

CENTRAL OTAGO DISTRICT COUNCIL
S95A-F DECISION FOR RC230328
5 Māori Point Road Tarras

INTRODUCTION

Resource consent is sought to undertake a “farm park” style subdivision comprising 16 residential sized lots and one productive lot at 5 Māori Point Road, Tarras. Following a further information request, the application provided a response to that request on 24 July 2024. This information included:

- Appendix A – updated scheme plan C3001_SCM_4B
- Appendix B – correspondence from NES confirming that the overhead power can be rerouted
- Appendix C – Copy of RC 210142
- Appendix D – Correspondence from NZTA confirming approval of the proposed access to the site.
- Appendix E – A copy of the Tarras Community Plan
- Appendix F – Draft consent notice referring to the landscaping and building controls
- Appendix G – Response from Align Ltd Landscape Architects responding to the landscaping request.

A peer review of the landscape assessment was prepared by Rachael Annan of SLR which was received on 7 October 2024. The applicant raised concerns with the peer review on 31 October 2024 and this was responded to by SLR on 4 December 2024.

THE PROPOSAL

The subject site is located at 5 Māori Point Road. The site comprises an upper and lower terrace. Lots 1-16 will be located within the upper terrace setback some 18m from the terrace edge. The subdivision will be configured as follows:

- Lots 1 – 16 will each have an area of 2,000m² and will be developed for rural residential purposes.
- Lot 100 is the balance lot and will be retained as the productive farm use.

The applicant proposes that Lots 1 – 16 hold an undivided 1/16th share of Lot 100 hereon and individual Records of Title be issued for each lot. LINZ consider this ownership model to be practicable.

Water will be sourced directly from the Clutha River/Mata au. The Mt Iron Geodril report indicates that on site disposal of stormwater and wastewater is considered geotechnically suitable for the site subject to careful consideration relating to the placement of disposal fields. Access will be from a new entrance from Maori Point Road from Rights of Way M, N and P.

The applicant proposes that a management company / trust will be formed and will be responsible for the:

- Maintenance of the main access off Māori Point Road.
- Maintenance of water servicing infrastructure for domestic and irrigation purposes

- Daily operations of the working farm within Lot 100, including landscaping on road boundaries.

The applicant intends that a detailed management operation plan will be developed in respect of the above responsibilities.

A 10-year lapse period is sought. It is noted that the applicant is not applying for a land use consent at this time to authorise development on Lots 1-16.



Figure 1: Proposed subdivision layout

SITE DESCRIPTION

The subject site is located at 5 Māori Point Road, Tarras and is legally described as Lot 2 DP 476419, held in Record of Title 658254 and comprising an area of 133.119ha

The subject site is well described in the application and is considered to accurately identify the key features of the site. Notably, the subject site at 5 Māori Point Road, Tarras, is a 133-hectare rural lot located between the Clutha River, Māori Point Road

and State Highway 8, with the Lindis River to the south and Trevathan Way to the north. A legal road abuts the southern and western boundary of the site separating the site from the Clutha and Lindis Rivers.

The land has two distinct terraces, the lower level extending approximately 600-700m from the western marginal strip adjacent to the Clutha River. Another smaller section of land and at a similar elevation, abuts the southern marginal strip, adjacent to the Lindis River. This land gradually slopes from the toe of the terrace towards the Clutha River.

The southern portion of the site is protected by a Land Covenant of approximately 4Ha, to the QEII Trust. A second two Ha QEII Land Covenant is in the process of being finalised by the Applicant. A Minerals Mining Permit for the right to mine sand has been granted for a site located at the southern end of the property.

The current land use is cattle grazing with the majority of the land covered by grazing grass. The land is irrigated by both pivot and k-line irrigation systems serviced by a consented bore RM13.451.02. A row of Old Man pines serves as wind protection along a section of the northern boundary.

REASONS FOR APPLICATION

The subject site is zoned Rural Resource Area, within the Central Otago District Plan (the District Plan). The site has a mapped flood hazard annotation. The zoning map is shown at Figure 2.

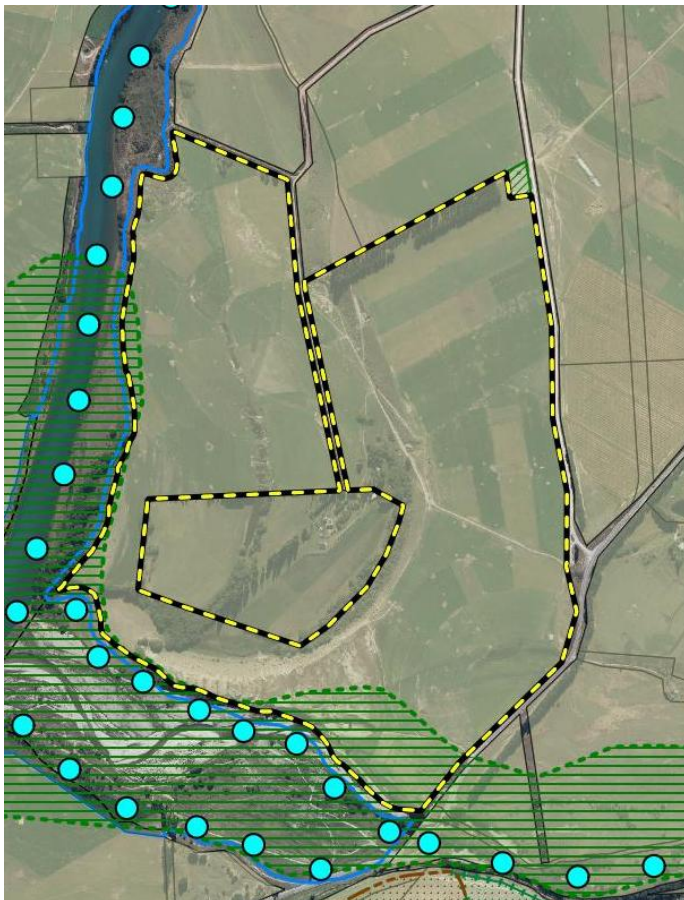


Figure 2: District Plan Zoning (Source CODC-GIS)
For completeness:

- The site shows a mapped flood hard on the Otago Natural Hazards Portal (See Figure 3); and ;
- The site is classified as LUC4 soils on the Manaaki Whenua Landcare Research Mapping (see Figure 4)



Figure 3: Otago natural Hazards (Source: [Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz))

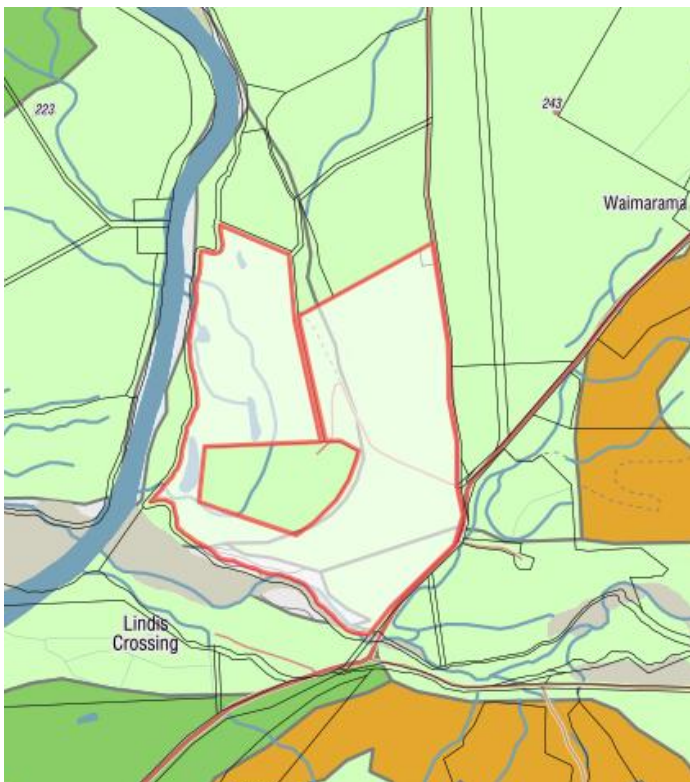


Figure 4: Land Use Capability Map (Source: [Land Use Capability » Maps » Our Environment \(scinfo.org.nz\)](http://scinfo.org.nz))

Central Otago District Plan

- Rule 4.7.4(iii)(b) of the District Plan states that where a subdivision will create lots with an average size of no less than 8 hectares (ha) and a minimum lot size of no less than 2ha within the Rural Resource Area, then, this is a discretionary activity. In this instance, Lots 1-16 will have an area of 2000m² and will not meet the 2ha minimum of 8ha average¹ lot area. The application is assessed as a non-complying activity, in accordance with Rule 4.7.5(iii) of the Plan.
- Rule 4.7.4(iii)(d) of the District Plan states that where a subdivision involves land that is subject to or potentially subject to, the effects of any hazard as identified on the planning maps, or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source, then, this is a discretionary activity. In this instance, the site has a mapped flood hazard which affects Lot 100.

For completeness, it is noted that future dwellings on Lots 1-16 have the potential to breach the skyline when viewed from the margins along the Clutha River/Mata Au and will likely breach Rule 4.7.6D(ii), however, land use consent is not being sought at this time.

National Environmental Standards

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

The applicant has obtained a search of ORC Council records which demonstrates that the site has not or is not likely to have had HAIL use in accordance with Regulation 6 of the NES-CS. I consider that the NESCS is not triggered by this application.

There are no other National Environmental Standards relevant to this application.

Overall Status

Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.

In this case, there is more than one rule involved, and the effects are linked. As such, I consider it appropriate that the bundling principle established in *Locke v Avon Motor Lodge* (1973) is applied, and that the application be considered, in the round, as a non-complying activity pursuant to sections 104, 104B and 104D of the Resource Management Act 1991 ('the Act').

¹ Note: the area of Lot 100 is capped at 16ha for averaging purposes. Without the cap, the average lot area would be 7.8ha

SECTION 95A NOTIFICATION

Step 1 – Mandatory public notification

Public notification has not been requested. (s95A(3)(a)).

There has been no failure or refusal to provide further information or the commissioning of a report under section 92(2)(b) of the Act (s95A(3)(b)).

The application does not involve the exchange of recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Step 2 – Public notification precluded

There are no rules or national environmental standards precluding public notification (s95A(5)(a)).

The proposal is not exclusively for controlled activities and/or boundary activities (s95A(5)(b)).

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

The application is not for a resource consent for one or more activities, where those activities are subject to a rule or national environmental standard that requires public notification (s95A(8)(a)).

A consent authority must publicly notify an application if it decides under s95D(8)(b) that the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(2)(a)). An assessment under s95D is therefore made below.

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT (s95D)

MANDATORY EXCLUSIONS FROM ASSESSMENT (S95D)

- A: *Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).*
- B: *An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b) (the permitted baseline, refer to section below).*
- C: *In the case of a restricted discretionary activity, any adverse effect that does not relate to a matter for which a rule or national environmental standard has restricted discretion (s95D(c)).*
- D: *Trade competition and the effects of trade competition (s95D(d)).*
- E: *Adverse effects on any parties who have provided written approval must be disregarded (s95D(e)).*

PERMITTED BASELINE (S95D(B))

Under Section 95D(b) of the RMA, an adverse effect of the activity on the environment may be disregarded if the plan permits an activity with that effect. That is, an application can be assessed by comparing it to the existing environment and development that could take place on the site as of right, without a resource consent, but excluding development

that is fanciful. In this case, there are no permitted activity subdivisions under the Central Otago District Plan and there is no permitted baseline to be applied.

AFFECTED PARTY APPROVALS

In accordance with section 95E(3) of the Act, a person is not an affected person in relation to an application for a resource consent for an activity if they have given their written approval to the application, or, the consent authority considers that it is unreasonable in the circumstances for the applicant to seek the person’s written approval.

In this instance the application was submitted with the following written approvals:

Party	Address	Date
Scott and Susan Worthington – Directors Alluvions Ltd	86 Bowman Road	8 October 2023
Sam Rosenberg – Perpetual Guardian	Part Lot 1 426163, Lot 3 DP 386756, 2226 Tarras-Cromwell Road, Tarras	12 October 2023
Jaclyn and Brett O’Sullivan	33 Polson Terrace	12 October 2023

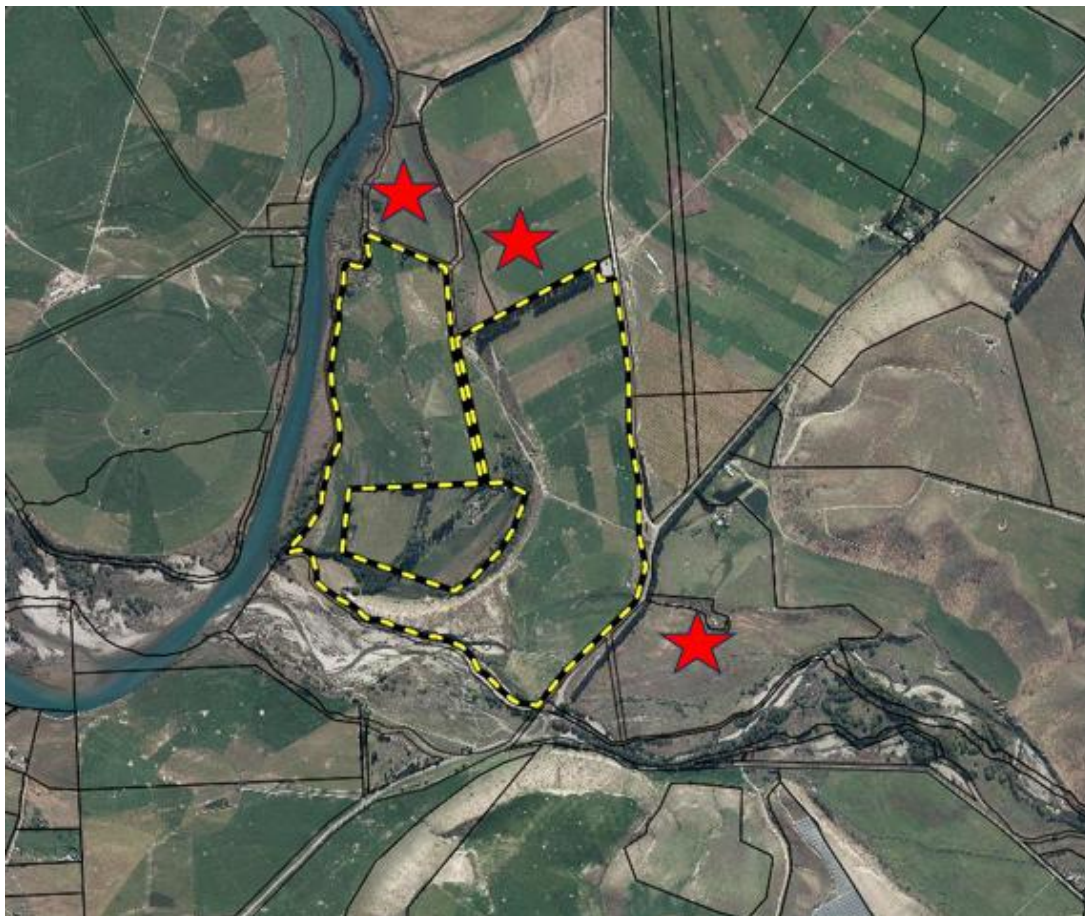


Figure 5: Affected party approvals

For completeness, the further information response also includes consultation from the New Zealand Transport Agency Waka Kotahi dated 23 May 2024 but this does not constitute a written approval for the purposes of section 95(E)(3).

ASSESSMENT: EFFECTS ON THE ENVIRONMENT

Permitted Baseline

Under sections 95D(b) of the Resource Management Act 1991, the Council may disregard an adverse effect of an activity on the environment may be disregarded if the plan permits an activity with that effect. That is, an application can be assessed by comparing it to the existing environment and development that could take place on the site as of right, without a resource consent, but excluding development that is fanciful.

There are no permitted subdivisions in the Central Otago District Plan. There is no permitted baseline to be applied.

Assessment of Effects

Consideration is required of the relevant assessment matters in the District Plan, along with the matters in any relevant national environmental standard. No regard has been given to any trade competition or any effects of trade competition.

1. Effects on Rural Character and Amenity Values and Landscape

The District Plan provides for rural residential subdivision and development within the Rural Residential Resource Area. This lot sizes proposed by this subdivision fall well below the minimum lot size envisioned by the District Plan, being 2000m² instead of 2ha, although physically an underlying average of 8ha is achieved per lot. I note that assessment matter 15 of Rule 4.7.4(iii) directs Council to consider whether clustering should be implemented as a means of mitigating potential effects of rural subdivision and, in this regard, some clustering is anticipated by the District Plan.

The most noticeable effects on the rural character arising from subdivision generally arise as a consequence of the additional domestic activity and associated buildings, and infrastructure that are preceded by the subdivision. In this instance, the proposal has the potential to introduce 16 new residential dwellings into the rural environment. The proposed design will result in a concentration of built form on the upper terrace of the site. The required 50m separation distances between future dwellings will not be able to be achieved as a result of the configuration of the subdivision. Future built form will also breach the setback distances within the lots although setbacks to external boundaries will be maintained to the minimum anticipated by the District Plan.

The application is supported by a Landscape and Visual Assessment (LVA) prepared by Align dated 27 September 2023 and Response to Further information Request (LVA Addendum) dated 9 February 2024. Further assessment was provided in response to the peer review on 31 October 2024. Both the LVA and Addendums have been prepared by prepared by Julie Greenslade, Senior Landscape Architect, Align Ltd.

The LVA has measured the effects of the proposal against the 7-point scale recommended in *Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines* when undertaking its assessment.

The LVA recommends the following mitigation measures:

- *Instead of having solid lines of lots we have gone with a clustering approach which enables the subdivision to have open space and edible specimen trees amongst each cluster.*
- *Setting the building platform areas back from the top terrace edge. This provided less impact on the neighbouring property of 165 Bowman Road and visual effects to SH6.*
- *Including fencing types that are currently used on site and what is commonly used within other rural subdivisions around the area.*
- *Mitigation planting of Cupressus leylandii along the northern and eastern boundaries, in addition to the central driveway.*
- *Removal of pine along the northern boundary (staged)*
 - *Stage 1: approximately 2 rows of pine (to be determined onsite) closest to the northern fence line to be removed first (stumps included) and planted with 1 row of Cupressus leylandii 1.8m apart.*
 - *Stage 2: Once the hedge is established (after 3-5 years) the remaining pine can be removed, and the native shrub planting can be implemented.*
- *Ecological planting along escarpment to compensate for development (can be done over a 3-5 year period).*
- *Proposed covenants (refer to planner's report for more information)*
- *House and roof colour*
- *Reflectivity of buildings*
- *Height restriction (6m)*
- *Lighting restrictions*
- *Building setbacks (minimum 18m from top of escarpment)*

The LVA recognises that the main effect of the proposal will be the introduction of built form and concludes that there will be short term effects with the amount of built form visible, particularly for transient viewers. The LVA recognises that the surrounding landscape character is open and expansive rural landscape, with low density and sparse built form, with agricultural activities visible across the wider landscape and vegetation in the form of shelterbelts.

The effects the proposal will have on the rural character, openness, and amenity values ranges depending on when the mitigation is implemented. Once fully established the mitigation planting is very much in keeping with the rural character of the area and still allows for the open views when viewed at a further distance. The LVA concludes that the views to the natural and topographical features will be maintained and enhanced for the lots as planting will not block their views of the Clutha and Lindis Rivers, nor the mountain ranges.

The LVA considers that if no mitigation is implemented, then there will be Moderate (negative) effects on the development and surrounding area. However, if all the mitigation measures are considered then the effects would range from Very Low to Low depending on where viewed from within the surrounding area. With the introduction of *Cupressus leylandii* along the northern and eastern boundaries, the LVA considers that the effect in the long-term will be Very Low, while the view at a considerable distance from SH6 will be Low in the long-term once the subdivision has had time to settle into the landscape.

The LVA also concludes that the proposed development there is a positive outcome regarding biodiversity within the site as well as the surrounding area. The proposed

ecological planting of the escarpment enables a rocky and unproductive bit of the site to be enhanced and improved with native plants that are common in the surrounding area and will thrive in such harsh conditions. The LVA notes that hopefully in turn bring a range of fauna (such as birds) and other plants, fungi and even microorganisms to the site, although does not include evidence to add weight to this assertion.

In response to the further information request, Align provided the following further assessment:

- The site will have moderate-adverse effects if the screen planting is not planted before the development commences. However, the applicant has recently begun planting a small section of the proposed species along Māori Point Road and recommends a condition of consent which would require that proposed planting along Māori Point Road be undertaken within the first planting season following the commencement of construction.
- The subdivision is taking a clustering approach and breaking up the dwellings by having large gaps between every three lots excluding Lots 1-4 where it's a cluster of four. The empty lots will have no structures on them, only vegetation therefore creating a clustering effect. From a distance, large gaps will be viewed between every 3-4 dwellings which means the development will not present as a solid line (roof line) for these dwellings
- *Cupressus leylandii* has been chosen as a screening plants as it is a fast-growing dense and even shelter belt species that tolerates a vast variety of soil and climate conditions. It has also been proposed to match that of recent developments within the area. It is not intended that the *Cupressus leylandii* will need to stay in place long term as it is intended for the native planting in front of the *Cupressus leylandii* (roadside) to in the long-term act as the mitigation planting and buffer to the development. However, the *Cupressus leylandii* will provide shelter and screening whilst the native planting is established. In the long term the native planting will provide the mitigation and buffer to the development.
- The use of shelterbelts in the immediate and wider area is in keeping with the surrounding landscape and that this will not disrupt the open vistas of the mountains. The *Cupressus leylandii* on the northern and eastern boundary still maintains a sense of openness for the site as the views of the site are not the immediate views but rather the views in the distance.
- The dwelling's rooftops will likely encroach the skyline when viewed from the margins along the Clutha River/Mata Au. Views from the river itself have not been tested. The impact of the skyline breach has been assessed by Align as 'Low'.

The LVA and addendum was peer reviewed by Rachael Annan of SLR Consulting on behalf of the Central Otago District Council. The peer review is dated 4 October 2024.

Ms Annan considers that the Align summary of the existing landscape does not address what is distinctive of the landscape setting, as set out by '*Te Tangi a te Manu*'. This is

noted particularly at the expense of appropriate consideration of landscape sensitivity and prominence associated with the upper terrace, near its edge to the escarpment. Ms Annan considers that the assessment's findings in support of the application draw on generic rural character and derived landscape values, which enables the development to be more readily supported on the basis of mitigation measures provided. Robust consideration of distinct landscape sensitivity (alongside the nature and magnitude of the application proposed) is lost to this approach.

Ms Annan advises that terraces and prominent locations are referenced in landscape relevant matters of the District Plan². As a recognised landscape feature in the landscape setting, the terrace is a highly legible lineal and horizontal landform. She considers it is a sculptural and aesthetic landform which expresses valley formation, and contributes to the distinct landscape character and amenity of the setting. Associated visual prominence is also afforded to these landform features, (also noting the provisions for skyline effects in the district plan, where relevant).

Ms Annan notes that the proposed arrangement of the sixteen 2000m² allotments is set out to extend in a linear arrangement just back from the escarpment on the upper terrace. Described in the assessment as a cluster development, this arrangement will read as a row of dwellings, with slight gaps between allotment groups of 3-4 along its length. This is evidenced in the landscape visuals provided with the assessment and the pattern is also observable with height poles set out onsite.

Ms Annan considers that the nature and magnitude of the proposed built form row is an extensive arrangement, heightening the apparent density proposed, and overtly domesticating the upper terrace. Ms Annan considers that the pattern of 16 extensively arranged dwellings, on a terrace row is a concern from a landscape perspective and may present as an overdevelopment of the site.

Furthermore, Ms Annan did not observe the proposed lineal built development pattern elsewhere within the existing landscape setting, with neighbouring dwellings in the vicinity of the site, predominantly set out as singular dwellings. It is her opinion that the proposed arrangement is incongruous with the surrounding rural environment.

While the applicant's intent to retain workable farmland and to provide amenity, mitigation and (escarpment) restoration planting as part of this application is understood, it is Ms Annan's assessment that planting mitigation should be a secondary consideration to an appropriate development approach and that the proposed planting will not robustly offset the landscape character and visual effects of the proposed built form arrangement. The outlook that would be offered by each of the future dwelling set out is also indicative of their prominence arranged atop the terrace.

Ms Annan does not support the application's landscape assessment findings and in her review following a site visit of the site and surrounds, she considers that the landscape effects have not been demonstrated as less than moderate to moderate-high.

I agree with the LVA that the surrounding landscape character is open and expansive rural landscape, with low density and sparse built form. The LVA also notes that there will be moderate-adverse effects if the screen planting is not planted before the development commences but only recommends that proposed planting along Māori Point Road be undertaken within the first planting season following the commencement of construction. This suggests that there will be some temporary adverse visual effects

² Policy 4.4.2.g of the Central Otago District Plan

while the planting is established which cannot be disregarded (See NZHC 1647 Trilane Industries Ltd).

Given the linear configuration of the subdivision, the significantly reduced separation between dwellings, proximity to the terrace edge, potential for skyline breaches associated with future development and reliance of screen planting to mitigate effects over time, I consider that the potential effects on rural character, landscape and amenity values will be more than minor.

2. Sustainable use of productive land and soil resource

The site is identified as having LUC 4 category soils. The proposed subdivision occurs at the highest elevation of the subject site, with direct access to Māori Point Road. The applicant states that the site is not identified as containing productive soils and the current rural use of the proposed subdivision extent is limited in productive viability. The applicant suggests that the land proposed for the farm park lots has not been capable of effective productive use over a long period of time but does not provide any supporting evidence to support this.

The applicant notes that the development can be described as a 'farm park' type subdivision where residents are able to live amongst an operational farm and have access to fruit and nut trees within the developments covenant areas. The proposed development will occupy an area of land of approximately 13.26ha (including mitigation planting), with the remaining farm still being 119.86ha (11%). The applicant suggests that by tightly clustering the development and limiting the lot sizes to 2000m² the development is still able to maintain a productive / working farm.

The proposed development will be fully fenced and set 20m back from any productive / grazed land including the pivot irrigator on the upper terrace. The fenced off areas include the new right of ways and ecological planted area which is located on the escarpment as mentioned above and will form a new development covenant. The remaining land area excluding the QEII covenant will remain as is and continue to have cattle and sheep grazing upon it. The two pivot irrigators and k-lines are still able to be operational in their current locations.

The applicant assesses that while *"the development takes up usable productive farmland, it takes up far less if the development was scattered throughout the 133.1190 hectares (i.e. if it were developed into 8ha blocks which is the minimum allowed in this zone)"*. The applicant also notes that *"16 lots would be permitted on the site if the number of lots were determined by the density of subdivision if a discretionary rule status of an average of 8ha had been used"*.

As a point of clarification, I note that subdivision into 8ha lots should not be treated as a permitted baseline and subdivision is not a permitted activity under the district plan rather 8ha is a threshold for a discretionary activity subdivision. Discretionary activity subdivisions should only be granted where the effects on environment, including the effects on the sustainable use of productive land and soil resource, are deemed to be acceptable.

That said, I recognise the productive benefits of clustering of residential lots and retention of a single productive block. The residential lots will be located centrally within the site which has the potential to impact the productive potential of the land, but in this instance, the lots are to be arranged along the terrace edge outside of the existing irrigated area, which appears to be logical from a productive perspective. Furthermore, the creation of a

management company to operate the farm will ensure cohesion in the way the productive land is managed.

Overall, I consider that the style of subdivision to be an efficient way of managing the productive land when compared to an alternative approach of applying the discretionary activity thresholds of 2ha minimum and 8ha average. Each smaller lot (Lots 1-16) will own part of the productive land area of the balance lot meaning that future development of the balance lot away from a productive use or further subdivision of this lot will not be straightforward.

Overall, when considering the percentage of land diverted from productive use comparative to that diverted under a traditional discretionary subdivision, and that the farm park approach seeks to reduce the potential fragmentation of land, I consider the effects on the capacity of the productive soils to be no more than minor.

3. Reverse Sensitivity Effects

Future dwellings on lots 1- 16 will be within a rural setting and surrounded by a working farm of which each lot will have partial ownership. To alleviate concerns around reverse sensitivity between the farm park lots and working farm, a 20m wide right of way is included between the residential property boundary and the working farm and a 20m buffer between Lot 1 and the southern pivot. All lots will be setback at least 25m from the external boundaries and the neighbouring properties to the north and east have provided written approval to the proposal and all effects on these parties are to be disregarded. In addition to the ownership model, the applicant volunteers a reverse sensitivity effects condition.

Overall, given that all lots will hold a share of the working farm, all future purchasers will be cognisant of the working rural environment they are entering into. Furthermore, I consider that given the nature of the development, purchasers of these lots are likely to have actively sought out a rural environment. When considering the factors above, I consider that reverse sensitivity effects can be managed such that these are assessed as less than minor overall.

4. Effects of Natural Hazards

The property is subject to flooding as on the lower terrace as shown on both the CODC and ORC hazard mapping. The proposed rural residential lots are on the upper terrace outside of the mapped hazard area. No change will occur to the land use of Lot 100. Overall, I consider that the proposal will not unduly increase the risk arising from natural hazards nor will it exacerbate any natural hazard effect.

5. The adequacy of the allotment

The applicant confirms that the water supply will be from A new water bore will be constructed dedicated to supplying potable water to each dwelling. The water supply and subsequent on-site storage will be suitable to provide firefighting provision to Fire Emergency New Zealand standards. A water supply company will be setup to provide management and compliance with Taumata Arowai. A water test and laboratory report will be supplied to Council, prior to Sec 224(c) certification including an outline of any treatment required to comply with the Taumata Arowai. Any treatment required will be at the point of use (i.e., the dwelling) and be subject to a consent notice condition for Lots 1 – 16.

The applicant has provided a Geotech wastewater report prepared by Mt Iron Geodrill dated 11 December 2023. The report confirms that the site is suited for onsite stormwater disposal. Careful placement and design of stormwater soak pits away from the wastewater disposal field is highly recommended. The base of the soak pit(s) shall be installed into the underlying sandy gravel materials. If the base of the soak pit(s) encounters sand then re-testing of the ground conditions will be required to confirm the infiltration rate.

With regard to wastewater disposal, the report finds that the site is suitable for onsite wastewater disposal but recommends careful consideration regarding setbacks from other disposal fields and stormwater soaks.

The report considers that the site is suitable for onsite wastewater disposal as long as the following issues are considered during the design phase:

- The soils are considered to be soil Category 1 (sandy Gravels), massive, as per AS/NZS1547:2012 Table 5.1
- All treatment systems are suitable provided good design is undertaken
- Highly recommended that a dosing system is used

The report also notes that AS/NZS1547:2012 recommends a set back of 20m between disposal fields and also from disposal fields to stormwater soak pits. Given that each section is approximately 40m by 40m these set backs could be achieved by having the stormwater soak pits located at the front (western side) of the lots and the wastewater disposal fields at the rear as long as the placement of the disposal fields are located in the same position on each lot.

With regard to electricity supply, the applicant has provided an email from Aurora Energy which confirms that the existing 66kv line but that it is Aurora's preference not to underground such a short section of the line within the wider line network. Initial design works by an Aurora approved consultant proposes the 66Kv overhead lines through the property can be realigned along Māori Point Road from the substation at the north-eastern corner of the property and re-joining onto the overhead line along the current access to the property. An existing 110Kv overhead line is currently located along the western side of Māori Point Road.

Overall, I have assessed that the lots are fit for the purpose for which they are intended and are able to be serviced without adverse effect on the environment.

6. Access

The applicant has proposed that Lots 1 to 16 gain access over Lot 100 via a ROW from Maori Point Road. A new entrance will be created and a ROW network will be created within the site over Lot 100. ROW M will benefit Lot 1-16, ROW N will benefit Lot 1-4 and ROW benefit Lots 5-16.

The applicant proposes that ROW M serving all Lots (10m legal width), which branches off to ROW N serving Lots 1-4 (20m legal width) and ROW P serving Lots 5-16 (20m legal width).

The applicant proposes that the access for the proposed farm style development is not conducive nor practical to be constructed to a formed road standard and vested.

It is intended to upgrade the section of right of way easement M from Māori Point Road to RoW easements P and N to a 4.5m wide gravel road. This will maintain the rural amenity when viewed from Māori Point Road, but as it bisects the balance Lot 100, any road seal will be destroyed by effluent from cattle as well as heavy machinery on the access between the two paddocks either side of the access.

The applicant does not want the internal road to be vested. The RoW width is reduced as it serves only those lots that access their property from it. Apart from the intersection with Māori Point Road, the new access is not intended to connect onto the existing roading network in the region. The applicant acknowledges that a right of way services many lots can result in issues of maintenance, the lot owners will have a share of the balance Lot 100 and be managed by a body corporate style company/working farm style subdivision. Any maintenance can be addressed in the management documentation. A vested road would burden CODC with this maintenance. It is intended that the access be a private right of way with a gated entrance and Fob access at the Māori Point Road entrance.

Recognition of the farm park development where all lot owners hold part ownership of the balance lots over which the ROW is formed is given and it is noted that this sets the proposal apart from other subdivision which the ROW is not jointly owned by all users and maintained under joint management. This approach is similar to the approved farm park subdivision at Jolly's Road (RC210142V1) and is not expected to have an adverse effect on the transportation network.

Because the proposed ROWs are over Lot 100 which each Lots 1-16 hold Engineering confirms that there is scope to permit the proposed road to be a private ROW rather than a vested road. If permitted to function as a ROW, it will be required to be constructed to appropriate Council standards. This can reasonably be addressed through conditions of consent as recognised in the application.

The applicant has also sought advice from NZTA Waka Kotahi due to the proximity of the proposed intersection of Maori Point Road and State Highway 8. NZTA Waka Kotahi has reviewed the proposal and determined that conditions would manage potential effects on the State Highway network. They note that the following conditions will need to be volunteered by the applicant, so they become a substantive part of the resource consent application.

- Prior to the issuing of a certificate pursuant to Section 224(c) of the Resource Management Act 1991, the Consent Holder shall provide to Council confirmation that New Zealand Transport Agency has been advised of relevant documentation (such as proposed title references, draft LT (Land Transfer) plan, ML plan (for Māori Land) or SO (Survey Office) plan) to facilitate the registration of any new Crossing Place (CP) Notices against those new titles, under Section 91 of the Government Roding Powers Act 1989.
- A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered against the title of proposed Lot 17 (the balance lot) of the subdivision of land shown on Scheme Plan Lots 1-16, 100 Being a Subdivision of Lot 2 DP 476419, dated 25/09/2023 (reference: C3001_SCM) that addresses potential reverse sensitivity effects resulting from the normal operation of State Highway 8. This consent notice shall read as follows:

Any dwelling or other noise sensitive location on the site in or partly within 100 meters of the edge of State Highway 8 carriageway must be

designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.

I agree with the transport effects can be adequately resolved without adverse effects on the transportation network,

7. Cultural Effects

The site is adjacent to the Clutha River/Mata Au and Lindis River which are Statutory Acknowledgment Areas. The applicant states that no aspects of the proposed subdivision area are deemed of cultural value and no further assessment by applicant is made. There is insufficient information to form a view on effects on cultural values. Further assessment of the effects on mana whenua is undertaken later in this report.

8. Earthworks

No earthworks are proposed as part of this application beyond formation of the access and any services installation. The small scale of any earthworks required the effects of these are assessed as less than minor.

9. Esplanade reserves and strips

There is an existing Crown Land Reserve land that runs between the Clutha River/ Mata Au and the subject site. No additional esplanade reserve or strip is required for the Clutha River/Mata au.

I note that the Lindis River runs along the Southern Boundary and is identified in Schedule 19.9 of the District Plan. Policy 15.4.10 directs that where public access to the resource is all that is required, an esplanade strip will generally suffice. It is considered that an esplanade Strip is required in this instance.

DECISION: EFFECTS ON THE ENVIRONMENT (S95A(2))

Overall, the proposed activity is assessed as having potential adverse effects on the rural Character and Amenity and Landscape Values of the wider environment that are more than minor. Therefore, public notification is required under Step 3.

Step 4 – Public Notification in Special Circumstances

Public notification is required if the consent authority decides such special circumstances exist as to warrant the application being publicly notified (s95(9)(a)).

There is nothing exceptional or unusual about the application that makes public notification desirable in this particular instance. As such, there are no special circumstances that warrant the application being publicly notified.

OVERALL DECISION - S95A NOTIFICATION

Pursuant to 95A(5)(b)(i), public notification is required as identified in the assessment above.

EFFECTS ON PERSONS

In addition to an assessment under section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

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

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area;
- The activity is adjacent to, land that is the subject of a statutory acknowledgement and written approval of Kā Rūnaka has not been obtained.

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

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

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

- The application does not involve a boundary activity.
- Limited notification is not required under Step 3 as the proposal is not a boundary activity where the owner of an infringed boundary has not provided their approval, and it is not a prescribed activity.
- The proposal falls into the 'any other activity' category. The effects of the proposal on persons are assessed below.

PERMITTED BASELINE (s95E(2)(a))

Under Section 95E(2)(a) of the RMA, an adverse effect of the activity on persons may be disregarded if the plan permits an activity with that effect. The permitted baseline has been established above.

ASSESSMENT - EFFECTS ON PERSONS

In accordance with section 95E(3) of the Act, a person is not an affected person in relation to an application for a resource consent for an activity if they have given their written approval to the application, or, the consent authority considers that it is unreasonable in the circumstances for the applicant to seek the person's written approval. In this particular instance, affected persons approval has been received from those parties identified above.

The recommendation is to publicly notify the application so any person may make a submission on the proposal but in terms of those parties specifically affected, I make the following assessment:

- I consider that given the proximity of the site to a statutory acknowledgement and the application has not provided a robust assessment of cultural effects of the proposal, I considered that there is the potential for Kā Rūnaka to be adversely affected by the proposal.

- I also note that the property at 165 Bowman Road owned by Wayne and Billie Marsh is completely encircled by the subject site. This neighbour is the closest in proximity to the proposal and the effects on this party in terms of effects on rural character and amenity are assessed as minor or more than minor.

Step 4: Further limited notification in special circumstances

Special circumstances do not apply that require limited notification.

DECISION: EFFECTS ON PERSONS (s95B(1))

In terms of Section 95E of the RMA, the are parties identified as potentially affected by the proposal and from whom written approval has not been obtained.

NOTICE OF THE APPLICATION

Notice of the application is to be served on every prescribed person, as set out in clause 10(2) of the Resource Management (Forms, Fees and Procedure) Regulations 2003 as follows:

(2) The consent authority must serve that notice on—

- (a) every person who the consent authority decides is an affected person under section 95B of the Act in relation to the activity that is the subject of the application or review:*
- (b) every person, other than the applicant, who the consent authority knows is an owner or occupier of land to which the application or review relates:*
- (c) the regional council or territorial authority for the region or district to which the application or review relates:*
- (d) any other iwi authorities, local authorities, persons with a relevant statutory acknowledgement, persons, or bodies that the consent authority considers should have notice of the application or review:*
- (e) the Minister of Conservation, if the application or review relates to an activity in a coastal marine area or on land that adjoins a coastal marine area:*
- (f) the Minister of Fisheries, the Minister of Conservation, and the relevant Fish and Game Council, if an application relates to fish farming (as defined in the Fisheries Act 1996) other than in the coastal marine area:*
- (g) Heritage New Zealand Pouhere Taonga, if the application or review—*
 - (i) relates to land that is subject to a heritage order or a requirement for a heritage order or that is otherwise identified in the plan or proposed plan as having heritage value; or*

- (ii) *affects any historic place, historic area, wāhi tūpuna, wahi tapu, or wahi tapu area entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:*
- (h) *a protected customary rights group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent or the review of consent conditions.*
- (ha) *a customary marine title group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent for an accommodated activity:*
- (i) *Transpower New Zealand, if the application or review may affect the national grid.*

An assessment of the above persons has been undertaken and it is considered appropriate to serve notice on the following parties set out in the table below:

Party to be served
Aukaha Limited
Hokonui Rūnanga
Te Ao Marama Incorporated
Te Rūnanga O Ngai Tahu
Otago Regional Council
Wayne and Billie Marsh – 165 Bowman Lane

OVERALL NOTIFICATION RECOMMENDATION

1. That, given the assessments made under s95A and s95B, the application is to be processed on a publicly notified basis. It is noted that the determination, as to whether an application should be notified or not, includes different tests to those to be considered in making a decision on the application itself.

Prepared by:



Kirstyn Royce
Planning Officer

Date: 11 December 2024

Approved under Delegated Authority by:



Tanya Copeland
Team Leader - Planning

Date: 12 December 2024