 and 140 Three Mile Hill Road, and 89 Flagstaff Whare Flat Road are seen as mainly open grassland in the fore and middle ground of northward views, with forestry covered hills behind. The house at 138 Three Mile Hill Road has modest visual impact from this angle due to a degree of screening by trees, and the same will be the case for the proposed dwelling sites given the proposed screen plantings, their greater viewing distance and the proposed colour controls.

As Figure 3 illustrates, for viewers travelling eastward (toward Dunedin) on Three Mile Hill Road, the paddocks of the site are again, seen as part of a generally open grassland area in the fore and middle ground. The house at 138 Three Mile Hill Road is visible but not visually dominant given its planted context and colour scheme, and the proposed houses will be less visible than this given the greater viewing distances, the screening by and context of, existing vegetation, and the proposed height, colour and planting mitigation measures.

Overall, it is my assessment that new building associated with the proposed subdivision will integrate readily with the existing small scale rural / rural residential landscape

character as viewed from Three Mile Hill Road. I consider that an additional dwelling, as provided for by the subdivision, controlled as per the proposed conditions, will have visual effects on the rural residential visual amenity that are no more than adverse / very low (less than minor).

Visual effects from 138 Three Mile Hill Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 138 Three Mile Hill Road, much as per the current proposal for Lot 1, except that a house could be up to 10m rather than 7m high as proposed, and minus the other recommended mitigation measures. As illustrated in Figure 4, there is already significant vegetative screening in place on the 138 Three Mile Hill Road property, and the proposed development includes provisions to augment this screening with boundary plantings on the Lot 1 along the boundary. As proposed, the addition of a second dwelling on the Lot 2 building platform will have minimal visual effect from the house environs at 138 Three Mile Hill Road, because it will be located behind (and screened by) the Lot 1 building and will be approx. 140m distant. It is my assessment that the visual amenity effects of the proposed subdivision from this property will be no more than adverse / very low (less than minor), and may be positive given the building design and planting mitigation measures proposed.

Visual effects from 136 Three Mile Hill Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 136 Three Mile Hill Road, much as per the current proposal for Lot 1, except that a house could be up to 10m rather than 7m high as proposed, closer to the boundary, and minus the other recommended mitigation measures. Whilst there is presently a gap in the existing screening vegetation between this property and the site, this will be planted out, and the viewing distance from the house at 136 Three Mile Hill Road and the proposed Lot 1 building platform is considerable (approx. 100m). As illustrated in Figure 5, there is significant existing tree screening (largely on 63 Flagstaff Whare Flat Road) between this property and the building platform on proposed Lot 2, and the viewing distance is approx. 175m. The proposed boundary plantings will augment this screening and the proposed building design and appearance controls will

also contribute to ensuring that any effects of an additional dwelling are minimal. Overall, I consider that it is unlikely that more than one additional house will be visible from this property and assess the visual amenity effects of the proposed subdivision as no more than adverse / very low (less than minor), and possibly positive, given the building design and planting mitigation measures proposed.

Visual effects from 63 Flagstaff Whare Flat Road

Under the permitted baseline, a dwelling could be erected on the property 10m from the boundary with 63 Flagstaff Whare Flat Road, closer and higher than development proposed for either of the proposed building platforms. As illustrated in Figures 5 and 6, there is dense evergreen hedging and / or a block of trees existing on the property at 63 Flagstaff Whare Flat Road which, along with the other mitigation measures, will ensure that there are minimal visual effects of the proposed development. The proposed additional boundary treatment on the site will further augment this. It is my assessment that the presence of an additional dwelling on the site will have negligible effects from 63 Flagstaff Whare Flat Road, and that the proposed mitigation measures proposed will have positive effects compared with what could be developed under the permitted baseline. Overall, I assess the visual amenity effects from this property as positive.

Visual effects from 65 Flagstaff Whare Flat Road

In terms of the permitted baseline, a house could be erected on the property 10m from the boundary with 65 Flagstaff Whare Flat Road, although given the lay of the land, this would be unlikely. Both building platforms proposed are at a lower level than the dwelling on 65 Flagstaff Whare Flat Road and screened by existing vegetation (on 63 and 65 Flagstaff Whare Flat Road). I consider that the location and mitigation measures proposed for the closest building platform (Lot 2) provide for higher visual amenity than could be the case with potential development under the permitted baseline. The additional dwelling (Lot 1) will be approx. 180m distant and screened by existing vegetation. Additionally, it appears (from aerial photography) that the house and outdoor living spaces at 65 Flagstaff Whare Flat Road orientate northward and away from the site. Overall, I consider that visual amenity effects associated with the proposed

development from 65 Flagstaff Whare Flat Road will be adverse / very low (less than minor) at worst.

Landscape effects

The site is rural-residential in character and has no landscape values of especially recognized significance. The proposed development will result in a minor intensification of built form but the ensuing built density will be within the range of lot sizes in the surrounding rural residential landscape and effects on the existing character will be negligible. The proposed mitigation measures will ensure that built form is not unduly visually prominent and that trees of value are protected. The building platforms are located where natural contours have already been modified and will not result in adverse effects on the natural character of the waterway landforms. Additionally, the proposed internal lot boundary is responsive to the site landform and already expressed by existing fencing. Overall, it is my assessment that landscape character effects will be adverse / very low (less than minor).

Dunedin City District Plan assessment

In terms of Rule 17.3.5(3), the application is a non-complying activity. Those objectives and policies that are relevant to the landscape and visual effects of the proposed development are highlighted below with brief comment.

Rural Residential Section

DCDP Provision	Comment
Objective 17.2.3 The character and amenity of the rural residential zones are maintained, elements of which include:	The density of the proposed development is only marginally lower than permitted within the Rural-residential 1 zone, and the proposed lot sizes are within the range of rural residential lots in the surrounding area. This, along with the proposed mitigation measures, will

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.	ensure that the proposed development integrates seamlessly with its setting. The development provides for continuing grazing and avoids modification of the minor gully forms on the site. It also provides for the protection and appropriate management of trees on the property that contribute to the landscape values.
Policy 17.2.3.1 Require buildings and structures to be set back from boundaries and of a height that maintains the character and visual amenity of the rural residential zones.	The development proposed does not contravene building setback or height standards and in some cases provides for greater restrictions to ensure amenity values are maintained.
Policy 17.2.3.5 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.	It is my assessment that the proposed subdivision is consistent with this policy.

Conclusion

The site is within an area with an existing rural residential character and with no specially recognized landscape values. The proposed subdivision is a non-complying activity because at 1.87ha, proposed Lot 2 is marginally under the required 2.0ha minimum lot size. The effects of the development to be assessed then, relate to those associated with two rather than one new dwelling (along with associated development and planting).

Controls are proposed to ensure that development integrates well with the rural residential landscape character and avoids and mitigates adverse visual amenity effects on neighbours. The key measures proposed include identifying building platforms, limits to building height, and colour controls, protection of existing trees, and establishment of new screen plantings.

My assessment of visual amenity effects on users of the adjacent Three Mile Hill Road and on adjacent residents, concludes that considering the permitted baseline and the proposed development controls, effects of the proposed development will be no more than adverse / very low (less than minor), and will in some cases, be positive. In terms of landscape character, I find that the development will have effects that are no more than adverse / very low (less than minor), and will integrate readily. I consider that the proposed subdivision is consistent with the DCDP objectives and policies relevant to this site and landscape and visual effects.

Mike Moore

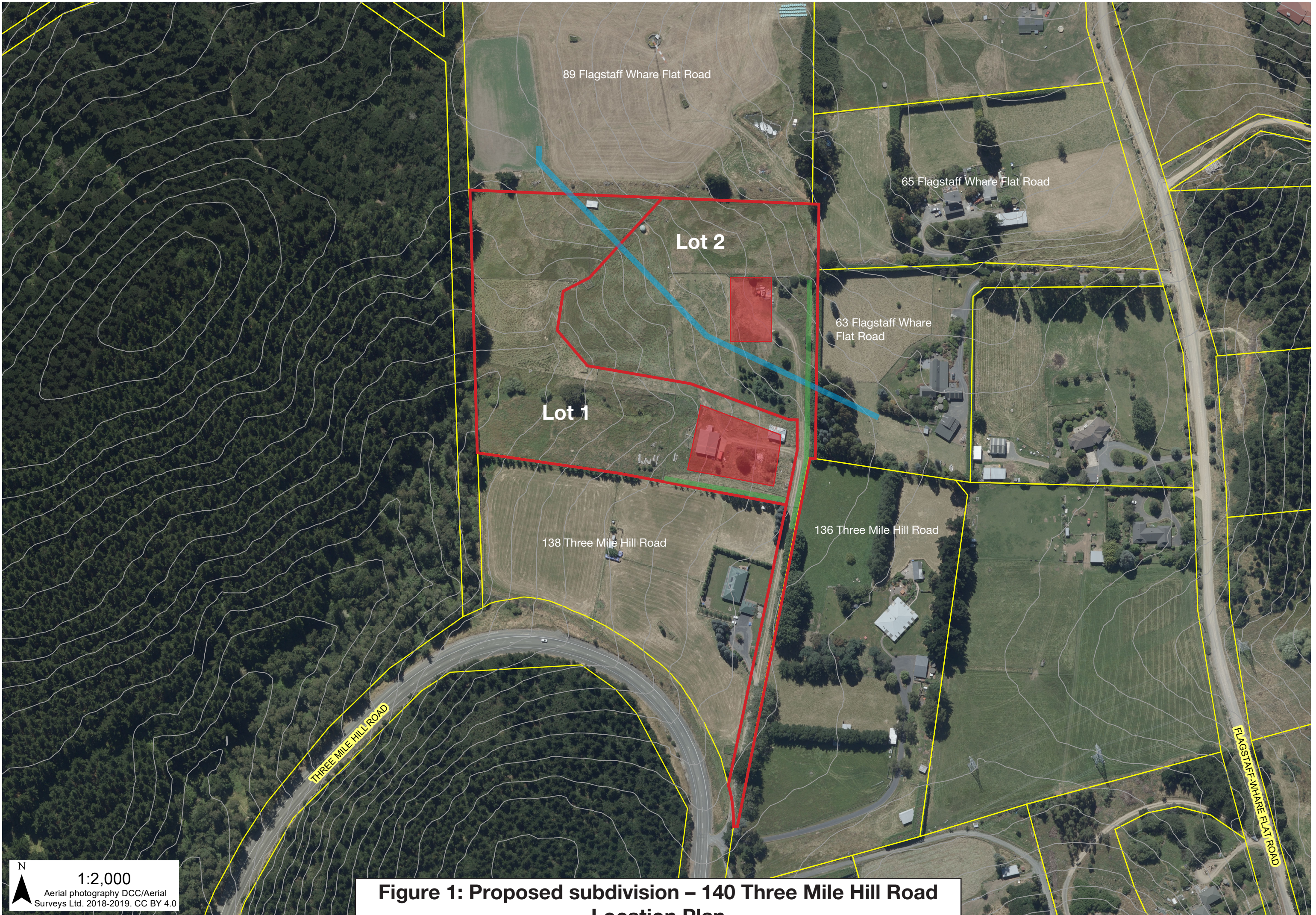
Registered NZILA Landscape Architect

Appendix A: Mitigation Planting Specification

Pittosporum tenuifolium (kohuhu) is to be planted at approx. 1.5m spacing in accordance with the specification below in the areas shown as 'mitigation planting' in Figure 7. The purpose of this planting is to provide for appropriate screening of the proposed building sites on the subject site and to augment screening provided by existing trees on adjacent properties.

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 Pb5 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.



N
1:2,000
Aerial photography DCC/Aerial
Surveys Ltd. 2018-2019. CC BY 4.0

**Figure 1: Proposed subdivision – 140 Three Mile Hill Road
Location Plan**

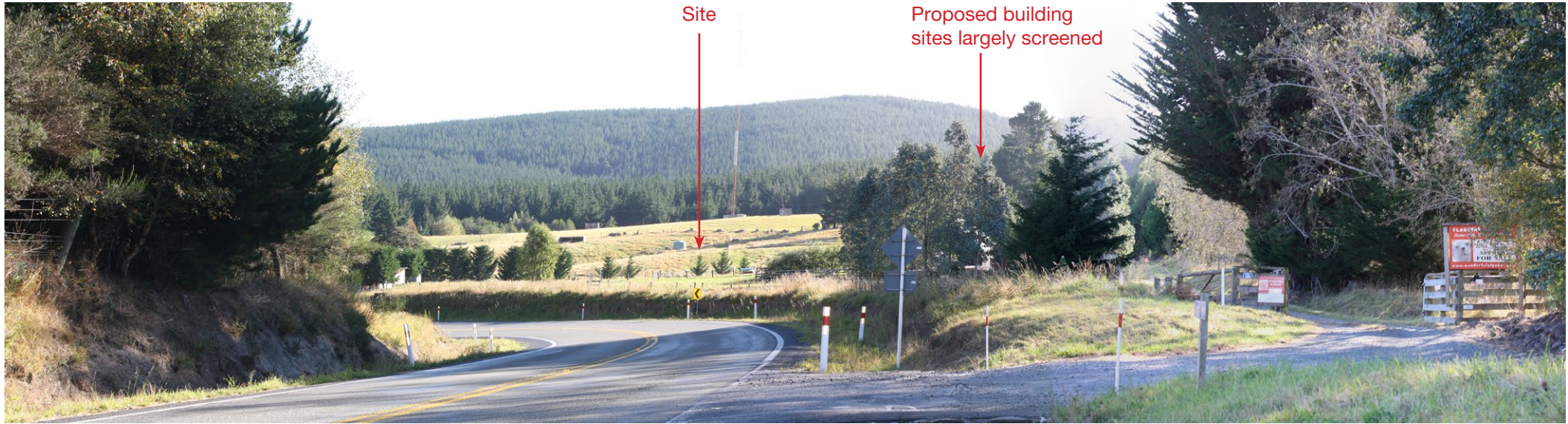


Figure 2: View toward the site from Three Mile Hill Road south of the driveway to the property



Figure 3: View toward the site from Three Mile Hill Road west of the driveway to the property



Figure 4: View southward from near the Lot 1 building platform



Figure 5: View eastward from near the Lot 1 building platform



Figure 6: View south-eastward from near the Lot 2 building platform



Figure 7: Proposed amended subdivision scheme plan

