



# Agenda Paper

## Hearings Panel

**14 March 2023**

Commencing at 11am

Ngā Hau e Whā (Council Chambers), William Fraser Building,  
1 Dunorling Street, Alexandra

# CENTRAL OTAGO DISTRICT COUNCIL

## HEARINGS PANEL

NOTICE is hereby given that a meeting of the Hearings Panel will be held in the Ngā Hau e Whā (Council Chambers), William Fraser Building, 1 Dunorling Street, Alexandra, on Tuesday 14 March 2023 commencing at 11am.

### PRESENT:

N Gillespie (Chair), M McPherson, I Cooney.

### IN ATTENDANCE:

Ann Rodgers (Panel Advisor), Chris Pearse-Smith (Planning Consultant),  
T Lines (Minute Secretary).

### APOLOGIES:

N/A

#### **23.4.1 Confirmation of Minutes**

RECOMMENDED that the minutes of the Hearings Panel meeting held on 11 October 2022 be received and confirmed as a true and correct record.

RECOMMENDED that the minutes of the Hearings Panel meeting held on 08 November 2022 be received and confirmed as a true and correct record.

RECOMMENDED that the minutes of the Hearings Panel meeting held on 13 December 2022 be received and confirmed as a true and correct record.

RECOMMENDED that the minutes of the Hearings Panel meeting held on 18 January 2023 be received and confirmed as a true and correct record.

**23.4.2 Application for Resource Consent – RC220173 – Wildon Dairy Limited, Racecourse Road, Omakau. (2843124400)**

Attached is an application for a 9-lot subdivision to create three records of title.

Also attached is the report of the planning consultant in relation to the application.

RECOMMENDED that the report of the planning consultant be received.

**THE PANEL IN CLOSED MEETING**

RECOMMENDED that the public be excluded from the following parts of the proceedings of the meeting, namely items 23.4.2 – 23.4.2.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	<b>General subject of each matter to be considered.</b>	<b>Reason for passing this resolution in relation to each matter.</b>	<b>Ground(s) under section 48(1) for the passing of this resolution.</b>
23.4.2	Application for Resource Consent – RC220173 – Wildon Dairy Limited – Racecourse Road, Omakau. (2843124400)	To enable the Panel to deliberate in private on its decision or recommendation in any proceedings where the right of appeal lies to any Court or tribunal against the final decision of the local	Section 48(1)(a)

authority in those proceedings.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act or section 6 or section 7 or section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above (in brackets) with respect to each item.

NOTE:

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

*“(4) Every recommendation to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof) -*

*“(a) Shall be available to any member of the public who is present.  
and*

*Shall form part of the minutes of the local authority.”*

**RECOMMENDED** that Ann Rodgers (Panel Advisor) be permitted to remain during the closed session because of their knowledge that would be of assistance to the Panel in its deliberations.



**ITEMS TO BE CONSIDERED WHILST THE PUBLIC IS EXCLUDED**

- 23.4.2.        **Application for Resource Consent – RC220173 – Wildon Dairy Limited, Racecourse Road, Omakau. (2843124400)**

Consideration of application and decision thereon.

**THE PANEL IN OPEN MEETING**

RECOMMENDED that the public be readmitted to the meeting

**CENTRAL OTAGO DISTRICT COUNCIL**  
**CENTRAL OTAGO DISTRICT PLAN**  
**REPORT OF PLANNING CONSULTANT**

**APPLICANT:** Wildon Dairy Limited, Mawhinney Road, Omakau (RC220173)

The above have made application to undertake a seven-lot subdivision resulting in two additional records of title Mawhinney Road, Omakau. The site subject to the application is currently legally described as Section 14 Block VI Lauder SD on Record of Title (RT) OT14B/1114, and Section 15 and Section 32 Block VI Lauder SD on RT OT14B/1106 at the Otago Land Registry.

**STATUS OF THIS REPORT:**

The attention of the applicant and submitters is drawn to the fact that the purpose of this report is to bring to the attention of the Hearings Panel all relevant factual information or issues which should be considered in deliberating on the proposal. It must be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearings Panel, and it should not be assumed that the Hearings Panel will reach the same conclusion or decision having considered all the evidence.

**PLANNING FRAMEWORK:**

**Central Otago District Plan**

The site is located within the Rural Resource Area in the Central Otago District Plan (the Plan).

Rule 4.7.4(iii)(b) of the Plan states that where a subdivision will create lots with an average allotment area of no less than 8ha and a minimum allotment size of no less than 2ha within the Rural Resource Area, then this is a discretionary activity. In this instance, the average allotment size is 7.527 hectares and therefore the proposal does not meet the average allotment area standard. As such, the application is to be 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 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 Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area.

The activity should therefore be considered as a non-complying activity overall under the Plan.

**National environmental standards**

The National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) requires that any subdivision consent or change in the use of land where there may be contaminants that are a risk to human health should be considered in terms of the NES-CS.

The site is not listed on the Otago Regional Council's Hazardous Activities and Industries List (HAIL), and the nearest known HAIL site is located 5km to the south within the Omakau Township. The site has historically been used, and is presently used, for rural pastoral farming and there are no farm buildings or activities within the extent of proposed Lots 1 and 2 that could include known HAIL activities.

As a consequence the NES-CS is not invoked in this instance.

### **ACTIVITY STATUS SUMMARY:**

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 a result, having regard to the most restrictive activity classification, the proposal is considered to be a non-complying activity overall under the Plan.

### **COMMENT ON PROPOSAL:**

I have noted that the proposal has status as a non-complying activity in the Rural Resource Area of the Central Otago District Plan. It is therefore appropriate that the proposal be considered as an application for subdivision and land use consent to a non-complying activity pursuant to sections 104 and 104D of the Resource Management Act 1991.

In terms of section 104D the Hearings Panel may grant resource consent for a non-complying activity only if it is satisfied that either: -

- (a) The adverse effects of the activity on the environment will be minor; or*
- (b) The application is for an activity that will not be contrary to the objectives and policies of the relevant plan or relevant proposed plan or both the relevant plan and the relevant proposed plan.*

Section 104(1) requires that subject to Part 2, the Council shall have regard to any actual or potential effects of allowing the activity; any relevant provisions of the plan or proposed plan; and any relevant national or regional planning document.

Considerations of relevance to this application are:

- (a) Any actual and potential effects on the environment of allowing the activity; and*
- (b) Any relevant provisions of:*
  - i. A national environmental standard;*
  - ii. Other regulations;*
  - iii. A national policy statement;*
  - iv. A New Zealand coastal policy statement;*
  - v. A regional policy statement or proposed regional policy statement;*
  - vi. A plan or proposed plan; and*
- (c) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

### **SITE DESCRIPTION, PROPOSAL AND RELEVANT SITE HISTORY**

#### **Site description**

The site subject to the application is currently legally described as Section 14 Block VI Lauder SD on Record of Title (RT) OT14B/1114, and Section 15 and Section 32 Block VI Lauder SD on RT OT14B/1106 at the Otago Land Registry.

The site contains approximately 81 hectares of bare rural land located approximately 6km north of the Omakau Township. The site has legal frontage to Racecourse Road which extends directly south into Omakau as well as to Mawhinney Road which intersects with Racecourse Road and adjoins the southern boundary of the site. The site also has frontage to Huddleston Road on the eastern frontage.

The Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area and partly subject to an inactive composite alluvial fan area.

The applicant provides the following site description which is considered accurate and is accepted for the purposes of this report:

*“The site is generally flat, containing farmland, an irrigation race controlled by Omakau Area Irrigation Company Limited, and Thomsons Creek and other unnamed waterbodies. The site can generally be described as being used for low intensity grazing. The surrounding area is typically used for agricultural purposes. The property is located within the Rural Resource Area, as identified on CODP Map 53.”*

### **Site History:**

There is no resource consent history of relevance on this site.

### **Surrounding environment**

The surrounding environment generally comprises flat bare land used for rural productive purposes. It is noted that residential dwellings and other structures become more frequent where land is closer to Omakau to the south. Where dwellings and buildings exist along Racecourse Road, they are generally setback a notable distance to retain separation from this road, or are otherwise screened by clusters of vegetation.

The nearest dwelling is understood to be located at 707 Racecourse Road (which is approximately 250m from the northwest corner of the subject site. It is also noted that there is an existing travellers accommodation and wedding venue further to the north at 735 Racecourse Road. Also of note is an existing dwelling at 633 Racecourse Road which is approximately 700m to the southwest of the subject site.

There are no known subdivisions in the surrounding environment where lot sizes are less than the anticipated 2-hectare minimum lot size and 8-hectare average lot size. It is noted that subdivision consent RC170149 was granted in 2018 on the site to the west of the subject site which provided for two allotments of 3.3 hectares and 16.18 hectares (an average of 9.65ha).

The site and surrounding environment is shown below in Figure 1.

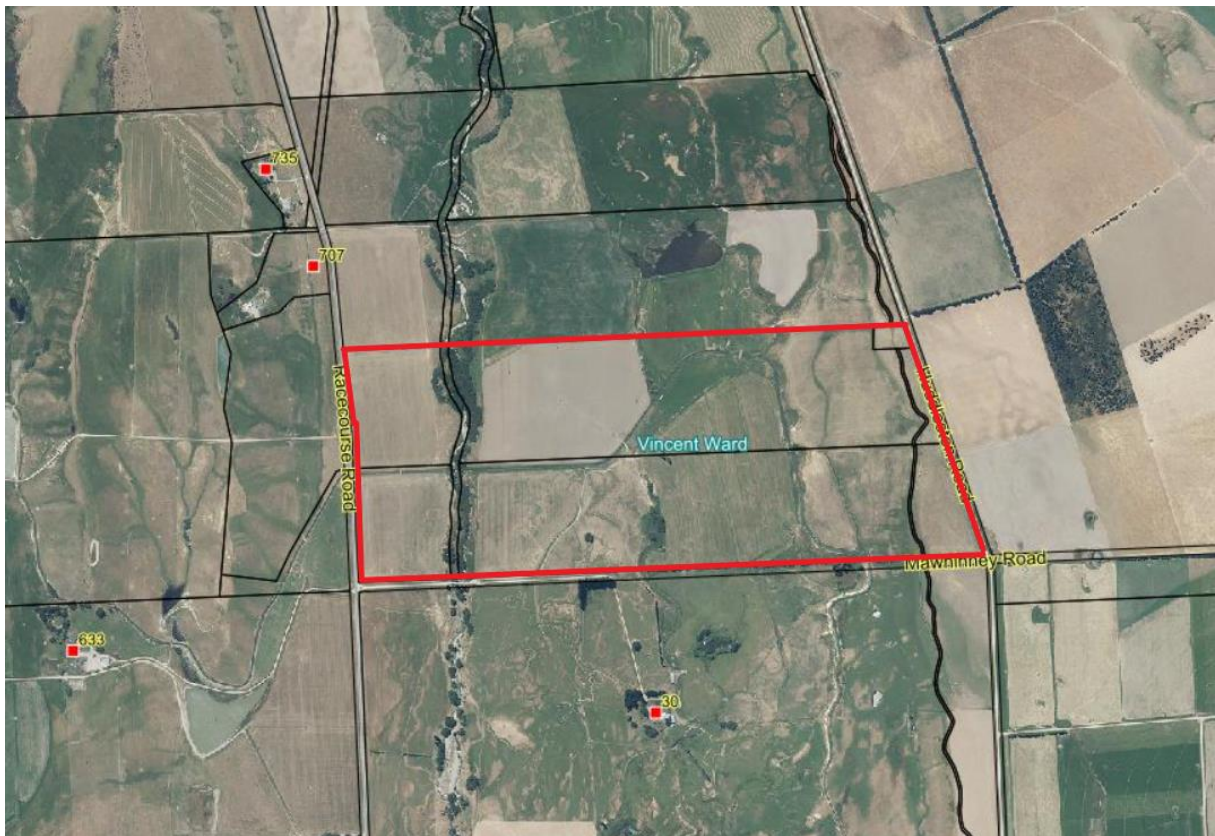


Figure 1: Aerial image of the subject site and surrounding environment (Source: CODC GIS)

## Proposal

The application seeks to undertake a seven-lot *subdivision* resulting in one additional record of title. The proposed subdivision will result in the following allotments:

- Lot 1 being approximately 3.29 hectares of bare rural land fronting Racecourse Road and Mawhinney Road.
- Lot 2 being approximately 3.29 hectares of bare rural land fronting Racecourse Road.
- Lots 3 to 7 which will be amalgamated to form the balance rural land comprising approximately 74.94 hectares of bare rural land, which will continue to be used for rural productive purposes. This title will retain frontage to Racecourse Road, Mawhinney Road, and Huddleston Road.

The eastern boundary of Lot 1 and Lot 2 follows the natural boundary of Thomsons Creek, and also takes into account the irrigation easement along the northern boundary of Lot 2. The proposed subdivision layout is shown below in Figure 1.



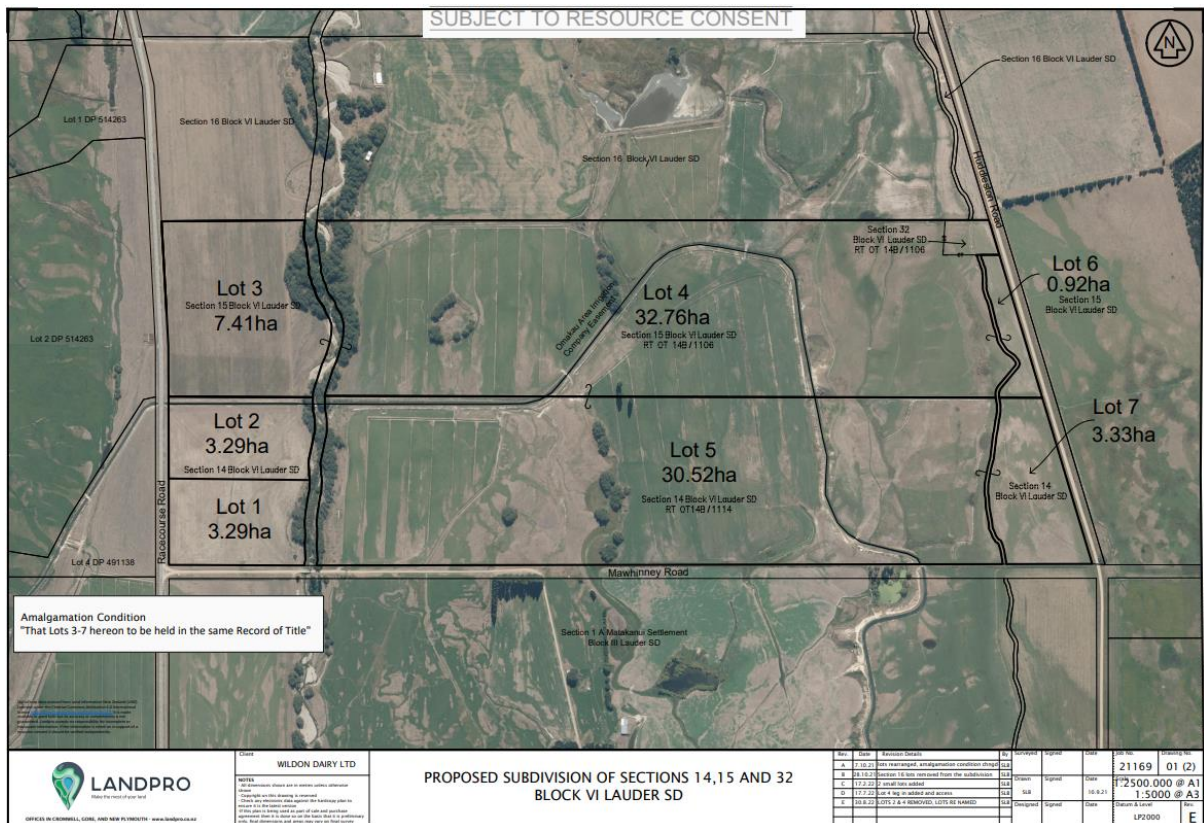


Figure 2: Proposed Subdivision Scheme Plan (updated 10 September 2022)

Lots 3 to 7 will be amalgamated and held together as one title. The proposal will therefore result in three records of title (one additional). For averaging purposes Lots 3 to 7 is calculated as 16 hectares, so the average lot size of the overall subdivision will be 7.527 hectares.

The applicant has noted that proposed Lots 1 and 2 are to be utilised for rural residential activity whilst the remaining balance allotment will remain as rural production land. As part of a further information request the applicant has also provided an agronomic assessment which is considered in the assessment below.

Marginal strips along either side of Thomsons Creek are proposed for conservation purposes and the applicant has volunteered to register a 50m wide building line restriction from Thomsons Creek on proposed Lots 1 and 2 to prevent hazard related damage to future dwellings on these allotments.

Proposed Lots 1 and 2 will obtain access via Racecourse Road and there are a number of existing accesses to the balance land that will be maintained as part of this subdivision.

With respect to servicing, water supply will be provided from groundwater via a new bore and the applicant has volunteered firefighting storage requirements. Wastewater and stormwater will be provided for on-site, and power will be provided from Racecourse Road. Telecommunications will be provided wirelessly.

**Background:**

With respect to consent background, the applicant initially applied for a discretionary activity, nine-lot subdivision where the proposed two new records of title each included two individual allotments on opposing sides of Thomsons Creek (see Figure 2 below). This subdivision layout meant that the new titles would be over 4 hectares in minimum size and would allow for an average allotment size of 8 hectares. However, due to concerns relating to the practical and efficient use of Lots 3 and 4 on the opposing side of Thomsons Creek, the scheme plan was

since amended so that the two new records of title will be held entirely on the western side of Thomsons Creek each with individual allotment sizes of 3.29 hectares. The original subdivision layout is shown below in Figure 2.

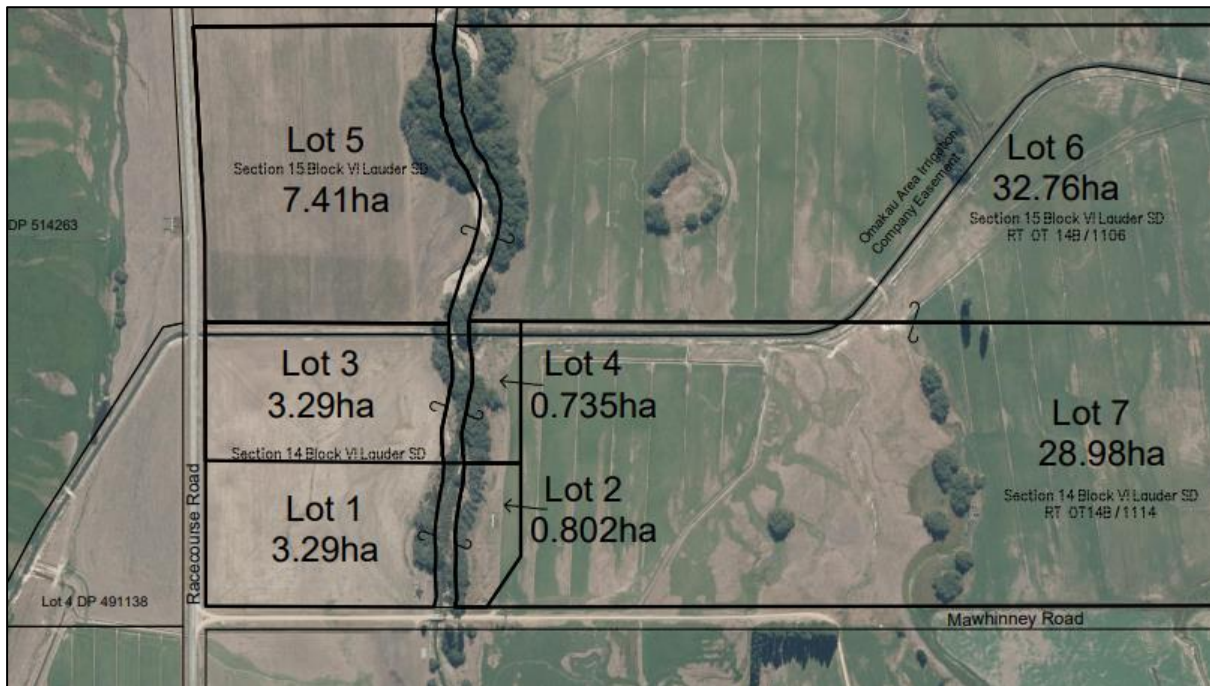


Figure 1: Excerpt of Previous Scheme Plan Now Superseded (enhanced to show Lots 1 to 4)

**AFFECTED PARTIES AND NOTIFICATION**

No affected party approvals were submitted with the application.

A separate notification decision was made on 31 October 2022 that determined that the application had the potential to have adverse effects on the environment that are more than minor which warranted the application being publicly notified.

A determination as to whether an application should be notified or not is separate from the issues to be considered in making a decision on the application itself.

**Submissions**

The submission period closed on 10 February 2023 and two submissions were received by the close of the submission period. The submissions are summarised below in Table 1:

Table 1: Summary of Submissions

Submitter	Summary of submission	Decision request	Wishes to be heard
Forest and Bird	<p>The submission opposes the proposal in full unless concerns can be addressed.</p> <ul style="list-style-type: none"> <li>Forest &amp; Bird is concerned that the site could contain significant indigenous vegetation and/or habitat, and that the proposal could result in adverse effects on these areas.</li> <li>The application provides no assessment of significant indigenous vegetation and habitats, nor does it identify potential significant areas</li> </ul>	Oppose	Yes

Submitter	Summary of submission	Decision request	Wishes to be heard
	<p>or building platforms to protect indigenous vegetation and habitats.</p> <ul style="list-style-type: none"> <li>• Forest &amp; Bird seeks that the following to address concerns:               <ul style="list-style-type: none"> <li>○ An assessment against the significance criteria of the RPS</li> <li>○ Site development map identifying significant areas and building platform locations with conditions limiting building and access to identified areas.</li> <li>○ Fencing to protect significant indigenous vegetation.</li> </ul> </li> </ul>		
Omakau Area Irrigation Co Ltd	<p>The submission supports the proposal subject to a number of requirements being met in relation to ongoing management of the existing water race. This includes ensuring:</p> <ul style="list-style-type: none"> <li>• Lawful access to the main race and discharge channel maintained on new lots as provided via the existing easement.</li> <li>• Managing stock access to the main race through fencing requirements</li> <li>• Setbacks of future land use activities from easement corridor</li> <li>• Reverse Sensitivity (risk from water race, associated infrastructure, and livestock).</li> </ul>	Support	Yes

In summary, a total of two submissions were received. One submission opposed the application, and one submission supported the proposal.

**ASSESSMENT OF EFFECTS:**

Section 104 of the RMA requires consideration of the effects of the activity. When considering the effects of the proposal, it is noted that the proposal is for a non-complying activity. Pursuant to Rule 4.7.5(iii), the Plan provides the following reason for the non-complying status of this kind of subdivision:

*Intensive subdivision results in future development that has a significant potential effect on landscape and amenity values, the transport network, and ground water quality.*

To manage the effects of intensive subdivision and in order to give effect to the objectives and policies of the Rural Resource Area, the Plan prescribes minimum allotment size standards which seek to limit the density and intensity of development in rural areas. In this instance, the underlying site size is approximately 81 hectares, and the proposal results in an average allotment size of 7.527 hectares. It is noted that Lot 1 and 3 would need to be at least 4 hectares in size to comply with the average allotment size.

The effects of this proposal are considered further below.

**Baseline considerations**

Under section 104(2) 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 lawful and consented activities on the site and development that could take place on the site as of right, without a resource consent, but



excluding development that is fanciful. In this instance, there is no permitted activity subdivision and as such, there is no permitted baseline to be applied to this subdivision.

## **Receiving Environment**

With regard to the existing environment, the subject site comprises bare rural land used for rural productive purposes and includes an existing irrigation race controlled by Omakau Area Irrigation Company Limited. Thomsons Creek and other unnamed water bodies also traverse the site.

As explained above, the surrounding environment is predominantly comprised of rural productive uses with associated residential dwellings and farm buildings. With respect to lot sizes, the majority of sites are significantly larger than 8 hectares in total area with occasional sites between two to four hectares existing, particularly as approaching the Omakau township to the south. It is noted that many of these smaller allotments appear to pre-date the district plan and do not include any recently granted subdivision consents. Furthermore, buildings are generally limited along Racecourse Road, and where they do occur, are often setback a notable distance to retain separation from this road, or are screened by vegetation.

In terms of the receiving environment, this could generally include permitted buildings (other than residential activities) up to 10m in height subject to compliance with the standards of the Plan, some earthworks, fencing, and planting of indigenous and exotic species (subject to compliance with listed species under the Plan), and the establishment of agricultural land uses including arable, horticulture, viticulture, and structures incidental to those activities, and general noise associated with vehicles and machinery to support those activities.

## **Rural character, amenity values and visual effects**

The plan describes the amenity values of the rural environment as dominated by a unique, semi-arid landscape of broad basins separated by low mountain ranges with sparse vegetation, covered in tussock grassland and exotic pasture, and broken by schist rock outcrops. This landscape retains a high natural character and has significant scenic values. These values can be enhanced by human made elements which include orchards and vineyards; homesteads accompanied by stands of trees (often poplars); remnant stone cottages; small irrigation and stock water dams and water races; energy generation facilities; and shelter belts of trees.

Issues identified for the Rural Resource Area includes increased development in the rural environment having the potential for adverse effects, such as:

- *compromising landscape and amenity values of the rural environment especially on prominent hillsides and terraces;*
- *adversely affecting the sustainable management of natural and physical resources (in particular, water quality and infrastructure);*
- *creating situations where effects of existing primary production and residential activities come into conflict.*

The character of the landscape is an important element in making Central Otago an attractive place to live in and to visit. The Plan advises that activities that seek to locate within the rural environment generally do so for one of five reasons.

- (i) *They are reliant upon the resources of the rural area.*
- (ii) *They need to be close to an activity that is reliant upon the resources of the area.*
- (iii) *They need a large open space where they can generate effects without significantly affecting more sensitive activities.*
- (iv) *Persons wish to enjoy the lifestyle opportunities offered by its open space, landscape and natural character amenity values.*

(v) *They need to locate directly adjacent to the resource.*

In this instance, the purpose of this application appears to relate to (iv) above; provision for people to enjoy the lifestyle opportunities.

The values of the Rural Resource Area and associated issues as outlined above, were taken into account when undertaking the following assessment.

The site and surrounds are not located within a Significant Amenity Landscape (SAL) and there are no identified landscape features that are sought to be protected on the site or within the surrounding environment.

The subject site is located within an environment which comprises open rural land predominantly used for rural productive purposes. The surrounding landscape is generally flat, with the exception of some notable land features, such as the terrace which runs parallel to Racecourse Road approximately 250m to the west. The surrounding environment has been modified to the point where there are sporadic buildings and dwellings along Racecourse Road including some larger clusters of dwellings and buildings such as those located at 707 and 735 Racecourse Road further to the north.

There is generally a low coverage of vegetation within the surrounding environment given that the majority of land in this case is utilised for rural productive uses (such as livestock grazing). The exception to this however is that there are some clusters of mature vegetation in the surrounding environment, generally where vegetation has been incorporated to screen buildings from Racecourse Road, as well as an established strip of mature trees situated along the banks of Thomsons Creek. It is noted that these trees along Thomsons Creek generally extend parallel to Racecourse Road throughout the subject site as well as further to the north and south.

The subject site does not currently contain any buildings or dwellings, but it is noted that the site could reasonably anticipate two residential dwellings as a restricted discretionary activity. When considering the provision of one additional residential dwelling as a result of this subdivision, it is considered that any dwellings appropriately sited, when viewed from Racecourse Road, would not result in any significant visual effects that are out of character with the surrounding environment, on the basis that these dwellings would be generally compliant with the requirements of the zone (such as colour, finish, bulk and location standards). It is acknowledged that a third dwelling could reasonably be anticipated as a restricted discretionary activity on the balance land (Lots 3 to 7) given the site does not currently contain any residential activities.

As noted above, while dwellings in this environment are infrequent, they do still occur on sites that adjoin Racecourse Road, and where they do occur, are often situated in small clusters of multiple buildings (for example, 707 and 705 Racecourse Road and 469 – 521 Racecourse Road). Given that the subdivision will effectively provide for two additional residential dwellings within a more confined area within the southwest portion of the site, it is acknowledged that future dwellings could be located in designed in a way that would not undermine the visual amenity of the Rural Resource Area to a significant degree. This, however, would be dependent on the applicant identifying the location of dwellings on site and through the provision of appropriate landscape where necessary to visually soften dwellings from Racecourse Road. Therefore, in order to ensure that appropriate locations are selected, it is recommended that the applicant provide locations of building platforms and details or requirements of future landscaping (i.e. the provision of a landscaping plan at the time of land use consent) to provide greater certainty on how these effects could be appropriately managed.

The provision of screening as recommended above would not be out of character with the immediate environment, particularly where there is an established background of mature trees

situated along the banks of the Thomsons Creek, as shown below in Figure 3. Where dwellings exist along Racecourse Road is it common for shelterbelt or smaller areas of planting to occur, and it is considered that effective screening could be implemented as part of any future resource consent application as required. This could also complement the existing backdrop of established vegetation when viewing the site from Racecourse Road. Currently the application does not provide sufficient detail of any proposed landscaping and therefore if the Hearing Panel is of a mind to grant consent it is recommended that further detail in this regard should be provided.



*Figure 2: View of subject site from Racecourse Road / Mawhinney Road Intersection (looking northeast) Source: Site Visit: 27 May 2022*

With respect to wider rural character and amenity values, it is considered that additional residential dwellings can come into conflict with the primary rural activities provided for in Rural Resource Area. Particularly in this case where the activity is non-complying, and the proposed density is beyond what is anticipated by the Plan. This proposal has the potential to change the character of the area from a 'working rural environment' to a 'rural lifestyle' character. Given the receiving environment described above, and that this proposal is for a two-lot subdivision only, it is not anticipated that these effects would reach a threshold where rural amenity and character is affected to a more than minor degree.

As established above, the existing environment is modified to the point where clusters of residential activity are not uncommon and that these buildings have demonstrated that through sufficient setbacks and screening the adverse effects on the environment, particularly as viewed from Racecourse Road can be sufficiently mitigated. It is therefore recommended that further detail of building locations through identifying platforms and further detail of landscaping is provided should the Hearing Panel be of the mind to grant consent.

In this case, it is acknowledged that the average allotment size is approximately 7.527 hectares (resulting in a shortfall of approximately 4,740m<sup>2</sup>). In my opinion, with respect to rural amenity and character, the proposed density of subdivision is not notably dissimilar to what could be anticipated in other parts of the Rural Resource Area and from what already exists along Racecourse Road. The balance of approximately 81 hectares of land, as well as the established vegetation along Thompsoms Creek could provide for an adequate backdrop for any future residential activities on Lots 1 and 2, however, as noted above this would depend on the final locations as confirmed by building platforms, and the provision of sufficient screening.

It is also acknowledged that the provision of residential lifestyle opportunities could give rise to reverse sensitivity effects given that the site is located in a working rural production environment, however, a consideration of reverse sensitivity effects is discussed further below.

In the event that the hearing panel are of a mind to grant consent, I recommend that the applicant is required to provide building platforms and details of landscaping requirements.

Overall, subject to the provision of appropriate building platform locations and further details of landscaping requirements it is considered that the proposed subdivision would result in rural character, amenity values, and visual effects that are acceptable.

### **Fragmentation, incremental change, and cumulative effects**

Central Otago already has a large number of small rural sites as a result of historic subdivision patterns under earlier district plans and schemes and to facilitate land surplus to requirements or for historic preservation to be sustainably managed. The district is already facing significant cumulative effects in relation to loss of productive land and further fragmentation of land where it is not anticipated by the Plan further adds to these effects, as pressure for rural residential subdivision in rural areas threatens to further fragment rural land through incremental change. This can also give rise to rural residential lifestyle activity that conflicts with the existing primary production purpose of the zone.

Section 3 of the RMA sets out the meaning of 'effect', and includes cumulative effects:

In this Act, unless the context otherwise requires, the term effect includes—

- (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.*

The concept of cumulative effects has also been described in case law to explain that "...any one incremental change is insignificant in itself, but at some point in time or space the accumulation of insignificant effects becomes significant" (*Gargiulo v Christchurch City Council, C137/00*). Cumulative effects are inherently difficult to define and quantify, and it is challenging to pinpoint 'the straw that breaks the camels back'.

In this scenario, the proposal is for a non-complying subdivision where the resultant titles cannot meet the average allotment size requirements of the Rural Resource Area. The applicant has advised that the proposed allotments are intended to be sold as rural residential properties but that supporting rural activities will be provided for on these sites in addition to the primary residential activity. However, there is no way of confirming that the sites would be used for some ancillary productive purpose in the future, as they will no longer be in the ownership of the applicant.

The applicant also advises that the areas contained within Lots 1 and 2 have been identified as suitable for sale as it is 'one of the least productive areas of the property'. It is noted that the site is subject to both LUC 3 and LUC 4 class soils, however, Lot 1 and 2 are subject to LUC class 4 soils only, with the exception of the south-eastern corner of proposed Lot 1 which

contains a small portion of LUC 3 class soils as identified by the Landcare Research Mapping Database. An agronomic assessment was also provided by the applicant which provided the following consideration:

*“Conserving our soil resources in New Zealand is of particular concern. With that said, the Patearoa soil is unsuitable for arable uses, is marginal for horticulture, and although it does have productive capacity for pastoral land under irrigation, the soil is a Gley soil prone to waterlogging, and is separated from the balance of the farm by a stream which would make irrigation and pastoral farming more difficult.”*

While the applicant has indicated that some rural productive use could be maintained on these sites, it is clear that the primary purpose of proposed Lots 1 and 2 are for residential activity that is not ancillary to any larger scale, primary rural production operation. This represents rural fragmentation and will have effects on rural productivity. It is also noted that the applicant has identified that groundwater is available and it is acknowledged that there is a large rural irrigation scheme which extends across the site, including to the area of land on the western side of Thomsons Creek. This portion of the site has been used productively in the past, and there is nothing to suggest that it cannot continue to be used for productive use.

While it is recognised that the site does not comprise the highest class of soils that provide for the most versatile possible use of the land, it is still recognised that the site has the potential for continued productive use whether this is through viticulture, horticulture, or through pastoral farming after further application of water to the land. Given that proposed Lot 1 and 2 are 3.29 hectares and will be fragmented from the balance farmland, it is considered that the primary residential use will outweigh any rural productive use and will result in loss of rural productive land.

The Plan contains rules to manage the effects of intensive subdivision, including both average allotment sizes and minimum allotments sizes, and any departure from these is a non-complying activity. The maintenance of rural land in efficient and productive sized allotments is crucial for maintaining ongoing opportunities for sustainable development of primary industries. When considering the above, the proposal represents ongoing incremental change that is considered to be inappropriate.

It is therefore considered that the proposed subdivision does not represent an efficient use of the District's pastoral land resource and is likely to have an overall adverse effect on the productive values of the rural land resource, including from cumulative effects that are more than minor.

In the event that the Hearing Panel are of a mind to grant consent, conditions of the consent could be imposed to ensure appropriate consent notices are attached to the resulting record of titles to address the potential conflict with surrounding land uses. The Hearing Panel may also question whether the irrigation race is more appropriately located within Lot 3 and the other balance land rather than Lot 2.

### **Indigenous vegetation and habitats**

The subject site is located within a catchment that has been highly modified by historic clearing and grazing practices. The site has been historically grazed and generally contains grass cover and exotic plantings.

The submission from Forest and Bird identifies that the subject site could also contain significant indigenous vegetation and/or habitat and that the proposal could therefore result in adverse effects on these areas. Forest and Bird have therefore indicated that a site development map identifying any significant areas and building platform locations,

accessways, and fencing should be required in order to determine the potential adverse effects on significant vegetation and habitats.

Whilst I acknowledge the concerns raised by Forest and Bird in regard to indigenous vegetation and habitats, I note that the Plan does not identify any natural features or overlays of relevance that require consideration as part of this application. The applicant has volunteered to provide marginal strips along both sides Thomsons Creek and it is noted that the location of proposed Lot 1 and 2, where the new records of title will be created off the balance land, generally comprise grass cover and exotic plantings. As the provision of building platforms was previously recommended for other reasons as outlined above, it is noted that the provision of these platforms may assist address concerns from Forest & Bird in relation to the location of buildings within areas of potential significant indigenous vegetation and/or habitat.

Given the above, I do not consider that the proposal would have any inappropriate adverse effects on the environment but acknowledge that the Hearing Panel may desire the provision of building platform locations on the site plan in order to better understand any effects on indigenous vegetation and habitats.

### **Reverse Sensitivity Effects**

With regard to reverse sensitivity effects, the provision of new rural residential lifestyle opportunities on proposed Lots 1 and 2 results in potential reverse sensitivity risks. This is because existing pastoral grazing activities are likely to continue to occur on the balance land and within the surrounding environment. The future residential activities would therefore be located within a working rural production environment which gives rise to potential noise, odour, and other nuisance effects.

Proposed Lot 1 and 2 will be approximately 3.29 hectares in area and are separated from the surrounding farmland by Thomsons Creek on the eastern boundary (where the applicant is proposing marginal strips on both sides of the creek). I consider that these allotments are of an appropriate size where future dwellings could be sufficiently separated from ongoing operations associated with surrounding farming activities. The provision of building platform locations and future landscaping requirements as discussed above is recommended as this will provide confirmation of how potential reverse sensitivity effects can be appropriately avoided, remedied, and mitigated.

In order to further mitigate any reverse sensitivity effects, the applicant has also volunteered to include Council's standard 'reverse sensitivity' condition to be registered as consent notices on the titles of proposed Lots 1 and 2. Given the surrounding land use in the area, I consider that a reverse sensitivity consent notice is adequate to manage any actual or potential adverse effects arising from reverse sensitivity, and I do not consider a 'no complaints' covenant to be necessary. On this matter, it is useful to note that recent caselaw has not been overly supportive of the adoption of 'no complaints covenants', as they only address potential issues by taking away the capacity for objection or complaints, but do nothing to avoid, remedy or mitigate adverse effects themselves (*Gibston Vines Ltd vs Queenstown Lakes District Council, C2018/008*).

Omakau Area Irrigation Company Ltd in their submission identified that the existing irrigation scheme may be unfamiliar to prospective purchasers of Lot 1 and 2 and therefore the applicant should at a minimum outline the risks of the water races and associated infrastructure.

I consider that, in the event that the Hearing Panel are of a mind to grant consent, conditions of the consent or advice notes could be imposed to ensure the prospective purchasers are aware of existing rural productive land uses in the surrounding environment as well as the existing water race that adjoins the boundary of proposed Lot 2.

Given the surrounding land use in the area, I consider that through the identification of building platforms and landscaping requirements as well as through the provision of reverse sensitivity conditions, the adverse effects of reverse sensitivity can be adequately managed to ensure effects are no more than minor.

### **Access and Servicing**

Proposed Lot 1 and 2 will have legal frontage to Racecourse Road and will be able to construct an appropriate vehicle crossing to each allotment. The balance land will retain a number of existing accesses and will not be affected by the subdivision.

With respect to water supply, Council's Engineer has reviewed the application and upon receipt of further information has confirmed that they are satisfied that there is adequate potable water sources available on site, from bores to access groundwater. The applicant has also confirmed that firefighting supply storage will be provided prior to occupation of any dwelling. No dwellings are proposed as part of this application, and no building platform has been shown for future dwellings.

Wastewater will be disposed of on-site through new wastewater disposal systems, the applicant has noted that both allotments have sufficient area to contain individual systems.

Electricity will be provided from Racecourse Road and telecommunications will be provided wirelessly.

Overall, any adverse effects in relation to access and servicing will be less than minor.

I consider that, in the event that the Hearing Panel are of a mind to grant consent, conditions of the consent could be imposed to ensure the existing services are adequate and require additional servicing provisions are provided to adequately service the proposed allotments and provide for firefighting supply storage.

### **Natural hazards**

In this instance the Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area and partly subject to an inactive composite alluvial fan area. The extent of the mapped hazard areas are indicated below in Figure 4.



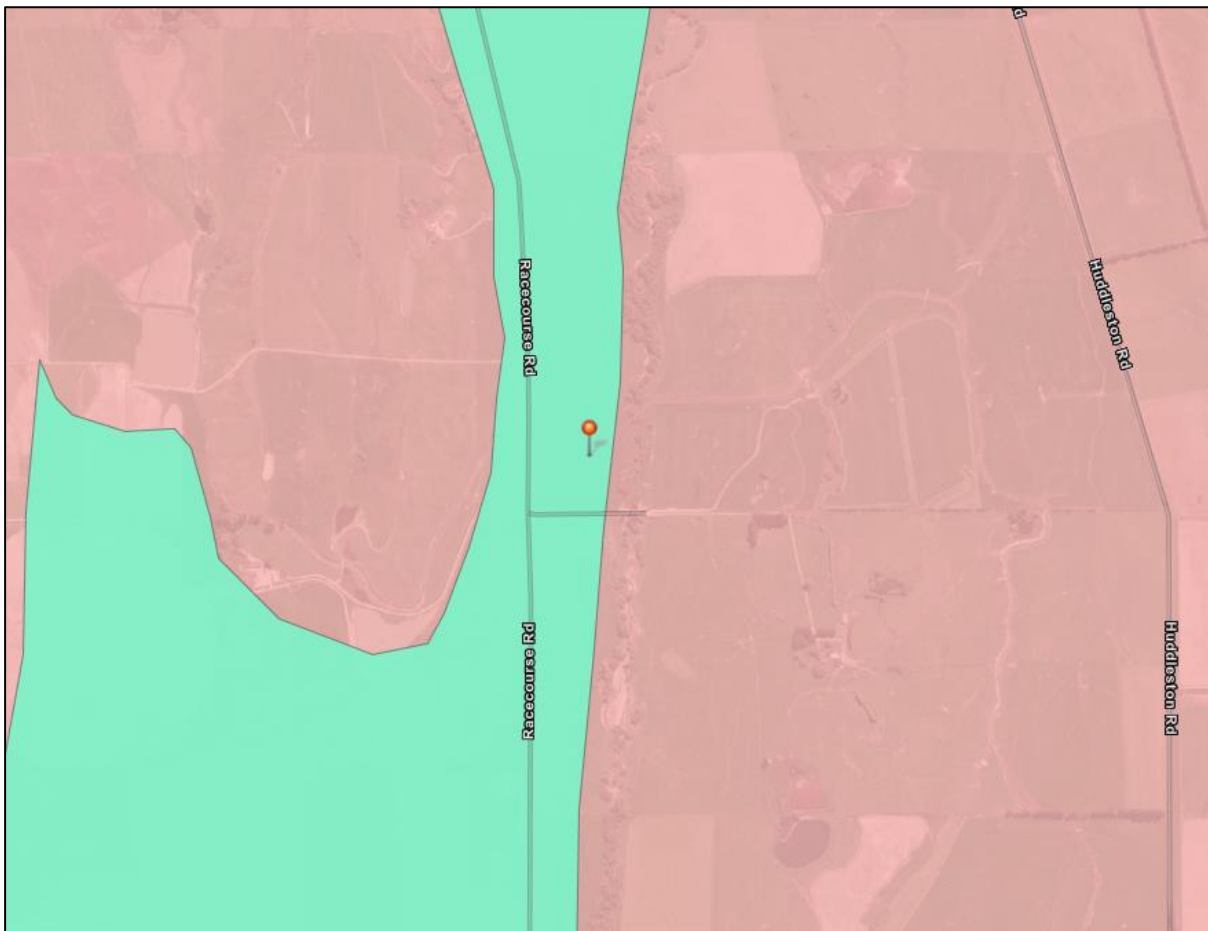


Figure 3: Otago Natural Hazards Portal GIS showing inactive composite alluvial fan (green) and active floodwater-dominated alluvial fan. Pin location identifies approximate centre location of proposed lots 1 and 2.

It is noted that the majority of proposed Lots 1 to 3 are located outside of the active floodwater-dominated alluvial fan area and that the active area is generally located on the eastern side of Thomsons Creek. The applicant has also volunteered a 50m building line restriction for any future dwellings from the margins of Thomsons Creek in order to ensure further separation from potential flood related hazards.

Council's Engineer has reviewed the application and indicated that *"although no building platforms have been proposed, it is likely that any dwellings will be constructed on Lots 1 and 2; outside of the area of the more hazardous active floodwater-dominated alluvial fan."*

There are no other hazards registered on the site. Any adverse effects in relation to hazards will be less than minor.

I consider that, in the event that the Hearing Panel are of a mind to grant consent, appropriately worded conditions and advice notes could be included to signal the potential risk to future landowners.

### **Esplanade Provisions**

The applicant is proposing marginal strips for conservation purposes on both sides of Thomsons Creek as part of this subdivision application. These could equally be provided as esplanade strips for the same purpose but without the additional requirements of the Conservation Act 1987 for the creation and management of marginal strips. The applicant may wish to clarify at the hearing whether the applicant wishes prefers to offer esplanade strips and confirm the width of these instruments at the hearing. Since these have been volunteered by



the applicant without seeking compensation for the interest in the land, no compensation is payable. While the ecosystems along Thomsons Creek have not been investigated during this application, it is likely that it provides local habitat values and securing some recognition either by marginal strips or esplanade strips is likely to ensure any adverse effects in this regard will be less than minor.

There are no other areas on the site that warrant esplanade provisions as part of this application.

I consider that, in the event that the Hearing Panel are of a mind to grant consent, appropriately worded conditions could be included requiring marginal strips or esplanade strips on both sides of Thomsons Creek to be provided for on the survey plan as part of Section 223 certification.

### **Precedent and plan integrity**

'Precedent' is a relevant matter under section 104(1)(a) in regard to the 'potential effects' arising as a consequence of further development being treated like for like. It is also a relevant matter under the section 104(1)(c) in terms of 'plan integrity'. With regard to section 104(1)(a), 'actual and potential effects' include the potential cumulative effects of further subdivisions which may result as a consequence of precedent. It also includes the cumulative effects of preceding development in the surrounding area combined with the effects of the current proposal.

The matters of precedent and Plan integrity have been traversed by the Environment Court and case law requires consideration as to whether approval of a non-complying activity will create an undesirable precedent. Where a plan's integrity is at risk by virtue of such a precedent the 'true exception test' is to be applied. This is particularly relevant where the proposed activity is contrary to the objectives and policies of the Plan.

One of the intentions of Plan for establishing density requirements for rural subdivision were to enable a range of allotment sizes, while maintaining the overall pattern of development, with larger allotments balancing out the establishment of smaller allotments.

In this instance, the applicant is not able to meet the average allotment size test of the Plan (7.527 hectares versus the required 8 hectares). While the departure of the average allotment size is only approximately 0.5 hectares in average area, it is noted that there are limited elements of uniqueness to the site which represent special circumstances that support the granting of consent. While it is acknowledged that the site is separated by the Thomsons Creek and includes the Omakau Area Irrigation Company Scheme, the site still presents sufficient opportunity to create allotments that comply with the average allotment size requirements of the Plan.

In my opinion, there are not sufficiently unique or extenuating factors applying to this site that would set it apart from other sites in the Rural Resource Area which would nullify concerns regarding precedent.

Should this proposal be granted consent, I consider that it would demonstrate that other rural productive allotments in the rural area could be subdivided to size below what the Plan anticipates. In turn, the resulting fragmentation, incremental change, and cumulative effects (as discussed above) could further be accelerated within the rural area where there is no perceived productive potential.

In my opinion, the subdivision proposed by this application poses a threat to the integrity of the Plan and would establish a precedent for subdivision to a degree that is a significant departure from the density provided for within the Rural Resource Area on both neighbouring land and

rural land elsewhere in the district. This in turn would undermine the integrity and coherence of the Plan and the public confidence in its administration. In my opinion, the granting of this subdivision consent would set an undesirable precedent and the adverse effects of the proposal in this regard will be more than minor.

### **Financial contributions**

The following financial contributions have been calculated by Council's Environmental Engineer for this site:

*Table 3: Financial Contributions Calculations*

<b>Activity</b>	<b>Payment</b>
Water	\$Nil
Wastewater	\$Nil
Reserves	\$1,034.78 +GST
Roading	\$1,494.68 +GST
<b>Total</b>	<b>\$2,529.46 +GST</b>

If the Hearing Panel were of mind to grant consent, and reserves contributions should be imposed as a condition of subdivision consent and required at the time of section 224(c) certification.

### **Summary of effects on environment**

It is acknowledged that the receiving environment and the proposed subdivision will result in an acceptable level of change in terms of adverse visual effects in the context of wider environment. The effects from a rural character and amenity perspective are also considered to be generally acceptable subject to confirmation of building platform and confirmation of landscaping requirements.

However, the proposal also represents ongoing incremental change that is considered to be inappropriate. It is therefore considered that the proposed subdivision does not represent an efficient use of the District's pastoral land resource and is likely to have an overall adverse effect on the productive values of the rural land resource, including from potential adverse cumulative effects that are more than minor.

Overall, I consider the proposal has the potential to result in adverse fragmentation, incremental change, and cumulative effects that are more than minor.

## **OBJECTIVES AND POLICIES**

### **Central Otago District Plan**

The objectives and policies of the Plan that are of particular relevance to this application include:

#### **4.3.1 Objective - Needs of the District's People and Communities**

To recognise that communities need to provide for their social, economic and cultural wellbeing, and for their health and safety at the same time as ensuring environmental quality is maintained and enhanced.

#### **4.3.3 Objective – Landscape and Amenity Values**

To maintain and where practicable enhance rural amenity values created by the open space, landscape, natural character and built environment values of the

District's rural environment, and to maintain the open natural character of the hills and ranges.

#### 4.3.5 Objective – Water Resource

To maintain and enhance the quality of the District's water resources by avoiding, remedying or mitigating the adverse effects of land use activities adjacent to water bodies.

#### 4.3.6 Objective - Margins of Water bodies

To preserve the natural character of the District's water bodies and their margins.

#### 4.3.7 Objective – Soil Resource

To maintain the life-supporting capacity of the District's soil resource to ensure that the needs of present and future generations are met.

#### 4.3.8 Objective – Significant Indigenous Vegetation and Habitats of Indigenous Fauna

To recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

#### 4.4.2 Policy – Landscape and Amenity Values

To manage the effects of land use activities and subdivision to ensure that adverse effects on the open space, landscape, natural character and amenity values of the rural environment are avoided, remedied or mitigated through:

- (a) The design and location of structures and works, particularly in respect of the open natural character of hills and ranges, skylines, prominent places and natural features,
- (b) Development which is compatible with the surrounding environment including the amenity values of adjoining properties,
- (c) The ability to adequately dispose of effluent on site,
- (d) Controlling the generation of noise in back country areas,
- (e) The location of tree planting, particularly in respect of landscape values, natural features and ecological values,
- (f) Controlling the spread of wilding trees.
- (g) Encouraging the location and design of buildings to maintain the open natural character of hills and ranges without compromising the landscape and amenity values of prominent hillsides and terraces.

#### 4.4.3 Policy - Sustainable Management of Infrastructure

To ensure that the development of infrastructure in the rural environment promotes sustainable management by:

- (a) Requiring developers to contribute a fair and reasonable proportion of the costs involved, and
- (b) Maintaining and enhancing the safe and efficient operation of the infrastructure network (including roading), while avoiding, remedying or mitigating adverse effects.

#### 4.4.5 Policy - Effects on Water Quality

To assist the Otago Regional Council in its role of maintaining and enhancing water quality, by ensuring allotments are adequate for effluent disposal

requirements and encouraging the use of land management techniques that maintain and/or enhance the life supporting capacity of water.

4.4.6 Policy – Adverse Effects on the Soil Resource

To ensure that the location, construction and/or operation of land use activities and subdivision make adequate provision for the protection of the soil resource by avoiding, remedying or mitigating the adverse effects of practices which may cause:

- (a) Erosion, instability or loss of topsoil,
- (b) Loss of nutrient or incidence of soil contamination,
- (c) Loss of soils with special qualities,
- (d) A reduction in vegetation and moisture holding capacity, and
- (e) Soil compaction

4.4.7 Policy – Significant Indigenous Vegetation, Wetlands and Wildlife

To protect areas of:

- (a) Significant indigenous vegetation,
- (b) Significant habitats of indigenous fauna,
- (c) Significant wetlands,
- (d) Indigenous vegetation or habitats that support a significant indigenous freshwater fishery, and
- (e) Habitats of statutorily managed sports fish and game from the adverse effects of land use activities and subdivision and to promote and encourage, where practicable, the retention, enhancement and reinstatement of indigenous ecosystems within the District.

4.4.8 Policy – Adverse Effects on the Amenity Values of Neighbouring Properties.

To ensure that the effects associated with some activities including (but not limited to):

- (a) Noise (including noise associated with traffic generation, night time operations), and vibration,
- (b) The generation of a high level of traffic, in particular heavy vehicles,
- (c) Glare, particularly from building finish,
- (d) A reduction in visual amenity due to excessive signage and the storage of goods or waste products on the site,
- (e) The generation of odour, dusts, wastes and hazardous substances, and
- (f) The use and/or storage of hazardous goods or substances

do not significantly adversely affect the amenity values and privacy of neighbouring properties or the safe and efficient operation of the roading network.

4.4.9 Policy - Effects of Rural Activities

To recognise that some rural activities, particularly those of a short duration or seasonal nature, often generate noise and other effects that can disturb neighbours by ensuring that new developments locating near such activities recognise and accept the prevailing environmental characteristics associated with production and other activities found in the Rural Resource Area.

4.4.10 Policy – Rural Subdivision and Development

To ensure that the subdivision and use of land in the Rural Resource Area avoids, remedies or mitigates adverse effects on:

- (a) The open space, landscape and natural character amenity values of the rural environment in particular the hills and ranges,
- (b) The natural character and values of the District's wetlands, lakes, rivers and their margins,
- (c) The production and amenity values of neighbouring properties,
- (d) The safety and efficiency of the roading network,
- (e) The loss of soils with special qualities,
- (f) The ecological values of significant indigenous vegetation and significant habitats of indigenous fauna,
- (g) The heritage and cultural values of the District,
- (h) The water quality of the District's surface and groundwater resources, and
- (i) Public access to or along the rivers and lakes of the District, particularly through the use of minimum (and average) allotment sizes.

In my opinion, the non-complying status of the proposal signals that the subdivision should only be allowed where there are truly unusual or particular circumstances that distinguish the development as a true exception.

The proposal will provide for the social and economic wellbeing of the applicant, but I do not consider that it will provide for the wider community's and future generation's need to utilise the District's soil resources to provide for social, economic and cultural wellbeing. I therefore consider that the proposal is inconsistent with Objective 4.3.1.

Objective 4.3.3 and Policies 4.4.2 and 4.4.10 seek to maintain rural amenity values whilst ensuring that development is compatible with the surrounding environment. Whilst no development is proposed as part of this subdivision, the subdivision will provide for two new residential activities on proposed Lot 1 and 2. As assessed above, the provision of two new residential activities within the surrounding environment that will not be significantly out of character with the sporadic clusters of buildings visible from Racecourse Road. Given the proposed allotments will adjoin larger areas of rural productive land however, the proposal is not considered to be compatible with the amenity values of adjoining properties as a result of the introduction of two new residential activities on sites that do not meet the average allotment area requirement of the Rural Resource Area. The proposal is therefore considered to be inconsistent with Policy 4.4.2.

The proposal will maintain the quality of the District's water resource (Objective 4.3.5 and Policy 4.4.5) as an appropriate on-site water supply has been determined and wastewater will be appropriately disposed of on site. The proposal will also preserve the margins of waterbodies by including marginal strips along both sides of Thomson's Creek (Objective 4.3.6).

With regard to the life-supporting capacity of the soil resource, the proposal will result in the creation of additional allotments in the Rural Resource Area that do not comply with the average allotment size requirements. This results in further fragmentation of rural land and further reduces the ability of the site to be used for rural productive purposes promoting further incremental change in the rural environment. The proposed allotments will be utilised for future rural residential lifestyle activity that conflicts with the existing primary production purpose of the zone and will further undermine the protection of the District's soil resource. I consider the proposal is inconsistent to Objective 4.3.7 and Policy 4.4.10.

The proposal will not result in any significant effects on indigenous vegetation and habitats of indigenous fauna as the subdivision will result in the creation of two additional records of title in an area where the land comprises exotic grass coverage. The applicant has volunteered

marginal strips along both sides of Thomsons Creek. I consider the proposal is consistent with Objective 4.3.8 and Policy 4.4.7.

In terms of other supporting policies in the Rural Resource Area section, the proposal is considered to be consistent with Policy 4.4.3 (sustainable management of infrastructure). The application confirms that all infrastructure will be provided to the proposed lots at the applicant's expense, and that new vehicle crossings will be constructed off Racecourse Road to both Lots 1 and 2.

With regard to Chapter 16 Subdivision of the District Plan, the following objectives and policies are considered relevant:

16.3.1 Objective - Adverse Effects on the Roding Network

To ensure that subdivision avoids, remedies or mitigates adverse effects on the safe and efficient operation of the District's roading network.

16.3.2 Objective – Services and Infrastructure

To ensure that subdivisions provide all necessary services and infrastructure without adversely affecting the public interest and the ongoing viability of those services and infrastructure.

16.3.3 Objective – Hazards

To ensure that subdivision does not facilitate development that may potentially be at risk from hazards.

16.3.4 Objective – Amenity Values

To ensure, where appropriate, that amenity values of the District created by the open space, landscape and natural character values, and areas of significant indigenous vegetation, significant habitat of statutorily managed sports fish and game are not adversely affected by subdivision.

16.3.5 Objective – Water and Soil Resources

To ensure that subdivision does not facilitate development that may compromise the life-supporting capacity of the District's water and soil resources.

16.3.7 Objective – Open Space, Recreation and Reserves

To ensure that subdivision contributes to the open space, recreation and reserve needs of the community.

16.3.9 Objective – Physical Works Involved in Subdivision

To ensure that the physical works involved in preparing land that is part of the subdivision avoids, remedies or mitigates adverse effects on:

- (a) The stability of land.
- (b) Water quality within natural watercourses and the stability of their margins.
- (c) Neighbouring properties in respect of the effects of noise, dust and vibration.

16.3.11 Objective – Effluent Disposal

To ensure that subdivision in areas without reticulated foul sewage services does not facilitate development that has an adverse effect on soil, surface and groundwater resources, and public health.

16.4.1 Policy – Adequate Access

To require that all subdivisions have legal and physical access that:

- (a) Is of a standard that is adequate for the intended use of allotments having regard to current and likely future traffic levels and the safe and convenient movement of vehicles and pedestrians, and
- (b) That integrates with the existing roading network in a safe and efficient manner, except in circumstances where Council is satisfied that section 321(2) and (3) of the Local Government Act 1974 is to apply or where no new lots are to be created.

16.4.2 Policy – Existing Access

To encourage the use of existing access points to rural State highways and arterial roads to avoid or mitigate adverse effects on the safe and efficient operation of these roads.

16.4.4 Policy – Unreticulated Areas

To require that subdivisions within unreticulated areas are designed to ensure that each allotment:

- (a) Has the ability to adequately dispose of effluent and stormwater on site without compromising health, the life-supporting capacity of soil resources, the quality of ground and surface water resources, and the drainage and amenity values of adjoining properties: and that,
- (b) An adequate supply of water can be provided, where this is appropriate to the intended use of the allotment.

16.4.6 Policy – Construction Standards

To require that all physical works within subdivisions are designed and constructed in accordance with NZS 4404:1981 which is the Council's Subdivision Code of Practice unless Council determines modification of this code is necessary given the local conditions and particular circumstances affecting the subdivision.

16.4.7 Policy – Subdivision Design

To require that the design of subdivision, where relevant to the intended use, provides for the following matters:

- (a) Facilitates convenient, safe and efficient access to all allotments including pedestrian access where appropriate.
- (b) Facilitates the safe and efficient provision and operation of services and infrastructure.
- (c) Facilitates access to passive solar energy resources.
- (d) Facilitates any foreseeable subsequent development or redevelopment including the economic provision of roading and network utility services.
- (e) Facilitates adequate provision of, or contribution to, the open space, recreational and reserve needs of the community with physical links to existing reserve areas where this is practicable.
- (f) Facilitates an appropriate level of access to heritage sites, natural features and water bodies where appropriate.
- (g) Facilitates development which keeps earthworks to a minimum.
- (h) Facilitates retention of the heritage values of a site or area.

#### 16.4.8 Policy – Sites Subject to Hazards

With respect to land that is, or is likely to be, subject to the effects of hazards (including the circumstances set out in section 106 of the Act) Council may only grant a subdivision consent where either:

- (a) The area of the subdivision to be used for building or other development purposes will not be subject to material damage from the hazard; or
- (b) The subdivision is not materially changing the status quo (e.g. boundary adjustment); or
- (c) The subdivision is to facilitate land stabilisation, erosion protection, flood protection or some other method of avoiding, remedying or mitigating the effects of the hazard; or
- (d) The adverse effects of the hazard can be avoided, remedied or mitigated by conditions attached to the consent including the provision of appropriate works;
- (e) Other exceptional circumstances exist; and/or
- (f) The subdivider is willing to accept any potential risk and is prepared to have the resultant certificate of titles registered accordingly.

In this instance, I accept that the site can be adequately serviced through new service and access provisions as volunteered by the applicant or recommended through conditions of consent. A new vehicle access will be provided to Lot 2 while the existing access off Mawhinney Road can be upgraded to service Lot 1 (or a new crossing could be constructed off Racecourse Road).

I consider that there are minimal, if any, physical works associated with the subdivision and the proposal can be undertaken in a manner which does not adversely affect the stability of land, water quality and neighbouring properties in respect of the effects of noise, dust and vibration.

Reserve contributions will ensure that the subdivision contributes to the open space, recreation and reserve needs of the community and can be imposed as a condition.

The site is identified as being potentially subject to natural hazards, however Lots 1 to 3 are located in an inactive composite alluvial fan and Council's Engineers have not raised any concerns in relation to hazards for Lots 1 and 2 which are most likely to be developed for dwellings in the future, and the same principle applies to Lot 3 that is to be amalgamated with Lots 4 to 7. I consider conditions of consent can be imposed to alert future landowners and ensure that any future development of the site would not exacerbate any potential risk of natural hazards.

I consider that the proposed subdivision will facilitate subdivision that may compromise the life-supporting capacity of the District's soil through further fragmentation and domestication of the site and is therefore inconsistent to Objective 16.3.5.

#### **Partially Operative Otago Regional Policy Statement 2019**

The Partially Operative Otago Regional Policy Statement (POORPS) was declared partially operative on 15 March 2021. Specific to this proposal are the following objectives and policies:

- **Objective 4.1** – Risks that natural hazards pose to Otago's community are minimised;
- **Objective 4.3** – Infrastructure is managed and developed in a sustainable way;
- **Objective 4.5** – Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments;
- **Objective 5.3** – Sufficient land is managed and protected for economic production.



- **Policy 5.3.1** of the PORPS seeks to manage activities in rural area to support the region's economy and communities by:
  - (c) *Minimising the loss of significant soils;*
  - (d) *Restricting the establishment of incompatible activities in rural areas that may be likely to lead to reverse sensitivity effects;*
  - (e) *Minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency;*

With respect to natural hazards, each of the new records of title contain land that is in inactive composite alluvial fan and is not considered be a significant constraint to future development. It is the balance area consisting of Lots 4 to 7 that there is the greatest risk of natural hazards, and Lot 3 is to be amalgamated with this land which mitigates this risk by providing for an area that is suitable for future buildings.

The proposal will not require any additional infrastructure given no additional built form is proposed. Any future residential activity as a result of the proposal can be appropriately supported through the provision of appropriate conditions and consent notices.

Objective 5.3 seeks to manage and protect land for economic production through various controls, including minimising loss or soils, restricting the establishment of incompatible activities and minimising the subdivision of productive land into smaller lots that may result in its productive capacity and productive efficiency. The proposed subdivision will result in further fragmentation of land, incremental change, and cumulative effects and is considered to be inconsistent with Objective 5.3 and Policy 5.3.1.

I therefore consider that the proposal is not consistent with the POORPS.

### **Proposed Regional Policy Statement 2021**

The Otago Regional Council notified the new Proposed Otago Regional Policy Statement (Proposed ORPS) on 26 June 2020 and on 30 September 2022 notified the freshwater planning instrument components of the RPS. Both RPS's are consistent with relevant national direction. There are no provisions within the freshwater planning components of the RPS that are applicable to this application so they have not been assessed. As the Proposed ORPS's have not yet been tested, more weight will be applied to the provisions in the POORPS (as assessed above) which was updated on March 15 2021.

- **Objective LF–LS–O11 – Land and soil** - The life-supporting capacity of Otago's soil resources is safeguarded and the availability and productive capacity of highly productive land for primary production is maintained now and for future generations.
- **Policy LF–LS–P20 – Land use change** - Promote changes in land use or land management practices that improve: (1) the sustainability and efficiency of water use, (2) resilience to the impacts of climate change, or (3) the health and quality of soil.
- **Objective UFD–O4 – Development in rural areas** - Development in Otago's rural areas occurs in a way that:
  - 1) avoids impacts on significant values and features identified in this RPS,
  - 2) avoids as the first priority, land and soils identified as highly productive by LF–LS–P19 unless there is an operational need for the development to be located in rural areas,
  - 3) only provides for urban expansion, rural lifestyle and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning or zoned within district plans as suitable for such development; and
  - 4) outside of areas identified in (3), maintains and enhances the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities.

- **Policy UFD-P7 –Rural Areas** - The management of rural areas:
  - (2) outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas,
  - (3) enables primary production particularly on land or soils identified as highly productive in accordance with LF-LS-P19,
  - (4) directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8,
  - (6) restricts the establishment of residential activities, sensitive activities, and non-rural businesses which could adversely affect, including by way of reverse sensitivity, the productive capacity of highly productive land, primary production and rural industry activities, and

While the proposal does involve highly productive land as classified by the land use capability classification system, the proposal seeks to further fragment rural land and provide for additional residential lifestyle opportunities in a rural environment. On this basis the proposal is not considered to be consistent with Objective UFD-04 and Policy UFD-P7. Given that the Objective LF-LS-011 and associated policies primarily concern highly productive land, it is considered that these have limited relevance to the proposal.

Overall, the proposal is not considered to be consistent with the PRPS. As outlined above, more weight is provided to the POORPS as the PRPS has not been not been adequately tested.

### **National Policy Statement – Highly Productive Land (NPS-HPL)**

The NPS-HPL is relevant to an assessment of the proposed activity under section 1014(1)(b)(iii) of the Act. The site contains land that is classified LUC 3 in the central part of the site, while the remaining land is classified LUC 4 (refer to Figure 4), based on the New Zealand Land Resource Inventory. The NPS provides a very strong policy direction to avoid subdivision of highly productive land.

*Territorial authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause (2) are applied:*

- (a) *the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term:*
- (b) *the subdivision is on specified Māori land:*
- (c) *the subdivision is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.*

In this particular instance it is anticipated that there will be some adverse effect on the overall site's current productive potential, however, the 'subject land' with respect to the NPS relates to the area of the site identified as being highly productive (LUC 3) and this will be wholly retained within the balance title (Lots 3 to 7) with an area of approximately 75 hectares.

Subclause (2) of the NPS directs that;

*Territorial authorities must take measures to ensure that any subdivision of highly productive land:*

- a) *avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district;*
- b) *avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.*

In the event that the Panel are of a mind to grant consent then, in order to satisfy subclause (2) it is recommended that the consent be subject to consent notices restricting any further subdivision of the site and to address potential reverse sensitivity issues.

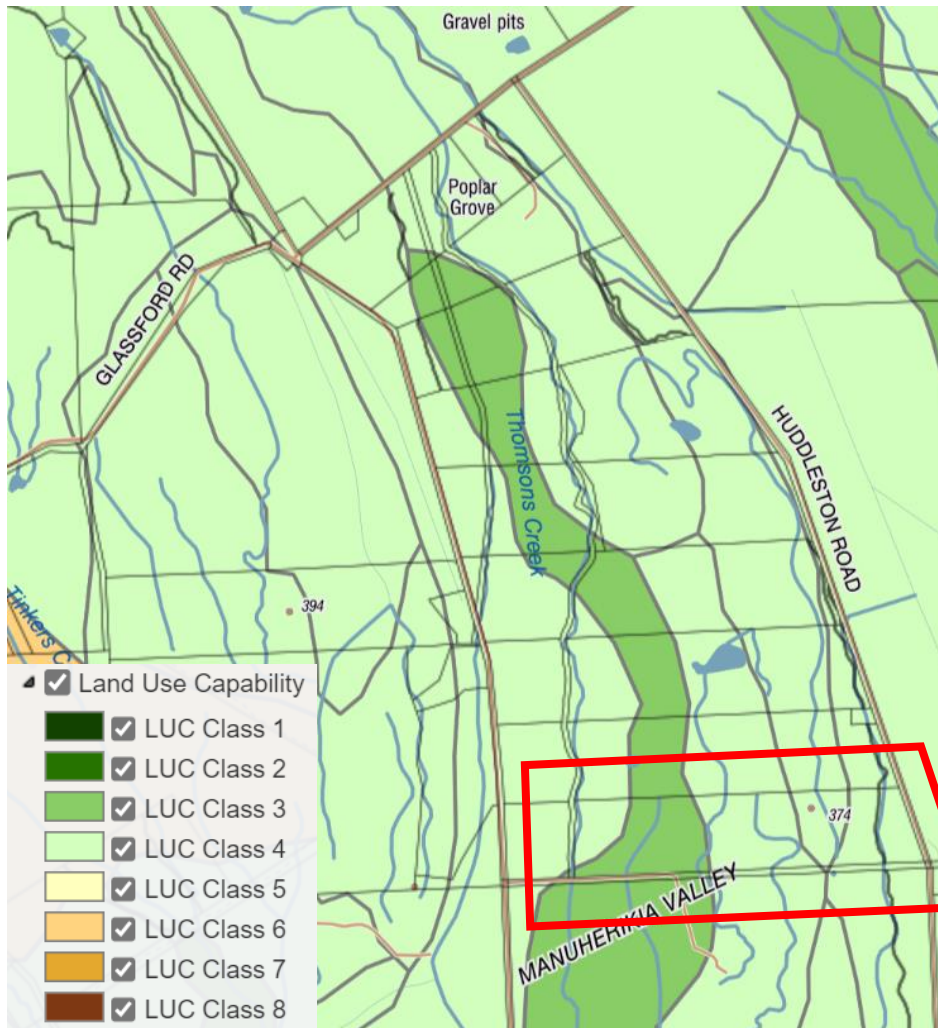


Figure 5: Highly Productive Land (Source: [Land Use Capability » Maps » Our Environment \(scinfo.org.nz\)](#)) Note: Application site marked in red.

## Part 2 of the RMA

The purpose of the RMA to promote the sustainable management of the natural and physical resources detailed below:

- 'managing the use, development and protection of natural and physical resources in a way or at a rate which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while:*
- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations:*  
*and*
  - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems:*  
*and*

- (c) *Avoiding, remedying, or mitigating any adverse effect of activities on the environment.*'

In respect of the other matters set out in Section 7, the following matters are considered relevant:

- 7(a) kaitiakitanga
- 7(b) the efficient use and development of natural and physical resources:
- 7(c) the maintenance and enhancement of amenity values:
- 7(d) intrinsic values of ecosystems:
- 7(f) maintenance and enhancement of the quality of the environment:
- 7(g) any finite characteristics of natural and physical resources:

The proposal seeks to subdivide a rural site into allotment sizes not anticipated by the Plan. The proposal would enable the use and development in a manner that enables the applicant to provide for the social, economic and cultural wellbeing, however, the proposal will result in further fragmentation of the rural environment. As identified above, the district is already facing significant cumulative effects in relation to loss of productive land and further fragmentation of land where it is not anticipated by the Plan further adds to these effects, as pressure for rural residential subdivision in rural areas threatens to further fragment rural land through incremental change. In this case, I do not consider the proposal to be wholly consistent with Part 2, in particular 7(f).

#### **SECTION 104D:**

Section 104D of the RMA specifies that resource consent for a non-complying activity must not be granted unless the proposal can meet at least one of two limbs. The limbs of Section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of both the Plan. In this instance, I consider that the proposal fails both limbs of S104D and, as such, the consent cannot be granted.

#### **OFFSETTING OR COMPENSATION MEASURES:**

In accordance with Section 104(1)(ab) of the RMA, consideration for offsetting or compensation measures is required. The applicant has not offered offsetting or compensation measures.

#### **OTHER MATTERS:**

Section 104(1)(c) of the Resource Management Act 1991 requires the Hearings Panel to have regard to any other matters considered relevant and reasonably necessary to determine the application.

#### **Section 106**

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to, or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made. In this case sufficient provision has been made for access. The proposal is not likely to accelerate material damage from natural hazards.

## **RECOMMENDATION:**

Having regard to the information available, prior to the Hearing Panel's consideration of application, it is recommended that the proposal be considered as an application for subdivision consent to a non-complying activity in terms of sections 104 and 104D of the Resource Management Act 1991.

In my opinion, the proposal is not consistent with the objectives and policies of the Rural Resource Area in which it is located. The fragmentation of rural land for primarily residential use, in areas where the Plan has not anticipated such levels of activity, can have a wide range of acute and cumulative adverse environmental effects. In my opinion further fragmentation and incremental change at the scale of non-compliance proposed by this application, is likely to have more than minor fragmentation, incremental change, and potential cumulative adverse effects on the environmental values of the Rural Resource Area.

For the reasons detailed in the body of this report, I have come to the view that adverse effects on the environment will be unacceptable and that granting consent will be contrary to the objectives of the Plan.

I therefore recommend that the Council decline the application for subdivision consent.

For the reasons detailed in this report, the adverse effects on the environment are more than minor and that granting consent will be contrary to the objectives of the Operative District Plan, and inconsistent with higher order policy instruments and the purpose and principles of the Act. As such, it is my opinion that the proposal fails the 104D test and consent cannot be granted. However, should the Hearing Panel come to a different decision, a draft suite of conditions of consent are attached to this report.

***This report is prepared and recommended by: -***



**Chris Pearse-Smith**  
**Consultant Planner**

15 February 2023

**Appendix 1 – Proposed Plan**



SUBJECT TO RESOURCE CONSENT



Amalgamation Condition  
"That Lots 3-7 hereon to be held in the same Record of Title"

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**Client**  
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**NOTES**  
- All dimensions shown are to markers unless otherwise stated.  
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- Check any electronic data against the hardcopy plan to ensure it is the latest version.  
- If this plan is being used as part of a sale and purchase agreement then it is shown as an indicative plan only. Final dimensions and areas may vary on final survey.

PROPOSED SUBDIVISION OF SECTIONS 14, 15 AND 32  
BLOCK VI LAUER SD

Rev.	Date	Revision Details	By	Survived	Signed	Date	Job No.	Drawing No.
A	7.10.21	lots rearranged, amalgamation condition changed	SLB				21169	01 (2)
B	08.10.21	Section 16 lots removed from the subdivision	SLB	Drawn	Signed	Date	1:2500.000 @ A1	
C	17.2.22	2 small lots added	SLB				1:5000 @ A3	
D	17.2.22	Lot 4 leg in added and access	SLB					
E	30.8.22	LOTS 2 & 4 REMOVED, LOTS RE NAMED	SLB	Designed	Signed	Date	Status & Level	Rev.
							LP2000	E

C:\1026\plan\21169\_01\_SCH1\_REV E.dwg Printed: 30/08/2022

## Appendix 2 – Draft Conditions of Consent

### General

1. The subdivision shall be undertaken in general accordance with the plan of subdivision submitted with the application and attached as Appendix 1.
2. All subdivision works shall comply with NZS 4404:2004 and the Council's July 2008 Addendum to NZS 4404:2004, as modified by these conditions of consent.

### Section 223

3. Any easements required to protect access or for access to services shall be duly granted or reserved.

*Note: The memorandum of easements prepared for the cadastral dataset submitted for section 223 certification shall show all existing easements or interests carried down onto the new lots or cancelled as appropriate.*

4. The following amalgamation condition must be endorsed on the survey plan:  
*"That Lots 3 - 7 hereon be held in the same record of title (CSN Request 1797614)".*
5. The consent holder must provide for the registration of marginal strips at least 10 metres wide on each side of Thomsons Creek where it adjoins Lot 1 and 2.

### Natural Hazards

4. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 to 3 for the following on-going conditions:
  - a) The site is located within an alluvial fan that may experience floodwater during high rainfall events. Any future development, including the change in use of existing buildings, should take into account these natural hazard risks, including obtaining suitably qualified advice on minimum floor levels for habitable buildings and by ensuring any unconsolidated fill or earthworks do not impede or present an increased risk for the site or to those sites upgradient or downgradient of the site.

### Access

5. Prior to 224c certification, the consent holder must:
  - a) Upgrade the existing vehicle entranceway from Mawhiney Road to serve Lot 1. The entranceway must be demonstrated to comply with the requirements of Part 29 of Council's Roading Policies, January 2015, or a new vehicle entranceway shall be constructed to these requirements.
  - b) Construct a new vehicle entranceway from Racecourse Road to serve Lot 2. The must be constructed to comply with the requirements of Part 29 of Council's Roading Policies, January 2015, or a new vehicle entranceway shall be constructed to these requirements.

### Water Supply



6. Prior to Section 224(c) certification, an adequate network water supply shall be provided to Lot 1 and 2, in accordance with Council's Addendum, Clause 6.3.15 Small Rural Water Supplies and other relevant provisions of NZS 4404:2004 and Council's July 2008 Addendum, with the following specific requirements:
- a) Necessary easements must be in place for pipework and access to the water source.
  - b) Source water must be sampled and tested by a testing laboratory recognised by the Taumata Arowai with bacteriological and chemical testing to the satisfaction of the Executive Manager of Infrastructure Services.
  - c) Any non-compliance with Maximum Allowable Values (MAVs) and Guideline Values (GVs) under Drinking Water Standards for New Zealand 2005 (revised 2018) shall be highlighted in the Laboratory Report and an appropriate means of remedial treatment described and installed at the time of building, to be subject to a consent notice.
  - d) A formal water supply document describing water entitlement to each property of at least 1000 litres/day must be provided to Council.
  - e) As-builts of the reticulation layout and description of the subdivision water system, including the property connections, boundary meters/valves, and backflow preventer must be provided to Council.
  - f) The consent holder must install a standard water connection to Lot 1 and 2 including a standard valve, meter/restrictor assembly, and backflow preventer. While these can be anywhere within the property the bore is to be located on, they must be at the boundary of the property the bore is not located on.

### Firefighting

8. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 and 2 for the following on-going conditions:
- a) At the time residential activity is constructed on Lot 1 and 2 minimum domestic water and firefighting storage is to be provided by:
    - i. A standard 30,000 litre tank. Of this total capacity, a minimum of 20,000 litres shall be maintained at all times as a static firefighting reserve. Alternatively an 11,000 litre firefighting reserve is to be made available to the building in association with a domestic sprinkler system installed in the building to an approved standard. A firefighting connection is to be located within 90 metres of any proposed building on the site
    - ii. In order to ensure that connections are compatible with Fire and Emergency New Zealand (FENZ) equipment the fittings are to comply with the following standards:
      - 1. Either: For flooded sources, a 70 mm Instantaneous Couplings (Female) NZS 4505 or, for suction sources, a 100 mm and 140 mm Suction Coupling (Female) NZS 4505 (hose tail is to be the same diameter as the threaded coupling e.g. 100 mm coupling has 100 mm hose tail), provided that the consent holder shall provide written approval of Fire and

Emergency New Zealand to confirm that the couplings are appropriate for firefighting purposes.

2. All connections shall be capable of providing a flow rate of 25 litres per second at the connection point.
3. The connection shall have a hardstand area adjacent to it to allow a Fire and Emergency New Zealand appliance to park on it. The hardstand area shall be located at the centre of a clear working space with a minimum width of 4.5 metres. Access shall be maintained at all times to the hardstand area.
4. Underground tanks or tanks that are partially buried (provided the tank is no more than 1 metre above ground) may be accessed by an opening in the top of the tank, removing the need for couplings.

*Note: For more information on how to comply with this Condition or on how to provide for FENZ operational requirements refer to the Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008. In particular, the following should be noted:*

*For more information on suction sources see Appendix B, SNZ PAS 4509:2008, Section B2.*

*For more information on flooded sources see Appendix B, SNZ PAS 4509:2008, Section B3.*

- b) Firefighting water supply may be provided by means other than that provided for in a) if the written approval of the New Zealand Fire Service is obtained for the alternative method.
- c) Any new water tanks shall be coloured dark green, dark grey, or dark brown, and located in such a manner as to ensure it is not visible against the skyline when viewed from any public place.

### Wastewater

9. Prior to Section 224(c) certification, the consent holder shall:
  - a) Provide a report prepared by a suitably qualified professional verifying that wastewater disposal can be achieved within the boundary of each of the two titles composed of Lots 1 and 2, in compliance with Clause 5.5 a) of Council's Addendum July 2008 to NZS4404:2004 (note compliance with 2012 version of AS/NZS1547 required).
10. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 and 2 for the following on-going condition:
  - a) At the time residential activity is constructed on Lots 1 and 2, a report prepared by a suitably qualified professional must be provided which details the design and installation of an on-site wastewater disposal system, in compliance with Clause 5.5 b) - e) of Council's Addendum July 2008 to NZS4404:2004 (note compliance with 2012 version of AS/NZS1547 required) for Council certification.

### Stormwater

11. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 and 2 for the following on-going condition:

- a) Stormwater from buildings and impermeable surfaces established on Lots 1 and 2 shall be discharged to soakpit(s) contained entirely within those lots. Confirmation of the stormwater discharge system shall be confirmed in writing to the CODC Chief Executive at the time a new dwelling is constructed on the lots.

#### Electricity and telecommunications

12. Prior to Section 224(c) certification, new underground power supply connections shall be provided to the boundaries of Lots 1 and 2.
13. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 and 2 for the following on-going condition:
  - a) The consent holder or successor is responsible for sourcing and meeting all costs associated with the installation of telecommunication services for any future land use on Lots 1 and 2. Any new telecommunication services shall be laid underground, or provided wirelessly.

#### Financial contributions

14. Prior to section 224(c), payment of a reserves contribution of \$1,034.78 + GST calculated in terms of Rule 15.6.1 of the Operative Central Otago District Plan.

#### Reverse sensitivity

15. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 1 and 2 for the following on-going condition:
  - a) The consent holder/s is/are aware of and will take reasonable and appropriate steps to advise all purchasers, lessees, licences or tenants, or any other users having an interest in Lots 1 and 2 hereon of;
    - i. Horticultural, viticultural, and agricultural activities that can occur as of right in the Rural Resource Area; and
    - ii. The usual incidence of these activities including (but not limited to) stock handling, haymaking, chemical spraying, pest control (including by use of poison, night shooting and helicopters), deer stag roaring, irrigation, frost control and bird scaring, which may have amenity impacts beyond the boundaries of adjoining properties.
    - iii. The need for appropriate siting, design and screening of dwellings and other sensitive uses to mitigate adverse effects associated with noise and spray drift from adjacent horticultural activities.

#### No further subdivision

16. Prior to Section 224(c) certification, pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared for registration on the title for Lots 3 – 7 for the following on-going condition:
  - a) *There shall be no further subdivision of Lots 3-7 hereon.*

Advice Notes:

1. *All charges incurred by the Council relating to the administration, inspection and supervision of conditions of subdivision consent shall be paid prior to Section 224(c) certification.*
2. *Development contributions of \$1,494.68 (exclusive of goods and services tax) are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due upon application under the Resource Management Act 1991 for certification pursuant to section 224(c). The Council may withhold a certificate under section 224(c) of the Resource Management Act 1991 if the required Development and Financial Contributions have not been paid, pursuant to section 208 of the Local Government Act 2002 and Section 15.5.1 of the Operative District Plan.*
3. *During site works if European or Chinese artefact material is discovered the consent holder shall immediately contact Heritage New Zealand.*
4. *During site works if koiwi (human skeletal remains), waahi taoka (resource of importance), waahi tapu (place or feature of special significance) or artefact material are discovered, then work shall stop to allow a site inspection by the appropriate runanga and their advisors, who would determine whether the discovery is likely to be extensive and whether a thorough site investigation is required. Materials discovered should be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to their removal or preservation.*

**CENTRAL OTAGO DISTRICT COUNCIL**  
**S95A-F DECISION FOR RC220173**  
**Mawhinney Road, Omakau**

**INTRODUCTION**

The application seeks to undertake a seven-lot subdivision resulting in two additional records of title at Mawhinney Road, Omakau.

**The Site:**

The site subject to the application is currently legally described as Section 14 Block VI Lauder SD on Record of Title (RT) OT14B/1114, and Section 15 and Section 32 Block VI Lauder SD on RT OT14B/1106 at the Otago Land Registry.

The site contains approximately 81 hectares of bare rural land located approximately 6km north of the Omakau Township. The site has legal frontage to Racecourse Road which extends directly south into Omakau as well as to Mawhinney Road which intersects with Racecourse Road and adjoins the southern boundary of the site. The site also has frontage to Huddleston Road on the eastern frontage.

The Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area and partly subject to an inactive composite alluvial fan area.

The applicant provides the following site description which is considered accurate and is accepted for the purposes of this report:

*“The site is generally flat, containing farmland, an irrigation race controlled by Omakau Area Irrigation Company Limited, and Thomsons Creek and other unnamed waterbodies. The site can generally be described as being used for low intensity grazing. The surrounding area is typically used for agricultural purposes. The property is located within the Rural Resource Area, as identified on CODP Map 53.”*

**Site History:**

There is no resource consent history of relevance on this site.

**Surrounding Environment:**

The surrounding environment generally comprises flat bare land used for rural productive purposes. It is noted that residential dwellings and other structures become more frequent where land is closer to Omakau to the south. Where dwellings and buildings exist along Racecourse Road, they are generally setback a notable distance to retain separation from this road, or are otherwise screened by clusters of vegetation.

The nearest dwelling is understood to be located at 707 Racecourse Road (which is approximately 250m from the northwest corner of the subject site. It is also noted that there is an existing travellers accommodation and wedding venue further to the north at 735 Racecourse Road. Also of note is an existing dwelling at 633 Racecourse Road which is approximately 700m to the southwest of the subject site.

There are no known subdivisions in the surrounding environment where lot sizes are less than the anticipated 2-hectare minimum lot size and 8-hectare average lot size. It is noted that

subdivision consent RC170149 was granted in 2018 on the site to the west of the subject site which provided for two allotments of 3.3 hectares and 16.18 hectares (an average of 9.65ha).

**Proposal:**

The application seeks to undertake a seven-lot subdivision resulting in two additional records of title. The proposed subdivision will result in the following allotments:

- Lot 1 being approximately 3.29 hectares of bare rural land fronting Racecourse Road and Mawhinney Road.
- Lot 2 being approximately 3.29 hectares of bare rural land fronting Racecourse Road.
- Lots 3 – 7 which will be amalgamated to form the balance rural land comprising approximately 74.94 hectares of bare rural land, which will continue to be used for rural productive purposes. This title will retain frontage to Racecourse Road, Mawhinney Road, and Huddleston Road.

The proposed subdivision layout is shown below in Figure 1.

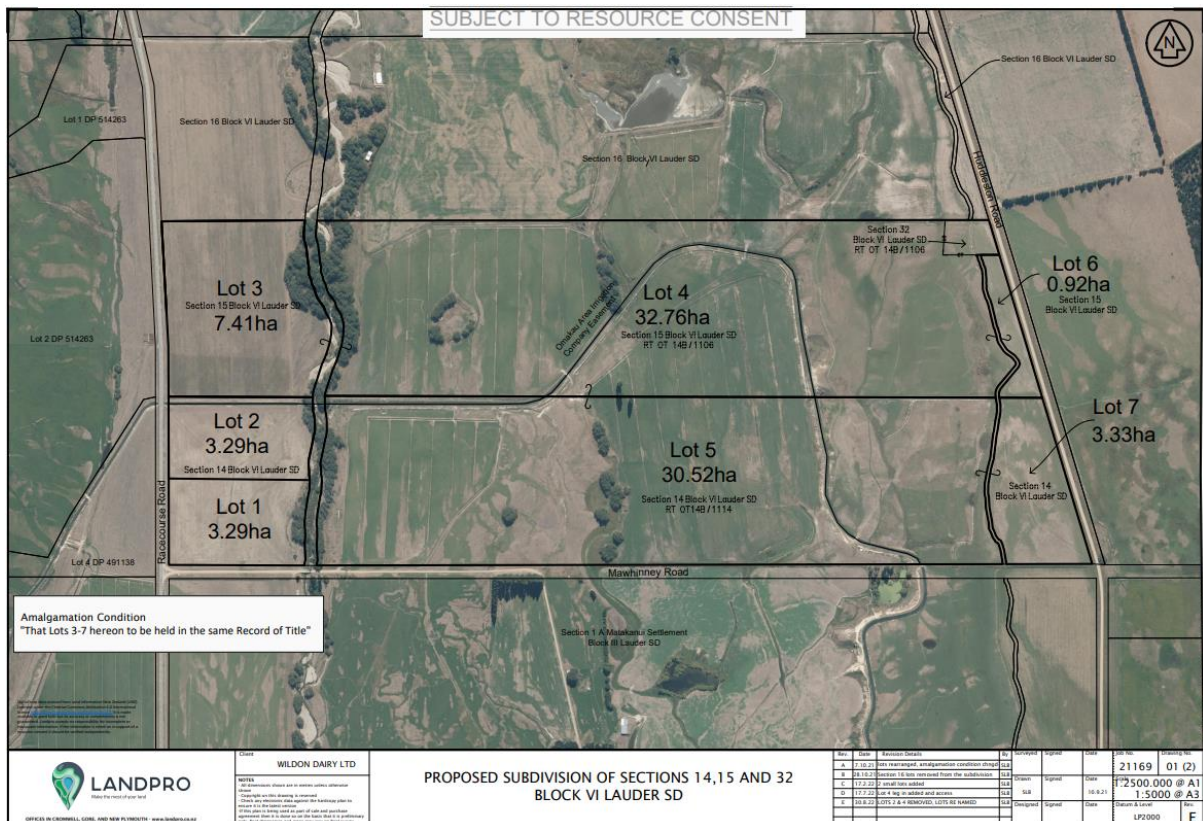


Figure 1: Proposed Subdivision Scheme Plan (updated 10 September 2022)

Lots 3 – 7 will be amalgamated and held together as one title. The proposal will therefore result in three records of title (two additional). When limiting the balance title (Lots 3 – 7) to 16 hectares, the average lot size of the overall subdivision will be 7.526 hectares.

The applicant has noted that proposed Lots 1 and 2 are to be utilised for rural residential activity whilst the remaining balance allotment will remain as rural production land. As part of a further information request the applicant has also provided an agronomic assessment which is considered in the assessment below.



Marginal strips along either side of Thomsons Creek are proposed and the applicant has volunteered to register a 50m wide building line restriction from Thomsons Creek on proposed Lots 1 and 2 to prevent hazard related damage to future dwellings on these allotments.

Proposed Lots 1 and 2 will obtain access via Racecourse Road and there are a number of existing accesses to the balance land that will be maintained as part of this subdivision.

With respect to servicing, water supply will be provided from groundwater via a new bore and the applicant has volunteered firefighting storage requirements. Wastewater and stormwater will be provided for on site and power will be provided from Racecourse Road. Telecommunications will be provided wirelessly.

**Background:**

With respect to consent background, the applicant initially applied for a discretionary activity, nine-lot subdivision where the proposed two new records of title each included two individual allotments on opposing sides of Thomsons Creek (see Figure 2 below). This subdivision layout meant that the new titles would be over 4 hectares in minimum size and would allow for an average allotment size of 8 hectares. However, due to concerns relating to the practical and efficient use of Lots 3 and 4 on the opposing side of Thomsons Creek, the scheme plan was since amended so that the two new records of title will be held entirely on the western side of Thomsons Creek each with individual allotment sizes of 3.29 hectares. The original subdivision layout is shown below in Figure 2.

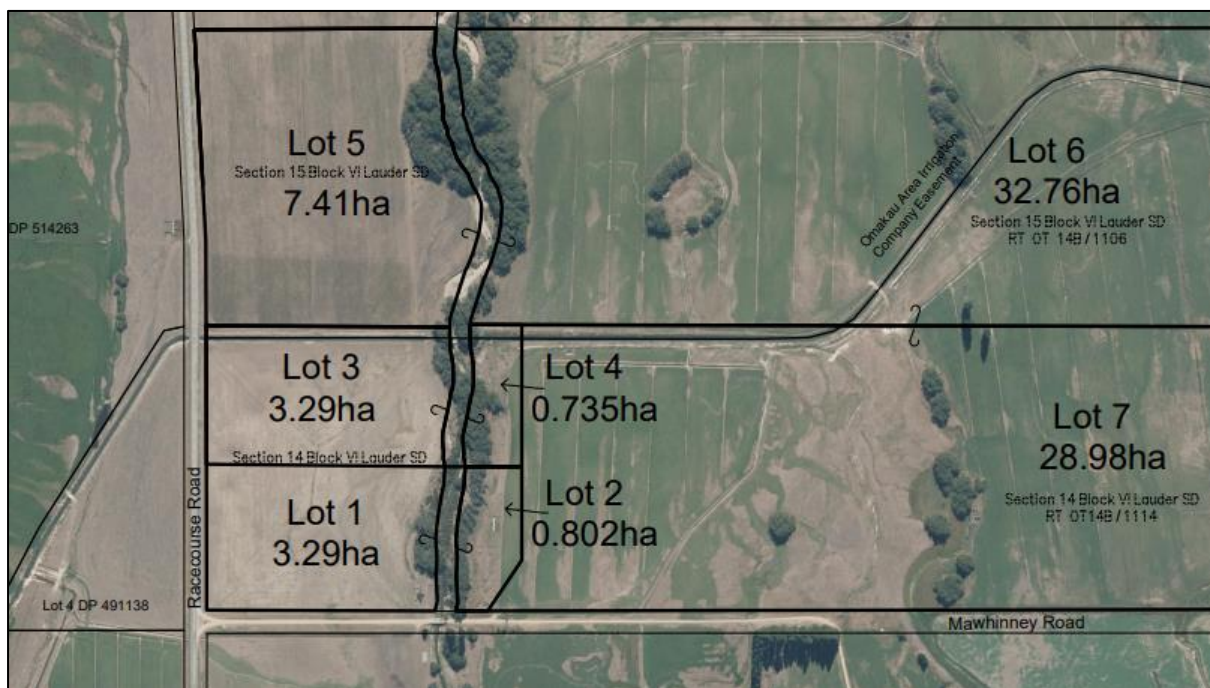


Figure 2: Previous Scheme Plan now superseded (enhanced to show Lots 1 – 4)

**Zoning:**

The site is located within the Rural Resource Area in the Plan.

Rule 4.7.4(iii)(b) of the Plan states that where a subdivision will create lots with an average allotment area of no less than 8ha and a minimum allotment size of no less than 2ha within the Rural Resource Area, then this is a discretionary activity. In this instance, the proposal

does not meet the average allotment area standard and as such is to be 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 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 Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area.

The activity should therefore be considered as a non-complying activity overall under the Plan.

#### Resource Management (National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) requires that any subdivision consent or change in the use of land where there may be contaminants that are a risk to human health should be considered in terms of the NES-CS.

The site is not listed on the Otago Regional Council's Hazardous Activities and Industries List (HAIL), and the nearest known HAIL site is located 5km to the south within the Omakau Township. The site has historically been used, and is presently used, for rural pastoral farming and there are no farm buildings or activities within the extent of proposed Lots 1 and 2 that would include known HAIL activities.

Subsequently, the NES-CS is not invoked in this instance.

### **SECTION 95A NOTIFICATION**

#### Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required in terms of refusal to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the Act (s95A(3)(b)).

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

#### Step 2 – Public notification precluded

Public notification is not precluded by any rule of national environmental standard (s95A(5)(a)).

The proposal is not a controlled activity or a restricted discretionary, discretionary or non-complying boundary activity as defined by section 87AAB and public notification is not precluded.

The proposal is not a prescribed activity (95A(5)(b)(i-iv)).

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

Public notification is not specifically required under a rule or national environmental standard (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: *No affected parties have provided their **written approval** and, as such, no adverse effects on any parties have been 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 Plan and there is no permitted baseline to be applied.

### **ASSESSMENT: EFFECTS ON THE ENVIRONMENT**

#### Receiving Environment

With regard to the existing environment, the subject site comprises bare rural land used for rural productive purposes and includes an existing irrigation race controlled by Omakau Area Irrigation Company Limited. Thomsons Creek and other unnamed water bodies also traverse the site.

As explained above, the surrounding environment is predominantly comprised of rural productive uses with associated residential dwellings and farm buildings. With respect to lot sizes, the majority of sites are significantly larger than 8 hectares in total area with occasional sites between two to four hectares existing, particularly as approaching the Omakau township to the south. It is noted that many of these smaller allotments appear to pre-date the district plan and do not include any recently granted subdivision consents. Furthermore, buildings are generally limited along Racecourse Road, and where they do occur, are often setback a notable distance to retain separation from this road, or are screened by vegetation.

In terms of the receiving environment, this could generally include permitted buildings (other than residential activities) up to 10m in height subject to compliance with the standards of the Plan, some earthworks, fencing, and planting of indigenous and exotic species (subject to compliance with listed species under the Plan), and the establishment of agricultural land uses

including arable, horticulture, viticulture, and structures incidental to those activities, and general noise associated with vehicles and machinery to support those activities.

### Effects of the Proposal

The Plan describes the amenity values of the rural environment as dominated by a unique, semi-arid landscape of broad basins separated by low mountain ranges with sparse vegetation, covered in tussock grassland and exotic pasture, and broken by schist rock outcrops. This landscape retains a high natural character and has significant scenic values. These values can be enhanced by human made elements which include orchards and vineyards; homesteads accompanied by stands of trees (often poplars); remnant stone cottages; small irrigation and stock water dams and water races; energy generation facilities; and shelter belts of trees.

Issues identified for the Rural Resource Area includes development in rural areas with increased development in the rural environment having the potential for adverse effects, such as:

- *compromising landscape and amenity values of the rural environment especially on prominent hillsides and terraces;*
- *adversely affecting the sustainable management of natural and physical resources (in particular, water quality and infrastructure); and*
- *creating situations where effects of existing primary production and residential activities come into conflict.*

The values of the Rural Resource Area and associated issues as outlined above, were taken into account when undertaking the following assessment.

### **Effects on landscape values and visual effects with respect to rural character and amenity**

The site and surrounds are not located within a Significant Amenity Landscape (SAL) and there are no identified landscape features that are sought to be protected on the site or within the surrounding environment.

The subject site is located within an environment which comprises open rural land predominantly used for rural productive purposes. The surrounding landscape is generally flat, with the exception of some notable land features, such as the terrace which runs parallel to Racecourse Road approximately 250m to the west. The surrounding environment has been modified to the point where there are sporadic buildings and dwellings along Racecourse Road including some larger clusters of dwellings and buildings such as 707 and 735 Racecourse Road further to the north. These buildings are generally associated with larger rural sites with no obvious 'lifestyle' properties being present in the surrounding area. While generally absent, there are also clusters of mature vegetation in the surrounding environment, including where vegetation has been incorporated to screen dwellings from Racecourse Road, as well as an established strip of mature trees situated along the banks of Thomsons Creek. It is noted that these trees along Thomsons Creek generally extend parallel to Racecourse Road throughout the subject site as well as further to the north and south.

The subject site does not currently contain any buildings or dwellings, but it is noted that the site could reasonably anticipate one residential dwelling as a restricted discretionary activity. When considering the provision of two additional residential dwellings on proposed Lots 1 and 2 in the future, it is considered that any dwellings, when viewed from Racecourse Road, would not result in any significant visual effects that are out of character with the surrounding

environment, on the basis that these dwellings would be generally compliant with the requirements of the zone (such as colour, finish, bulk and location standards).

As noted above, while dwellings in this environment are infrequent, they do still occur on sites that adjoin Racecourse Road, and where they do occur, are often situated in small clusters of multiple buildings (for example, 707 and 705 Racecourse Road and 469 – 521 Racecourse Road). Given that the subdivision will effectively provide for two additional residential dwellings in a relatively confined area, it is not considered that these will be significantly out of character with the surrounding rural zone in terms of their visual appearance.

Importantly, the provision of screening (which can be assessed at the time of land use consent) would not be out of character with the immediate environment, particularly where there is an established background of mature trees situated along the banks of the Thomsons Creek, as shown below in Figure 3. Where dwellings exist along Racecourse Road is it common for shelterbelt or smaller areas of planting to occur, and it is considered that effective screening could be implemented as part of any future resource consent application as required.



*Figure 3: View of subject site from Racecourse Road / Mawhinney Road Intersection (looking northeast) Source: Site Visit: 27 May 2022*

With respect to wider rural character and amenity values, it is considered that additional residential dwellings can come into conflict with the primary rural activities provided for in Rural Resource Area. Particularly in this case where the activity is non-complying, and the proposed density is beyond what is anticipated by the Plan. This proposal has the potential to change the character of the area from a 'working rural environment' to a 'rural lifestyle' character. Given the receiving environment described above, and that this proposal is for a two-lot subdivision only, it is not anticipated that these effects would reach a 'tipping point' where rural amenity and character is affected to a more than minor degree.

Overall, any actual and potential effects on landscape values and visual effects with respect to rural character and amenity are considered to be no more than minor as a result of this subdivision.

## Fragmentation, incremental change, and cumulative effects

Of greater concern is the fragmentation of rural land into smaller lot sizes not intended by the Plan which results in rural residential lifestyle activity that conflicts with the existing primary production purpose of the zone. This is discussed further in the following sections.

Central Otago already has a large number of small rural sites as a result of historic subdivision patterns under earlier district plans and schemes and to facilitate land surplus to requirements or for historic preservation to be sustainably managed. The district is already facing significant cumulative effects in relation to loss of productive land and further fragmentation of land where it is not anticipated by the Plan further adds to these effects, as pressure for rural residential subdivision in rural areas threatens to further fragment rural land through incremental change.

In this scenario, the proposal is for a non-complying subdivision where the resultant titles (proposed Lot 1 and 2) cannot meet the average allotment size requirements of the Rural Resource Area. The applicant has advised that the proposed allotments are intended to be sold as rural residential properties but that supporting rural activities will be provided for on these sites in addition to the primary residential activity. However, there is no way of confirming that the sites would be used for some ancillary productive purpose in the future, as they will no longer be in the ownership of the applicant.

The applicant also advises that the areas contained within Lot 1 and 2 have been identified as suitable for sale as it is 'one of the least productive areas of the property'. It is noted that the site is subject to both LUC 3 and LUC 4 class soils, however, Lot 1 and 2 are subject to LUC class 4 soils only, with the exception of the south-eastern corner of proposed Lot 1 which contains a small portion of LUC 3 class soils as identified by the Landcare Research Mapping Database. An agronomic assessment was also provided by the applicant which provided the following consideration:

*“Conserving our soil resources in New Zealand is of particular concern. With that said, the Patearoa soil is unsuitable for arable uses, is marginal for horticulture, and although it does have productive capacity for pastoral land under irrigation, the soil is a Gley soil prone to waterlogging, and is separated from the balance of the farm by a stream which would make irrigation and pastoral farming more difficult.”*

While the applicant has indicated that some rural productive use could be maintained on these sites, it is clear that the primary purpose of proposed Lots 1 and 2 are for residential activity that is not ancillary to any larger scale, primary rural production operation. This represents rural fragmentation and will have effects on rural productivity. It is noted that this portion of land also has access to groundwater, which could provide irrigation to this side of Thomsons Creek. This portion of the site has been used productively in the past, and there is nothing to suggest that it cannot continue to be used for productive use.

While it is recognised that the site does not comprise the highest class of soils that provide for the most versatile possible use of the land, it is still recognised that the site has the potential for continued productive use whether this is through viticulture, horticulture, or through pastoral farming after further application of water to the land. Given that proposed Lot 1 and 2 are 3.29 hectares and will be fragmented from the balance farmland, it is considered that the primary residential use will outweigh any rural productive use and will result in loss of rural productive land.

The Plan contains rules to manage the effects of intensive subdivision, including both average allotment sizes and minimum allotments sizes, and any departure from these is a non-complying activity. The maintenance of rural land in efficient and productive sized allotments is crucial for maintaining ongoing opportunities for sustainable development of primary

industries. When considering the above, the proposal represents ongoing incremental change that is considered to be inappropriate.

It is therefore considered that the proposed subdivision does not represent an efficient use of the District's pastoral land resource and is likely to have an overall adverse effect on the productive values of the rural land resource, including from cumulative effects.

### **Reverse Sensitivity Effects**

With regard to reverse sensitivity effects, the existing pastoral grazing activities on the balance land (Lots 3 – 7) will continue and the subdivision design is such that appropriate separation distances are provided between the parcels and other surrounding rural production areas. Proposed Lots 1 and 2 are further separated by Thomson Creek and associated established vegetation and as well as marginal strips on each side of the waterbody.

The applicant has also volunteered to include Council's standard 'reverse sensitivity' condition to be registered as consent notices on the titles of proposed Lots 1 and 2.

Given the surrounding land use in the area, I consider that a reverse sensitivity condition is adequate to manage any actual or potential adverse effects arising from reverse sensitivity.

### **Access and Servicing**

Proposed Lot 1 and 2 will have legal frontage to Racecourse Road and will be able to construct an appropriate vehicle crossing to each allotment. The balance land will retain a number of existing accesses and will not be affected by the subdivision.

With respect to water supply, Council's Engineer has reviewed the application and upon receipt of further information have confirmed that they are satisfied that there is adequate potable water sources available on site, from bores to access groundwater. The applicant has also confirmed that firefighting supply storage will be provided prior to occupation of any dwelling.

Wastewater will be disposed of on site through new wastewater disposal systems, the applicant has noted that both allotments have sufficient area to contain individual systems.

Electricity will be provided from Racecourse Road and telecommunications will be provided wirelessly.

Overall, any adverse effects in relation to access and servicing will be less than minor.

### **Hazards**

In this instance the Otago Natural Hazards Database ([Otago Natural Hazards Portal \(orc.govt.nz\)](http://orc.govt.nz)) identifies that the site is within an alluvial fan, identified as an active floodwater-dominated area and partly subject to an inactive composite alluvial fan area. The extent of the mapped hazard areas are indicated below in Figure 4.

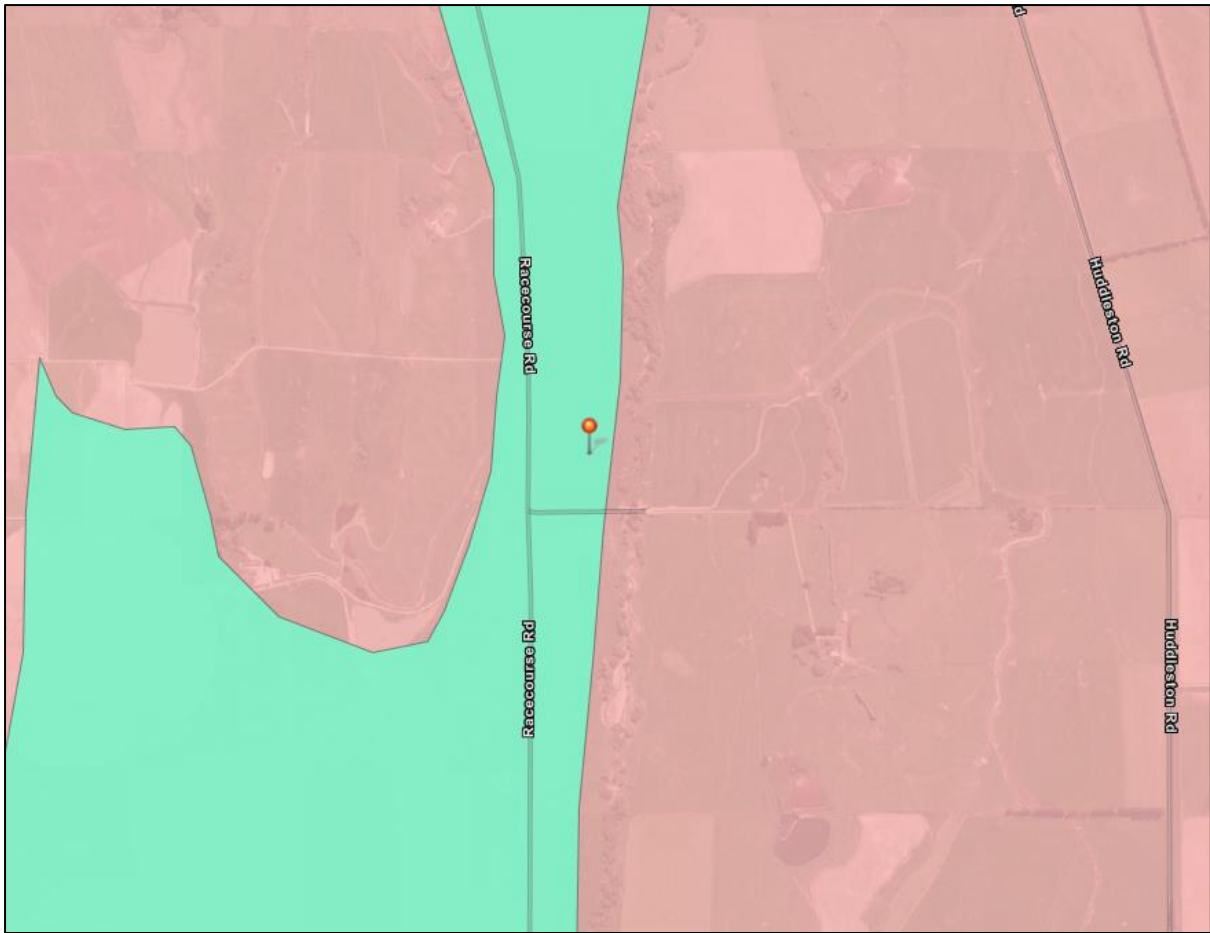


Figure 4: Otago Natural Hazards Portal GIS showing inactive composite alluvial fan (green) and active floodwater-dominated alluvial fan. Pin location identifies approximate centre location of proposed lots 1 and 2.

It is noted that the majority of proposed Lots 1 and 2 are located outside of the active floodwater-dominated alluvial fan area and that the active area is generally located on the eastern side of Thomsons Creek. The applicant has also volunteered a 50m building line restriction for any future dwellings from the margins of Thomsons Creek in order to ensure further separation from potential flood related hazards.

Council’s Engineer has reviewed the application and indicated that *“although no building platforms have been proposed, it is likely that any dwellings will be constructed on Lots 1 and 2; outside of the area of the more hazardous active floodwater-dominated alluvial fan.”*

There are no other hazards registered on the site. Any adverse effects in relation to hazards will be less than minor.

### **Esplanade Provisions**

The applicant is proposing esplanade strips on both sides of Thomsons Creek as part of this subdivision application and any adverse effects in this regard will be less than minor.

There are no other areas on the site that warrant esplanade provisions as part of this application.

## Conclusion

It is acknowledged that in the context of the wider receiving environment, the proposed subdivision and subsequent change of use of the resulting allotments will have no more than minor adverse effects in relation to landscape and visual amenity.

However, I consider that the subdivision represents rural fragmentation and will have adverse effects on the site's current productive capacity that are more than minor. I also have concerns about the proposal's contribution to actual and potential adverse cumulative effects. I consider that pressure for lifestyle blocks has resulted in effects on rural productivity reaching a 'tipping point', and any further fragmentation of the rural zone will have effects that are more than minor.

Overall, I consider the proposal has the potential to compromise the productive capacity of the site and wider rural zone as a result of fragmentation, and the effects of the proposal (including cumulative effects) would be more than minor.

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

Overall, the proposed activity is likely to have adverse effects on 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.

In this case, the application is not considered to present special circumstances that warrant the public notification of the decision. Public notification has already been determined to be necessary for adverse effects relating to fragmentation, incremental change, and cumulative effects being more than minor under Step 3.

## OVERALL DECISION - S95A NOTIFICATION

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

## OVERALL NOTIFICATION DETERMINATION

Given the decisions made under s95A, the application is required to be publicly notified. It is noted that the determination, as to whether an application should be notified or not, is separate from the issues to be considered in making a decision on the application itself.

Prepared by:



Chris Pearse-Smith  
Planning Consultant

Date: 27 October 2022

Reviewed by:



Olivier Monthule-McIntosh  
**Planning Consultant**

Date: 28 October 2022

Approved under Delegated Authority by:



Lee Webster  
**Planning and Regulatory Services Manager**

Date: 31 October 2022



# APPLICATION FOR RESOURCE CONSENT OR FAST TRACK RESOURCE CONSENT FORM 9: SECTION 88 RESOURCE MANAGEMENT ACT 1991

1 Dunorling Street  
PO Box 122, Alexandra 9340  
New Zealand

03 440 0056

Info@codc.govt.nz  
www.codc.govt.nz



Email to: resource.consent@codc.govt.nz

Post to: The Chief Executive  
Central Otago District Council  
PO Box 122  
Alexandra 9340

RECEIVED  
08/03/2022  
CODC

## CONTACT DETAILS OF APPLICATION

Full name(s) and contact details of owner/occupier/applicant: *(name will be issued on the decision)*

**Wildon Dairy Ltd**

**C/- Compass Agribusiness Management PO Box 24 Arrowtown 9351**

Postal Address

**craig@omakaufarms.co.nz**

Email

**027 435 6678**

Phone

Full name(s) and contact details for service of application *(if different from above)* e.g. Agent:

**Landpro c/o Brodie Costello**

**13 Pinot Noir Drive, Cromwell**

Postal Address

**brodie@landpro.co.nz**

Email

**027 279 3499**

Phone

## DETAILS OF PROPERTY

Street address/rapid number of property to which this application relates:

**Mawhinney Road, Omakau**

Legal description of land:

**Section 14 Block VI Lauder SD and Section 15 Block VI Lauder SD**

## DETAILS OF APPLICATION

Application Type(s) applying for: *(please tick one)*

- Land use consent
- Subdivision consent
- Change/Cancelation of consent or consent notice conditions
- Extension of lapse period of consent (time extension) s125
- Certificate of compliance
- Existing use certificate

Description of proposal:

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- No additional resource consents are needed for the proposed activity.

Or

- The following additional resource consents are needed for the proposed activity. *(give details)*  
They have / have not been applied for: *(please highlight)*

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Under section 87AAC a controlled activity or deemed permitted boundary activity may be eligible for fast-track processing. Please select one:

I opt out  / I do not opt out  of the fast-track consent process.

## PAYMENT DETAILS

I confirm amount and date paid:

Reference used (if applicable):

- Bank Transfer to 020916 0081744 00 (BNZ Alexandra Branch). Please reference: "RC APP" and the applicant's surname in the payment details eg, RC APP SMITH
- Manual payment (can only be made once application lodged and RC reference number issued)

## APPLICATION CHECKLIST

### The following is attached to this application:

*(please tick boxes as appropriate)*

- \*Non-refundable application fee of the prescribed amount (an additional charge may also be payable where the initial application fee is inadequate to recover Council costs).
- Assessment of the Effects on the Environment (AEE).
- \*Copy of current Certificate of Title.
- \*A location plan.
- \*A site plan which shows the location of any buildings, driveways, parking areas or other significant features in relation to site boundaries. (Please ensure the paper size is either A4 or A3.)
- A building plan including the floor plan of the proposed building and elevations (if appropriate). (Please ensure the paper size is either A4 or A3.)
- Photographs of the site and of any important features relative to the application.
- Any other information required by the District Plan or Act or regulations to be included.

*\*Items with a star are required for all consent applications.*

Full details relating to the contents of applications are contained in the checklists and guidance notes available on Councils website [www.codc.govt.nz](http://www.codc.govt.nz) or from any Council office.

### Note to applicant:

You may apply for two or more resource consents that are needed for the same activity on the same form.

You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991 (if any).

I/We attach, in accordance with the Fourth Schedule of the Resource Management Act 1991, an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

I/We attach any information required to be included in this application by the district plan, the regional plan, the Resource Management Act 1991, or any regulations made under the Act.

*(List all documents that you are attaching)*

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### **Subdivision consent requirements**

As/if this is an application for a subdivision consent, I/We attach information that is sufficient to adequately define: *(delete if this is not an application for a subdivision consent)*

- (a) The position of all new boundaries; and
- (b) the areas of all new allotments; and *(delete if the subdivision involves a cross-lease. Company lease or unit plan)*
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips; and
- (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips; and
- (e) the locations and areas of land below mean high water springs of the sea, or of any part of the bed of a river or lake, to be vested in the Crown or local authority under section 237A of the Resource Management Act 1991; and
- (f) the locations and area of land to be set aside as new roads.

As this is an application for a resource consent for reclamation, I/We attach information to show the area proposed to be reclaimed, including its location, the position of all new boundaries, and the portion of that area (if any) to be set apart as an esplanade reserve or esplanade strip. *(delete if this is not an application for a resource consent for reclamation)*

---

Signature

(to be signed by applicant or person authorised to sign on behalf of applicant)

---

Date



**LANDPRO**

Make the most of your land

# **Resource Consent Application to Central Otago District Council**

Prepared for Wildon Dairy Limited

**Prepared For**

Wildon Dairy Ltd

**Prepared By**

Landpro Ltd

13 Pinot Noir Drive

PO Box 302

Cromwell

Tel +64 3 445 9905

## QUALITY INFORMATION

Reference: L:\21169 - Wildon Dairy Ltd - Potential Rural Subdivision Racecourse Road\Docs  
Date: 8 March 2022  
Prepared by: Brodie Costello  
Reviewed by: Della Clark  
Client Review: Craig Webster  
Version Number: Final

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APPENDIX A – Record of Title

APPENDIX B – Scheme Plan



# 1. INTRODUCTION

## 1.1 Overview of Proposal

The applicant, Wildon Dairy Ltd, wish to undertake a nine (9) lot subdivision on their property at Racecourse Road, Omakau.

The Central Otago District Council (CODC) has statutory jurisdiction for the effects of certain activities within the area covered by this application. These effects are managed through the Central Otago District Plan (CODP) which sets out rules for managing the effects of subdivision.

As part of this report an Assessment of Environmental Effects (AEE) of the proposal has been undertaken in accordance with Section 88 and the Fourth Schedule of the Resource Management Act 1991. This AEE provides further information to support the resource consent application.

The assessment prepared in this report concludes that the actual or potential adverse effects of the proposal on the environment will be less than minor and no persons are considered adversely affected in a minor, or more than minor, manner.

## 1.2 The Applicant

**Applicant Address:** Wildon Dairy Ltd  
C/- Compass Agribusiness Management  
PO Box 24  
Arrowtown 9351

**Address for Service:** C/- Landpro Limited  
PO Box 302  
Cromwell 9342

## 1.3 Purpose of Documentation

Under Section 88 of the Resource Management Act 1991 (the RMA), this report provides an assessment of the activities effects on the environment as required by Schedule 4 of the RMA.

## 2. DETAILS OF PROPOSAL

### 2.1 Location

The subject site is legally described as Section 14 Block VI Lauder SD on Record of Title (RT) OT14B/1114, and Section 15 Block VI Lauder SD on RT OT14B/1106. The properties have respective approximate areas of 40.5 hectares (ha) and 41.4 ha. The subject site is located on Racecourse Road, Omakau. Huddleston Road runs along the eastern boundary of the properties, while Mawhinney Road is located to the south.

The site is generally flat, containing farmland, an irrigation race controlled by Omakau Area Irrigation Company Limited, and Thomsons Creek and other unnamed waterbodies. The site can generally be described as being used for low intensity grazing. The surrounding area is typically used for agricultural purposes. The property is located within the Rural Resource Area, as identified on CODP Map 53.

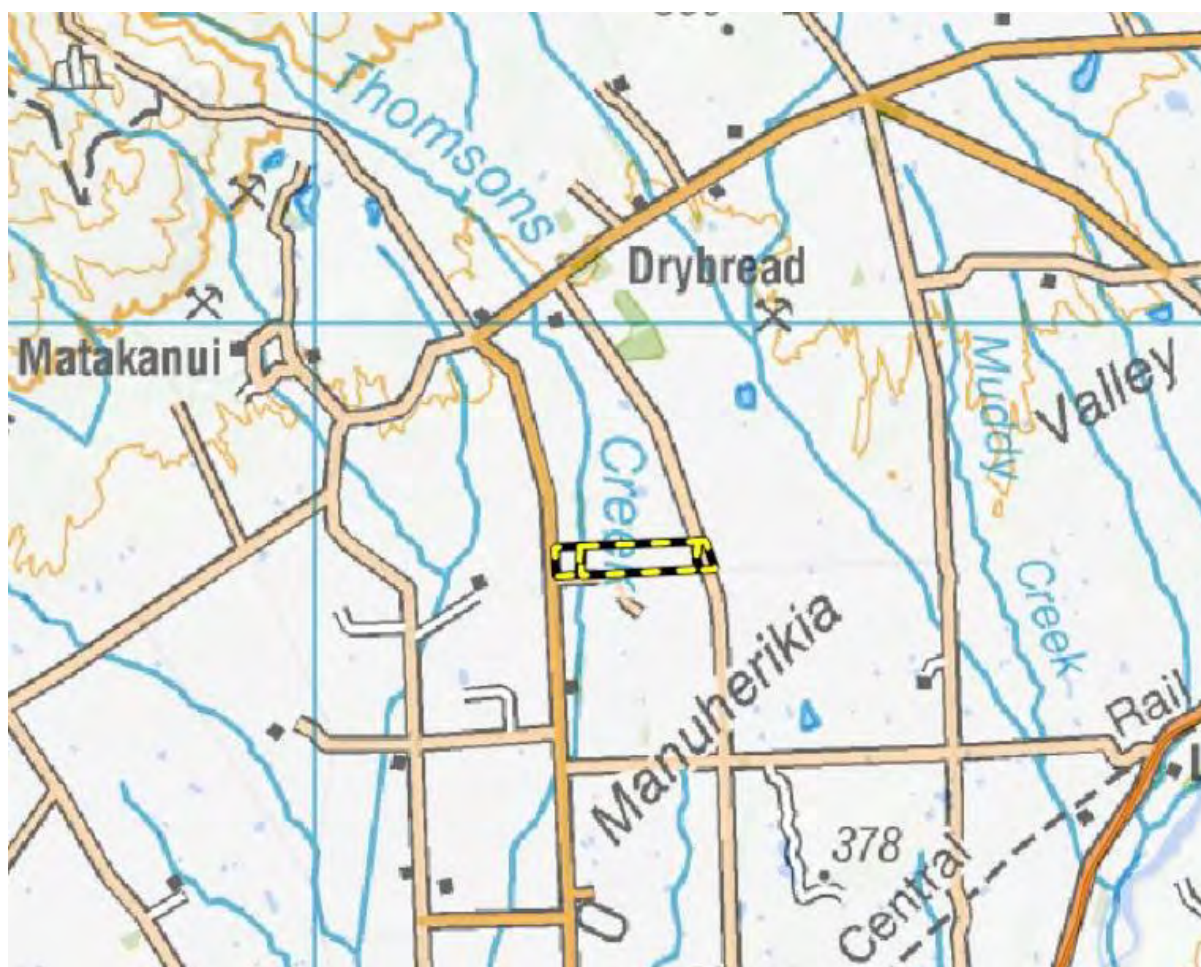


Figure 1: General site location (Source: CODC GIS, 2021).



**Figure 2: Properties outline (Source: CODC GIS, 2021).**

## 2.2 Proposed subdivision

The applicant is proposing to subdivide their existing Section 14 Block VI Lauder SD property into six (6) lots. The applicant is proposing to create and sell two Records of Title (Lots 1/2 and 3/4), while keeping the rest of the property as farmland held under a third RT. Due to Thomsons Creek running through the property, the proposed properties to be sold are to each contain two amalgamated lots either side of the creek. It is anticipated that these lots will be used for rural residential purposes accompanied by low intensity stock grazing. The applicant is proposing a building line restriction of 50m from Thomsons Creek.

The remainder of the Section 14 Block VI Lauder SD property is to be amalgamated with Section 15 Block VI Lauder SD. Again, due to Thomsons Creek and an unnamed water body near the eastern property boundary, there are several lots which will be amalgamated and held on a single Record of Title. Esplanade strips are proposed either side of these waterbodies. Note that this excludes the Omakau Area Irrigation Company Limited irrigation race, which will be maintained through easements through the relevant new titles.

The lots are to be sized as follows:

- Lot 1 – 3.29 ha (to be amalgamated with Lot 2)
- Lot 2 – 0.802 ha (to be amalgamated with Lot 1)
- Lot 3 – 3.29 ha (to be amalgamated with Lot 4)
- Lot 4 – 0.735 ha (to be amalgamated with Lot 3)
- Lot 5 – 7.41 ha (to be amalgamated with Lots 6-9)
- Lot 6 - 32.76 ha (to be amalgamated with Lots 5 and 7-9)
- Lot 7 – 28.98 ha (to be amalgamated with Lots 5, 6, 8, and 9)
- Lot 8 – 0.92 ha (to be amalgamated with Lots 5-7, and 9)
- Lot 9 – 3.33 ha (to be amalgamated with Lots 5-8)



The proposal has an average area of 8.039 ha (limiting property areas to 16 ha for averaging purposes as per Rule 4.7.4(iii)(b)).

The applicant wishes to sell these two smaller properties (being Lots 1/2 and Lots 3/4) to fund new irrigation infrastructure on land owned by the applicant, including the construction of a large dam. New irrigation infrastructure is required to support productive rural activities in the area, in response to regulatory changes to water permits from the Otago Regional Council. The sale of these two smaller lots will allow for the applicant to improve their water security and be able to supply their property with irrigation water during dry periods. The vast majority of land subject to this application will remain as farmland.



**Figure 3: Area of Lots 1 and 3, taken near Thomsons Creek (photo taken looking west-northwest)**

The Record of Title for the properties are attached as Appendix A and a scheme plan is attached as Appendix B.

### 2.2.1 Services

Lots 1/2 and Lots 3/4 will have new services installed and/or constructed as described below. Lots 5 – 9 are proposed to remain as unserviced bare farm parcels. Where relevant, information on services to Lot 5 - 9 is provided below.

## Access

Lot 1 and Lot 2 have existing accesses to Racecourse Road. These will be upgraded (if required), to be at least 6m wide legally and 4m wide formed, with a crossfall of at least 6%, as per Rule 16.7.5 of the CODP. Lot 1 may potentially have an alternative access onto the Mawhinney Road. Lots 5-9 have existing accesses on Racecourse Road and Huddleston Road. Lots 2 and 4 will have a rural access onto Mawhinney Road.



**Figure 4: Existing entrance for Lot 1 on the corner of Racecourse Road and Mawhinney Road (photo taken looking northeast).**





**Figure 5: Existing entrance for Lot 3 on Racecourse Road (photo taken looking southeast).**



**Figure 6: Existing entrance for Lots 2 and 4 on Mawhinney Road (photo taken looking north).**

## Water

The applicant is proposing a bore to supply potable water. The location of this bore is to be confirmed but will be within either Lot 1 or Lot 3, with an easement to provide supply to the lot without the bore.

Prior to habitation of any future dwelling on Lots 1 and 3, the Lot owners shall ensure that at least 20,000 L static fire-fighting reserve are provided. Domestic water tanks will be installed prior to occupation of any future dwelling. The coupling and hardstands will be constructed in accordance with the CODC Addendum to NZS4404: 2004.

## Wastewater

Any new dwelling on Lot 1 and Lot 3 would require the installation of a wastewater system, likely a septic tank. Both Lots have sufficient area to contain a wastewater system, including a tank and disposal field sized to achieve full compliance with NZS1547:2012.

## Stormwater

The lots are adequately sized to allow stormwater to be managed within each lot.

## Electricity and telecommunications

Both lots would be able to access telecommunications via wireless technology.

# 3. ACTIVITY CLASSIFICATION

## 3.1 Central Otago District Plan

The proposal requires the following consents under the CODP:

### Subdivision

- Rule 4.7.4(iii)(b) states that subdivision that creates allotments with an average area no less than 8 hectares and a minimum area of 2 hectares in the Rural Resource Area is a **discretionary activity**.

### 3.1.1 Natural Hazards

As per Rule 7.3.4(iii), any subdivision of land that is subject to or potentially subject to material damage by inundation from any source is a discretionary activity. The subject site is not a mapped hazard area on any District Plan Maps but is mapped by ORC as being subject to alluvial fans as per ORC's Natural Hazard Portal. From the Racecourse Road boundary through to approximately 200m to the east, the property is subject to an inactive alluvial fan. From approximately 40m on the true right bank of Thomsons Creek for a distance of



up to 9,900m, the property is subject to an active alluvial fan. The properties proposed to be sold are largely in the inactive alluvial fan area. To prevent any potential material damage to future developments on the property, the applicant is proposing a 50m building line restriction on Lots 1 and 3. As this proposed mitigation will avoid the potential risk of material damage, the proposal is not considered to trigger Rule 7.3.4(iii)(d).

### 3.2 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS) took effect on 1 January 2012. It creates a framework for assessing and managing the actual or potential adverse effects of contaminants in soil on human health from five activities being subdivision, land-use change, soil disturbance, soil sampling and removing fuel storage systems. The NESCS only applies to land that is potentially or actually affected by contaminants because of historical and/or current use. No activities have or are taking place that could create a risk to human health, therefore the NESCS is not considered to be applicable.

### 3.3 Summary

Overall, this application is for a **discretionary activity**.

## 4. NON-NOTIFICATION & CONSULTATION

A consent authority has the discretion whether to publicly notify an application unless a rule or National Environmental Standard (NES) precludes public notification (in which case the consent authority must not publicly notify) or section 95A(2) applies.

The effects of the activities will be no more than minor, the applicants do not request public notification and there are no rules or NES' which require the public notification of the application. In addition, there are no special circumstances relating to the application. As such, notification of the application is not necessary.

Clause 6(1)(f) of Schedule 4 of the RMA requires the identification of, and any consultation undertaken with, persons affected by the activity. No persons are considered to be adversely affected by the proposal, as determined by the larger assessment of environmental effects (Section 5 below). However, Council must decide that a person is affected pursuant to Section 95E of the RMA.

Overall, it is considered that this application should be processed non-notified and without the need for written approvals.

## 5. ASSESSMENT OF ENVIRONMENTAL EFFECTS

In addition to the application being made in the prescribed forms and manner, Section 88 of the RMA also requires that every application for consent includes an assessment of the effects of the activity on the environment as set out in Schedule 4 of the RMA.

### 5.1 Subdivision

Noting resource consent is required for a discretionary activity, the below assessment of effects associated with the proposed subdivision in the Rural Resource Area has been guided by matters of discretion under restricted discretionary Rule 4.7.3, and where appropriate these matters have been expanded upon.

Council provides particular consideration to the following matters:

1. *The effects of subdivision and future development on:*
  - *Open space, landscape, natural character and amenity values,*
  - *Reserves, all public conservation land managed by the Department of Conservation and recreation facilities, including the provision and maintenance of such facilities,*
  - *Heritage sites, including archaeological sites and waahi tapu, and heritage landscapes.*
  - *Sites, lakes and rivers and their margins and other features of cultural value to Kai Tahu ki Otago,*
  - *Notable trees, and areas of significant indigenous vegetation and significant habitats of indigenous fauna, and,*
  - *The natural character of water bodies and their margins.*

The proposal will result in three Records of Title across multiple lots, with two to be used for rural residential purposes, and the remainder for the existing productive rural purposes. The proposed subdivision allows for the same separation and density of future built form as what is provided for in the District Plan. The design maintains large areas of open space, with suitable space to allow potential residential activities to be separated from rural activities, and Lots 1/2 and Lots 3/4 are of sufficient size to support rural activities in addition to the residential activities. The area is a highly modified rural landscape with limited natural character, and rural residential activities are not in conflict with the character of this area. Effects on amenity are anticipated to be low, given Racecourse Road is a rural local road with traffic primarily limited to supporting rural activities, there are no nearby dwellings (with the nearest being 0.7km to the west), and the activity on the vast majority of the property remaining unchanged.

Thomsons Creek runs through the property from north to south. The natural character of the creek and its margins are not anticipated to be adversely affected by the proposal. The applicant has proposed a 50m building line restriction from the creek, which will ensure that no structures are constructed in the adjacent area.

Otago Regional Council's Otago Ecosystems and Habitat Mapping does not identify any current marine or terrestrial habitat of note on the property. There is an unnamed tributary of Thomsons Creek that flows through the eastern half of the property, which is identified as a significant river for Roundhead galaxias. The proposed subdivision is not anticipated to have an effect on the river.

There are no reserves or public conservation land, heritage sites, notable trees, or named water bodies (other than Thomsons Creek) located within or adjacent to subject site.



**Figure 7: Thomsons Creek viewed from Mawhinney Road (photo taken looking north).**

2. *Potential for visual absorption of future built development with particular attention being given to those areas identified as outstanding natural landscapes and significant amenity landscapes on the planning maps.*

The existing landscape has capacity to absorb future built development on the properties. The density of the proposed subdivision is appropriate in the local context, with rural dwellings being not uncommon in this area, and at least five smaller rural residential dwellings on properties along Racecourse Road within 2km. Furthermore, when viewed from Racecourse Road, any development will have a backdrop of significant established willows along the margins of Thomsons Creek. Any future dwellings on the Lots will not stand out from the rural lifestyle and rural activities in the surrounding landscape.

The property is not identified as being located in an outstanding natural landscape or significant amenity

landscape.

3. *Capability for sustainable use of the productive land and soil resource.*

The areas contained within Lots 1 and 3 have been identified by the applicant as suitable for sale as it is one of the least productive areas of the property, with this area containing a poor-quality, stony, and thin soil layer. As per Landcare Research's S-map database, this area contains Patearoa soil, a stony, very shallow, poorly drained silty soil. These lots will be able to be used for low intensity productive activities, such as hobby horticulture or low-level stock grazing. The vast majority of the existing property will continue to be used for productive land and soil uses, most typically cropping and stock grazing.

As the sale of these lots will be used to finance large-scale irrigation infrastructure, the proposal will have an overall increase in productive capacity on the property overall.

4. *The potential for reverse sensitivity effects and methods to address such effects on existing rural production activities and on existing infrastructure, including the use of separation distances and yards.*

All future purchasers will be aware of the working rural environment they are purchasing into, with buyers actively seeking out this rural environment. It is considered that the proposal will not give rise to any notable reverse sensitivity effects, however a consent condition may be the best way to address any reverse sensitivity effects.

5. *The adequacy of the allotment in respect of its ability to safely dispose of effluent and stormwater on-site, without compromising health, and the quality of ground and surface water resources.*

The allotments are appropriately sized so that stormwater and wastewater disposal can be properly disposed of, as discussed above.

6. *The provision of an adequate water supply, given the intended use of the allotments, unless an allotment is incapable of being occupied by a dwelling.*

As discussed above, water for the lots can be provided via a groundwater take. Confirmation that this water is suitable for drinking will be provided prior to the issue of the new titles. The water will be treated if necessary.

Prior to habitation of any future dwelling on Lots 1 and 3, the Lot owner shall ensure that at least 20,000 L static fire-fighting reserve is provided. Domestic water tanks with fire-fighting reserve will be installed prior to occupation of any future dwelling. The coupling and hardstands will be constructed in accordance with the CODC Addendum to NZS4404: 2004.

7. *The location, design and construction of access, and its adequacy for the intended use of the allotments.*

As discussed above, all lots are proposed to access Racecourse from the existing accesses. Where required, these accesses will be upgraded to comply with Council's standards in terms of legal width and formed width.

8. *The provision of adequate utility services, (including roading), and in particular the location, design and construction of these services.*

All utilities will be provided as appropriate for their intended use and required by Council standards, as confirmed in the details provided above.

9. *Earthworks necessary to prepare the site for occupation and/or use.*

Some earthworks may be required to improve access to the site from Racecourse Road. Overall, the effects of these minor earthworks are anticipated to be no more than minor.

10. *The provision of access to back land.*

All lots will have appropriate access.

11. *The provision of esplanade reserves and strips and access to them.*

Marginal strips either side of Thomsons Creek are proposed for conservation purposes.

12. *Any financial contributions necessary for the purposes set out in Section 15 of this Plan.*

It is anticipated that suitable financial contributions will be calculated based on the level of development proposed.

13. *Any amalgamations or easements that are appropriate.*

There are no proposed amalgamations. All appropriate easements will be provided for.

14. *The identification of potential building platforms that are encouraged in locations that will maintain the open natural character of hills and ranges, without compromising the landscape and amenity values of prominent hillsides and terraces.*

No building platforms are proposed. A building line restriction is proposed, which will limit the areas within the parcels that built developments can be located. The proposal is not considered to adversely affect hillsides and terraces, as the site is located on a flat parcel of land away from prominent landscape areas.

15. *Whether or not the clustering of lots would be beneficial in terms of avoiding or mitigating adverse environmental effects.*

The Lots are situated adjacent to each other and are of an appropriate size to ensure that values in this rural environment are provided for.

16. *Whether or not the applicant will commit or has committed to work or services as environmental compensation (such as the control of wilding pines) and if so committed, whether it is or will be:*

- *to remedy at least in part any adverse effects of onsite works; or*
- *on the site or within the same general area, landscape or environment as the proposed activity; and/or*
- *effective by way of conditions, bond or covenant; and/or*
- *the product of public consultation or participation.*

No compensatory works are proposed at this time.

*17. The appropriate size of any allotment bearing in mind any of the above factors.*

The proposed allotments are considered to be of an appropriate size and shape factor to provide for their intended purposes.

*18. Any objectives and policies relevant to the above matters.*

Relevant objectives and policies are addressed below.

*19. Any other matters provided for in section 220 of the Act.*

No other matters are considered relevant to this application.

## 5.2 Summary of Effects

The applicant proposes an appropriate subdivision design which ensures that they and the community can provide for the social and economic well-being whilst protecting and maintaining the wider local landscape and amenity values of the area.

# 6. STATUTORY CONSIDERATIONS

Schedule 4 of the RMA requires that an assessment of the activity against the matters set out in Part 2 and any relevant provisions of a document referred to in Section 104 of the RMA is provided when applying for a resource consent for any activity. These matters are assessed as follows.

## 6.1 Part 2 of the RMA

The proposal is consistent with the purpose and principles of the RMA, as outlined in Section 5. The proposal will have less than minor effect on the land's ability to meet the reasonably foreseeable needs of future generations, or on the life-supporting capacity of the land and any ecosystems associated with them. The proposal ensures that adverse effects on the environment are avoided or mitigated.

There are no matters of national importance under Section 6 of the RMA that will be affected by the proposal. The proposal is also consistent with the requirements of Section 7 of the RMA, with particular regard given to the efficient use and development of natural and physical resources. Regarding Section 8, the proposed activity is not inconsistent with the principles of the Treaty of Waitangi.

Overall, the activity is considered to be consistent with Part 2 of the RMA, given the minor nature of the activities and the proposed mitigation.



## 6.2 Section 104(1)(b) of the RMA

In accordance with Schedule 4 of the RMA, an assessment of the activity against the relevant provisions of a document referred to in 104(1)(b) of the RMA must be included in an application for resource consent. Documentation in this section are noted as being:

- (i) a National Environmental Standard;
- (ii) other regulations;
- (iii) a National Policy Statement;
- (iv) a New Zealand Coastal Policy Statement;
- (v) a Regional Policy Statement or Proposed Regional Policy Statement;
- (vi) a plan or proposed plan.

Under the RMA, regional plans need to give effect to NPSs, NESs and RPSs. For an application of this scale, an assessment of the application against the regional plans is often adequate as these plans ultimately give effect to the higher order statutory instruments.

### 6.2.1 District Plan

The following policies, which give effect to the plan's objectives, are relevant to this application for resource consent.

#### **Policies**

##### *4.4.2 Policy – Landscape and Amenity Values*

To manage the effects of land use activities and subdivision to ensure that adverse effects on the open space, landscape, natural character and amenity values of the rural environment are avoided, remedied or mitigated through:

- a. The design and location of structures and works, particularly in respect of the open natural character of hills and ranges, skylines, prominent places and natural features,
- b. Development which is compatible with the surrounding environment including the amenity values of adjoining properties,
- c. The ability to adequately dispose of effluent on site,
- d. Controlling the generation of noise in back country areas,
- e. The location of tree planting, particularly in respect of landscape values, natural features and ecological values,
- f. Controlling the spread of wilding trees.
- g. Encouraging the location and design of buildings to maintain the open natural character of hills and ranges without compromising the landscape and amenity values of prominent hillsides and terraces.

##### *4.4.3 Policy 4.4.3 – Sustainable Management of Infrastructure*



To ensure that the development of infrastructure in the rural environment promotes sustainable management by:

- a. Requiring developers to contribute a fair and reasonable proportion of the costs involved, and
- b. Maintaining and enhancing the safe and efficient operation of the infrastructure network (including roading), while avoiding, remedying or mitigating adverse effects.

#### *4.4.9 Policy – Effects of Rural Activities*

To recognise that some rural activities, particularly those of a short duration or seasonal nature, often generate noise and other effects that can disturb neighbours by ensuring that new developments locating near such activities recognise and accept the prevailing environmental characteristics associated with production and other activities found in the Rural Resource Area.

#### *4.4.10 Policy – Rural Subdivision and Development*

To ensure that the subdivision and use of land in the Rural Resource Area avoids, remedies or mitigates adverse effects on:

- a. The open space, landscape and natural character amenity values of the rural environment in particular the hills and ranges,
- b. The natural character and values of the District's wetlands, lakes, rivers and their margins,
- c. The production and amenity values of neighbouring properties,
- d. The safety and efficiency of the roading network,
- e. The loss of soils with special qualities,
- f. The ecological values of significant indigenous vegetation and significant habitats of indigenous fauna,
- g. The heritage and cultural values of the District,
- h. The water quality of the District's surface and groundwater resources, and
- i. Public access to or along the rivers and lakes of the District, particularly through the use of minimum (and average) allotment sizes.

In terms of Policy 4.4.2, it is considered that the effects of the subdivision can be managed to ensure that adverse effects on the open space, landscape, natural character and amenity values of the rural environment can be avoided or mitigated. The property is remotely located, the lots are located on a flat area of the property away from hills and ranges and has a backdrop of existing vegetation when viewed from the nearest public road.

In terms of Policy 4.4.3, the proposal will also result in a small increase of traffic on Racecourse Road and Mawhinney Road. These roads generally experience fairly low to moderate traffic volumes and both have sufficient capacity for the potential additional vehicle movements associated with this subdivision.

Policy 4.4.9 addresses reverse sensitivity. A consent condition may be the best way to address any reverse sensitivity effects, to ensure that this proposal is consistent with Policy 4.4.9.

The above discussions also address Policy 4.4.10. The proposal is consistent with Policy 4.4.10.

It is considered that the proposed subdivision with its mitigating measures is not contrary to the relevant objectives and policies of the Operative District Plan.

## 7. Consent Duration, Review and Lapse

A term for a subdivision consent is unlimited. However, a 5 year lapse period is consistent with Section 125 of the RMA.

The applicant intends to begin subdividing the site as soon as the necessary authorisations have been secured (subject to granting). However, it is not uncommon for projects of this nature to experience some level of delay outside of a consent holders' control. As such, a 5-year lapse period would be appropriate with regards to any resulting subdivision consent. This is a standard lapse period as outlined in Section 125(1)(a) of the RMA.

Council may review any consent in accordance with Sections 128 and 129 of the RMA.

## 8. CONCLUSION

A decision to grant the resource consent application(s) under Section 104B is recommended on the basis that:

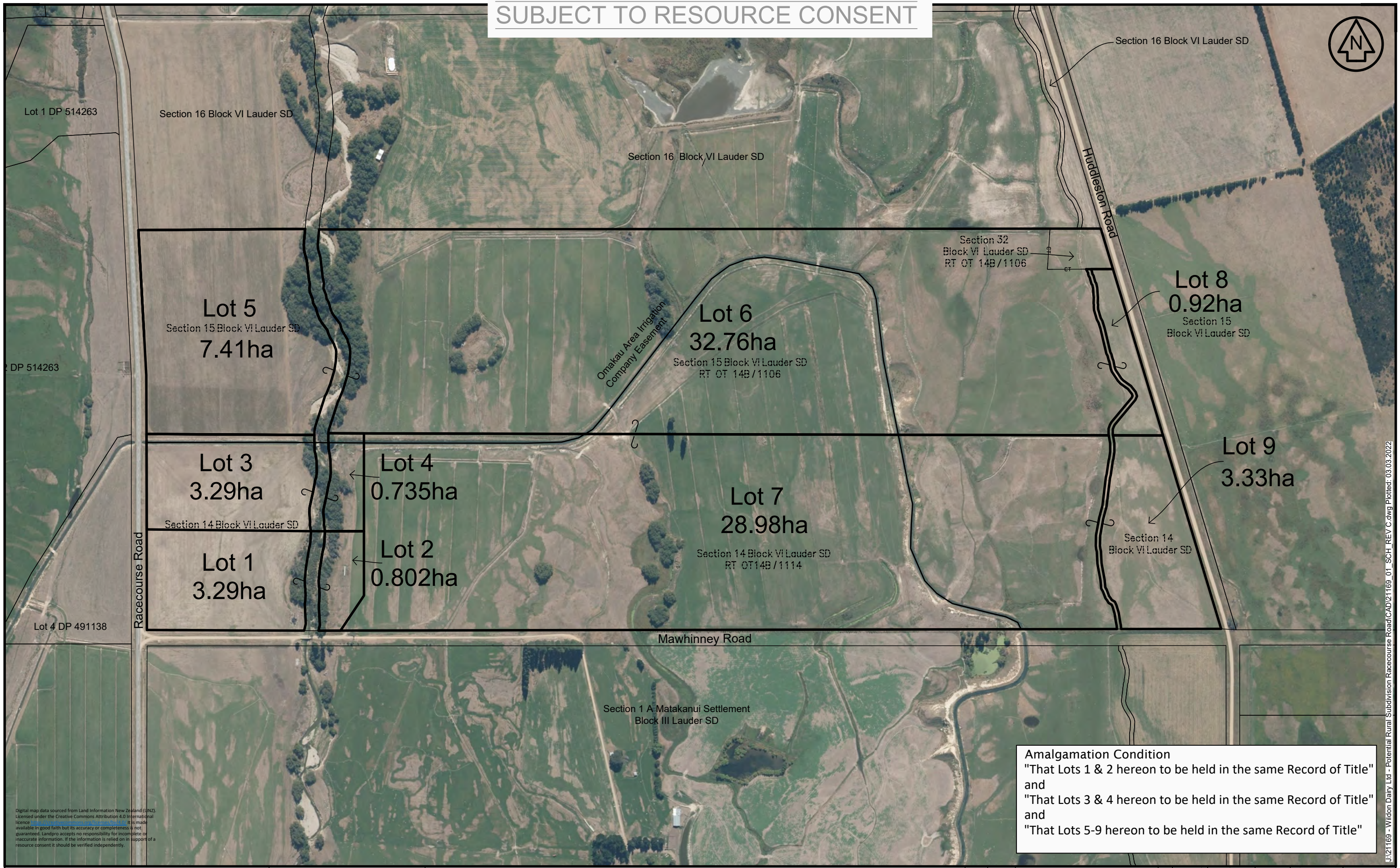
- a) the adverse effects on the environment are likely to have a very low effect;
- b) The proposal is consistent with the requirements of the RMA, relevant district plan objectives and policies and other relevant matters.

Granting the resource consent application(s) will be consistent with the purpose of the RMA for the reasons explained within this report. The proposed activities are highly unlikely to result in adverse effects and any potential adverse effects will be avoided or mitigated as far as practicable.

## **Appendix A: Record of Title**



**SUBJECT TO RESOURCE CONSENT**



**Amalgamation Condition**  
 "That Lots 1 & 2 hereon to be held in the same Record of Title"  
 and  
 "That Lots 3 & 4 hereon to be held in the same Record of Title"  
 and  
 "That Lots 5-9 hereon to be held in the same Record of Title"

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Client  
**WILDON DAIRY LTD**

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**PROPOSED SUBDIVISION OF SECTIONS 14,15 AND 32  
 BLOCK VI LAUDER SD**

Rev.	Date	Revision Details	By	Surveyed	Signed	Date	Job No.	Drawing No.
A	7.10.21	lots rearranged, amalgamation condition chngd	SLB				21169	01 (2)
B	28.10.21	Section 16 lots removed from the subdivision	SLB	Drawn	Signed	Date	Scale	
C	17.2.22	2 small lots added	SLB			10.9.21	1:2500.000 @ A1 0.200000 @ A3	
				Designed	Signed	Date	Datum & Level	Rev.
							LP2000	C

LV21169 - Wildon Dairy Ltd - Potential Rural Subdivision Racecourse Road CAD\21169\_01\_SCH\_REV\_C.dwg Plotted: 03.03.2022



## Appendix B: Scheme Plan

# GRIP TITLE INFORMATION PREVIEW

## Freehold

**Identifier** OT14B/1106  
**Land Registration District** Otago  
**Date Issued** 16 April 1992

**Prior References**

[OT6B/988](#)

**Estate** Fee Simple  
**Area:** 41.0276 hectares more or less  
**Legal Description** Section 15 and Section 32 Block VI Lauder  
 Survey District

**Registered Owners**

Wildon Dairy Limited

**Interests**

Subject to Part IV A Conservation Act 1987

Subject to Section 11 Crown Minerals Act 1991

885727 Transfer creating the following easements in gross - 30.6.1995 at 12:17 pm

Type	Servient Tenement	Easement Area	Grantee	Statutory Restriction
Irrigation Works	Section 15 and Section 32 Block VI Lauder Survey District - herein	Black line Transfer 885727	The Omakau Area Irrigation Company Limited	

9825541.3 Mortgage to ASB Bank Limited - 1.9.2014 at 4:16 pm

*Disclaimer: This preview provides an indication of the likely content of Record of Title OT14B/1106, it is not a substitute for an authoritative Record of Title. For an authoritative Record of Title of OT14B/1106 please contact Land Information New Zealand. This content of this preview has been generated using data sourced from LINZ Data Service on 04/03/2022.*



# GRIP TITLE INFORMATION PREVIEW

## Freehold

**Identifier** OT14B/1114  
**Land Registration District** Otago  
**Date Issued** 16 April 1992

**Prior References**

[OT6B/962](#)

**Estate** Fee Simple  
**Area:** 40.4332 hectares more or less  
**Legal Description** Section 14 Block VI Lauder Survey District

**Registered Owners**

Wildon Dairy Limited

**Interests**

Subject to Part IV A Conservation Act 1987

Subject to Section 11 Crown Minerals Act 1991

885727 Transfer creating the following easements in gross - 30.6.1995 at 12.17 pm

Type	Servient Tenement	Easement Area	Grantee	Statutory Restriction
Irrigation works	Section 14 Block VI Lauder Survey District - herein	Black line Transfer 885727	Omakau Area Irrigation Company Limited	

9825541.3 Mortgage to ASB Bank Limited - 1.9.2014 at 4:16 pm

11444824.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 by Central Otago District Council - 21.5.2019 at 12:22 pm

*Disclaimer: This preview provides an indication of the likely content of Record of Title OT14B/1114, it is not a substitute for an authoritative Record of Title. For an authoritative Record of Title of OT14B/1114 please contact Land Information New Zealand. This content of this preview has been generated using data sourced from LINZ Data Service on 04/03/2022.*



**SUBJECT TO RESOURCE CONSENT**



**Amalgamation Condition**  
 "That Lots 3-7 hereon to be held in the same Record of Title"

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 inaccurate information. If the information is relied on in support of a  
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Client  
**WILDON DAIRY LTD**

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A	7.10.21	lots rearranged, amalgamation condition chngd	SLB				21169	01 (2)
B	28.10.21	Section 16 lots removed from the subdivision	SLB	Drawn	Signed	Date	Scale	1:2500.000 @ A1
C	17.2.22	2 small lots added	SLB			10.9.21		1:5000 @ A3
D	17.7.22	Lot 4 leg in added and access	SLB	SLB				
E	30.8.22	LOTS 2 & 4 REMOVED, LOTS RE NAMED	SLB	Designed	Signed	Date	Datum & Level	Rev.
							LP2000	E



## Engineering Advice

RC220173

Wildon Dairy Limited

Racecourse Road, Omakau

9 Lot subdivision to create three records of title from two existing titles in Rural Area.

## General

Commentary:

The subdivision is proposed to result in three titles; one an unserviced rural farm-land title composed of proposed Lots 5 to 9, one a rural residential title composed of Lots 1 and 2, and a second rural residential title composed of Lots 3 and 4.

Conditions:

All works shall be in accordance with NZS 4404:2004 and Council's July 2008 Addendum as modified by this consideration.

As-builts and quality records shall be provided as a requirement of 224c certification and shall comply with Council's "Specifications for as-built Documentation". All assets constructed for the Central Otago District Council or intended to be vested in the Council, should be shown on electronic plan (CAD) drawings in AutoCAD \*.dwg or \*.dxf format, and in PDF format.

A suitably worded consent notice shall be registered against the title of the property to consists of Lots 5 to 9 notifying the owner and future owners that the property is unserviced for water, wastewater, firefighting, power, and telecommunications

## Water

Commentary:

It is proposed that potable water for the two titles each composed of Lots 1 and 2, and Lots 3 and 4, receive potable water from a shared bore to be located on either of Lots 1 or 3.

It shall be demonstrated prior to the granting of the consent by a suitably qualified person that the proposed bore will be able to adequately supply water to the properties.

Conditions:

An adequate network water supply shall be provided to each of the two titles consisting of Lots 1 and 2, and Lots 3 and 4, in accordance with Council's Addendum, Clause 6.3.15 Small Rural Water Supplies and other relevant provisions of NZS 4404:2004 and Council's July 2008 Addendum, with the following specific requirements:

a) Necessary easements in place for pipework and access to water source.

- b) Source water to be sampled and tested by a testing laboratory recognised by the Taumata Arowai with bacteriological and chemical testing to the satisfaction of the Executive Manager of Infrastructure Services.
- c) Any non-compliance with Maximum Allowable Values (MAVs) and Guideline Values (GVs) under Drinking Water Standards for New Zealand 2005 (revised 2018) shall be highlighted in the Laboratory Report and an appropriate means of remedial treatment described and installed at the time of building, to be subject to a consent notice.
- d) A formal water supply document describing water entitlement to each property of at least 1000 litres/day.
- e) As-builts of the reticulation layout and description of the subdivision water system, including the property connections, boundary meters/valves, and backflow preventers.
- f) Install standard water connection each property including a standard valve, meter/restrictor assembly, and backflow preventer. While these can be anywhere within the property the bore is to be located on, they must be at the boundary of the property the bore is not located on.

Advice note: As the potable water supply will be a network supply, the supplier should be aware of the requirements of, and their obligations under, the Water Services Act 2021.

## Firefighting

Conditions:

The following shall be registered by consent notice to the title of Lots 1 and 2, and to the title of Lots 3 and 4:

At the time residential activity is constructed minimum domestic water and firefighting storage is to be provided by;

- a) A standard 30,000 litre tank. Of this total capacity, a minimum of 20,000 litres shall be maintained at all times as a static firefighting reserve. Alternatively an 11,000 litre firefighting reserve is to be made available to the building in association with a domestic sprinkler system installed in the building to an approved standard. A firefighting connection is to be located within 90 metres of any proposed building on the site.
- b) In order to ensure that connections are compatible with Fire and Emergency New Zealand (FENZ) equipment the fittings are to comply with the following standards:
  - i. Either: For flooded sources, a 70 mm Instantaneous Couplings (Female) NZS 4505 or, for suction sources, a 100 mm and 140 mm Suction Coupling (Female) NZS 4505 (hose tail is to be the same diameter as the threaded coupling e.g. 100 mm coupling has 100 mm hose tail), provided that the consent holder shall provide written approval of Fire and Emergency New Zealand to confirm that the couplings are appropriate for firefighting purposes.

- ii. All connections shall be capable of providing a flow rate of 25 litres per second at the connection point
- iii. The connection shall have a hardstand area adjacent to it to allow a Fire and Emergency New Zealand appliance to park on it. The hardstand area shall be located at the centre of a clear working space with a minimum width of 4.5 metres. Access shall be maintained at all times to the hardstand area.
- iv. Underground tanks or tanks that are partially buried (provided the tank is no more than 1 metre above ground) may be accessed by an opening in the top of the tank, removing the need for couplings.

Note: For more information on how to comply with this Condition or on how to provide for FENZ operational requirements refer to the Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008. In particular, the following should be noted:

For more information on suction sources see Appendix B, SNZ PAS 4509:2008, Section B2. For more information on flooded sources see Appendix B, SNZ PAS 4509:2008, Section B3.

- c) Firefighting water supply may be provided by means other than that provided for in a) if the written approval of the Fire and Emergency New Zealand is obtained for the alternative method.
- d) Any new water tanks shall be coloured dark green, dark grey, or dark brown, and located in such a manner as to ensure it is not visible against the skyline when viewed from any public place.

## Wastewater

Conditions:

Prior to 224c certification, a report shall be provided by a suitably qualified professional verifying that wastewater disposal can be achieved within the boundary of each of the two titles composed of Lots 1 and 2, and Lots 3 and 4, in compliance with Clause 5.5 a) of Council's Addendum July2008 to NZS4404:2004 (note compliance with 2012 version of AS/NZS1547 required).

A consent notice shall be attached to each of the two titles composed of Lots 1 and 2, and Lots 3 and 4, requiring the design and installation of an on-site wastewater disposal system, in compliance with Clause 5.5 b) - e) of Council's Addendum July2008 to NZS4404:2004 (note compliance with 2012 version of AS/NZS1547 required), at the time of building a new dwelling.

## Stormwater

Conditions:

Stormwater from impervious surfaces within each of the two titles each composed of Lots 1 and 2, and Lots 3 and 4, shall be disposed of by soak-pit within each lot. This requirement shall be secured by means of a consent notice attached to the new titles.

## Access

### Commentary:

As per discussion with Council Planner Stephanie Dwyer, access is required to be to each title, rather than each Lot.

I note that the minimum distance from an intersection to a vehicle entranceway in this Rural context is 30m therefore the existing crossing from the Racecourse Road / Mawhinney Road intersection to proposed Lot 1 is not compliant with the requirements of Part 29 of Council's Roding Policies, January 2015. If safety is not considered to be compromised then the location may be approved subject to review from a Council Engineer.

Although formal access to Lot 4 is not required, given that it will be on one side of a river the applicant may wish to provision it specifically with access. This is best achieved by a), but b) is the alternative. These should be discussed with the applicant and imposed as Consent Conditions as necessary, subject to suitable wording.

a) Lot 4 is configured during survey/subdivision with an access strip such that it has street frontage to Mawhinney Road. A new vehicle entranceway from Mawhinney Road to proposed Lot 4 shall then be constructed in accordance with the requirements of Part 29 of Council's Roding Policies, January 2015.

b) If Lot 4 gains access via a ROW over Lot 2 then it shall be constructed in accordance with Addendum Table 3.2 a) ROW classification and Council's Standards for Gravel Roads as modified below:

- 4.5m top width carriageway
- Subgrade >CBR of 7
- Durable well-bound wearing course to be constructed over pit-run base to provide all-weather traction and prevent surface unravelling.
- Shallow trafficable side-drains / water channels over level sections.
- Rock armouring of side channels over steeper sections.
- Stormwater discharging to soakpits within the ROW or to natural water courses.
- Entranceways to Lots 2 and 4 shall be provided off the ROW in compliance with Part 29 of Council's Roding Policies January 2015.

I note that I have written b) assuming that it will use the existing vehicle entranceway from Mawhinney Road. If it would use a new vehicle entranceway from Mawhinney Road then that will have to be constructed prior to 224c in accordance with the requirements of Part 29 of Council's Roding Policies, January 2015.

### Conditions:

Prior to 224c certification, the existing vehicle entranceway from Racecourse Road to serve the title to consist of Lots 1 and 2 shall be demonstrated to comply with the requirements of Part 29 of Council's Roding Policies, January 2015, or a new vehicle entranceway shall be constructed to these requirements.



Prior to 224c certification, the existing vehicle entranceway from Mawhinney Road to Lot 2 shall be demonstrated to comply with, or upgraded to meet, the requirements of Part 29 of Council's Roading Policies, January 2015, or the vehicle entranceway shall be removed and reinstated to match the adjoining grass berm.

Prior to 224c certification, the existing vehicle entranceway from Racecourse Road to serve the title to consist of Lots 3 and 4 shall be upgraded in accordance with the requirements of Part 29 of Council's Roading Policies, January 2015.

## Power and Telecommunications

Conditions:

Prior to 224c certification, operational underground power and telecommunication connections shall be provided to the boundary of each of the two titles each composed of Lots 1 and 2, and Lots 3 and 4. Alternatively, telecommunications may be by wireless technology if desired by the applicant to be formalised by registration of the standard consent notice on the new title.

## Geotech

Commentary:

Proposed Lots 1 and 3 are reported by the ORC Hazards database to be in an inactive floodwater-dominated alluvial fan, and Lots 2 and 4 in active floodwater-dominated alluvial fan.

It may be appropriate to require by consent notice a Geotechnical report for any dwellings constructed on the two titles, or alternatively, a geotechnical report prior to 224c and any recommendations and conclusions registered to the two titles by consent notice.

Although no building platforms have been proposed, it is likely that any dwellings will be constructed on Lots 1 and 3; outside of the area of the more hazardous active floodwater-dominated alluvial fan.

Yours sincerely



Dominic Haanen  
Environmental Engineer



# LOCAL GOVERNMENT ACT 2002 AND RESOURCE MANAGEMENT ACT 1991 DEVELOPMENT/FINANCIAL CONTRIBUTION DEMAND

**Application Reference:** 220173

**Name:** Wildon Dairy Limited

**Site:** Racecourse Road, Omakau

**Description of proposal:** Subdivision creating nine rural lots under three titles from two existing titles in Rural Area.

This demand has been issued in accordance with Council's Policy on Development and Financial Contributions effective from 1 July 2021.

This demand is an indication of the amount payable by the Applicant should the consent proceed in its current form.

## Calculations

Note: A "Household unit equivalent" (HUE) means demand for Council services equivalent to that produced by a nominal household in a standard residential unit. Non-residential activities, such as industrial and commercial, can be converted into HUE's using land use differentials.

All calculation costs are quoted exclusive of GST

### 1. Water Supply

Asset Contributing Area	Development Contribution per HUE	Financial Contribution per HUE

*Calculation Notes:*

*Private water supply – not applicable.*

*Payment due = \$Nil*

## 2. Wastewater

Asset Contributing Area	Development Contribution per HUE	Financial Contribution per HUE

*Calculation Notes:*

*On site disposal – not applicable.*

*Payment due = \$Nil*

## 3. Reserves

Contributing Area	Development Contribution per HUE	Financial Contribution per HUE
<i>District Wide</i>		<i>\$1,034.78</i>

*Calculation Notes:*

*Credit of 2.0HUE for existing titles.*

$$\begin{aligned} \text{Contribution} &= (3.0\text{HUE proposed} - 2.0\text{HUE credit}) \times \$1,034.78 \\ &= \$1,034.78 \end{aligned}$$

*Payment due = \$1,034.78 +GST*

## 4. Roothing

Asset Contributing Area	Development Contribution per HUE	Financial Contribution per HUE
<i>District Wide</i>	<i>\$1,494.68</i>	

*Calculation Notes:*

*Credit of 2.0HUE for existing titles.*

$$\begin{aligned} \text{Contribution} &= (3.0\text{HUE proposed} - 2.0\text{HUE credit}) \times \$1,494.68 \\ &= \$1,494.68 \end{aligned}$$

*Payment due = \$1,494.68 +GST*

## Summary of payments due

Activity	Payment
Water Supply	\$Nil
Wastewater	\$Nil
Reserves	\$1,034.78 +GST
Roading	\$1,494.68 +GST
<b>Total</b>	<b>\$2,529.46 +GST</b>

## Payment

Development contributions must be paid by the due dates in the table below.

	Payment due date
<b>Building consent</b>	20 <sup>th</sup> of the month following the issue of the invoice
<b>Certificate of acceptance</b>	At issue of the certificate of acceptance
<b>Resource consent for subdivision</b>	Prior to release of the certificate under section 224(c) of the RMA
<b>Resource consent (other)</b>	20 <sup>th</sup> of the month following the issue of the invoice
<b>Service connection</b>	At issue of the connection approval

On time payment is important because, until the development contributions have been paid in full, Council may:

- Prevent the commencement of a resource consent.
- Withhold a certificate under section 224(c) of the RMA.
- Withhold a code compliance certificate under section 95 of the Building Act 2004.
- Withhold a service connection to the development.
- Withhold a certificate of acceptance under section 99 of the Building Act 2004.

Where invoices remain unpaid beyond the payment terms set out in the Policy, Council will start debt collection proceedings, which may involve the use of a credit recovery agent. Council may also register the development contribution under the Land Transfer Act 2017, as a charge on the title of the land in respect of which the development contribution was required.

A development contribution may be generated when granting a resource consent, building consent or service connection and a financial contribution may be generated when granting a resource consent. Where one development requires different types of consent and these are processed concurrently, more than one invoice may be generated for the same contribution, however a contribution only needs to be paid once.

If on a subsequent application more detailed information reveals that a proposal will generate more demand than initially assessed a higher contribution may be required. If a payment has been made in the interim a further payment of the balance will be required.

## Address for Service

Invoices will be sent to the following address for service:

C/- Landpro - Brodie Costello  
13 Pinot Noir Drive  
Cromwell 9310

brodie@landpro.co.nz

If you have any queries or would like to discuss any aspect of this notice, please contact:

Dominic Haanen  
Environmental Engineer

Phone: 03 260 7751  
Email: dominic.haanen@codc.govt.nz

**From:** [Brodie Costello](#)  
**To:** [Engineering](#); [Chris Pearse-Smith](#)  
**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply  
**Date:** Thursday, 20 October 2022 3:03:26 pm  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[image003.jpg](#)  
[image004.jpg](#)  
[image005.jpg](#)  
[image006.jpg](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image013.jpg](#)  
[image014.jpg](#)  
[image015.png](#)

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Hi Dominic,

Appreciate that confirmation, thanks very much.

Chris – back over to you.

Thanks,  
Brodie.

---

**From:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Sent:** Thursday, 20 October 2022 2:58 pm  
**To:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>; Chris Pearse-Smith <[chrisp@4sight.co.nz](mailto:chrisp@4sight.co.nz)>  
**Subject:** FW: [#Landpro21169] RC220173 - query re. water supply

Good day!

Based on the attached bore logs, pumping records, and calculations, Engineering is satisfied that there is adequate potable water available on-site from either existing bores or groundwater which those bores access, for the proposed subdivision RC220173.

You did well to track these all down!

I'll save these to the Resource Consent file.

Yours sincerely,

	<b>DOMINIC HAANEN</b> <b>ENVIRONMENTAL ENGINEER</b> 1 Dunorling Street PO Box 122, Alexandra 9340 New Zealand	<b>p</b> +64 3 260 7751 <b>m</b> +64 22 008 6472 <b>e</b> <a href="mailto:Dominic.Haanen@codc.govt.nz">Dominic.Haanen@codc.govt.nz</a> <b>w</b> <a href="http://www.codc.govt.nz">www.codc.govt.nz</a>	<b>FOLLOW US ON</b> 	
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CODC supports flexible working arrangements, including working outside the office and sometimes at irregular hours. I may have sent this outside of your working hours and only anticipate a response during your working hours.

If you have received this email and any attachments to it in error, please take no action based on it, copy it or show it to anyone. Please advise the sender and delete your copy. Thank you.

---

**From:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>  
**Sent:** Monday, 17 October 2022 12:24 pm  
**To:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply

Hi Dominic,

After much searching, I've managed to get hold of the bore logs (attached) for the bores on the applicant's property from Ian Evans (CODC Water Services Manager), which appear to come from the report you mentioned. I've had one of our scientists take a look at the bore logs, and he has confirmed that there would be more than sufficient water available to supply two houses based on information within the logs (also attached).

I consider the attached (and the previously provided information) provides sufficient evidence that groundwater is available to supply the two proposed lots. Would be great if you could confirm that availability of water has been provided.

Thanks,  
Brodie.

---

**From:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Sent:** Wednesday, 31 August 2022 6:01 pm  
**To:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>



**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply

Good day, Brodie.

I've spoken to the Water Team.  
They've told me that there was a report written, and we could go searching for it.

They suggested that you ask around the various drilling companies. The implication was either that you could ask them for the report, or that you could find out a bit about water availability in that area of the aquifer.

They did comment that the drilling they had conducted was for very specific purposes, and what they found does not necessarily represent what may or may not be found nearby.

Yours sincerely,

?	<b>DOMINIC HAANEN</b> <b>ENVIRONMENTAL ENGINEER</b> 1 Dunorling Street PO Box 122, Alexandra 9340 New Zealand	<b>p</b> +64 3 260 7751 <b>m</b> +64 22 008 6472 <b>e</b> <a href="mailto:Dominic.Haanen@codc.govt.nz">Dominic.Haanen@codc.govt.nz</a> <b>w</b> <a href="http://www.codc.govt.nz">www.codc.govt.nz</a>	<b>FOLLOW US ON</b>	?
			  	

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**From:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>  
**Sent:** Wednesday, 31 August 2022 11:43 am  
**To:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Cc:** Chris Pearse-Smith <[chrisp@4sight.co.nz](mailto:chrisp@4sight.co.nz)>; Resource Consents <[Resource.Consents@codc.govt.nz](mailto:Resource.Consents@codc.govt.nz)>  
**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply

Hi Dominic,

Did you have any other thoughts on this? Did you get a chance to speak to the water team on the availability of groundwater in this area?

Thanks,  
Brodie.

---

**From:** Brodie Costello  
**Sent:** Thursday, 11 August 2022 11:06 AM  
**To:** 'Engineering' <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Cc:** Chris Pearse-Smith <[chrisp@4sight.co.nz](mailto:chrisp@4sight.co.nz)>; Resource Consents <[Resource.Consents@codc.govt.nz](mailto:Resource.Consents@codc.govt.nz)>  
**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply

Hi Dominic,

Thanks for the response.

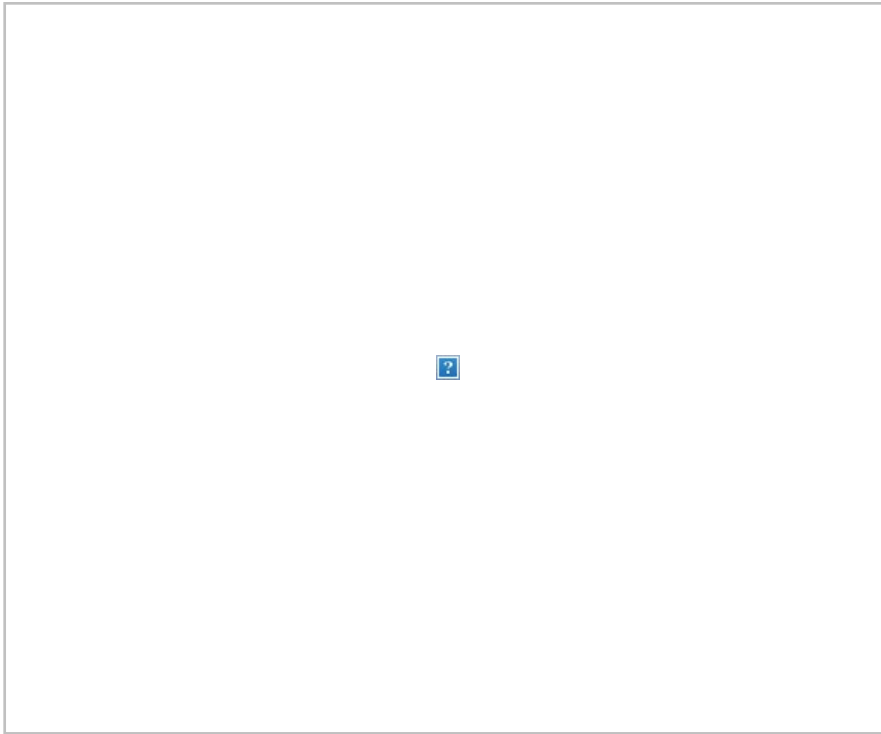
That's the total available for allocation by ORC, not the daily. Without going into too much detail, ORC have 22,494,520 m3 available for allocation from the Manuherikia Groundwater Management Zone, this number I believe being based on half of the mean annual recharge of the aquifer from rainwater/surface water. Domestic takes generally are a tiny fraction of water taken compared to groundwater takes for irrigation or community supplies.

The quote from the actual decision was:

*Alternatively, if no such connection is to be available in time then the applicant proposes that groundwater may be sourced from a bore and has provided information confirming that they should have no trouble sourcing water of suitable quality and supply from a new bore the site as a permitted activity under the Otago Water Plan.*

I only have the information second-hand, but I understand that Council intends on using the three bores to the east of Thompson Creek for the Omakau Water Supply (shown as CC14/105-107) below, and are confident enough in the availability of a secure groundwater water supply that they have discussed with the landowner (in this case the applicant) about purchasing the land. I've been using this as a basis that there is a reliable groundwater source available, and I would further note that there is a significant difference in terms of water required for two domestic dwellings vs a town supply. I'm not sure who at Council would be able to further confirm this (perhaps someone in the Three Waters team)?

Thanks,  
Brodie.



---

**From:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Sent:** Wednesday, 10 August 2022 10:19 AM  
**To:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>  
**Cc:** Chris Pearse-Smith <[chrisp@4sight.co.nz](mailto:chrisp@4sight.co.nz)>; Resource Consents <[Resource.Consents@codc.govt.nz](mailto:Resource.Consents@codc.govt.nz)>  
**Subject:** RE: [#Landpro21169] RC220173 - query re. water supply

Good day, Brodie.

I consider that the information you have provided is acceptable as an indication of water availability, although I have a few mostly-general comments:

Are you sure that's the correct number for the daily water allocation available from the Manuherikia Basin Aquifer? It seems a bit high to me, but groundwater geology is rather outside my area of expertise.

The quote from that consent (RC220210) appears to say that groundwater water had been demonstrated to be available prior to issue of resource consent. Confirmation of which exact source is to be used is less important than confirmation that there is a source available.

The Manuherikia Basin Aquifer is not the most consistent groundwater source. As you have said a bore was abandoned due to inadequate production for town supply purposes, and we know of another 3 metre deep source in the area that is currently dry.

While final confirmation and all the evidence of the water supply is required prior to 224c, a strong indication of availability of water is what we are generally requiring going forward. In aquifers like this one, stronger requirements are being considered.

I think I've rambled enough.  
Fare thee well!

Yours sincerely,



**DOMINIC HAANEN**  
**ENVIRONMENTAL ENGINEER**  
1 Dunorling Street  
PO Box 122, Alexandra 9340  
New Zealand

**p** +64 3 260 7751  
**m** +64 22 008 6472  
**e** [Dominic.Haanen@codc.govt.nz](mailto:Dominic.Haanen@codc.govt.nz)  
**w** [www.codc.govt.nz](http://www.codc.govt.nz)

**FOLLOW US ON**



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**From:** Brodie Costello <[Brodie@landpro.co.nz](mailto:Brodie@landpro.co.nz)>  
**Sent:** Tuesday, 9 August 2022 11:20 am  
**To:** Engineering <[Engineering@codc.govt.nz](mailto:Engineering@codc.govt.nz)>  
**Cc:** Chris Pearse-Smith <[chrisp@4sight.co.nz](mailto:chrisp@4sight.co.nz)>  
**Subject:** [#Landpro21169] RC220173 - query re. water supply

Hi Dominic and Ashleigh,

I'm emailing about RC220173, for a proposed subdivision up on Mawhinney/Racecourse Road north of Omakau. We are in the process of responding to questions that have come through from the consultant planner, particularly in terms of the water supply for

the subdivision. I understand that Council Engineering are taking a new approach to confirm that services can be provided prior to the consenting stage, rather than prior to 224c stage as has occurred in the past. The consultant planner has asked for “a report from a suitably qualified and experienced person demonstrating that there is groundwater available, rather than an assertion of likelihood of groundwater”.

For this site, we are confident that a suitable water supply is available, due to:

- The site being located in the Manuherikia Basin Aquifer, where bores for domestic use are common across the aquifer and there is available allocation (over 22.4M m<sup>3</sup>/day).
- Groundwater is accessible for access, with the depth to groundwater on a nearby bore being recorded as less than 3m deep.
- Groundwater can be drawn at an adequate rate, with nearby well (G41/1277) recording a pump rate of 813m<sup>3</sup>/day, which is well above the approximate 5 m<sup>2</sup>/day that would be required for domestic purposes for this subdivision (further to this, another nearby bore was decommissioned on the basis that the water flow was not enough for a new Omakau Town Supply. The hydrology of this aquifer makes commercial scale abstractions difficult, due to groundwater flowing slowly in this area).
- There being several nearby consents and bores drilled which provide information on the underling groundwater resource, as shown in the snapshot below (red lines indicate approximate subdivision area, existing groundwater consents are shown by red squares, constructed bores/wells being black circular shapes).

The applicant would also be able to seek an alternative water source via the adjacent surface water body (however this would be less desirable and more complex option). I also note that groundwater for domestic use can be taken as a permitted activity under the Otago Water Plan.

If further detail beyond the above is needed, can you confirm what exactly what information Council would be looking for and/or what kind of suitably qualified and experienced person would be required?

I do note that there is a recent precedence to allow for confirmation of water supply to be provided at the 224c stage rather than the consenting stage, as seen with the recent granted RC220210 (granted 5 August) for a subdivision in Ripponvale (an area which has a less reliable groundwater source than the Omakau area):

*“Alternatively, if no such connection is to be available in time then the applicant proposes that groundwater may be sourced from a bore and has provided information confirming that they should have no trouble sourcing water of suitable quality and supply from a new bore the site as a permitted activity under the Otago Water Plan.”*

Happy to discuss if you have any additional questions.

Thanks,

**Brodie Costello**

Planner



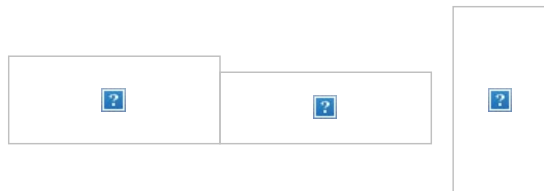
0800 023 318 | 027 279 3499

13 Pinot Noir Drive

Cromwell 9342 New Zealand

**New Plymouth | Cromwell | Gore**

**landpro.co.nz**



# SUBMISSION ON NOTIFIED APPLICATION CONCERNING RESOURCE CONSENT

1 Dunorling Street  
PO Box 122, Alexandra 9340  
New Zealand

(Form 13)

03 440 0056

Section 95A (public) Resource Management Act 1991

@codc.govt.nz  
w.codc.govt.nz



To: The Chief Executive  
Central Otago District Council  
PO Box 122  
Alexandra 9340  
[resource.consent@cfdc.govt.nz](mailto:resource.consent@cfdc.govt.nz)

## DETAILS OF SUBMITTER

Full name: OMAKAU AREA IRRIGATION CO LTD

Contact person (if applicable):  
JAN HANSON

Electronic address for service of submitter: janmanson@gmail.com

Telephone: 0272429947 cc: omakau.irrig.secretary@gmail.com

Postal address (or alternative method of service under section 352 of the Act):  
9/ SECRETARY, 3 KINNARO ST, ALEXANDRA.

This is a submission on the following resource consent application: RC No: **220173**

Applicant: **Wildon Dairy Limited** Valuation No: **2843124400**

Location of Site: **Racecourse Road, Omakau**

Brief Description of Application: **Subdivision for a 9 Lot subdivision to create three records of title.**

**Submissions close February 10 2023 4pm**

The specific parts of the application that my submission relates to are:  
(give details, attach on separate page if necessary)

WHOLE APPLICATION.

This submission is: (attach on separate page if necessary)

Include:

- whether you support or oppose the specific parts of the application or wish to have them amended; and
- the reasons for your views.

AS SUBMITTED WITH THIS FORM.

EXTRA INFORMATION PROVIDED:

885727 EASEMENT WINDON

I/We seek the following decision from the consent authority:  
(give precise details, including the general nature of any conditions sought)

GRANTING OF THE APPLICATION CONSENT  
SUBJECT TO THE CONDITIONS DETAILED IN  
THE SUBMISSION.

WE ~~do not~~ support/oppose the application OR ~~neither support or oppose~~ (select one)

WE ~~do not~~ wish to be heard in support of this submission (select one)

WE ~~am/am~~ <sup>are</sup> not\* a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (select one)

~~We~~ <sup>are</sup> ~~am/am~~ not (select one) directly affected by an effect of the subject matter of the submission that:

- adversely affects the environment; and
- does not relate to trade competition or the effects of trade competition.


\*Delete this paragraph if you are not a trade competitor.

~~We~~ will consider presenting a joint case if others make a similar submission

\*Delete this paragraph if not applicable.



WE ~~request~~ request/do not request (select one), pursuant to section 100A of the Act, that you delegate your functions, powers, and duties to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority. "See note 4 below as you may incur costs relating to this request."

  
\_\_\_\_\_  
**Signature**  
(to be signed by submitter or person authorised to sign on behalf of submitter)

10/02/2023  
\_\_\_\_\_  
**Date**

In lodging this submission, I understand that my submission, including contact details, are considered public information, and will be made available and published as part of this process.

### Notes to submitter

1. If you are making a submission to the Environmental Protection Authority, you should use form 16B.

The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given. If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.

2. You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.
3. If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.
4. If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you will be liable to meet the additional costs of the hearings commissioner or commissioners, compared to our hearing panel. Typically these costs range from \$3,000 - \$10,000.
5. Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):
  - it is frivolous or vexatious;
  - it discloses no reasonable or relevant case;
  - it would be an abuse of the hearing process to allow the submission (or the part) to be taken further;
  - it contains offensive language:

it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.



Omakau Area Irrigation Co Ltd understands the proposal is for a 7 Lot subdivision creating 3 titles. Two titles are intended for sale, the subsequent 5 lots are to be amalgamated onto one title and will remain rural bare land blocks to be retained in the foreseeable future as farmland by the current owner.

OAIC Ltd directors have informally discussed potential issues arising from the proposal with the applicant prior to this submission and there is a general agreement of the conditions required to ensure that OAIC Ltd operations and the services it provides to their shareholders are protected in the future regardless of who owns the land.

A copy of the OAIC Ltd submission has been provided to the applicant and their acting consultant.

**Therefore, OAIC Ltd is in support of the consent application subject to the following conditions:**

**Lawful Access to the Main Race and discharge channel** – a black line Instrument (855727) is registered on Titles OT14B/1114 and OT14B/1106. This blackline instrument (attached) details that access to the Main water race and all other races and infrastructure is available across any parcel of land. It is expected that the instrument will pass down to any ‘daughter’ titles of these three titles and will apply to Lot 2 and the balance of lots to be contained in the one title. It is expected that this will occur as of right but has not been detailed explicitly in the resource consent application.

**Stock access to the main race** – OAIC Ltd shareholder water supply agreements require that individual landowners fence any Omakau Area Irrigation Company water race from stock access. It is important that the future owners of Lot 2, and potential future Lot owners of Lots 3 to 7 are aware of the fencing requirements regardless of their shareholder status. All races and irrigation infrastructure must remain fenced from stock and public access as a matter of public, livestock and small animal safety. Some sections of race may currently be fenced adequately for cattle exclusion however if a subsequent landowner runs a different class of stock the fencing must be upgraded for effective exclusion.

**Setback of land use activities in Easement corridor** – OAIC have a number of activity restrictions within their easement corridors which are communicated to landowners as a matter of course, for example tree planting by races and preserving digger access for race maintenance. Potential purchasers should be aware of these restricted activities.

**Reverse sensitivity.** The surrounding area comprises working sheep and beef and dairy farms, with noise and hazards associated with those. Also the nature and operation of such a large irrigation scheme will be unfamiliar to most people, and we expect that prospective purchasers of Lot 1 and 2 or any future prospective purchasers of the newly created Lots may have no understanding of the race infrastructure. The proposed reverse sensitivity condition, by the applicant, should at a minimum outline the risks of the water races and associated infrastructure.

**Future Lot Sales** – any conditions attached to the current subdivision resource consent should apply to all the newly created Lots.

**Water supply** – The application is unclear if a domestic and a stock water allowance will be provided to the titles intended for resale.

**Water Volume (a general comment)** - Whilst the application has quoted from an ORC source that an ample allocation is available from the Manuherekia Groundwater Management Zone, it is a magnificent leap of faith to surmise that groundwater is available wherever a bore may be sited or at what depth.

Local knowledge of the area would detail that often a reliable groundwater supply for domestic purposes is not always guaranteed, and many well owners experience drying up of their wells as groundwater levels drop. Possibly the presence of groundwater may be a more of an outcome of 90 years of a particular irrigation method rather than a genuine, sustainable source of groundwater.

That the ORC have been developing a catchment hydrology model for the past four years (Technical Advisory Group, ORC), and the model is still not confirmed, undermines the reality of the suggested available groundwater volume and the complexity of the catchment hydrology. This 'available' groundwater figure also goes against the more commonly communicated ORC narrative that the catchment is grossly overallocated.

OAIC believes it is misleading and mischievous to include this in support of the application.

885727 TE

# Memorandum of Transfer

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~~(herein called "the Transferor") being registered as proprietor of an estate~~

subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in the piece or pieces of land situated in the Land District of ~~containing~~ ~~more or less being~~

INSTRUMENT OF TRANSFER OF EASEMENTS  
IN GROSS FOR IRRIGATION WORKS

1.0 BACKGROUND

- 1.1 The Omakau Area Irrigation Company Limited, a duly incorporated company having its registered office at Alexandra (called "the Irrigation Company") has purchased the Omakau Irrigation Scheme pursuant to a Sale and Purchase Agreement between MURRAY JOHN HECKLER , RICHARD JAMES MORGAN and THOMAS MATTHEW MORAN as agents for the Irrigation Company then yet to be incorporated and DAVID FRANCIS CAYGILL, Minister of Finance, and COLIN JAMES MOYLE , Minister of Agriculture, on behalf of the Crown, dated 23rd of August 1989 and subsequently adopted by the Irrigation Company as the Purchaser. The Omakau Irrigation Scheme (called "the Irrigation Scheme") is defined by notices in the New Zealand Gazette Order dated 11th January 1962 Number 1 Pages 4 and described in the said Sale and Purchase Agreement.
- 1.2 BEVAN WILLIAM WILSON of Omakau, Farmer and ROBYN ANNE WILSON of Omakau, Married Women as tenants in common in equal shares (called "the Landowner") are registered as proprietor of seven estates in fee simple as described below.

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
79.1762 ha	Section 68 Block III LAUDER SURVEY DISTRICT	13C/1171 (Otago land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:



Bevan  
RW  
RHW



1. Irrigation Agreement X 15377
  - \ 2 Mortgage 691973/1
- (called "the firstly described land")

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
\ 80.6567 ha	\ Sections 4A and 8A Matakanui Settlement Block III LAUDER SURVEY DISTRICT	14B/314 (Otago Land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. Irrigation Agreement X15005
2. Mortgage 691973/1
3. Land Improvement Agreement 714802


(called "the secondly described land").

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
\ 40.4686 ha	Section 15 Block III LAUDER DISTRICT	1C/1133 (Otago Land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. Irrigation Agreement X14271
- \ 2. Mortgage 691973/1
- \ 3. Land Improvement Agreement 714802

(called "the thirdly described land")


 B.W.  
 R.M.  
 C.S.



<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
\ 41.0276 ha	\ Sections 15 and 32 Block VI LAUDER SURVEY DISTRICT	\ 14B/1106 (Otago Land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. Irrigation Agreement X14389
2. Mortgage 691973/1

(called "the fourthly described land")

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
* <del>40.3674</del> ha 39.2764 ha 39.2764 ha	Part Section 28 Block VI LAUDER SURVEY DISTRICT	14B/999 (Otago Land Registry)


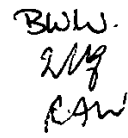

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. \ Mortgage 691973/1
2. \ Transfer 765937/6

(called "the fifthly described land")

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
\ 40.4281 ha	\ Section 16, Block VI LAUDER SURVEY DISTRICT	\ 14B/1107 (Otago Land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. Irrigation Agreement X14313
2. Mortgage 691973/1

(called "the sixthly described land")

<u>Area</u>	<u>Description</u>	<u>Title Reference</u>
40.4332 ha	Section 14 Block VI LAUDER SURVEY DISTRICT	14B/1114 (Otago Land Registry)

Subject to the easements, restrictions, covenants and conditions set out in the Certificate of Title and subject to:

1. Irrigation Agreement X 14389
2. Mortgage 691973/1
3. Land Improvement agreement 714802

(called the "seventhly described land")

(all the aforesaid land called "the Landowner's land")

- 1.3 The Minister of Agriculture (called "the Minister") had the right immediately before the date of sale of the Irrigation Scheme to the Irrigation Company, pursuant to Section 223 of the Public Works Act 1981 or the corresponding provisions of any former enactment relating to irrigation, to enter, use, occupy, carry out work on, store water on, or convey water over the Landowner's land and in the manner, detailed in this Instrument, for the purposes of the Irrigation Scheme.
- 1.4 Section 4 of the Irrigation Schemes Act 1990 provides the statutory mechanism to transfer from the Landowners to the Irrigation Company, the same easement rights as the Crown previously had over the Landowner's land, and the Landowner and the

BWW  
2014  
CSW

Irrigation Company have agreed to the transfer of these easement rights to the Irrigation Company.

## 2.0 GRANT OF EASEMENT

The Landowner TRANSFERS AND GRANTS to the Irrigation Company as an easement in gross forever, pursuant to Section 4 of the Irrigation Schemes Act 1990, the right to irrigation works over the said Landowner's land as marked "———" on the plans 053, 069, 066, 058, 065, and 067 annexed which right to irrigation works shall have attached to it the following rights, powers and obligations.

- 2.1 The Irrigation Company together with any person (as defined in Section 4 of the Acts Interpretation Act 1924) acting with the authority, or on the instructions, of the Irrigation Company and together with all tools, implements, machinery, vehicles, equipment and materials of whatsoever nature shall have the uninterrupted and unrestricted rights:
- (a) To convey water unimpeded along the stipulated course on the Landowner's land shown on the plans attached and for this purpose to have the right to use, occupy, construct, maintain, reconstruct and carry out such works (in this Instrument called "water works") as the Irrigation Company considers necessary or desirable on the Landowner's land along the stipulated course including, but without limitation, structures and works for; intakes, conveying water, water flow control and supply, turnouts, monitoring and discharges.
  - (b) To monitor and control its waterflows and the water source flows and to carry out viewing, surveillance and monitoring of its water works on the land.
  - (c) To enter the Landowner's land and to have access across the Landowner's land by the most practicable route.



B.W.  
R.B.  
R.W.



- (d) To generally do anything necessary or convenient for the full exercise of the rights under this Instrument and to give full effect to the purposes of this Instrument.



It being acknowledged that the words "convey water" and "conveying water" include "bye-wash water" and "bye-washing water".

2.2 In exercising its rights and powers under this Instrument, the Irrigation Company shall:

- (a) Cause as little disruption and disturbance to the occupation and enjoyment by the Landowner of the Landowner's land, as is reasonably possible.
- (b) Cause as little damage to the Landowner's land and improvements on it and the surface of it as is reasonably possible.
- (c) After exercising its rights and powers, restore the Landowner's land and improvements on it as nearly as is reasonably possible to its former condition but as shall be reasonable in the circumstances having regard to the economic and amenity values to the Landowner of the land and improvements affected.

2.3 (a) When the Irrigation Company requires entry with machinery on the Landowner's land to carry out maintenance or construction works, it shall where practicable or unless there is an emergency give to the Landowner or occupier of the land not less than 24 hours notice by ordinary letter or telephone prior to such entry and works being undertaken.

- (b) If the Landowner or occupier has received such notice the Landowner or occupier shall notify the Irrigation Company, prior to the entry and work being undertaken, of the presence of pipes or other underground facilities in the Landowner's land and if the Landowner or occupier fails to notify the Irrigation Company then the Irrigation Company will not be liable for any damage it may cause to such underground pipes or underground facilities.

 B.W.  
N.M.  
C.W. 

- 2.4 The Landowner shall not do, or permit to be done, anything, including planting trees or constructing works or buildings, which will prevent or interfere with the free passage of water along the stipulated course or prevent or interfere with the Irrigation Company's full rights of access and full use by it of its rights created by this Instrument and shall not interfere with or permit anything to interfere with, the support, structure or integrity of the Irrigation Company's water works. Without limiting the extent of this clause, the Landowner shall not plant trees or construct works or buildings within 2.5 metres from the centre line of the Irrigation Company's pipeline.
- 2.5 The rights and powers contained in paragraphs 2 and 5 of the Seventh Schedule to the Land Transfer Act 1952 shall apply except in so far as they are varied by this instrument and with the deletion from both paragraphs 2 and 5 of the words "(in common with the grantor, his tenants and any other person lawfully entitled so to do)".

DATED this *5<sup>th</sup>* day of *May* 199*4* 5

SIGNED by the OMAKAU AREA )  
IRRIGATION COMPANY LIMITED by )  
the affixing of its common seal in the )  
presence of: )



*[Handwritten signature]*  
.....  
Director

*[Handwritten signature]*  
.....  
Director



SIGNED by BEVAN WILLIAM ) *B.W. Wilson*  
WILSON and ROBYN ANNE )  
\WILSON as Landowner in ) *AW Wilson*  
the presence of: )

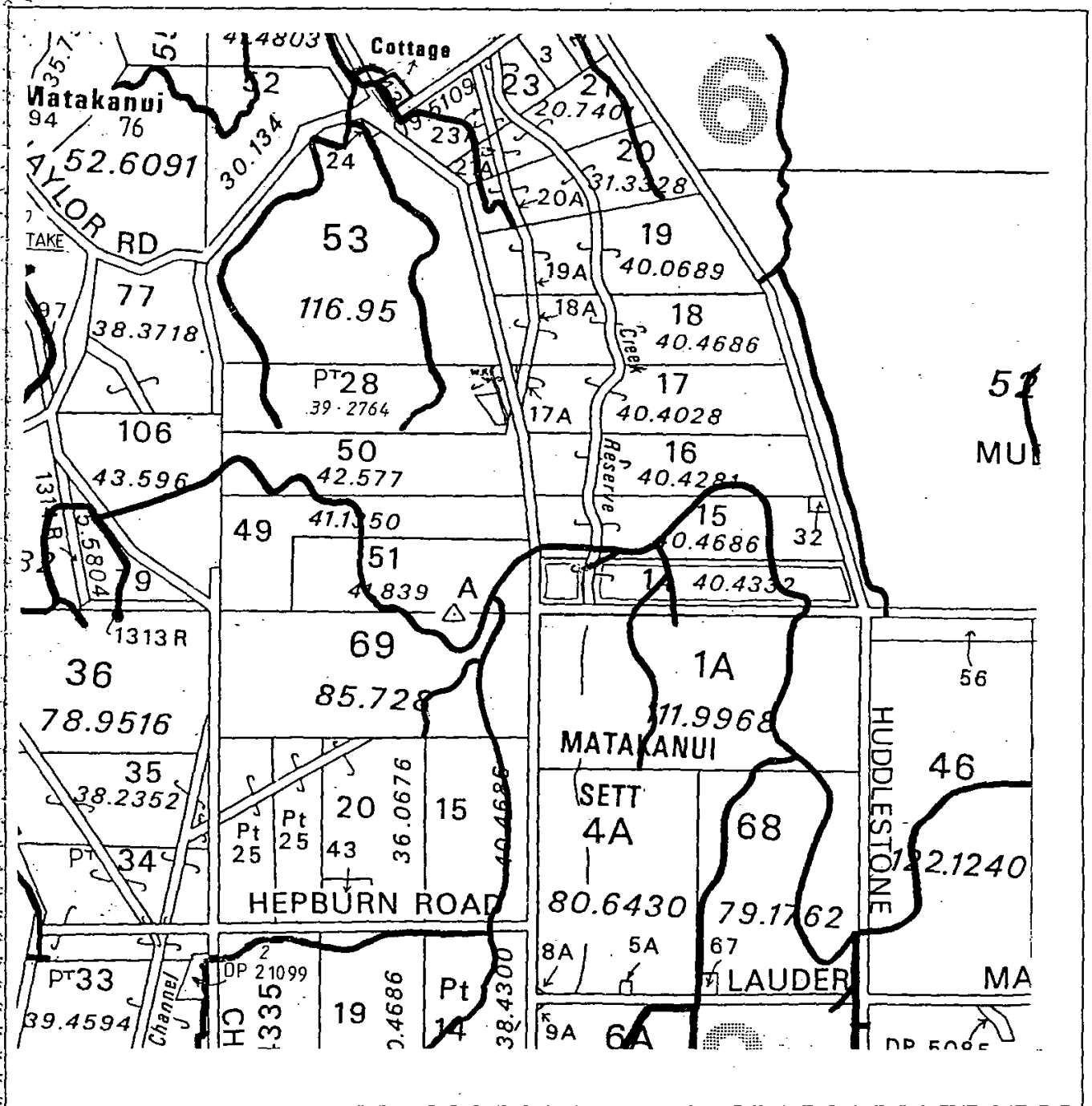
Witness *[Signature]* J.P.

Occupation *FARMER*

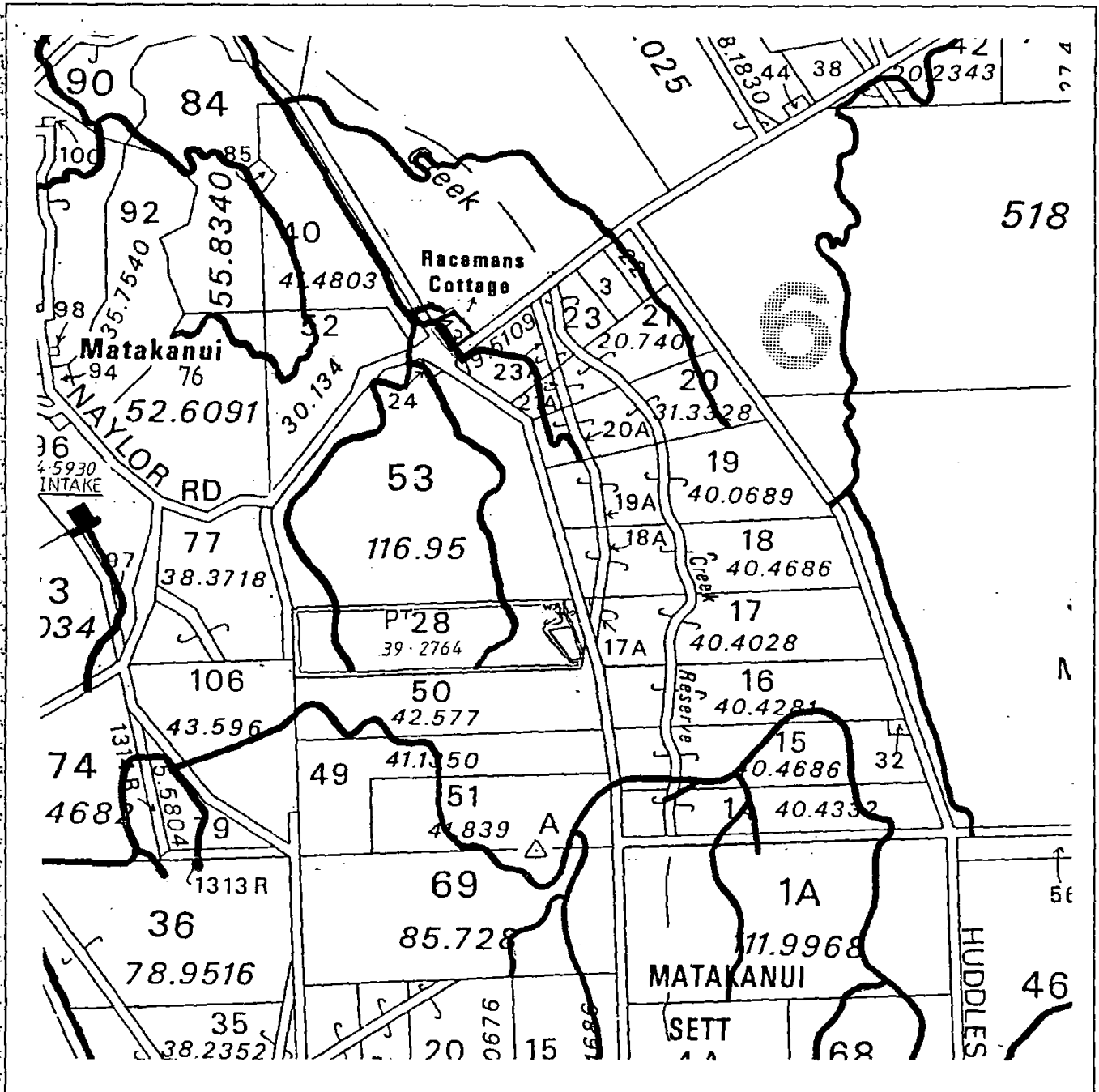
Address *OMAKAA R.D.*

kkd-1810

*[Handwritten mark]*



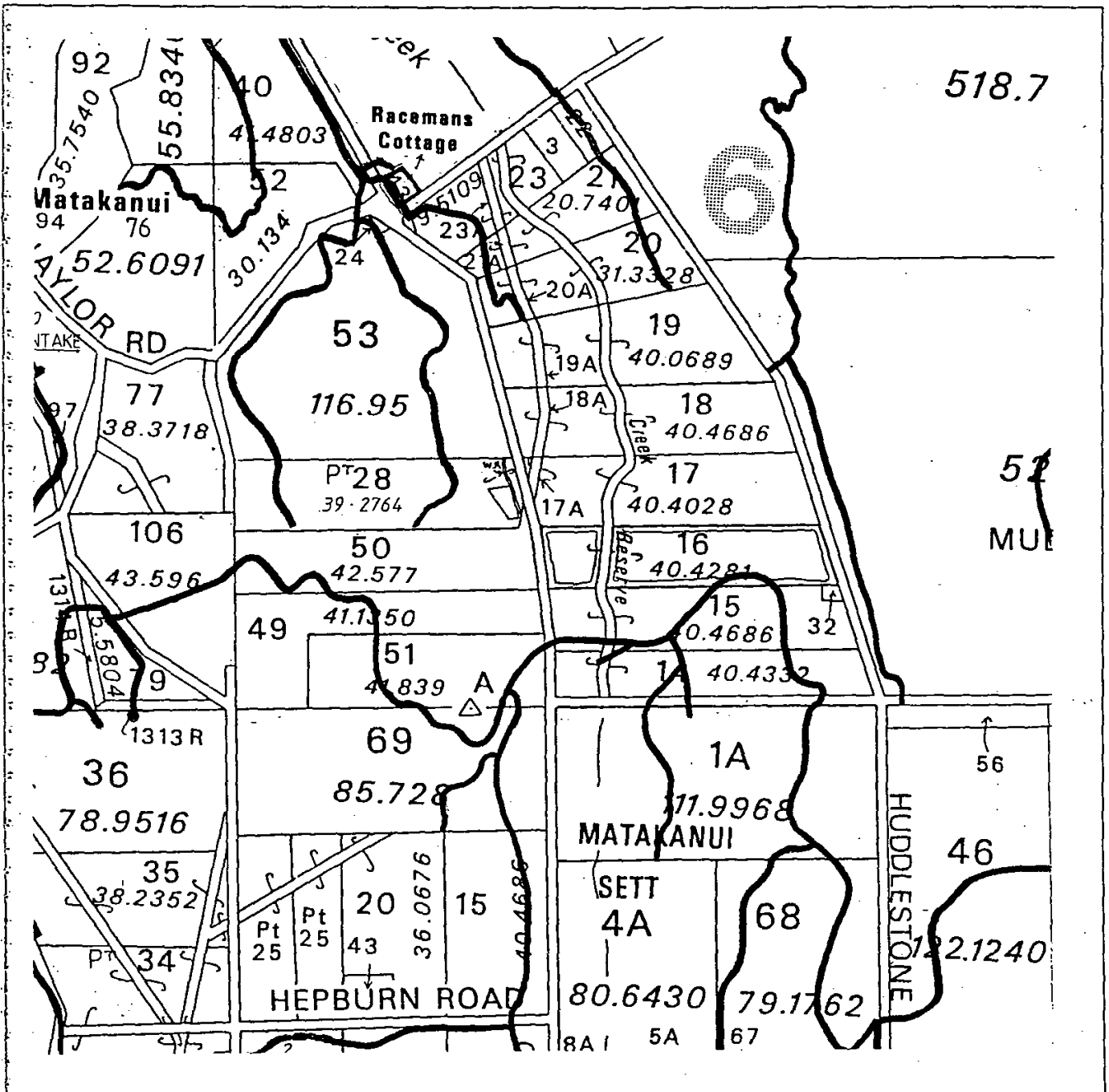
SERIAL NO. <b>067</b>			
<b>OPTIONAL EASEMENTS IN GROSS</b>			
TITLE / OWNERSHIP	PURPOSE	SERVIENT TENEMENT	GRANTEE
<del>RD 68/1962</del> CT 14B/1114 Landcorp Investments Ltd (lessor) BW & RA Wilson (lessee)  Shown	Irrigation Works   Shown	Sec 14 Blk VI Lauder S.D.   	Omakau Area Irrigation Company Limited
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL	SCALE 1:25 000 DATE 15-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION	



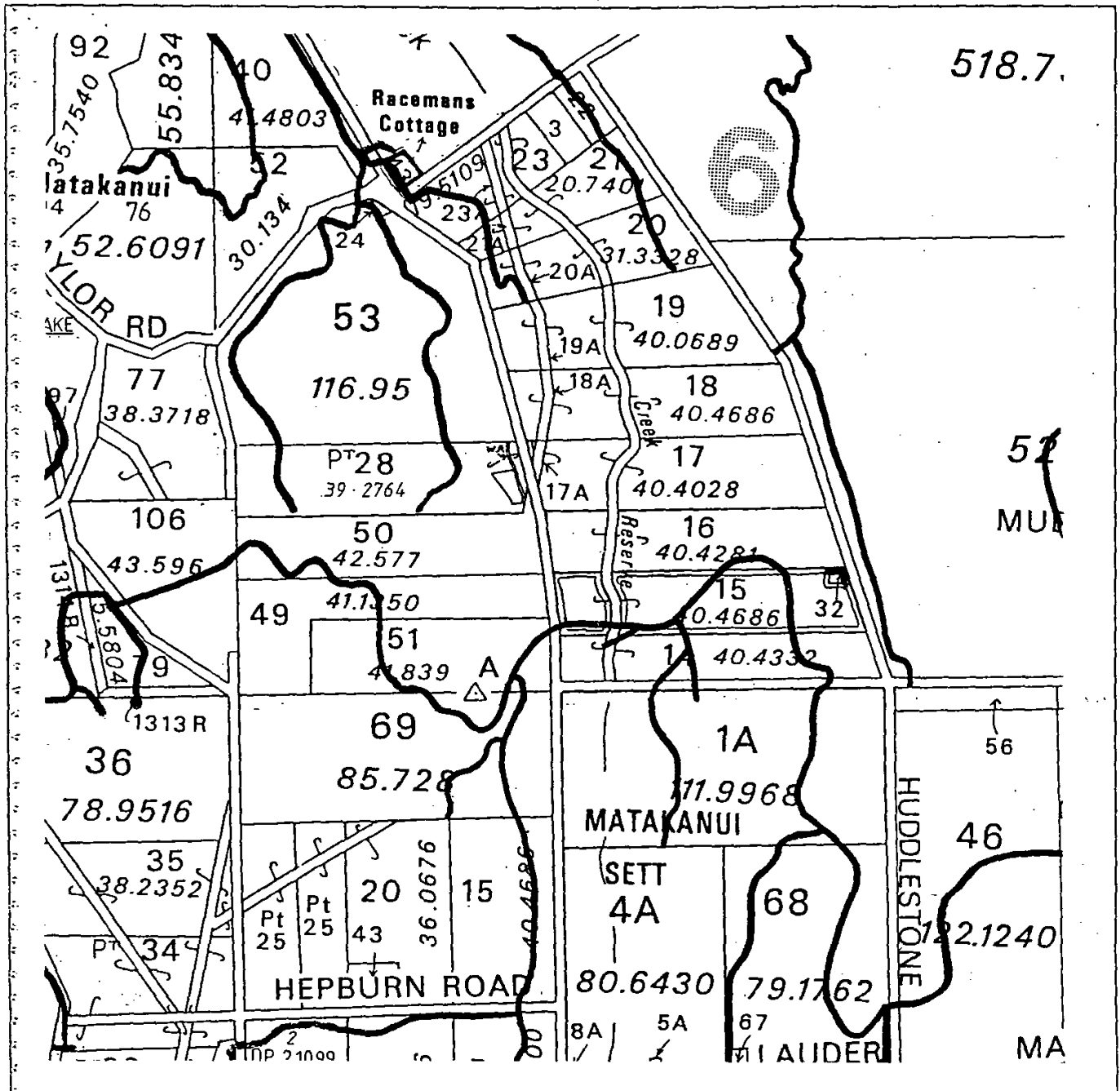
SERIAL NO. **058** **OPTIONAL EASEMENTS IN GROSS**

TITLE / OWNERSHIP	PURPOSE	SERVIENT TENEMENT	GRANTEE
<del>R.B. 68/1989</del> CT 148/999 <del>Landcorp Investments Ltd</del> <del>(Houses)</del> RA & BW Wilson <del>(Houses)</del>	Irrigation Works	Pt Sec 28 Blk VI Lauder S.D.	Omakau Area Irrigation Company Limited
Shown	Shown	  	

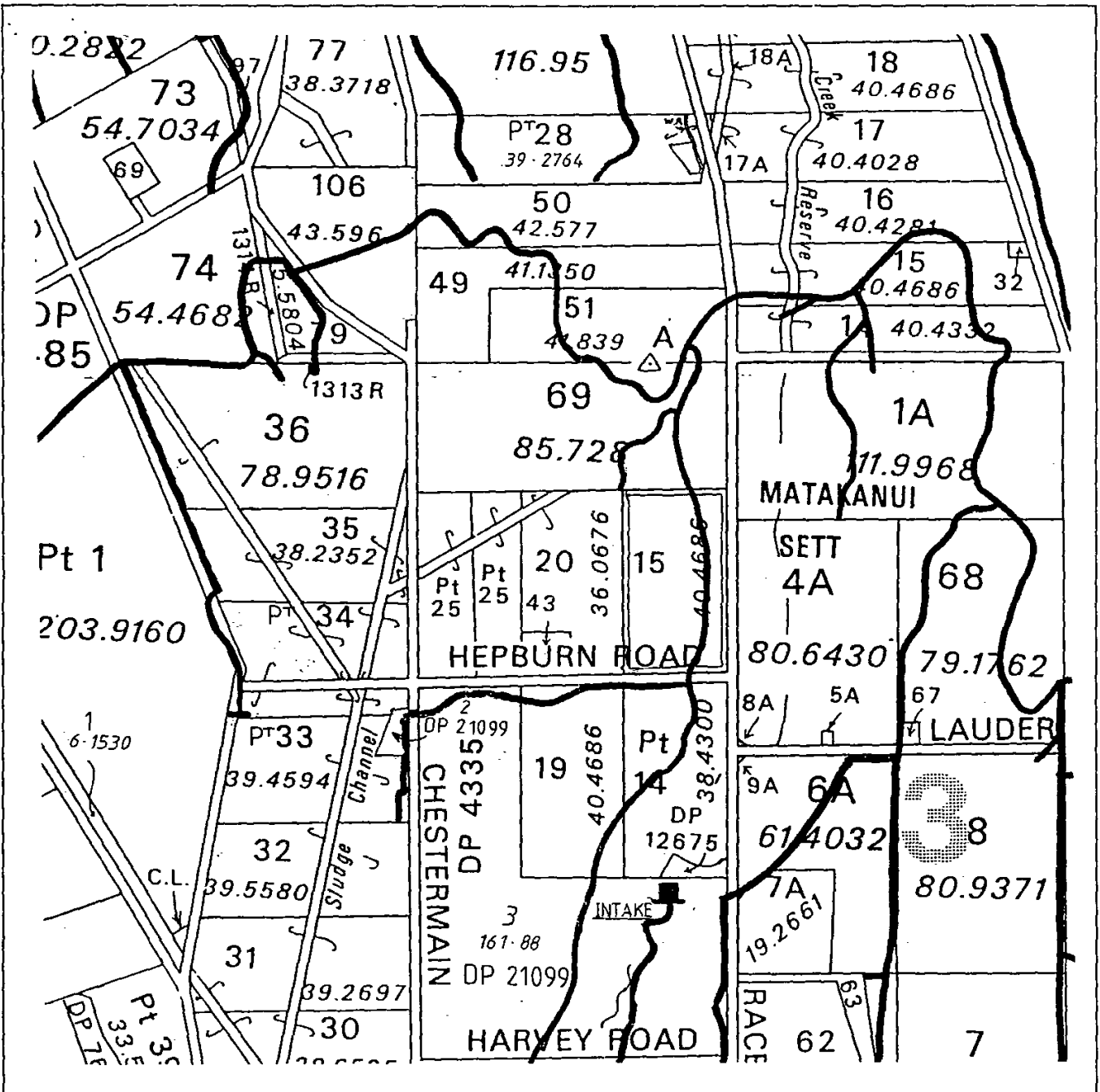
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL	SCALE 1:25 000 DATE 16-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION
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SERIAL NO. <b>065</b>	<b>OPTIONAL EASEMENTS IN GROSS</b>		
TITLE / OWNERSHIP	PURPOSE	SERVIENT TENEMENT	GRANTEE
<del>RB 6B/990</del> CT 14B/1107 <del>Landcorp Investments Ltd</del> BW & RA Wilson <del>Essort</del> Shown	Irrigation Works  Shown	Sec 16 Blk VI Lauder S.D.  	Omakau Area Irrigation Company Limited
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL	SCALE 1:25 000 DATE 15-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION	

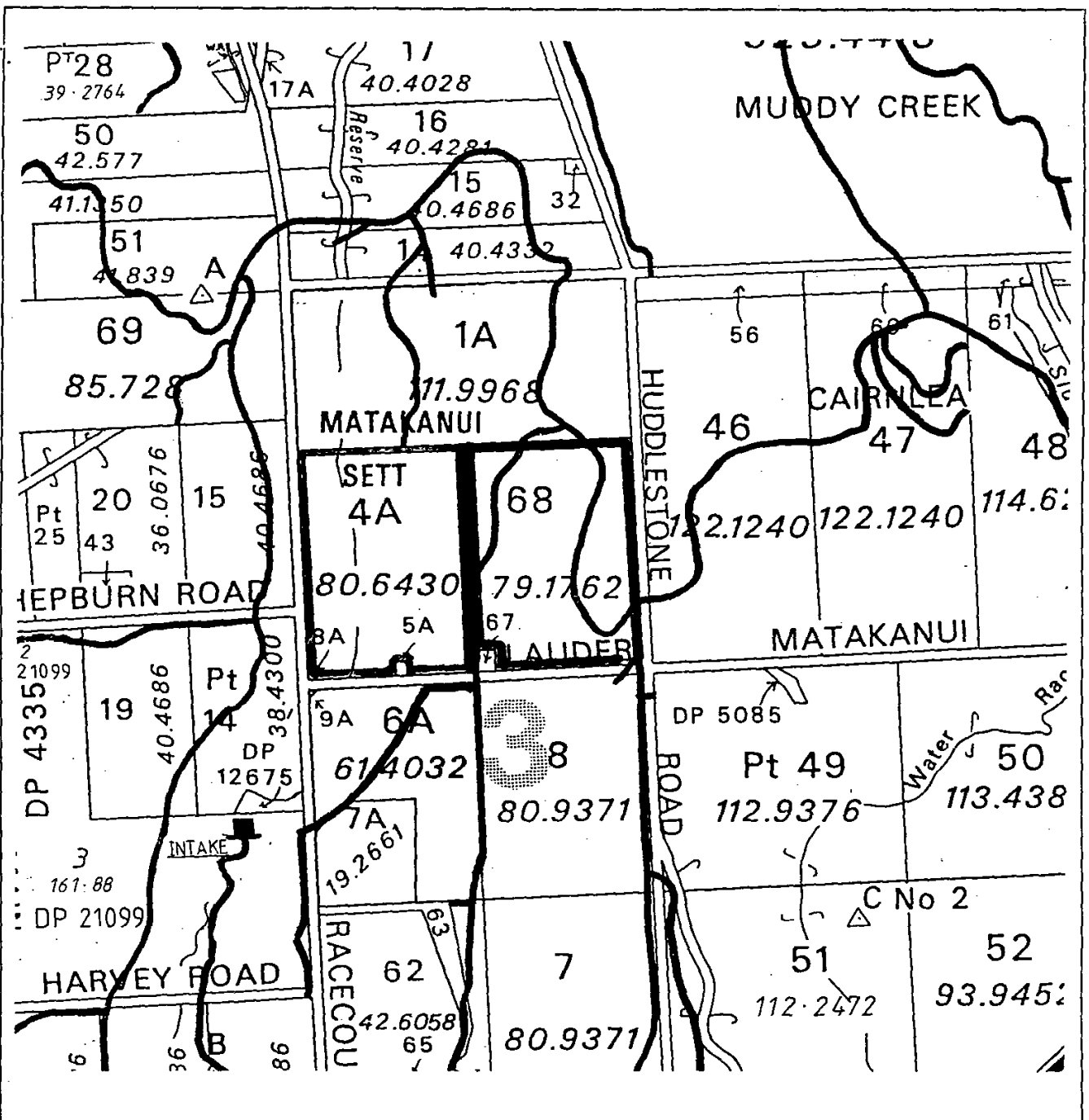


SERIAL NO. <b>066</b>	OPTIONAL EASEMENTS IN GROSS		
TITLE / OWNERSHIP	PURPOSE	SERVIENT TENEMENT	GRANTEE
<del>DB 68/1988</del> CT 14B/1106 Landcorp Investments Ltd (Lessor) BW & RA Wilson (Lessee)	Irrigation Works	Sec 15, Blk VI Lauder S.D. & Sec 32  <i>RAW</i> <i>RAW</i> <i>B.W.</i>	Omakau Area Irrigation Company Limited
Shown	Shown		
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL	SCALE 1:25 000 DATE 15-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION	



SERIAL NO <b>053</b>		OPTIONAL EASEMENTS IN GROSS	
TITLE / OWNERSHIP		PURPOSE	SERVIENT TENEMENT
CT 1C/1133 BW & RAWilson		Irrigation Works	Sec 15 Blk III Lauder S.D.
Shown		Shown	<i>B.W.W.</i>
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL		SCALE 1: 25 000 DATE 15-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION





SERIAL NO.		OPTIONAL EASEMENTS IN GROSS	
TITLE / OWNERSHIP	PURPOSE	SERVIENT TENEMENT	GRANTEE
CT 13C / 1171 BW & RA Wilson	Irrigation Works	Sec 68 Blk III Lauder S.D.	Omakau Area Irrigation Company Limited
CT 14B / 314 Shown	Shown	Secs 4A & 8A Matakanui Settlement Blk III Lauder S.D.	
OTAGO LAND DISTRICT CENTRAL OTAGO DISTRICT COUNCIL		SCALE 1:25 000 DATE 18-10-91	PREPARED BY DEPT. OF SURVEY & LAND INFORMATION

~~In Consideration of the sum of~~

paid to the Transferor by

(herein called "the Transferee") the receipt of which sum is hereby acknowledged **Hereby Transfers** to the Transferee all the Transferor's estate and interest in the said piece or pieces of land

**In witness whereof** these presents have been executed this                      day of                      19

**Signed** by the Transferor

(by the affixing of its common seal)

~~in the presence of~~

No.

**MEMORANDUM OF TRANSFER**  
EASEMENTS IN GROSS FOR IRRIGATION  
WORKS

OMAKAU AREA IRRIGATION  
COMPANY LIMITED ..... ~~Transferor~~

B.W. & R.A. WILSON ..... ~~Transferee~~

Particulars entered in the Register as shown herein on the  
date and at the time endorsed below.

Assistant / District Land Registrar of the

District of ..... OTAGO .....

Correct for the purposes of the Land Transfer Act 1952

SOLICITOR FOR THE TRANSFEEE

I hereby certify that this transaction does not contravene  
the provisions of Part IIA of the Land Settlement  
Promotion and Land Acquisition Act 1952.

SOLICITOR FOR THE TRANSFEEE

I hereby certify for the purposes of the Stamp and Cheque  
Duties Act 1971 that no conveyance duty is payable on  
this instrument by reason of the application of Section  
24(1) of the Act and that the provisions of subsection (2)  
of that section do not apply.

SOLICITOR FOR THE TRANSFEEE

12.17 30 JUN 95 885727  
PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY OF OTAGO  
ASST. LAND REGISTRAR  
13C/1171, 14B/731, 14B/925  
1C/1133, 14B/1100  
14B/999, 14B/1107  
14B/1114



CHECKETTS McKAY  
LAWYERS  
CENTRAL OTAGO

NEW ZEALAND DISTRICT LAW SOCIETY 1993 (2)

1082



25 January 2023



**Forest & Bird**

TE REO O TE TAIAO | *Giving Nature a Voice*

**To:** Planning Department  
Central Otago District Council (CODC)  
PO Box 122  
Alexandra 9340  
New Zealand  
resource.consent@codc.govt.nz  
cc: [brodie@landpro.co.nz](mailto:brodie@landpro.co.nz) (the applicant)

**From:** The Royal Forest and Bird Society of New Zealand (Forest & Bird)  
Ōtepoti/Dunedin Office  
PO Box 6230, Dunedin North  
Dunedin  
[c.mcgaw@forestandbird.org.nz](mailto:c.mcgaw@forestandbird.org.nz)

## **Submission under Section 95A of the Resource Management Act - Consent application RC220173 – Wildon Dairy Ltd**

**Proposed activity:** Nine lot subdivision, to create three Records of Title within the Rural Resource Area.

**Location:** Section 14 Block VI Lauder SD on Record of Title (RT) OT14B/1114, and Section 15 Block VI Lauder SD on RT OT14B/1106. The subject site is located on Racecourse Road, Omakau. Huddleston Road runs along the eastern boundary of the properties, while Mawhinney Road is located to the south.

Forest & Bird's submission relates to the full application

- Forest & Bird opposes this application for the reasons set out below.
- Forest & Bird wishes to be heard in support of this submission. If others make a similar submission, Forest & Bird will consider presenting a joint case with them at the hearing.
- Forest & Bird could not gain an advantage in trade competition through this submission.



## FOREST & BIRD'S SUBMISSION:

### Introduction

1. The Royal Forest & Bird Protection Society of New Zealand Incorporated (Forest & Bird) is an independent community-based conservation organisation, established in 1923.
2. Forest & Bird's mission is to give nature a voice on land, in freshwater and in the sea, on behalf of more than 100,000 members, donors, supporters and volunteers.
3. Forest & Bird are active participants in many local, district and regional planning and consenting decisions relating to environmental management, biodiversity and climate change across Aotearoa New Zealand.
4. Forest & Bird's local Central Otago-Lakes Branch has an interest in how development is undertaken in the district, as well as actively carrying out community conservation projects on land owned by Forest & Bird, as well as publicly owned land.
5. While Forest & Bird is opposed to the application in its current form, it is not opposed to subdivision on the site in principle if an adequate assessment is undertaken and appropriate conditions are included on consent.

### Reasons for Opposition

6. Forest & Bird is concerned that the properties subject to this proposal (site) could contain significant indigenous vegetation and/or habitat, and that the proposal could result in adverse effects on these areas.
7. Forest & Bird's understanding is that alluvial landforms, including those that are being farmed, can support indigenous flora and fauna that meet criteria for significance.
8. It is Forest & Bird's understanding that the site has been modified by farming, however, even in highly modified landscapes there may be areas that retain values of significance that must be protected.
9. Changes in land use, such as those that are a result of subdivision, must be managed accordingly to protect significant indigenous vegetation and habitats.
10. As set out below, the Otago RPS requires protection of significant indigenous vegetation and habitats and this protection applies to any area meeting the criteria, it is not limited to only areas identified in a District Plan.
11. Subdivision applications can provide for this is by:
  - a. Assessing the site for significant indigenous vegetation and habitats;
  - b. Identifying where building platforms and accessways will be located to avoid any significant areas;
  - c. Reducing the number of properties if needed to better protect a significant area, such as by ensuring it is contained within one property to retain connectivity; and



- d. Other measures to ensure the protection of the significant area, such as fencing it off from domestic activities (i.e. so it is not part of the back yard where regular mowing and other domestic activities occur), fencing the area off from areas where land use change or other development is planned, or fencing it off from activities all together, depending on what is appropriate to achieve protection of the values of the significant area.
12. However, the application provides no assessment of whether significant indigenous vegetation and habitats that are not mapped in the District Plan exists on the site. The assessment of relevant planning provisions provided by the applicant fails to consider relevant provisions of the Otago RPS which are necessary for decision making subject to Part 2 of the Act, s104 of the RMA. Nor has the application included a plan of how development would occur, i.e. identification of building platforms and accessways. It is therefore unclear how much vegetation/habitat could be removed as a result of the subdivision and whether this would protect any significant indigenous vegetation and habitats and/or effects on the river located within the property.

## Statutory Assessment

13. While the applicant has considered the District Plan and Part 2 of the Act, there is no consideration of the Otago Regional Policy Statement (RPS). The District Plan does not fully give effect the partially operative Otago Regional Policy Statement 2019 (RPS 2019) or the proposed 2021 RPS Indigenous Biodiversity provisions, and therefore the RPS must be considered directly for this application (not the District Plan).
14. The RPS 2019 sets out provisions requiring the identification of significant indigenous vegetation and habitats (Policy 3.2.1) and Protection and enhancement of significant indigenous vegetation and habitats (Policy 3.2.2). Schedule 4 of the RPS 2019 sets out the Criteria for the identification of areas of significant indigenous vegetation and habitat of indigenous fauna.
15. Forest & Bird considers that application cannot be said to be consistent with Part 2 of the Resource Management Act (RMA) without undertaking an assessment which applies the RPS significance criteria and ensuring that activities as a result of the subdivision are consistent with protection of any significant areas identified.
16. Areas that retain values of significance must be protected and changes in land use such as those as a result of subdivision, must be managed accordingly. RPS 2019, Policy 3.2.2 sets relevant direction in this respect:

***RPS Policy 3.2.2 Managing significant indigenous vegetation and habitats***

*Protect and enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna, by all of the following:*

- a) *In the coastal environment...[not applicable]*





- b) Beyond the coastal environment, and in the coastal environment in significant areas not captured by above, maintaining those values that contribute to the area or habitat being significant;*
- c) Avoiding significant adverse effects on other values of the area or habitat;*
- d) Remedying when other adverse effects cannot be avoided;*
- e) Mitigating when other adverse effects cannot be avoided or remedied;*
- f) Encouraging enhancement of those areas and values that contribute to the area or habitat being significant;*
- g) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread.*

## Relief Sought

17. Forest & Bird seeks:

- a) That an assessment of the site is undertaken by a suitably qualified person to apply the significance criteria of the Regional Policy Statement (RPS) prior to any decision being made on this application.
- b) The provision of a site development map identifying any significant areas and setting out the locations for building platforms and accessways that avoid areas of significant indigenous vegetation and habitat (areas meeting the significance criteria of the RPS).
- c) That conditions are placed on the consent to limit building and access to the areas identified on the site development map.
- d) That conditions are placed on the consent to ensure fencing is used to protect areas of significant indigenous vegetation and habitat within one allotment where possible, and that new fencing does not dissect an area of significant indigenous vegetation and habitat.
- e) Any other conditions necessary to protect the values of significant indigenous vegetation and habitat identified on the site.

18. Forest & Bird seeks that the application is declined unless its concerns can be addressed, in which case the consent can be granted with conditions that protect any areas of significant indigenous vegetation and habitat.

Thank you for the opportunity to submit on this proposal. Forest & Bird would be happy to discuss these matters further should you wish to do so.

Ngā Mihinui





Chelsea McGaw - Regional Conservation Manager (RCM) Otago & Southland

The Royal Forest & Bird Society of New Zealand

PO Box 6230, Dunedin North, Dunedin 9059

[c.mcgaw@forestandbird.org.nz](mailto:c.mcgaw@forestandbird.org.nz)

027 279 2500

*and*

Central Otago-Lakes Forest & Bird Branch

