

24 November 2021

Andrew Nailard and Vicki Cullen
C/O 4Sight Consulting
Level 1
77 Stuart Street
Dunedin 9076

Via email: emmas@4sight.co.nz

Dear Andrew and Vicki

RESOURCE CONSENT APPLICATION:

SUB-2021-75 AND LUC-2021-247

**140 THREE MILE HILL ROAD, DUNEDIN AND AN
ASSOCIATED LAND USE CONSENT TO ESTABLISH
A RESIDENTIAL UNIT AND CREATE A VEHICLE
CROSSING UP TO 9M WIDE**

The above application for consent to create a two lot subdivision at 140 Three Mile Hill Road was processed on a limited notified basis in accordance with section 95 of the Resource Management Act 1991. The Commissioner, Councillor David Benson-Pope, sitting alone, heard and considered the application at a hearing on 4 November 2021.

At the end of the public part of the hearing, the Commissioner, in accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public.

Following the conclusion of the hearing, a site visit was undertaken by the Commissioner on the following day being the 5th November 2021.

The Commissioner has **granted** consent to the application on 24 November 2021. The full text of this decision commences below with a consent certificate attached to this letter.

The Hearing and Appearances

The applicant was represented by:

Andy Nailard and Vicki Cullen (Applicants)
Emma Spalding (4Sight Consulting)

Council staff attending were:

Phil Marshall (Advisor to Commissioner), Robert Buxton (Consultant Processing Planner), Wendy Collard (Governance Support Officer), Luke McKinlay (Landscape Architect) and Logan Copland (Transportation Planner)

Submitters in attendance included:

James and Heather Moody of 138 Three Mile Hill Road
Sam Guest (Legal Counsel for James and Heather Moody).
Mark Rietveld and Ngaire Hannah-Rietveld of 136 Three Mile Hill Road.

Procedural Issues

No procedural issues were raised.

Principal Issues of Contention

The principal issues of contention are as follows:

- The undersize nature of Proposed Lot 2 at 1.87ha in the Rural Residential 1 zone which requires a minimum lot size of 2ha. The potential precedent effect of this was argued by submitters.
- The impact of one additional dwelling to that permitted by the 2GP on the two owners either side of the access strip in terms of amenity effects.
- Traffic safety at the intersection of the access strip serving the two lot subdivision and Three Mile Hill Road.
- Landscape, visual amenity and character impacts on the area.
- Potential existing site contamination from placement of fill material in the past.

Summary of Evidence

Introduction from Processing Planner

Consultant Planner Robert Buxton read his summary to the hearing. After outlining the factors contributing to the non-compliance of the proposal with 2GP rules he went on to mention proposed conditions recommended by the applicant's Landscape Architect should the consent be granted. These included limiting the location of any new dwellings to specified building platforms with a 7m maximum height and to providing screening landscaping.

Mr Buxton traversed the issues relating to the existing vehicle crossing width and the associated safety concerns with the existing intersection with Three Mile Hill Road.

He also mentioned the existing fill in the vicinity of both the proposed building platforms on Lots 1 and 2 and invited the applicant to make further comment on this at the hearing.

The Applicant's Case

Mr Andy Nailard and Ms Vicki Cullen (applicants) were present and Mr Nailard provided an overview of the property and mentioned that they had owned it since 2003 and now wished to create an additional parcel of land so that a family member could build a dwelling.

Answering questions from the Commissioner Mr Nailard commented that there had been some fill on site when they bought the property. In addition, further fill was generated some years ago by a rupture of the DCC water pipeline running through the property possibly triggered by a Fiordland earthquake. The fill was a consequence of the repair made to the pipeline.

In responding to a further question from the Commissioner Mr Nailard said widening of the entrance crossing was not necessary in his view as the culvert had been repaired in recent years after being damaged by horizontal realignment of Three Mile Hill Road in 2007.

The applicant's case was then furthered by Ms Emma Spalding speaking to her tabled evidence.

Ms Spalding (Consultant Planner for the applicant) tabled and spoke to a summary of the application, her planning evidence, and submitters' concerns. She commented on proposed landscape mitigation conditions. Ms Spalding listed activities that could be established as of right under the 2GP.

Ms Spalding advised that the applicant agrees to the proposed conditions and she felt that this would mitigate any adverse effects.

Ms Spalding commented on the improvements that the applicant had undertaken and that the farming of alpacas would still be undertaken.

She considered that any adverse effects were less than minor and could be mitigated by conditions. She commented on the provisions of the policies of the 2GP which included hobby farming and the amenity of the zone.

In her view the application passed both gateways of the Section 104D test and felt that the conditions are appropriate.

With respect to plan integrity Ms Spalding referred the Commissioner to Page 52 of the agenda being a vertical aerial photo annotated with existing lot sizes between Three Mile Hill Road and Flagstaff Whare Flat Road. She made the point that existing lots range from 1.6ha to 3.87ha in size within the Rural Residential 1 zone and as a consequence, the proposed lot sizes are consistent with the existing receiving environment.

Evidence of Submitters

Mr Mark Rietveld and Ms Ngaire Hannah-Rietveld of 136 Three Mile Hill Road were present and Mr Rietveld spoke against the proposed subdivision citing concerns about the difficulty of farming small lots, the dangers of additional traffic accessing Three Mile Hill Road. He noted driveway entrance culvert repairs a few years ago after an incident in which a car fell into the road water-table. In his view this illustrated a less than desirable existing situation which would be exacerbated by additional vehicles.

The Commissioner with the help of Mr Buxton (consultant planner acting for Council) clarified that only traffic effects additional to what is allowed as of right by the 2GP can be considered.

Mr James and Ms Heather Moody of 138 Three Mile Hill Road (represented by Mr Sam Guest – Legal Counsel) were present and Ms Moody spoke to her submission against the subdivision.

Ms Moody's key points were:

- They had bought the property at No 138 Three Mile Hill Road on the basis that the adjoining site at 140 Three Mile hill Road, the subject of this application, could not be further subdivided as a complying development within the 2GP rules.
- Furthermore, Ms Moody was of the view that direct effects on her property would not be mitigated by the proposed landscaping. Noise effects from extra traffic using the access would be suffered by her and Mr Moody as their dwelling is very close to the existing driveway and their partly buried water tanks could be damaged from additional vehicle vibration. The existing driveway has a narrow carriageway which does not allow for any vehicles to pass one another.

- Three Mile Hill Road traffic volumes are determined by the morning and evening commuter rush between Dunedin and Mosgiel. At these times there is a real safety issue due to the short sight distance to the north west from the start of the driveway.
- Ms Moody referred to the fill on Proposed Lot 1 and claimed that it was not clean-fill and that the site may well be a HAIL site under the NES for contaminated land.

Mr Guest then spoke on behalf of the Moodys, giving legal submissions, noting that in his view the application failed both limbs of the Sec 104D test in the RMA. He referred to the following policies in the 2GP:

- Policy 17.2.2.8 – rural residential sites large enough for high quality on-site amenity
- Policy 17.2.4.3 – avoid lifestyle blocks too small for keeping livestock and which function as large residential lots.
- Policy 17.7.5 (1) (3) – subdivision averaging rule.

He contended that as the 2GP is a new district plan, applications should not be granted where they are a clear breach of the rules. Furthermore, the above policies promote the keeping of livestock and other hobby farming activities through the minimum lot size rule and avoiding purely residential activity. In his view the undersize Lot 2 at 1.87 ha is in danger of being used only for a residential purpose.

Under questioning from the Commissioner, Ms Moody said she uses her 2ha site for cutting hay and running sheep.

Further questions from the Commissioner to Luke McKinlay (landscape architect) and Logan Copland (transportation planner) resulted in Mr McKinlay confirming he was happy with the proposed landscaping plan and conditions and Mr Copland advising that additional traffic volumes generated by the subdivision would be minimal. Mr Copland also mentioned that the sight distances at the driveway entrance off Three Mile Hill Road are adequate and that vehicle queuing was not an issue.

Processing Planner's Review of Recommendation

In summing up and responding to matters raised in the hearing Mr Buxton referred to Policy 2.3.1.3 (avoid cumulative effects on rural productivity by strictly enforcing minimum site size) and said that in his view it did not apply in this case and that it was applicable only to the Rural zones.

He went on to explain the averaging rule in the Rural Residential 1 zone (Rule 17.7.5) whereby in certain circumstances lots as small as 1.5ha can be created, smaller than Proposed Lot 2 at 1.87ha – albeit these circumstances not applying in this case. Consequently, in his view he felt there was no fundamental issue with the size of Lot 2.

Mr Buxton, after listening to all the evidence confirmed his recommendation to grant the subdivision and associated land use consent for a dwelling on an under-size lot.

Applicant's Right of Reply

Ms Spalding agreed with Mr Buxton that Policy 2.3.1.3 mentioned above was not applicable to this application.

Further points noted by Ms Spalding were:

- The current Alpaca farming operation will continue on both proposed lots for the foreseeable future.
- Both proposed building platforms comply with the 2GP building setback rules.
- The lot sizes are still well within the Rural Residential range and well above the next zone down the hierarchy being the Large Lot Residential zone at approximately 3,500 sqm (0.35ha).

- The applicant is generally happy with the proposed conditions suggested by Mr Buxton should the application be granted – this includes the proposed landscaping condition.
- A proposed covenant suggested by Mr Guest on behalf of the Moodys to reduce the perceived impact of the subdivision on his clients was not supported by Ms Spalding.

Statutory and Other Provisions

In accordance with section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Commissioner considered. Regard was given to the relevant provisions of the following chapters of the Dunedin City District Plan: 2 Strategic directions, 6 Transportation, 9 Public Health and Safety, 14 Manawhenua, 17 Rural Residential Zones. Statutory provisions to which regard was given included the Regional Policy Statement for Otago.

Main Findings on Principal Issues of Contention

The Commissioner has considered the evidence heard, the relevant statutory and plan provisions and the principle issues in contention. The main findings on the principal issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Commissioner reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken during the public-excluded portion of the hearing, the Commissioner inspected the site and this added physical reality to the Commissioner's considerations.

*That pursuant to section 34A(1) and 104B and after having regard to sections 104 and 104D of the Resource Management Act 1991, and the provisions of the operative Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying activity** being a two lot subdivision on the site at 140 Three Mile Hill Road, Dunedin and an associated Land Use Consent to establish a residential unit and create a vehicle crossing up to 9m wide, on Lot 1 DP 26149 (Record of Title OT18A/1019), subject to conditions imposed under section 108 of the Act, as shown on the attached certificate.*

Reasons for this Decision

1. The creation of two new lots, Proposed Lot 1 at 2ha in size complying with the Rural Residential 1 zone rules and Proposed Lot 2 at 1.87ha being slightly less than that allowed by the averaging provisions, is unlikely to set an undesirable precedent.
2. While the status of the proposal is a non-complying activity the application provided a very useful photo overlay (page 8 application – page 52 hearings agenda) of existing lot sizes in the immediately surrounding receiving environment. This provided context to the two lot subdivision and the Commissioner was satisfied that the policies and objectives of the 2GP in this part of the Rural Residential 1 zone would not be violated by granting consent.
3. Submissions and appearances at the hearing by the two parties considered to be affected by the proposal were helpful to the Commissioner in that they gave historical information regarding the area and outlined potential effects which needed to be considered both at the time of the site visit and during the deliberations required to reach a decision. In the end the magnitude of these effects over, and above those permitted on site by the 2GP, were considered to be minor.

4. While widening of the existing crossing off Three Mile Hill Road to 9m is considered as being desirable it has not been imposed as a condition of consent. Nevertheless, the associated Land Use Consent to the Subdivision Consent has included consent to breach the 2GP Transportation Section, 6m rule, should the relevant owners wish to carry out the work.
5. As part of the application a landscape plan was included which provides mitigation for the visual impact of two new dwellings. A modification to the plan to include a further existing copse of trees has been imposed as a condition of consent as a result of the Commissioners site visit.
6. Submissions and also the hearing itself canvassed the issue of potentially contaminated fill being present on site. A HAIL report was obtained by the applicant from Council prior to the hearing which did not identify any known source of ground contamination. The site visit did identify fill on the proposed building platform on Lot 1 and also to the east of the proposed building platform on Lot 2. As a result an advice note (No 16 land use consent) has been attached to the decision regarding any further investigations which might unearth potential contamination.
7. The Commissioner considered that the proposed activity is consistent with the relevant objectives and policies of the District Plan and with the objectives and policies of the Regional Policy Statement for Otago.
8. The Commissioner believes that the proposal will not give rise to more than minor adverse environmental effects and satisfies both gateway tests contained in section 104D of the Resource Management Act 1991. As such, the Commissioner were, therefore, able to consider the granting of consent to the proposal.
9. The Commissioner considers that the proposal is a “true exception” as the proposal provides for two sites where one is of a size slightly less than the minimum permitted, but not dissimilar to other sites in the area. It will not threaten the integrity of the District Plan or establish an undesirable precedent for future applications.
10. The Commissioner concluded that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Right of Appeal

Pursuant to section 120(1A) of the Resource Management Act 1991, no right of appeal to the Environment Court against the whole or any part of this decision exists for the following:

- A boundary activity, unless the boundary activity is a non-complying activity.
(Refer section 87AAB of the Act for definition of “boundary activity”.)

For all other applications, in accordance with section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received.

The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
Christchurch Mail Centre
Christchurch 8013

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicant(s).
- Every person who made a submission on the application.

Failure to follow the procedures prescribed in sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

Commencement of Consent

As stated in section 116 of the Resource Management Act 1991, this consent will only commence once the time for lodging appeals against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

Monitoring

Section 35(2)(d) of the Resource Management Act 1991 requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the nature of your intended works/activity, this consent will require one inspection.

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

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'David Benson-Pope', with a long horizontal flourish extending to the right.

Cr David Benson-Pope
Hearings Commissioner



Consent Type: Subdivision and Land Use Consent

Consent Number: SUB-2021-75 and LUC-2021-247

Purpose: A two lot subdivision and an associated Land Use Consent to establish a residential unit and create a vehicle crossing up to 9m wide.

Location of Activity: 140 Three Mile Hill Road, Dunedin.

Legal Description: Lot 1 DP 26149 (Record of Title OT18A/1019).

Lapse Date: 24 November 2026, unless the consent has been given effect to before this date.

Subdivision Consent SUB-2021-75

That pursuant to section 34A(1) and 104B and 104D and after having regard to section 104 of the Resource Management Act 1991, and the Proposed Second Generation Dunedin City District Plan (Proposed 2GP), the Dunedin City Council grants consent to a non-complying activity being the two lot subdivision at 140 Three Mile Hill Road, Dunedin, legally described as Lot 1 Deposited Plan 26149 (held in Record of Title OT18A/1019), subject to conditions imposed under section 108 of the Act.

Conditions

SUB-2021-75

1. *The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on 11 May 2021, except where modified by the following conditions:*
2. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage and telecommunication and power supply, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset. (Note all existing easements will carry over)*
 - b) *Right of Ways A and B over Lot 2 in favour of Lot 1 must be duly granted or reserved and shown in a Memorandum of Easements on the cadastral dataset. The right of ways must cover the full width of the leg-in of Lot 2. (Note all existing right of ways will carry over)*
 - c) *An easement in gross in favour of the Dunedin City Council must be duly created over the Council-owned water supply main located within Lots 1 and 2 and must be shown on the survey plan in a Memorandum of Easements in Gross. The easement must be made in accordance with Section 6.3.10.3 of the Dunedin Code of Subdivision and Development 2010.*

- d) *The building platforms on each lot shown on the approved plans must be shown on a scale plan and dimensioned in relation to the surveyed boundaries of the lots. The building platform for Lot 2 is not to encompass the existing stone wall located on the platform's northern boundary.*
3. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the subdivider must complete the following:*
- a) *The existing vehicle crossing must be hard surfaced from the edge of Three Mile Hill Road for a distance of not less than 8.0m and be adequately drained. In addition, the vehicle crossing centreline is to be marked. A plan of the work is to be approved by Transportation prior to work commencing.*
- b) *Rights of Way A and B are required to be a minimum 3.5m formed width, comprise an adequate all-weather surface and be adequately drained for their full duration. 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.*
- Note the consent holder is recommended to avoid disturbing the stone work due to it being a possible archaeological site (see advice note 14) and probable skink habitat.*
- c) *A sign (no larger than 0.25m²) must be located at each end of the leg-in of Lot 2 advising drivers to drive at a slow speed.*
- d) *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 provide screening from adjacent residences. Additional boundary planting along the leg-in of Lot 2 adjoining the curtilage of the dwelling at 138 Three Mile Hill Road (an approximate length of 24m) is to be established, unless the owner of 138 Three Mile Hill Road provides written advice that this is not required. All plantings are to be established in general accordance with the guidelines outlined in Appendix A of the Landscape and Visual Effects Assessment Report prepared by Mike Moore and dated 19 April 2021.*
- e) *A consent notice must be prepared for registration on the titles of Lots 1 and 2 for the following on-going conditions:*
- i) *The residential activity on the lot must consist of no more than one residential unit and must not include a family flat to ensure that the intensity of residential activity is consistent with the Rural Residential 1 zone.*
- ii) *The residential buildings on the lot must be contained within the building platform and must not exceed a height of 7m.*
- iii) *All non-residential buildings, no matter where they are located must not exceed a height of 4m.*
- iv) *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%;*
- v) *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. The surface of the driveway must be maintained in a good and smooth condition;*

- vi) *Water tanks are to be coloured, sited, and buried and / or screened (by planting) to have minimal visual impact from beyond the property;*
 - vii) *Fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock;*
 - viii) *All services are to be located below ground;*
 - ix) *The existing native trees identified in Figure 7 of the landscape assessment and all new boundary planting are to be retained and managed to facilitate their ongoing health and vitality. In addition any native trees within the existing copse of trees located on Proposed Lot 2 between the Lot 1 and Lot 2 building platforms are to be retained.*
- f) *Prior to the consent notice in condition e) being registered, there must not have been any residential units erected, or building consent applications made for any residential units, on the site.*

Advice Notes

Transportation

1. It is advised that in the event of future development on the site, Transport would assess provisions for access, parking and manoeuvring at the time resource consent/building consent application.
2. It is advised that a formal agreement be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.
3. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and is therefore required to be upgraded in accordance with the Dunedin City Council Vehicle Entrance Specification (available from DCC Transport).
4. Any work within legal road is required to be done by a DCC approved contractor and will require an approved corridor access request.
5. Consideration should be given as part of the corridor access request to the following changes to the existing vehicle access / vehicle crossing
 - a. Minor widening of the vehicle access / extension of the culvert to allow additional space for incoming /outgoing vehicles to pass one another
 - b. Install new edge-lines and a centreline (with limit line) to delineate the directional lanes and edge of the vehicle crossing; and
 - c. Relocate or remove the existing edge marker post and replace with 2-3 red Reflective Raised Pavement Markers (RRPM/'cats' eyes').

DCC owned infrastructure within this property

6. Any earthworks or construction on this lot must meet the requirements of the Dunedin Code of Subdivision and Development (2010) in relation to building in close proximity to Council infrastructure, unless otherwise approved by 3 Waters. The Code prohibits any building within 1.5 metres of a pipeline. If any building is proposed within 2.5 metres of a pipe or manhole, 3 Waters must be notified to discuss options and whether an encumbrance on the title is required. 'Building' includes decks, fences, garages, sheds, retaining walls and so on.

Retention of gully vegetation

7. As per page 11 of the Mike Moore (Landscape Architect) report provided with the application the landowner is encouraged to avoid modification of the gully system in Lot 1 and to keep it fenced off from stock. It is noted that Rule 10.3.2.2 of the 2GP is relevant whereby any vegetation clearance within 5m of a water body requires a resource consent.

Infrastructure

8. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
9. Private drainage issues and requirements (including any necessary works) are to be addressed via the Building Consent process.
10. The existing underground electricity and telecommunication infrastructure may be located at shallow depths and care must be taken to identify their location when undertaking any earthworks.

Development or Earthworks

11. When undertaking future development or earthworks, it is advised that:
 - a. All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s
 - b. Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties.
 - c. Any earth fill over 0.6m thick supporting foundations will need to be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development.
 - d. Slopes must not be cut steeper than 1:1 (45°) or 2.0m high without specific engineering design and construction.
 - e. Slopes must not be filled steeper than 2h:1v (27°) or 2.0m high without specific engineering design and construction.
 - f. As-built records of the final extent and thickness of any un-engineered fill should be submitted to Council for its records.
 - g. Any modifications to stormwater flow or new culverts will need to be designed by appropriately qualified persons, and ensure that overland stormwater flows are not interrupted and will not increase any adverse effects from local ponding during storm rainfall events.
 - h. Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.
12. For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
13. As required by The New Zealand Building Code E1.3.2 surface water resulting from an event having a 2% probability of occurring annually, shall not enter dwellings, the finished floor level shall be set accordingly.
14. The following documents are recommended as best practice guidelines for managing erosion and sediment control measures for small sites:
 - a. Dunedin City Council "Silt and Sediment Control for Smaller Sites"
 - b. Environment Canterbury "Erosion and Sediment Control Guideline 2007" (Report No. R06/23)
15. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss any development or earthworks proposal with Heritage New Zealand.

16. If you are demolishing any building that may have asbestos containing materials (ACM) in it:
- a. You have obligations under the relevant regulations for the management and removal of asbestos, including the need to engage a Competent Asbestos Surveyor to confirm the presence or absence of any ACM.
 - b. Work may have to be carried out under the control of a person holding a WorkSafe NZ Certificate of Competence (CoC) for restricted works.
 - c. If any ACM is found, removal or demolition will have to meet the Health and Safety at Work (Asbestos) Regulations 2016 and the New Zealand Approved Code of Practice: Management and Removal of Asbestos (September 2016);
 - d. Information on asbestos containing materials and your obligations can be found at www.worksafe.govt.nz.
 - e. If ACM is found on site during or following the soil disturbance activities you may be required to remediate the site and carry out validation sampling.

17. If the consent holder:

- a. discovers kōiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:
 - i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate rūnanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b. discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:
 - i) stop work within the immediate vicinity of the discovery or disturbance; and
 - ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and
 - iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may recommence following consultation with the Consent Authority.

Land Use LUC-2020-247

*That pursuant to section 34A(1), 104B and 104D and after having regard to section 104 of the Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan (Proposed 2GP), the Dunedin City Council **grants** consent to a **non-complying** activity being the establishment of a residential unit within the building platform on Lot 2 SUB-2021-75, and the creation of a vehicle crossing up to 9m in width at 140 Three Mile Hill Road, Dunedin, legally described as Lot 1 Deposited Plan 26149 (held in Record of Title OT18A/1019), subject to conditions imposed under section 108 of the Act.*

Conditions

LUC-2020-247

- 1. The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on 11 May 2021, except where modified by the following conditions:*
- 2. The residential unit must not be built until title has been issued for Lot 2 SUB-2021-75.*
- 3. The existing vehicle crossing must be hard surfaced from the edge of Three Mile Hill Road for a distance of not less than 8.0m and be adequately drained. In addition, the vehicle crossing centreline is to be marked. A plan of the work is to be approved by Transportation prior to work commencing.*

Advice Notes

Transportation

1. It is advised that in the event of future development on the site, Transport would assess provisions for access, parking and manoeuvring at the time resource consent/building consent application.
2. It is advised that a formal agreement be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.
3. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and is therefore required to be upgraded in accordance with the Dunedin City Council Vehicle Entrance Specification (available from DCC Transport).
4. Any work within legal road is required to be done by a DCC approved contractor and will require an approved corridor access request.
5. Consideration should be given as part of the corridor access request to the following changes to the existing vehicle access / vehicle crossing
 - a. Minor widening of the vehicle access / extension of the culvert to allow additional space for incoming /outgoing vehicles to pass one another
 - b. Install new edge-lines and a centreline (with limit line) to delineate the directional lanes and edge of the vehicle crossing; and
 - c. Relocate or remove the existing edge marker post and replace with 2-3 red Reflective Raised Pavement Markers (RRPM/'cats' eyes').

DCC owned infrastructure within this property

6. Any earthworks or construction on this lot must meet the requirements of the Dunedin Code of Subdivision and Development (2010) in relation to building in close proximity to Council infrastructure, unless otherwise approved by 3 Waters. The Code prohibits any building within 1.5 metres of a pipeline. If any building is proposed within 2.5 metres of a pipe or manhole, 3 Waters must be notified to discuss options and whether an encumbrance on the title is required. 'Building' includes decks, fences, garages, sheds, retaining walls and so on.

Infrastructure

7. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
8. Private drainage issues and requirements (including any necessary works) are to be addressed via the Building Consent process.
9. The existing underground electricity and telecommunication infrastructure may be located at shallow depths and care must be taken to identify their location when undertaking any earthworks.

Development or Earthworks

10. When undertaking future development or earthworks, it is advised that:
 - a. All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s
 - b. Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties.
 - c. Any earth fill over 0.6m thick supporting foundations will need to be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development.
 - d. Slopes must not be cut steeper than 1:1 (45°) or 2.0m high without specific engineering design and construction.
 - e. Slopes must not be filled steeper than 2h:1v (27°) or 2.0m high without specific engineering design and construction.
 - f. As-built records of the final extent and thickness of any un-engineered fill should be submitted to Council for its records.
 - g. Any modifications to stormwater flow or new culverts will need to be designed by appropriately qualified persons, and ensure that overland stormwater flows are not interrupted and will not increase any adverse effects from local ponding during storm rainfall events.
 - h. Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.
11. For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
12. As required by The New Zealand Building Code E1.3.2 surface water resulting from an event having a 2% probability of occurring annually, shall not enter dwellings, the finished floor level shall be set accordingly.
13. The following documents are recommended as best practice guidelines for managing erosion and sediment control measures for small sites:
 - a. Dunedin City Council "Silt and Sediment Control for Smaller Sites"
 - b. Environment Canterbury "Erosion and Sediment Control Guideline 2007" (Report No. R06/23)

14. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss any development or earthworks proposal with Heritage New Zealand.
15. If the existing fill on the building platform for Lot 1 is not clean fill then the provisions of the NES Land Contamination may apply and a further resource consent may be required.
16. If you are demolishing any building that may have asbestos containing materials (ACM) in it:
 - a. You have obligations under the relevant regulations for the management and removal of asbestos, including the need to engage a Competent Asbestos Surveyor to confirm the presence or absence of any ACM.
 - b. Work may have to be carried out under the control of a person holding a WorkSafe NZ Certificate of Competence (CoC) for restricted works.
 - c. If any ACM is found, removal or demolition will have to meet the Health and Safety at Work (Asbestos) Regulations 2016 and the New Zealand Approved Code of Practice: Management and Removal of Asbestos (September 2016);
 - d. Information on asbestos containing materials and your obligations can be found at www.worksafe.govt.nz.
 - e. If ACM is found on site during or following the soil disturbance activities you may be required to remediate the site and carry out validation sampling.
17. If the consent holder:
 - a. discovers kōiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:
 - i notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - ii stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate rūnanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b. discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:
 - i) stop work within the immediate vicinity of the discovery or disturbance; and
 - ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and
 - iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may recommence following consultation with the Consent Authority.

Noise

18. In addition to the conditions of a resource consent and the noise standards of the Proposed Second Generation Dunedin City District Plan, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.

General

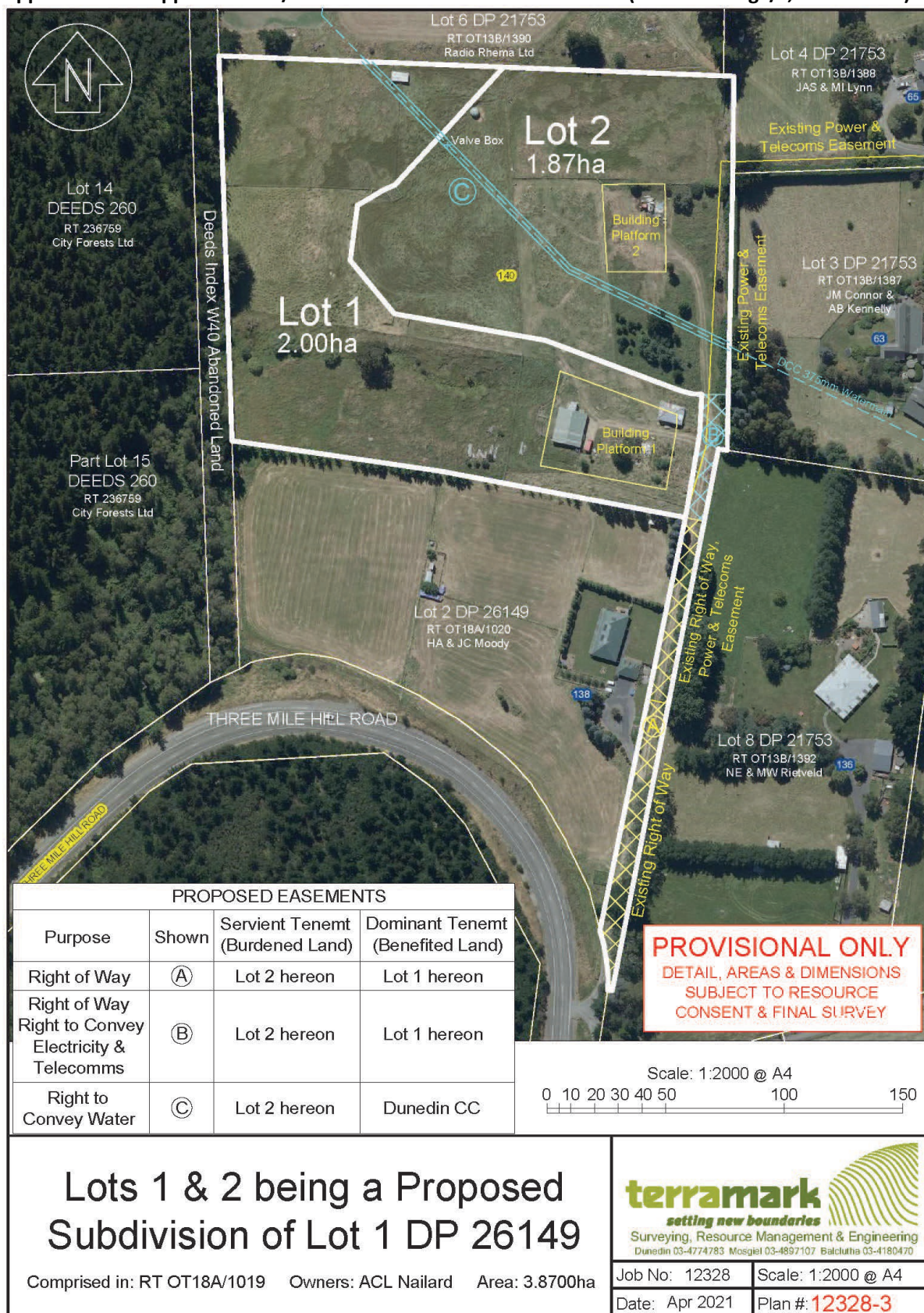
19. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
20. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
21. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
22. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Issued at Dunedin on 24 November 2021

A handwritten signature in blue ink, appearing to read 'David Benson-Pope', with a long horizontal flourish extending to the right.

David Benson-Pope
Hearings Commissioner

Appendix One: Approved Plan/s for SUB-2021-75 and LUC-2021-247 (scanned image/s, not to scale)



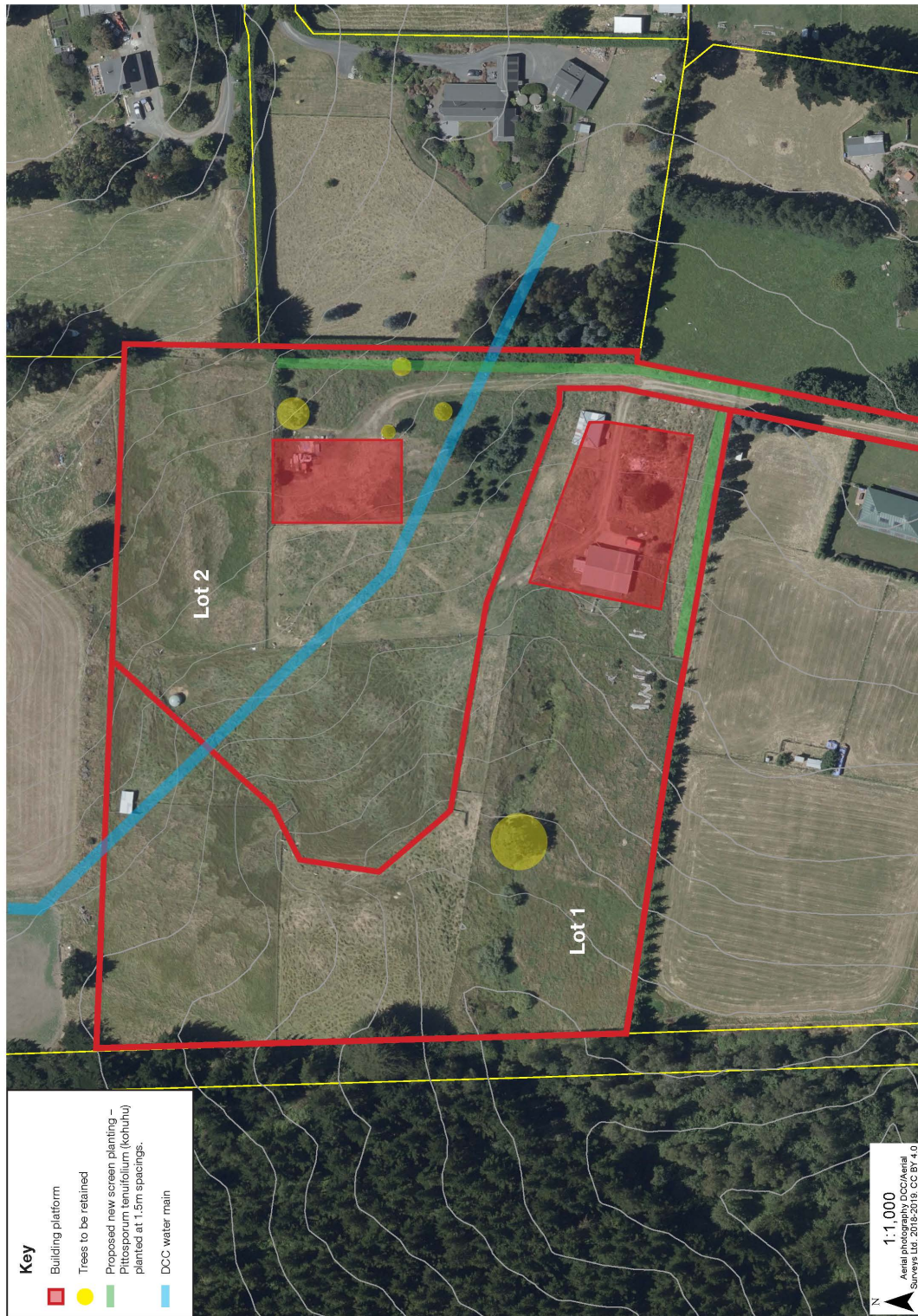


Figure 7: Proposed amended subdivision scheme plan