

TO: Hearings Committee

FROM: Robert Buxton, Consultant Planner

DATE: 11 October 2021

SUBJECT: **RESOURCE CONSENT APPLICATION**
SUB-2021-75 LUC-2021-247
140 Three Mile Hill Road, Dunedin
A Nailard and V Cullen

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 11 October 2021. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] For the reasons set out below, I consider that the proposed will meet the intent of the zone, the objectives and policies of the Proposed 2GP and will be in keeping with the existing amenity and character of the area. As a result, I have concluded that the application should be granted, subject to conditions.

BACKGROUND, DESCRIPTION OF SITE AND LOCATION

- [3] The subject site is a rear site containing three farm buildings and is legally described as Lot 1 Deposited Plan 26149 (held in Record of Title OT18A/1019), and has an area of 3.87ha. The leg-in is approximately 180m long and varies in width from approximately 10m at the road end to 8m at the internal end. The road frontage lies obliquely to the leg-in so that the frontage is approximately 25m. Note the leg-in also has a Right of Way (ROW) and easements that serves the existing dwelling at 138 Three Mile Hill Road, and the existing driveway to the dwelling at 138 Three Mile Hill Road is approximately 80m along the ROW from the road frontage.
- [4] The immediately surrounding properties consist of the following,:

Site	Area	Owner (from DCC Ratepayer info)
Adjoining Sites		
136 Three Mile Hill Road	2.65ha	MW Rietveld and NE Hannah-Rietveld
138 Three Mile Hill Road	2.00ha	JC and HA Moody
63 Flagstaff-Whare Flat Road	1.64ha	AB Kennelly and JM Connor

65 Flagstaff-Whare Flat Road	1.64ha	MI and JAS Lynn
89 Flagstaff-Whare Flat Road	4.19ha	Radio Rhema Incorporated
Road Reserve (to the west)		
111 Flagstaff-Whare Flat Road	1337.82ha	City Forests Limited

DESCRIPTION OF PROPOSAL

- [5] A two lot subdivision is proposed with associated land use for residential activity on the resultant lots as set out in Appendix 1.
- [6] This subdivision will result in two sites:
- Lot 1 being a rear site (with no frontage) of 2.00 ha with a proposed Right of Way (ROW) over the leg-in of Lot 2. A building platform of approximately 55m by 35m is proposed.
 - Lot 2 being a rear site of 1.87ha including the leg-in, that will be extended by approximately 55m. A building platform of approximately 40m by 30m is proposed.
- [7] The applicant has offered conditions that: would limit the maximum height of dwellings to 7m, and accessory buildings to 4m; locate the dwellings within identified building platforms; exclude family flats; provide landscape screening; and retain a rural character of the driveway.

ACTIVITY STATUS

- [8] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the “2006 District Plan”, and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [9] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.
- [10] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved. However, any Variation to the fully operative rules will need to be considered if they have legal effect.

2006 District Plan

- [11] The subject site is zoned Rural in the 2006 District Plan and is within the Visually Prominent portion of the Flagstaff-Mt Cargill Landscape Conservation Area (LCA). Three Mile Hill Road is a Regional Road.

- [12] The zoning and rules of the Proposed 2GP relevant to this application are not appealed. Therefore the rules of the 2006 District Plan that apply to this activity are considered inoperative in accordance with Section 86F of the Resource Management Act 1991.

Proposed 2GP

- [13] The subject site is zoned Rural Residential 1 and is located within a Wāhi Tūpuna Mapped Area [ID: 50: Name: Whakaehu (Silverstream catchment)]. There is no Landscape Protection overlay applying to this site. Three Mile Hill Road is a Strategic Road.

SUBDIVISION

- [14] Rule 17.3.5.2.a lists general subdivision as being a restricted discretionary activity in the rural residential zones subject to performance standards with discretion restricted to those matters listed in Rules 6.11.2.1, 6.11.2.7, 9.6.2.4, 11.5.2.1, 11.5.2.5, 17.10.4.1.a – 17.10.4.1.i. For the Rural Residential 1 zone the minimum site size is 2ha. As the proposed subdivision does not meet the minimum site size, the subdivision is considered to be a **non-complying activity** pursuant to Rule 17.7.5.3. Assessment guidance is listed in Rules 17.12.2.1 and 17.12.6.5. The matters for discretion for a restricted discretionary activity subdivision also give some assistance, which under Rule 17.10.4 include: Effects on on-site amenity; Effects on rural residential character and visual amenity; Effects on long term maintenance of rural land for productive rural activities; Effects on biodiversity values and natural character of riparian margins and the coast; Effects on public access; Effects on health and safety; Effects on efficiency and affordability of infrastructure; Effects on the safety and efficiency of the transport network; and Risk from natural hazards.
- [15] The application notes that in terms of Rule 17.7.5.3.c, the subdivision would be a discretionary activity if the average area was 2ha, whereas the proposed subdivision results in an average area of 1.935ha.

LAND USE

- [16] The proposal falls under the definition of standard residential activity. Under the Proposed 2GP, activities have both a land-use activity and a development activity component.

Land Use Activity

- [17] Rule 17.3.3.12 lists standard residential activity as being a permitted activity subject to compliance with the performance standards.
- [18] Rule 17.5.2.1.a specifies a minimum site size of 2ha per residential activity for the Rural Residential 1 zone. As Lot 2 will be 1.87ha the application states that the land use will be a non-complying activity under Rule 17.5.2.2. However, Rule 17.5.2.1.ii refers to “sites created under Rule 17.7.5.3” as being exempt from the density rule, as long as all other performance standards can be met. Rule 17.7.5.3 covers both discretionary and non-complying subdivision activities (i.e. Rule 17.5.2.1.ii does not distinguish between the two activity statuses of the rule), and therefore it would appear that once the subdivision has occurred, residential activity would be a permitted activity in terms of density. However, for the benefit of doubt and taking a conservative approach, the land use will be treated as a **non-complying activity** under Rule 17.5.2.2.

Development Activity

- [19] The application states that the performance standards of Rule 17.6 will be met. The application includes conditions recommended by the applicant's landscape architect that include houses being located within the proposed building platforms and not being higher than 7m. I note that the proposed building platforms for both lots will meet Rule 17.6.9.1.a.i Boundary setbacks for residential buildings of 10m, and that under Rule 17.6.5.1 the maximum height for buildings that are not roadside stalls is 10m.

Summary

- [20] Overall, the land use proposal will be treated as a **non-complying activity**, although as noted above, this is a conservative approach, whereas the rules appear to permit the land use once the subdivision has occurred.

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

- [21] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) 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.

- [22] The application states:

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.

- [23] There are no other National Environmental Standards relevant to this application.

Overall Status

- [24] Both the subdivision and land use are considered to be **non-complying activities**.

NOTIFICATION AND SUBMISSIONS

- [25] The application was limited notified to those parties the Council considered affected by the proposal on 17 August 2021, being the two properties immediate adjacent to the driveway.
- [26] Submissions closed on 14 September 2021. Two submissions in opposition were received by the close of the submission period.
- [27] The submissions are summarised in the table below, and a full copy of the submissions is attached in Appendix 2.

Name of Submitter	Address	Support/ Oppose	Summary of Submission	Wish to be heard?	Delegate to commissioners
MW Rietveld and NE Hannah-Rietveld	136 Three Mile Hill Road	Oppose	Concerned about: Visual Amenity and Character – Lot 1 building platform is within their outlook, cannot be blocked from their view by landscaping and there are no building plans; Lot 2 is less than 2ha, includes a long leg-in, and will be no more than a large lawn and garden; The current driveway to applicant's site is poorly formed and maintained, and any upgrade could affect the stonework, drainage and the root zone of the submitter's trees, and there should be an up-to-date survey of boundaries; The submitter's current stock breeding use will be affected by increased traffic; Safety of the entry point off Three Mile Hill Road, with only room for one vehicle which already creates problems for vehicle towing trailers; Concerned about reliance on trees on 63 Flagstaff-Whare Flat Road, to provide screening of Lot 2 from the submitter's site. The owners of that site have provided supplementary advice on their concerns, noting that their 1.64ha site limits hobby farming and they combine with the neighbour to provide enough grazing.	Yes, but would present a joint case with others.	No
JC and HA Moody	138 Three Mile Hill Road	Oppose	Concerned about: The subdivision would affect the integrity and create a precedence; The long driveway and building platform results in Lot 2 being approximately 1.5ha, which has limited land use due to weather, shading from commercial forestry, too rocky to cultivate, and rabbits; The shape of Lot 1 is unusual, being narrow, close to commercial forestry and is, limited by a wetland; Fencing between the lots is over a DCC water main; Safety of the entry point off Three Mile Hill Road, which is on a blind corner, and the vehicle crossing is restricted by culverts requiring an unwritten rule for those leaving the driveway to give room; The submitter shares the current driveway to applicant's site and effects from extra vehicles include dust and noise (including for a shift worker, but also for sheep in adjoining paddock), reduced security, difficulty for two vehicles to pass (including those with trailers), risk for cat; poor maintenance, and drainage; The proposed building platform on Lot 1 will intrude into their view, even if limited to 7m height, and the existing screening trees are on the submitter's land and proposed for firewood; Effect on views of 63 Flagstaff-Whare Flat Road; Effects on birds, skinks (including rocks in driveway), and water resource from	Yes, and would present a joint case with others.	No

			wastewater disposal, and the disposal of unknown quality of soils and building waste; Interruptions on power and telecommunication; Request consultation and notification prior to work on entrance and driveway, and limits on hours and noise.		
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ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[28] Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in Section 3 of the Act as including-

- a) *Any positive or adverse effect; and*
- b) *Any temporary or permanent effect; and*
- c) *Any past, present, or future effect; and*
- d) *Any cumulative effect which arises over time or in combination with other effects—
regardless of the scale, intensity, duration or frequency of the effect, and also includes –*
- e) *Any potential effect of high probability; and*
- f) *Any potential effect of low probability which has a high potential impact.*

Permitted Baseline

[29] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity.

[30] As noted by the application, there is no permitted baseline for subdivision. Also, Rule 17.4.6 Notification states that "Council will not consider family flats or papakāika as part of the permitted baseline in considering residential density effects in the rural residential zones". Rule 17.4.6 only applies to notification, and therefore in terms of assessing this land use for the hearing, the permitted baseline is one standard residential activity (which could consist of a main building and sleepouts) and a family flat, that meet the performance standards, including a minimum setback from boundaries of 10m, a maximum building height of 10m and a minimum separation of 30m from forestry. The permitted baseline also includes any number of farming related buildings that were up to 10m in height and had a setback from boundaries of between 6m and 20m, depending on the height of the building and whether it housed animals.

[31] Other permitted activities may include domestic animal boarding and breeding, rural ancillary retail, community and leisure – small scale provided that such activities meet the performance standards, including city wide provisions of the Plan dealing with effects such as noise.

[32] It is considered that this is the appropriate baseline to be considered.

[33] The existing and reasonably foreseeable receiving environment is made up of:

- The existing environment and associated effects from lawfully established activities;

- Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- The existing environment as modified by any resource consents granted and likely to be implemented; and
- The environment as likely to be modified by activities permitted in the district plan.

[34] For the subject site, the existing and reasonably foreseeable receiving environment comprises rural residential activities.

[35] For adjacent land, the existing and reasonably foreseeable receiving environment comprises: rural residential activities to the east and south; rural activities and a radio tower to the north; and rural activities (currently forestry) to the west.

[36] It is against these that the effects of the activity, beyond the permitted baseline, must be measured.

Assessment of Effects

[37] The following parts of this report represent my views on the effects of the proposal, having regard to the application, the submissions, and my visit to the site. Comments by Council's Officers are contained in Appendix 3.

Landscape, amenity, character and visual effects

[38] The application has been considered by the Council's Landscape Architect. The Landscape Architect generally concurs with the findings of the applicant's landscape and visual amenity report that supports this application. If all the proposed mitigation measures are adopted as conditions, the Landscape Architect concludes that potential adverse visual amenity and landscape character effects of this development on surrounding potentially affected parties, including the submitters, can be kept to low levels.

[39] The Landscape Architect notes there are two under-sized 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 of which contain a residential dwelling. In this context, the proposed grain of development is broadly consistent with that of this rural-residential enclave and will not lead to unacceptable adverse effects on existing rural-residential character values, particularly given the suite of mitigation measures proposed and the proposed retention of existing mature native trees on site.

[40] In terms of landscaping, the Landscape Architect notes that the applicant proposes to plant and maintain landscaping along the boundaries of the site so that should the existing screening vegetation on the neighbouring properties be removed, screening of the proposed building platforms will be retained. The Landscape Architect agrees that this screening planting will need to be maintained and that this screening, along with other mitigation measures such as the proposed maximum heights of 7m for the houses and 4m for ancillary buildings (compared to the permitted maximum height of 10m) and the control on cladding will keep any adverse effects to low levels. The Landscape Architect also notes that the proposed building platform on Lot 1 is lower lying than the closest dwelling, at 138 Three Mile Hill Road.

[41] I agree that overall the development will have no more than minor adverse effects on landscape, amenity and visual effects. I consider that the proposed landscaping should be required as part of the subdivision consent (rather than left to the development of the sites) to ensure that the planting is well established as soon as possible.

[42] As noted by the Landscape Architect, I also consider the visual effects will be low when the proposed building platforms and height limit of 7m are compared to a permitted single residential activity (which could include sleepout buildings and a family flat) that could be located within 10m of any boundary and be up to 10m in height. In addition, the zone does permit non-residential buildings up to 10m height and setback between 6m or 20m from property boundaries depending on their height and whether they house animals. For example, a non-residential building not housing animals can be 7m high if setback 6m from the boundary. Based on what could be built as of right, the neighbouring properties cannot expect that their existing views will be retained, regardless of this proposal.

[43] The existing dwellings on adjoining properties are located a reasonable distance from the proposed building platforms, being:

- approximately 105m for 136 Three Mile Hill Road.
- approximately 55m for 138 Three Mile Hill Road.
- approximately 90m for 63 Flagstaff-Whare Flats Road.
- approximately 115m for 65 Flagstaff-Whare Flats Road.

This separation is comparable to the separation of approximately 85m between the dwellings at 136 and 138 Three Mile Hill Road and between those at 53 and 63 Flagstaff-Whare Flats Road. For the closest dwelling at 138 Three Mile Hill Road the site is currently screened by an existing mature shelterbelt (which will be reinforced by planting by the applicant), and as noted by the Landscape Architect, the proposed building platform on Lot 1 is lower lying than this dwelling.

[44] I note that the application will exclude family flats, which can be in the form of a workers cottage. The proposal will therefore keep the development potential to two households, although I accept that there is no limit under the Rural Residential zone on the size of individual dwellings, whereas family flats are limited to 60m² floor area.

[45] In terms of lot sizes I consider that with one site at 2ha and the other site at 1.87ha the proposal will be very close to the average lot size of 2ha (noting that the minimum site size does not exclude driveways). I consider the existing character of this rural residential area will be maintained.

[46] In terms of visual effect on the adjoining rural zoned properties to the north and west, the proposed building platforms are sufficiently distant and would be viewed with a backdrop of the existing rural residential development.

Transportation

[47] The application was forwarded to Council's Transportation Operations Department for comment. The Transportation Planner has concluded that the adverse effects of the proposed development on the transportation network to be no more than minor, subject to the conditions and advice notes. Their assessment is based on the anticipated traffic generated by an additional residential unit, given that a single residential unit could be built on the site as a permitted activity.

[48] The Transportation Planner has advised that a dwelling is anticipated to create 8 vehicle movements per day (vpd), or an increase of 1.4 vehicle movements per hour (vph) at peak hour. Therefore the additional dwelling that would be provided by this application would increase traffic on the driveway by approximately 8 vpd or 1.4 vph (peak). Note the increase would be proportionally less than half if a permitted family flat was included in the comparison.

- [49] In terms of crash history, the 10 year and 40 year crash histories were considered and it was concluded that there is no evidence to suggest the existing access contributed to any of the reported crashes.
- [50] Following concerns raised by submitters, Transport staff (including the Senior Transportation and Road Safety Engineer) undertook a further assessment of the available sight distances at the vehicle access. The sight distance towards Dunedin were considered to be met. Although the sight distance towards Mosgiel did not meet the minimum sight distance, including for vehicles turning right into the vehicle access, in the context of: the location with vehicles from Mosgiel coming out of a curve and driving uphill; the crash history; the available gaps in traffic; and the anticipated minimal increase in use of the vehicle access, it was concluded that the reduced sight distance would not result in any significant safety issues. Transport staff did note that the sight distance towards Mosgiel could be increased by minor cutting/benching of the road edge embankment on the inside of the bend, but acknowledged this was an existing issue and is not considered to be necessary, although it would have safety benefits.
- [51] In terms of the concerns of the submitters regarding the width of the existing vehicle access, although it was found to meet the minimum width requirements and that there was no evidence of any noticeable operational problems, Transport staff acknowledged that the vehicle access could be improved by: minor widening; installing edge-lines and centrelines; and relocating existing edge marker posts or replacement with cat eyes. Once again this is an existing issue and is not considered to be necessary, although it would have safety benefits.
- [52] The Transportation Planner notes that any widening of the vehicle access (at the road entrance) beyond 6m width would require consent under Rule 6.6.3.3.a.i. I consider that, although not specifically required by the anticipated minimal increase in use of the vehicle access from this application, approval should be included in this consent to allow the vehicle access to be increased to 9m, which I have been advised by the Transportation Planner would be sufficient. This would avoid a further resource consent application being required for something that is seen as being beneficial and having de-minus effects, as noted by the Transportation Planner. Also, any works on road reserve require approval from the Transport Section, so the final design would be controlled through that process. Although I recommend that approval to allow a 9m access width should be included in this consent, the actual works and cost would be something for all users to agree to, given that it is an existing situation and not considered as essential by the Transport Planner.
- [53] The Transport Planner has recommended that the seal of the vehicle access from the edge of the formed carriageway be extended from the existing 3m to 5m to meet Rule 6.6.3.6.a and this can be conditioned. They also support the suggestion of the submitters to increase of the seal to 8m. I consider the increase of seal beyond 5m is not necessary for the applicant to address alone, although it would have safety benefits.
- [54] The submission by JC and HA Mood raises concern about the width of the driveway not being suitable for two cars to pass. The Transport Planner notes that the driveway meets the minimum requirements of the Proposed 2GP. I also note that on a site visit, both the Urban Designer and I parked cars on the grass berm along the leg-in without concern that we would block the driveway. I also note the low traffic volumes will mean there is a low probability of two cars meeting on the shared driveway.

Infrastructure

- [55] Development Support Officer, 3 Waters and the Technical Support Officer, Seepage Control Unit have considered the application. The Officers do not raise any concerns regarding the proposal, noting that services, including water supply, will need to be provided on-site. The Development Support Officer also notes that the Council owned 335mm diameter water main runs through the site which will require an easement in gross (which has been included in the application, although I note that the subdivision plan only lists the easement in gross for Lot 2 and will need to apply over Lot 1 as well) and that there are Council requirements for earthworks and buildings close to the pipeline.
- [56] The submission by JC and HA Moody raised concern about a boundary fence being constructed over the DCC water main. The Development Support Officer has advised that it is not a significant issue, and that the posts must not be within 1m of the pipe. This can be covered by a general advice note about development near Council infrastructure.
- [57] The submission by JC and HA Moody raised concern about installation of wastewater disposal systems. At time of any building consent the suitability of land for any disposal field (and any reserve field) for the wastewater will be addressed. Given the size of the sites, it is expected that suitable disposal can be provided.
- [58] The submission by JC and HA Moody raised concern about the potential for interruption of electricity and telecommunication services. This concern would also arise if the applicant were developing the site for one dwelling and farm buildings, and is not considered to be particular to this development. However, an advice note that existing services be identified prior to undertaking any landscaping is suggested.

Noise and glare

- [59] The submissions raise concern about the potential for noise and disturbance from traffic using the driveway. They refer to an additional 17 vehicle movements or more from the proposed two dwellings, however at least half the vehicle movements would arise from a permitted dwelling and family flat on the existing site, and should be discounted.
- [60] As noted above, the Transportation Planner has advised that a dwelling is anticipated to create 8 vehicle movements per day (vpd), or an increase of 1.4 vehicle movements per hour (vph) at peak hour. Therefore the additional dwelling that would be provided by this application would increase traffic on the driveway by approximately 8 vpd or 1.4 vph (peak). Note the increase would be proportionally less than half if a permitted family flat was included in the comparison.
- [61] Comparison could also be given to the potential traffic effects of other permitted activities, such as domestic animal boarding and breeding (excluding dog kennels), rural ancillary retail, community and leisure – small scale. While these are permitted activities, they would not appear to be likely to be established on this site, particularly community and leisure – small scale, and the precise extent of traffic movement would be difficult to predict with any certainty. In contrast, the traffic effects of a second residential activity on the site is considered to be certain. Also, the subdivision would create the potential for all permitted activities to be doubled.
- [62] The submitters raise concern about the additional traffic unsettling sleeping shift workers and stock and creating additional visual effects. I note that the sites are close to the Three Mile Hill Road, so there would be ambient noise from that source, particularly heavy trucks climbing the hill. In terms of glare, there are no bends in the driveway, so glare from headlights should be minimal.

- [63] Overall, I consider that there is the potential for doubling of traffic on the driveway above from what would be expected from permitted activities, but the adverse effects from noise and glare would not be significant due to the overall low volumes, and proximity to Three Mile Hill Road. However, to address the concerns of the submitters I recommend conditions that the applicant include signs on the driveway to encourage drivers to drive slowly, that the surface of the driveway be maintained in a good smooth condition and that consideration be given to providing screening on the leg-in along the curtilage of the dwelling for 138 Three Mile Hill Road (the length of this curtilage is approximately 24m) unless the owners of that site preferred not to have such screening (I note that the curtilage of dwelling for 138 Three Mile Hill Road already has a low hedge inside their boundary along the driveway).

Hazards

- [64] The application has been assessed by the Council's Consultant Engineer, Stantec, who has advised:

Hazards

There are no hazards identified within the hazards register for this lot or adjacent lots.

Global Setting

The underlying geology consists of second and third main eruptive phase volcanics and is sloping by less than 12 degrees.

Earthworks / Excavations / Retaining Structures

There are no proposed earthworks as part of this application.

Discussion

There are no natural hazards or stability hazards associated with the geology or slope angle. There are no proposed earthworks, however the proposed building platforms are reasonably close to the existing DCC watermain through the site. The boundary adjustment will have no effects on the hazards of the site, however future development of the new lot should follow the provided conditions.

We recommend that the application not be declined on the ground of known natural hazards. There are no general potential instabilities of concern. The proposal will not create or exacerbate instabilities on this or adjacent properties.

- [65] I concur with the Consultant engineer, and note that although they recommend conditions, these are related to future development on the proposed lots and therefore should be re-cast as advice notes.
- [66] The submission by JC and HA Moody refers to truckloads of sediment and spoil-like material being deposited on the east end of the building platform of proposed Lot 1. The applicant 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* (see para 22 above). The applicant should provide comment on this matter. In terms of fill, at building consent stage the applicant will need to confirm that the ground is suitably sound for development.

Productive rural activities and lot shape

- [67] Although the submitters identify limitations for rural activities in the location, I consider that the sites will provide for the long term maintenance of rural land for productive rural activities in the context of this rural-residential environment. The Proposed 2GP does not

take into account any limitations of different locations of Rural Residential 1 zones as requiring different minimum lots sizes. I also note that if the site was 1300m² larger at 4ha in size, then under the Proposed 2GP a subdivision involving 2.5ha and 1.5ha lots would be a restricted discretionary activity, and the 1.5ha site could include a leg-in.

- [68] Lot 1 will include approximately 1.81ha of land outside the proposed building platform (approximately 2,000m²) and Lot 2 will include approximately 1.55ha of land (excluding the leg-in) outside the proposed building platform (approximately 950m²). I consider both of these “net” areas are of sufficient size to provide for productive activities.
- [69] A primary concern is that the productive potential of adjoining land (both Rural Residential and Rural) is maintained. The location of the building platforms provides at least the minimum setback for residential buildings. The building platforms will also have a separation of at least 130m from the adjoining forestry (whereas Rule 17.5.10 requires a minimum separation of 30m). I consider the proposed subdivision will have less than minor adverse effect on productive rural activities on adjoining properties
- [70] In terms of shape, the proposed lots follow existing fence lines for most of the proposed internal boundaries. Although Lot 1 surrounds Lot 2 on two sides, the building platform of Lot 2 is setback from Lot 1 by a minimum of 36m, at the closest point, but much of Lot 1 is 60-100m from the building platform of Lot 2. I also note that the Rural Residential 1 zone requires residential buildings to be setback a minimum of 10m and this will be achieved by the building platforms.
- [71] The layout of the lots does lead to Lot 1 being narrow in places, which is not ideal, but at its narrowest it is approximately 50m, which is considered acceptable, particularly given the setbacks noted above. I also note that 29 Flagstaff-Whare Flats Road (2.1ha in area), which is within the same Rural Residential 1 cluster, is in places approximately 50m in width.

Biodiversity

- [72] The site is considered to have generally low biodiversity value at present, and there are no watercourses or public access through the site. The landscaping proposed by the applicant's Landscape Architect will add to the biodiversity. Also, owners of rural residential sites typically plant additional trees. It was also noted that during a site visit, the silver dollar trees on the northern side boundary of 138 Three Mile Hill Road were providing habitat and food (in terms of flowers) for a flock of tui. The owner of this site has submitted that these trees are earmarked for firewood, and therefore planting recommended by the applicant's Landscape Architect will ensure some habitat for birds at this location is maintained.
- [73] In terms of concern raised in submissions about the rocks of an old stone wall along the driveway being habitat for skinks, these rocks are not protected, except possibly as an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014. However, there is considered to be sufficient room within the leg in, being between 8 to 10m in width, to provide for the minimum required driveway width of 3.5m without disturbing the rocks. Advice notes are suggested regarding the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 and to avoid disturbing the rocks for skink habitat reasons.

Manawhenua

- [74] Under Rule 17.4.3 of the Proposed 2GP, Manawhenua is considered an affected party for non-complying activities in a wāhi tūpuna mapped area where the activity is

identified as a threat in Appendix A4. Rule A4.50.3 lists the principal threats for Wāhi Tūpuna Mapped Area 50 – Whakaehu (Silverstream catchment) 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.

None of these threats are considered to result from the proposed subdivision and land use. The sites are in a relatively flat area of Three Mile Hill and will not be visible in views of peaks and ridgelines.

Cumulative Effects

- [75] The proposal will provide for an additional site within the rural residential area that is close to the minimum lot size of 2ha. There appears to be only one other site within the Rural Residential 1 zone in close proximity to Three Mile Hill Road that is over 3.75ha and for that site, 62 Flagstaff-Whare Flat Road being 3.9ha, approximately 3.3ha is covered by the National Grid Corridor Mapped Area.

Positive Effects

- [76] The proposal will provide an additional dwelling for those wishing to live a rural residential lifestyle.

Effects Assessment Conclusion

- [77] Overall I consider that any adverse effects of the proposal will be no more than minor.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

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

- [79] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

- [80] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Proposed 2GP were taken into account in assessing the application. As the zoning and relevant rule provisions of the Operative District Plan for this site have been superseded, the objectives and policies of that Plan need not be considered.

Proposed 2GP

The following Proposed Plan objectives and policies are considered relevant to the proposal (noting that the shaded objective or policy indicates that it is subject to appeal):

Strategic Directions

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Inconsistent with the Objective?</i>
<u>Objective 2.2.4</u>	Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations.	The strategic directions set the underlying framework for the 2GP. The Strategic Directions policy framework is to be achieved through the lower order substantive objectives and policies. With this application there is no conflict between the lower order provisions to warrant examination of the proposal against these higher order provisions. It is nonetheless noted that the proposed subdivision will not provide for residential activity that is fundamentally different to the type anticipated by the Rural Residential zoning. The proposal is not urban-scale residential living.
<u>Policy 2.2.4.4</u>	Avoid subdivision that provides for residential activity of a fundamentally different type than provided for in the various zones, through: a. ...; and b. rules that prevent urban-scale residential living in a rural residential zone	

Transportation

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Inconsistent with the Objective?</i>
<u>Objective 6.2.3</u>	Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.	Council's Transport Planner has identified that the adverse effects of the proposed development on the transportation network to be no more than minor. I consider the proposal is consistent with these objectives and policies.
<u>Policy 6.2.3.9</u>	Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: a. adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and b. any associated changes to the transportation network will be affordable to the public in the long term	
<u>Objective 6.2.4</u>	Vehicle accesses are designed and located to: a. provide for the safe and efficient operation of both the parking or loading area and the transport network; and b. facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	
<u>Policy 6.2.4.6</u>	Require sufficient visibility to be available: a. at vehicle crossings, to minimise, as far as practicable, the likelihood of unsafe vehicle manoeuvres; and b. ...	

Public Health and Safety

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Inconsistent with the Objective?</i>
<u>Objective 9.2.2</u>	Land use, development and subdivision activities maintain or enhance people's health and safety.	The addition of one residential unit is considered to have no more than minor adverse effect from noise and light spill, and there is

Policy 9.2.2.1	Require activities to be designed and operated to avoid adverse effects from noise on the health of people or, where avoidance is not practicable, ensure any adverse effects would be insignificant.	sufficient land to provide for on-site disposal of wastewater and stormwater.
Policy 9.2.2.4	Require activities to be designed and operated to avoid adverse effects from light spill on the health of people or, where avoidance is not practicable, ensure any adverse effects would be insignificant.	I consider the proposal is consistent with this objective and policy.
Policy 9.2.2.7	Only allow land use, development, or subdivision activities that may lead to land use and development activities, in areas without public wastewater and stormwater infrastructure where these activities ensure wastewater and stormwater will be disposed of in such a way that avoids or, if avoidance is not practicable, ensures any adverse effects on the health of people on the site or on surrounding sites will be insignificant.	I note that Policy 9.2.2.7 is proposed to be deleted by Variation 2.

Manawhenua

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Inconsistent with the Objective?</i>
Objective 14.2.1	The relationship between Manawhenua and the natural environment is maintained or enhanced, including the cultural values and traditions associated with: a. wāhi tūpuna; b. mahika kai; and c. occupation of original native reserve land through papakāika.	None of the threats identified in the wāhi tupuna are considered to occur on the site.
Policy 14.2.1.4	Only allow activities that are identified as a threat to wāhi tūpuna in Appendix A4, where adverse effects on the relationship between Manawhenua and the wāhi tūpuna are avoided or, if avoidance is not practicable, are no more than minor.	

Rural Residential Zones

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Inconsistent with the Objective?</i>
Objective 17.2.1	The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities..	The proposed subdivision will enable lifestyle blocks, hobby farms and associated residential activities at a density compatible with surrounding area. While the total site area is not sufficient to enable two lots as a restricted discretionary activity, the deficit in area is so small that there will little noticeable difference between the size of the proposed lots and other properties in the existing cluster of rural residential sites.
Policy 17.2.1.1	Enable farming, grazing and conservation in the rural residential zones.	I consider the proposal is consistent with the objective and policies.
Policy 17.2.1.2	Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.	
Objective 17.2.2	The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure: a. the potential for reverse sensitivity is minimised; and	The proposed subdivision will enable suitable separation between residential activities and surrounding activities (including between the building platforms and surrounding Rural zones sites) to minimise any reverse sensitivity and provide good amenity. The lot shapes will be capable of supporting rural residential

	b. a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.	development and are similar to other sites within the area.
Policy 17.2.2.1	Require residential buildings to minimise, as far as practicable, the potential for reverse sensitivity by being set back an adequate distance from: a. site boundaries; and b. forestry, intensive farming, domestic animal boarding and breeding (including dogs), mining, landfills and wind generators – large scale.	I consider the proposal is consistent with this objective and policies.
Policy 17.2.2.3	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.	
Policy 17.2.2.8	Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.	
Objective 17.2.3	The character and amenity of the rural residential zones are maintained, elements of which include: a. a high presence of natural features such as trees, bush, gully systems and water bodies; b. a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and c. land maintained and managed for farming, grazing, conservation and rural residential activities.	The character and amenity of the rural residential zone will be maintained as noted by the landscape architects. The setback will be met by the proposed building platforms, and dwellings on the proposed lots will be restricted to a 7m height and ancillary buildings to 4m height, compared to the maximum of 10m I consider the proposal is consistent with the objective and policies.
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	
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.	
Objective 17.2.4	The productive potential of the rural residential zones for lifestyle blocks or hobby farms is maintained.	
Policy 17.2.4.3	Only allow general subdivision where resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living.	The sites will maintain the productive potential, noting that the Rural Residential zone does provide for sites as small as 1.5ha, and that some sites in the vicinity are of 1.6ha size. Also the building sites are not located at the centre of the site, giving ample room to undertake hobby farming.

Overall Objectives and Policies Assessment

- [81] I consider that the proposal is generally consistent with the objectives and policies of the Proposed 2GP. I note that the submission from JC and HA Moody refers to Policy 2.3.1.3 that refers to strictly enforcing a minimum site size, however, this policy applies only to the Rural zones.

DECISION MAKING FRAMEWORK

Part 2 Matters

[82] Consideration is given to the ability of the proposal to meet the purpose of the Act, which is to promote sustainable management of natural and physical resources. Other resource management issues require consideration when exercising functions under the Act. The relevant sections are:

- 5(2)(a) “sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations”;
- 5(2)(b) “safeguarding the life-supporting capacity of air, water, soil, and ecosystems”;
- 5(2)(c) “avoiding, remedying or mitigating any adverse effects of activities on the environment”,

Matters of National Importance: None specifically

Other Matters to have particular regard to:

- 7(b) “the efficient use and development of natural and physical resources”;
- 7(c) “the maintenance and enhancement of amenity values”;
- 7(f) “maintenance and enhancement of the quality of the environment”; and
- 7(g) “any finite characteristics of natural and physical resources”.
- 7(i) “the effects of climate change”.

[83] I consider the purpose of the RMA will be met.

[84] With regard to Section 7(b), it is considered that the proposed activity is an efficient use and development, as it will provide an additional rural residential site within an area that is of similar character.

[85] With regard to Sections 7(c) and 7(f), it is considered that the proposed activity will maintain the amenity and quality of the area, being of similar character to adjoining rural residential sites.

[86] With regard to Section 7(g), there will be sufficient land for lifestyle blocks and hobby farms to occur.

[87] With regard to climate change, while lifestyle blocks tend to rely on the use of fossil fuel powered vehicles, these can be replaced with zero emission options, particularly given the location close to the city limits.

Section 104D

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

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

mitigated by consent conditions so as to be no more than minor and therefore the first 'gateway' test of Section 104D is met.

- [90] In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of both the Proposed 2GP. It is noted that in this instance, the proposal is assessed as being consistent with the relevant objectives and policies of the Proposed 2GP. The proposed development is therefore considered to also satisfy the second 'gateway' test outlined by Section 104D.
- [91] In summary, the application passes both the threshold tests in Section 104D of the Act and therefore, in my opinion, it is appropriate for the Committee to undertake a full assessment of the application in accordance with Section 104 of the Act. In turn, consideration can therefore be given to the granting of the consent.

Section 104

- [92] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will be minor and can be adequately avoided remedied or mitigated provided offered and recommended conditions of consent were adhered to.
- [93] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. As noted above no specific measures have been proposed, although it is noted the implementation of landscaping on the site will improve the biodiversity for the area.
- [94] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the relevant objectives and policies of the proposed district plan. The provisions of the current operative district plan are no longer relevant to this proposal.
- [95] Sections 104(1)(b)(iv) and (v) requires the Council to have regard to any relevant coastal and regional policy statement. Having viewed the various versions of the Regional Policy Statement for Otago, it is not considered to provide any specifically relevant provisions that are not addressed under the district plans.

Other Matters

- [96] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [97] Case law indicates that for the Council to grant consent to a non-complying activity, the application needs to be a 'true exception', otherwise an undesirable precedent may be set and the integrity of the District Plan may be undermined.
- [98] In this regard, I do not consider that the proposed activity represents a challenge to the integrity of the Proposed 2GP. The proposal provides for two sites where one is slightly less than the minimum permitted, but not dissimilar to other sites in the area. I consider that approval would be unlikely to undermine public confidence in the plan provisions.
- [99] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plans as the activity will produce only localised and minor effects. I

therefore do not consider that the Committee needs to be concerned about the potential for an undesirable precedent to be set in this regard.

CONCLUSION

[100] Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions

DRAFT DECISION IF THE COMMITTEE DECIDES TO GRANT THE APPLICATION

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.*
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 5.0m and be adequately drained (also see advice note 1.*

- 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 15) and possibility it is providing a 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 this 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 this 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.*

- 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. An increased sealing distance to 8.0m from the edge of Three Mile Hill Road would also be supported by DCC Transport.
2. 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.
3. 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.
4. 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).
5. Any work within legal road is required to be done by a DCC approved contractor and will require an approved corridor access request.
6. 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

7. 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

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 koiwi 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 runanga 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-2021-247

*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-2021-247

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 5.0m and be adequately drained (also see advice note 1).*

Advice Notes

Transportation

1. An increased sealing distance to 8.0m from the edge of Three Mile Hill Road would also be supported by DCC Transport.
2. 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.
3. 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.
4. 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).
5. Any work within legal road is required to be done by a DCC approved contractor and will require an approved corridor access request.
6. 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

7. 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

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 koiwi 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:
 - iii) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - iv) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga 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:
 - iv) stop work within the immediate vicinity of the discovery or disturbance; and
 - v) 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
 - vi) 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.

REASONS FOR RECOMMENDATION

- [101] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and will be minor.
- [102] The proposal is considered to be generally consistent with the key relevant objectives and policies of the Proposed Second Generation Dunedin City District Plan.
- [103] As the proposal is considered likely to give rise to adverse effects that will be no more than minor, and will not be contrary with the objectives and policies of the District Plan, the proposal is considered to meet both 'limbs' of the Section 104D 'gateway test'. Consideration can therefore be given to the granting of consent to the proposal.
- [104] The proposal is considered to be a true exception for the following reasons: The proposal provides for two sites where one is slightly less than the minimum permitted, but not dissimilar to other sites in the area. Therefore I consider that its potential approval would be unlikely to undermine public confidence in the plan provisions.

Report prepared by:

Report checked by:



Robert Buxton
Consultant Planner

Campbell Thomson
Senior Planner

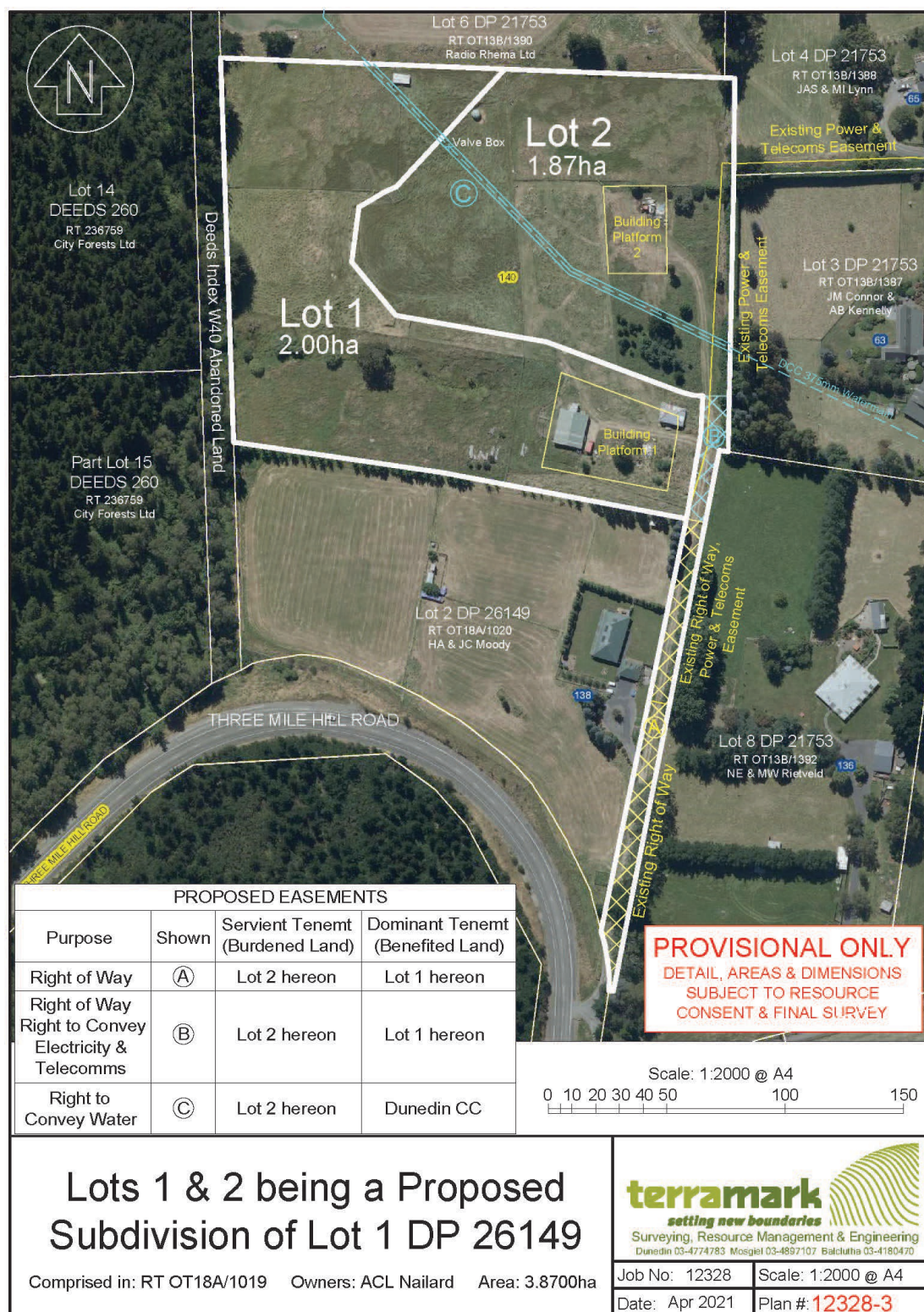
11 October 2021

11 October 2021

Date

Date

**Appendix One: Approved Plans for SUB-2021-75 LUC-2021-247
(scanned images, not to scale)**



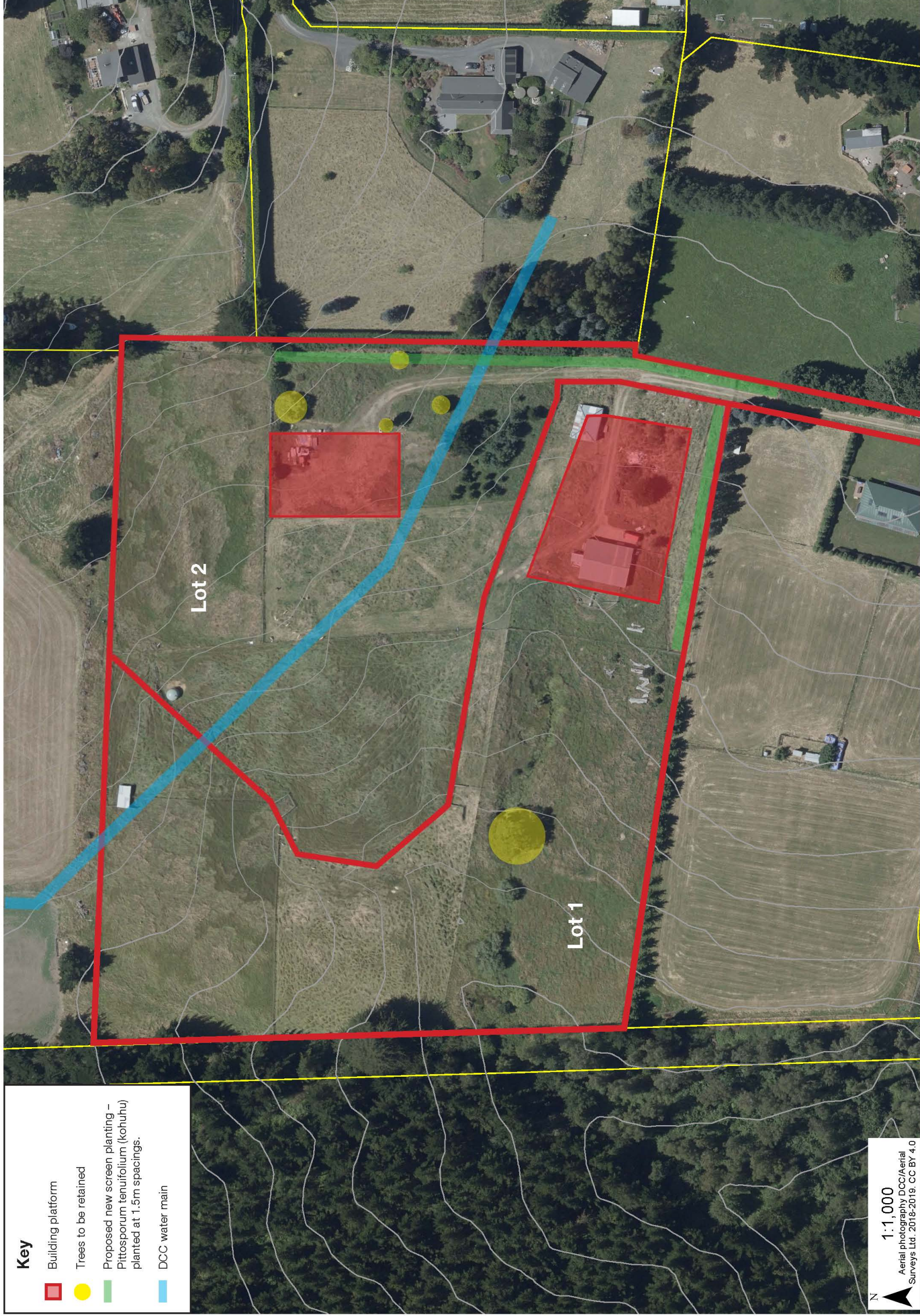


Figure 7: Proposed amended subdivision scheme plan