BEFORE THE COMMISSIONERS APPOINTED ON BEHALF OF CENTRAL OTAGO DISTRICT COUNCIL

Under	The Resource Management Act 1991 (the **Act**)
In the Matter	an application for subdivision and consents and boundary adjustment RC250259
Between	**AO MARAMA LIMITED** **Applicant**
And	**CENTRAL OTAGO DISTRICT COUNCIL** **Local Authority**

SUBMISSIONS OF COUNSEL ON BEHALF OF AO MARAMA LIMITED

DATED 15 SEPTEMBER 2026

GALLAWAY COOK ALLAN LAWYERS
Bridget Irving/Hannah Perkin
bridget.irving@gallawaycookallan.co.nz
hannah.perkin@gallawaycookallan.co.nz

PO Box 143
Dunedin 9054
Ph: (03) 477 7312
Fax: (03) 477 5564

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May it please the Panel:

1. This application is a unique proposition. The proposal seeks consent for an eight-lot subdivision at Hawley Road (**Site**) within the Rural Resource Area.[1] With 7 of the lots being utilised for residential activity and the balance Lot 1 being permanently protected through a QEII covenant (**Covenant**).

2. The activity is considered non-complying under the Central Otago District Plan (**Plan**) due to the proposal including three 0.5ha allotments, which is smaller than the minimum lot size provided for in Rule 4.7.5.iii of the Plan.

3. Despite this breach it is submitted that the proposal represents sustainable management and achieves the policy direction of the statutory documents. Whilst the manner in which this is achieved may be unorthodox – that is exactly what the resource consent process is for.

4. In our submissions, we address the following matters:

   (a) Statutory framework

   (b) Permitted baseline

   (c) Policy Statements

      (i) NPSIB

      (ii) NPSHPL

[1] Legal Description: Lot 1 DP 590633, held in Record of Title: 1160015.

(d) Central Otago District Plan

(e) Otago Regional Policy Statement

(f) Plan integrity

(g) Response to submitters

(h) Conditions

Statutory framework

Section 104D

5. As the application is for a non-complying activity it must pass through the section 104D gateway before the panel can consider whether consent can be granted under section 104.

6. The section 104D gateways are:

   (a) That adverse effects are no more than minor; or

   (b) The proposal is not contrary to the objectives and policies of the District Plan.

7. As described by the Courts in *Dye*, if the application passes through <u>either</u> gateway the panel then moves on to consider the matters referred to in section 104.[2]

No more than minor adverse effects

8. The Act does not define "minor," however what constitutes as "minor" has been well traversed in the courts.

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[2] *Dye v Auckland Regional Council* [2001] NZRMA 513 at [5].

9. The High Court in Queenstown Central Ltd v Queenstown Lakes District Council stated[3]:

> *"Regard to the scheme and purpose of the Act, and particularly the functioning of s 5, shows there is nothing arbitrary in the term "minor". It is a sensible standard which, understood for its purpose, is designed to give applications which will have only a "minor" adverse effect on the environment but are for other reasons non-complying an opportunity to be approved."*

10. The High Court in Elderslie Park Ltd v Timaru District Council has also stated[4]:

> "*The word "minor" … means lesser or comparatively small in size or importance. Ultimately an assessment of what is minor must involve conclusions as to facts and the degree of effect. There can be no absolute yardstick or measure."*

11. The Court held in *Bethwaite v Christchurch City Council* that minor does not mean that there should be no adverse effects, "minor" suggests adverse effects are less than major.[5] The Tribunal also held that it is permissible to have regard to the effects of the activity controlled by conditions that would limit the activity and its effects. With this in mind, the effects of the proposal must be considered with the mitigating conditions.

12. Mr Anderson identifies only one category of effects as being more than minor, namely rural amenity effects. Every other category in the s 42A report is assessed as no more than minor.

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[3] *Queenstown Central Limited v Queenstown Lakes District* Council [2013] NZHC 815 at [105].
[4] *Elderslie Park Ltd v Timaru District Council NZHC* [1995] p20.
[5] C085/93 (PT).

13. Mr Anderson's conclusion on rural amenity effects is not based on evidence, nor based on outcomes sought by the Plan provisions. In Mr Moore's evidence, he explains that the proposed building platforms have been strategically located, maintain substantial separation distances from neighbouring activities, and result in acceptable landscape and amenity effects.[6] The proposal is also subject to extensive controls relating to building location, height, colours, lighting and planting. Those controls directly address the concerns raised regarding domestication, visual change and neighbourhood effects.

14. It is submitted that the effects of the proposal are no more than minor, and the first gateway is achieved. If the Panel take a differing view, then the Applicant submits that the second gateway is also achieved.

Not contrary to the objectives and policies

15. It is well settled law that 'contrary to' under section 104D means 'repugnant to' or 'opposed in nature' or 'opposite' to the objectives considered as a whole, not simply that the proposal does not find support from them.[7] This is a high threshold and the Courts recognise the nature of a non-complying activity means it will often struggle to find active support within plan provisions.

16. As the Court of Appeal observes in *Dye v Auckland Regional Council,* an application for a non-complying activity is not going to comply with the plan.[8] Therefore, the status as a non-complying activity cannot alone be said to be contrary to the objectives and policies of the plan.

17. In *Harris v Central Otago District Council*[9]*,* the Environment Court sets out how to apply the high 'contrary to' threshold in the context of the Plan's rural subdivision policy (Policy 4.4.10):

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[6] Brief of evidence of Mike Moore at [13].
[7] *Monowai Properties Ltd v Rodney District Council* [2003] NZEnvC A215/03 at [35]
[8] Above n1 at [23].
[9] *Harris v Central Otago District Council* [2016] NZEnvC 52.

> *"[31] The subdivision policy largely follows the land use policy on landscape and amenity already discussed in relation to open space, landscape, natural character and amenity values. Further, the policies are obviously designed to work together where both subdivision and land use consents are sought. That cooperation between policies is shown by the words at the end of the subdivision policy" … particularly through the use of minimum … lot sizes". In other words the use of minimum lot sizes is not the only method or way of achieving the policy.*
>
> *[32] The other important point is that the subdivision policy contemplates differences of degree in the adverse effects of subdivision because it directs that those effects are to be avoided or directed [remedied] or mitigated. Which of those is appropriate is driven by the context. What the policy does not say is that adverse effects should simply be avoided." (Footnotes Omitted).*

18. Mr Anderson's main concern with the proposal is its departure from the minimum allotment size. *Harris* makes it clear that minimum and average allotment sizes are not an end in themselves, they are simply one tool to achieve the outcomes sought by the policy framework.

19. It is also important to keep the scale of the proposal in perspective. The Site is being substantially underdeveloped relative to what the Plan provisions anticipate.

20. The concern regarding the amenity effects of the smaller allotments must be considered in the context of the Site as a whole. Approximately 182 hectares of the property will be protected through a QEII covenant and remain free from future development. Lots 5-8 are consistent with the development density anticipate by the Plan. Lots 2-4 whilst smaller are located such that they too emulate development density of the zone provisions. The Covenant then protects the vast majority of the Site. The overall outcome is one of landscape and ecological enhancement rather than over domestication of the Site.

21. Ultimately, the proposal is not repugnant to the objectives and policies of the Plan.

Section 104

22. Section 104 of the Act sets out the evaluative exercise that must be carried out by the Panel in assessing whether consent should be granted.

23. Section 104(1) requires a consent authority to have regard to the following relevant matters, subject to Part II[10]:

    (a) any actual and potential effects on the environment of allowing the activity. This includes an evaluation of both positive and negative effects.

    (b) any relevant provisions of any relevant statutory document. In this case the District Plan is the primary document, although the Regional Policy Statement 2021 is also relevant.

    (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application; and

    (d) any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects to offset or compensate for any adverse effects arising from the application.

24. Having undertaken the evaluative exercise, the Panel may grant or refuse consent (Section 104B) and where you elect to grant consent conditions may be imposed pursuant to sections 108 and 220.

[10] Resource Management Act 1991, section 104(1)(a)(b)(c)(ab).

Permitted baseline

25. Pursuant to s 104(2), the Panel may disregard an adverse effect of the activity if the Plan permits an activity with that effect. While consideration of the permitted baseline remains discretionary, it provides important context when assessing the concerns raised by the Director-General of Conservation (**DoC**) regarding the absence of a detailed ecological assessment and the possibility that ecological values may exist elsewhere on the Site. It is also relevant to the matters of reverse sensitivity raised by other submitters.

26. The Site is located within the Rural Resource Area. The Rural Resource Area is not managed as a conservation zone. Rather, it is a working rural environment that anticipates a broad range of rural land uses including farming, horticulture, viticulture, pastoral activities and associated land management practices.

27. Activities presently capable of occurring on the Site as permitted activities include:

    (a) Grazing and pastoral farming;

    (b) cultivation and ploughing,

    (c) horticulture and viticulture,

    (d) oversewing and topdressing,

    (e) direct drilling associated with existing pasture,

    (f) land contouring associated with border dyke irrigation,

    (g) limited earthworks and extraction activity up to an area of $2000m^2$ or a quantity of $3000m^3$.

28. Rule 4.7.6.KA does not prohibit clearance of indigenous vegetation generally. Resource consent is only required where specified thresholds are exceeded. The potentially relevant thresholds in this instance:

    (a) 10 hectares of snow tussock grassland or

    (b) more than 0.5 hectares of other indigenous vegetation;

29. At this point in time the Applicant does not consider that there will be clearance of more than 0.5ha of indigenous vegetation which is why consent has not been sought pursuant to that rule. All the proposed building platforms are modest, the accesses predominantly follow existing accesses.

30. Rule 4.7.6KA (I)(b) is not relevant because the site is not identified in the Plan as containing the species in Schedule 19.6B. Further to this Rule 4.7.6KA expressly contemplates and exempts activities including grazing, oversowing, topdressing and direct drilling associated with existing pasture.

31. Those activities could occur on the Site regardless of whether this application is granted. They form part of the existing planning environment and are relevant when assessing the environmental consequences of the proposal. It is also worth contemplating what is likely to happen if this proposal is not granted. A plausible future environment is the persistent spread of weeds, wilding pines and pest animals. There may be some grazing, but as Mr Murray has set out it is unlikely to generate sufficient economic return to support the level of pest plant and animal management that is proposed through this application. The reality is that the indigenous vegetation values of the Site will continue to degrade.

32. Against that baseline, the proposal does not simply authorise further development. It also secures the permanent protection of approximately 182 ha of land through a QEII covenant, together with ongoing wilding pine control, restoration planting and management of indigenous biodiversity values.

33. Ultimately, the position advanced by DoC would require a level of ecological detail that is simply out of proportion with the potential ecological effects.

34. None of the activities permitted by the Plan require an ecological assessment before they are undertaken. Against that planning context, it is difficult to understand why this application should be treated differently, particularly in light of the proposal to protect and enhance the vast majority of the Site for ecological purposes.

35. The outcomes that DoC seek can be achieved through collaboration with the Applicant on the ecological restoration programme.

Policy Statements

National Policy Statement for Indigenous Biodiversity

36. The NPSIB provides direction to protect, maintain and restore indigenous biodiversity. The section 42A report concluded that the proposal is consistent with the NPSIB.[11] We submit greater weight should be attributed to the consistency of this proposal with the objectives and policies of the NPSIB.

37. The objective of the NPSIB is to maintain indigenous biodiversity across Aotearoa so that there is no overall loss in indigenous biodiversity.[12]

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[11] Page 19 s 42A report.
[12] Clause 2.1 NPSIB.

38. The policies advanced by this proposal are:

    (a) Policy 8: The importance of maintaining indigenous biodiversity outside Significant Natural Areas is recognised and provided for.

    (b) Policy 13: Restoration of indigenous biodiversity is promoted and provided for.

    (c) Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments.

39. The Applicant proposes that Lot 1 is subject to a QEII covenant registered against the title. Not only will this mitigate any potential landscape effects, but it will secure the protection, restoration and active management of the block in perpetuity and prevent further subdivision. Moreover, this gives practical effect to the NPSIBs direction to maintain, restore and increase indigenous biodiversity outside Significant Natural Areas (**SNA**).

40. On this basis, the covenant should be given significant positive weight in the overall assessment of the proposal in its efforts to achieve the objective and policies in the NPSIB.

41. It should also be noted that the identification of SNAs through consent processes has been halted. Section 78 of the Resource Management Act sets out provisions in the NPSIB that do not apply in the 3-year period.[13]

42. Section 78(2)(b) of the Act suspends part of the NPSIB during the 3-year period. In particular, clause 3.8(6), which would otherwise require a territorial authority to assess and identify a new SNA after becoming

[13] This is 3 years from the date on which the Resource Management (Freshwater and Other Matters) Amendment Act 2024 came into force. Amendment Act came into force on 25 October 2024 and the 3-year period will expire on 25 October 2027.

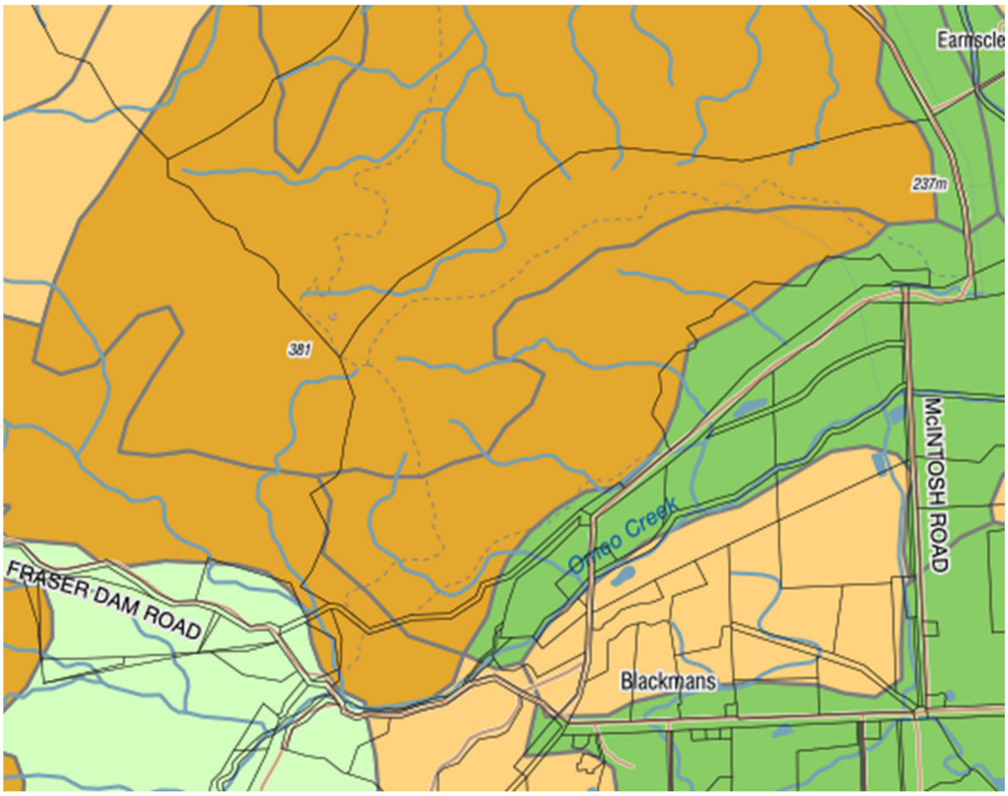
aware of it through a resource consent process. This clause does not apply.

43. The Site is not presently identified as an SNA within the operative planning framework, nor can this consent process be used as a mechanism to identify it as such. The proposal must be considered against the planning framework as it exists.

National Policy Statement for Highly Productive Land

44. The National Policy Statement for Highly Productive Land (**NPSHPL**) provides direction as to the use of land considered highly productive.

45. The subject site contains one small portion of mapped LUC 3 land. The extent of the highly productive land (HPL) is shown below.



46. The area of HPL affected by this proposal is limited. Typically, Clause 3.8 (1) directs territorial authorities to avoid the subdivision of highly productive land. However, this proposal falls under the relevant exception outlined in clause 3.8(1)(a):

> *the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term.*

47. As there is limited existing productive capacity from the small area of HPL, subdivision will not compromise the overall productive capacity of the land over the long term.

48. The affected area comprises a small portion of LUC 3 land at the edge of the Site which is unirrigated, physically constrained and has extremely limited practical productive capability. There is no evidence before the Panel that the proposal will result in any meaningful loss of land-based primary production.

49. Therefore, the proposal meets the exception within the NPSHPL and subdivision consent can be granted.

CODC objectives and policies

50. The principal disagreement between the Applicant and the s 42A report is not the assessment of effects. Rather, it concerns the weight Mr Anderson attributes to the proposal's departure from the allotment size framework and whether that departure gives rise to inconsistency with the outcomes sought by the Plan.

51. The Plan requires a broad evaluative assessment. It is not sufficient to focus on numerical non-compliance alone. The relevant question is whether the proposal achieves the environmental outcomes sought by the Rural Resource Area provisions when read as a whole.

Environmental enhancement and biodiversity

52. A notable omission from the s 42A report is Objective 4.3.1, which seeks:

> *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.*

53. In our submission, that objective is highly relevant to this proposal. The evidence of Mr Murray is that the subdivision is not proposed as an end in itself. Rather, it forms part of an integrated ownership and land management model intended to fund and facilitate the long-term protection and restoration of the property through wilding pine control, pest management, restoration planting and stewardship of the land. The proposal therefore enables the owners to provide for their social and economic wellbeing while simultaneously enhancing environmental quality through the protection of Lot 1 by way of QEII covenant.

54. The importance of that outcome is supported by the broader planning framework. Issue 2.5.1 of the Plan identifies the protection of indigenous biodiversity as a significant resource management issue and expressly recognises the tension between protecting indigenous values and enabling people and communities to provide for their social, economic and cultural wellbeing. The proposal achieves both outcomes. It secures a significant area of land for ecological protection and restoration while enabling limited rural residential development:

> ***Significant Issue - Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna***
>
> *The Central Otago District contains a number of areas of significant indigenous vegetation and significant habitats*

> *of indigenous fauna which have their own intrinsic values that are not always recognised. Some of these areas can also have value for activities enabling people and communities to provide for their social, economic and cultural well-being and for their health and safety. The potential for conflict in protecting these intrinsic values and utilising them is a significant issue facing the community in the sustainable management of the natural and physical resources of the District*

55. Mr Anderson also identifies Objective 4.3.8 as relevant, but does not analyse it. Objective 4.3.8 seeks to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Whilst the site has not been identified as an SNA, the proposal directly advances this objective through the proposed QEII covenant and associated restoration programme.

56. While DoC seek a more detailed ecological assessment, the proposal nevertheless introduces a level of biodiversity protection and ecological management that would not otherwise apply to the majority of the Site. The proposal is therefore strongly aligned with the biodiversity outcomes sought by the Plan

Landscape and amenity

57. The principal planning concern raised in the s 42A report relates to landscape and rural amenity.

58. Objective 4.3.3 seeks 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.*

59. Similarly, Objective 4.3.9 recognises appropriately located residential and lifestyle development where adverse effects are avoided, remedied or mitigated.

60. The evidence of Mr Moore is that the proposal achieves those outcomes.[14] Mr Moore concludes that landscape and visual effects are low or minor and that the proposed QEII covenant will result in positive landscape outcomes over time. Mr Anderson accepts those conclusions.

61. Policy 4.4.2 is similarly directed towards effects. This policy seeks 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.*
> *h. Strongly discouraging buildings in the Rural Resource Area of the Wooing Tree Overlay Area to ensure a vineyard or treed park-like character with an absence of built form.*

62. This policy does not prescribe a particular subdivision pattern. Nor does it identify any particular allotment size as an environmental outcome in its own right.

63. Mr Anderson considers the proposal inconsistent with this policy due to the effects on rural amenity values. This conclusion hinges on the 2ha minimum site size being breached, the site sizes being unable to

[14] Brief of evidence of Mike Moore at [31].

sustain productive activities, and the associated noise, dust, traffic, lighting and reverse sensitivity that comes with residential activities having the character that is inconsistent with rural lifestyle. Respectfully, these conclusions are not drawn from the relevant objectives and policies.

64. The surrounding environment comprises a mix of rural lifestyle properties, orchards and pastoral land. The proposed building platforms have been deliberately positioned to minimise visual prominence and maximise separation from neighbouring activities. The ‘undersized lots’ are nestled into the large balance lot and will be held in conjunction with a 1/3 share of that land – meaning there is ~60ha of land associated with each ‘undersized lot’. The proposal also proposes substantial controls relating to building location, height, colours, lighting and planting. These are precisely the mechanisms contemplated by Policy 4.4.2 to avoid, remedy and mitigate adverse effects.

65. The density of this development is well below what the Plan anticipates for rural subdivision as a discretionary activity, which could be ~26 new residential dwellings on 8ha blocks. The proposal also greatly exceeds the minimum setback framework anticipated by the Rural Resource Area provisions. Rule 4.7.6A requires a minimum side and rear yard setback of 25 metres and a front setback of 10 metres for residential activities. These are all comfortably achieved.

Policy 4.4.8

66. Mr Anderson also relies on Policy 4.4.8, concluding that the degree to which neighbouring amenity will be affected goes beyond what is acceptable. Respectfully, that conclusion is not supported by the evidence.

67. The effects identified by Mr Anderson are primarily indirect consequences of the smaller allotment sizes rather than any identified

adverse effect occurring on neighbouring properties. The evidence does not establish that neighbouring properties will experience unacceptable noise, dust, lighting, traffic or visual effects.

68. To the extent reverse sensitivity concerns arise, the Plan already addresses those issues through its broader Rural Resource Area framework. Policy 4.4.9 expressly recognises that persons choosing to live in the rural environment should expect the ordinary effects associated with productive rural activities. The proposal does not alter that expectation. Therefore, we submit the proposal is consistent with Policy 4.4.8.

Policy 4.4.10

69. Policy 4.4.10 is the key subdivision policy. It seeks:

> 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.

70. Importantly the explanation for this policy recognises that the minimum (and average) allotment sizes is merely a tool which assists in controlling adverse effects of the following land use. The policy does not stripulate strict compliance with these standards as the only method to achieve the outcomes sought by the policy.

71. The Court considered this minimum lot size requirement in the context of policy 4.4.10 in *Harris v Central Otago District Council.* The Court held at [84] that:

> *"the use of minimum (and average) allotment sizes is a key tool in the Plan, but that the use of the qualification "particularly" does not mean there are not other tools. The resource consent process and the consideration of the matters relevant to an application for a non-complying activity subdivision, or indeed any other resource consent activity category, are obviously another approach."*

72. The accepted evidence demonstrates that the proposal achieves those outcomes notwithstanding the departure from the allotment size framework. The proposal secures substantial ecological protection, maintains landscape values, addresses servicing and stormwater issues, and does not give rise to more than minor adverse effects.

73. Accordingly, while the proposal does not comply with the allotment size framework, it secures a level of development that is well below the density that compliance with the minimum and average control would enable. It is submitted that it is a more appropriate solution than strict adherence to the standards and that it achieves the substantive environmental outcomes sought by Policy 4.4.10 and the Rural Resource Area provisions when read as a whole.

Productive capacity

74. Mr Anderson also identifies Objective 4.3.7 and Policy 4.4.6 as relevant but does not analyse them in any detail.

75. Those provisions seek to maintain the life-supporting capacity of the District's soil resource and avoid the loss of soils with special qualities. The Site is not identified as highly productive land, other than a small area on the edge of the property. Nor is it subject to any specific soil overlay.

76. Further, the proposal does not result in the loss of the soil resource. The covenant area remains capable of supporting ecological restoration and land management activities and the proposal does not compromise the life-supporting capacity of the land. The soils of the property will be used to support ecological outcomes as opposed to traditional rural productive values.

77. In those circumstances, the proposal cannot reasonably be said to undermine the outcomes sought by Objective 4.3.7 or Policy 4.4.6.

Regional Policy Statement

78. The Otago Regional Policy Statement 2021 contains a number of provisions directed towards the protection, restoration and enhancement of indigenous biodiversity. Of particular relevance are Objectives ECO-O1, ECO-O2 and ECO-O4.

79. Objective ECO-O1 seeks that Otago's indigenous biodiversity is healthy and thriving and, at a minimum, any overall decline in condition, quantity and diversity is halted. Objective ECO-O2 seeks that restoration and enhancement activities result in an overall increase in the extent and occupancy of indigenous biodiversity. Objective ECO-O4 expressly recognises that, while achieving those outcomes, the social, cultural and economic wellbeing of people and communities must also be provided for.

80. The proposal balances these objectives, as it secures protection of approximately 182 ha of land through QEII covenant, which includes facilitating ongoing wilding pine control, ecological restoration and long-term stewardship of the Site. The proposal only enables a limited amount of residential development which provides for the social, cultural and economic wellbeing of the applicant and supports their ecological enhancement aspirations for the balance of the Site.

DoC's reliance on ECO-P3

81. Ms McEnhill of DoC concludes that the proposal is inconsistent with the ORPS because an ecological assessment has not been undertaken and it is therefore not possible to determine whether areas qualifying as SNAs may exist within the development area.

82. Respectfully, that conclusion overstates both the requirements of the ORPS and the role of the present resource consent process.

83. DoC have cited ECO-P3 of the RPS as relevant to this application. This policy directs local authorities to identify and map:

   (1) the areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as significant natural areas using the assessment criteria in APP2 and in accordance with ECO-M2, and

   (2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, in accordance with ECO-M3.

84. The Site is not identified as an SNA in the district, or any regional plan. In ECO-P3(1), the assessment criteria in APP2 have been adopted from the NPSIB's assessment criteria.

85. ECO-P3 must be read alongside ECO-M2, which concerns the identification of SNAs by local authorities. As discussed in relation to the NPSIB, s 78 of the Act has temporarily suspended the ability to identify new SNAs through consenting processes. This suspension remains until 25 October 2027. It is submitted that the ORPS cannot be applied in a manner that circumvents the effect of section 78 of the Resource Management Act 1991. The NPSIB sits higher in the planning hierarchy and the ORPS must give effect to it.

86. The other aspect of this policy is if the proposal relates to taoka, in which mana whenua must identify species as requiring protection. No taoka values have been identified or raised in relation to the Site.

87. The DOC position is therefore ultimately precautionary in nature. It proceeds on the basis that a SNA may exist, rather than on evidence establishing that one does exist. It is also submitted that DOC's proposed approach is disproportionately conservative. The application site is 209Ha. DOC's demands for detailed ecological assessment is focussed on areas to be disturbed. This is a fraction of the application site. It is an approach that risks cutting the nose in spite of the face.

88. It is submitted that the focus should be on what can be protected and enhanced through the restoration programme rather than condemning the site to weed and pest infestation.

ECO-P7, P8 and P9

89. The more directly relevant provisions are ECO-P7, ECO-P8 and ECO-P9. Those policies are directed toward maintaining indigenous biodiversity, promoting restoration and enhancement activities, and recognising the role of communities in actively managing biodiversity on private land.

90. The proposal gives effect to those policies in a way few subdivision proposals do. The covenant area will permanently protect the vast majority of the Site from future subdivision and development while facilitating restoration planting, pest management and wilding conifer control.

91. Of particular relevance is ECO-P9(6), which expressly recognises the critical role of people and communities in actively managing indigenous biodiversity occurring on private land. The proposal is founded entirely

on that concept. The covenant area remains in private ownership but will be actively managed for biodiversity outcomes in perpetuity.

LF-LS-P25

92. A relevant policy in the ORPS is LF-LS-P25, which relates to rural areas. The ORPS does not treat rural areas solely as places for primary production. LF-LS-P25 expressly recognises that rural areas are places where people live, work and recreate and where a range of activities are required to support those functions and provide for social and economic wellbeing.

93. The proposal sits comfortably within that framework. It combines ecological stewardship, landscape restoration, biodiversity enhancement and limited residential development. It therefore performs several of the functions contemplated by LF-LS-P25 simultaneously.

94. Read as a whole, the DOC evidence does not establish inconsistency with the ORPS. Rather, it identifies a concern that additional ecological information could be obtained. That is not the same thing. The ORPS requires an assessment of the proposal before the Panel. On the available evidence, the proposal advances the biodiversity enhancement, restoration and stewardship outcomes sought by the ORPS while also providing for social and economic wellbeing. It is therefore consistent with the relevant objectives and policies of the ORPS.

Plan integrity

95. The s 42A report raises a concern that the pattern and resulting residential density of the proposed subdivision may have the potential to encourage future applications of a similar scale on neighbouring sites on a precedent basis. That concern is overstated.

96. The proposal must be assessed on its own merits. This proposal is unusual because it is not simply a subdivision application. It combines the creation of seven residential allotments with the covenanting of approximately 182 hectares of land, representing approximately 87% of the Site, together with a long-term programme of biodiversity restoration, wilding pine control and ecological enhancement. The proposal is therefore distinguishable from the ordinary rural subdivision application.

97. The case law in relation to plan integrity is well settled. In *Dye v Auckland Regional Council* the Court of Appeal confirmed that there is no true concept of precedent in resource management law in the strict sense.[15] A consent authority is not bound by a previous decision of the same or another authority.

98. The Court held that the precedent effect of granting a resource consent (in the sense of like cases being treated alike) is a relevant factor for a consent authority to take into account when considering an application for a non-complying activity.[16]

99. Taking precedent plan integrity effects into account may be a relevant consideration under s 104(1)(c). It is not mandatory for the Panel to consider such effects.

100. In *Beacham v Hastings District Council,* Judge Thompson applied *Rodney District Council v Gould* for assessing if the plan integrity will be imperilled so as to necessitate the application be refused. The two key considerations are:

    (a) The proposal irreconcilably clashes with important provisions of a district plan, <u>and</u>

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[15] CA86/01, 11 September 2001 at [32].
[16] At [49].

(b) It is likely that further applications will follow, with are both materially indistinguishable and equally incompatible with the plan.[17]

101. These considerations have been consistently endorsed by the Courts. The Court has emphasised that plan integrity arguments are somewhat overused and need to be treated with some reserve.[18] Each proposal must be considered on its own merits.

Irreconcilable clash

102. The Applicant submits that the first limb of the *Gould* test is not met.

103. The s 42A report treats the breach of the 2 ha minimum Lot Size rule as determinative, characterising the proposal as a "notable departure" from what is anticipated by the Rural Resource Area (**RRA**) zone.[19] However, this ignores the clear effects based approach of the Plan provisions, which themselves note that the average and minimum lot size rules are one way of achieving the outcomes sought. That approach elevates a method of implementation above the Plan's underlying objectives and policies and fails to give adequate weight to the other aspects of the proposal.

104. Cases such as *Rodney District Council v Gould* show that it is not necessary for a site to be unique before plan integrity ceases to be an important factor.[20] Nevertheless a decision should look to see if there are factors which take the proposal outside of the generality of cases. In this case, the significant indigenous biodiversity protection, and retention of significant proportion of the land as a balance lot is an important distinguishing factor.

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[17] ENC Wellington W075/09, 5 October 2009 at [25], also in *Blueskin Bay Forest Heights Ltd v Dunedin City Council* [2010] NZEnvC 177 at [48].
[18] *Blueskin Bay Forest Heights Ltd v Dunedin City Council* at [45].
[19] On page 20.
[20] Referred to in *Beacham v Hastings District Council* at [25].

105. Earlier in our submissions, we undertake a comprehensive assessment of the Plan provisions. It is submitted that the proposal does not give rise to an irreconcilable clash with the Plan provisions. Firstly, because the Plan does not direct any particular rural amenity outcome in the Rural Residential Area. Secondly, the proposal actually achieves the Plan's objectives and policies due to the significant positive biodiversity effects.

106. It is also important context that the Plan provisions are somewhat long in the tooth. In *Ahuareka Trustees (No 2) Ltd v Auckland Council* the Court held that integrity considerations for "newly minted plans" may hold greater importance because the plan provisions have not become dated or overtaken by other circumstances.[21] The Rural Resource Area provisions are old and overdue for review. Numerous national and regional planning instruments have taken effect since the Plan was made operative on 1 April 2008. Maintaining the integrity of the RRA provisions as acute an issue as it might have been.

Precedent effect

107. Because the first limb from *Gould* is not engaged, there is no need to consider the second limb. Nevertheless, the second limb is also not met. The proposal contains characteristics that are unlikely to be replicated in future applications:

(a) Lot 1 will be protected through a QEII covenant;

(b) The covenant area will be subject to long-term biodiversity restoration and management;

(c) Proposal includes wilding pine control and ecological enhancement measures;

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[21] [2017] NZEnvC 205 at [116].

(d) Covenant restricts further subdivision and development opportunities.

108. Any future applicant seeking to rely on this decision would need to demonstrate a materially comparable factual and planning context. That is unlikely to occur frequently.

109. Granting consent would not undermine the integrity of the Plan. Rather, it would demonstrate the operation of the resource consent framework in the precise manner contemplated by the Plan: an assessment of the actual proposal, its actual effects and its actual environmental outcome.

Response to submitters

110. There are four submitters opposed to the granting of consent (including DoC). The response to DoC's submission is contained in the Regional Policy discussion of these submissions.

111. The planning evidence provided by McIntosh Orchards Limited seeks the consent application be declined due to rural amenity effects and reverse sensitivity concerns associated with orchard operations.

112. If consent is granted, McIntosh Orchards seek additional conditions requiring:

(a) a no-complaints restrictive covenant, and

(b) acoustic insulation of future dwellings so noise levels within bedrooms do not exceed 30dB LA_{eq} (15 min) at night time.

113. The Applicant does not consider those conditions necessary or proportionate. Unlike the circumstances that commonly give rise to acoustic insulation requirements, there is no evidence before the

Panel demonstrating that future dwellings will be exposed to noise levels requiring such mitigation.

114. The location of the building platforms proposed are all located well outside the setback distances for frost fans on the existing orchards. Nor is there land in closer proximity to the platforms that look amenable to further development of Horticultural activities. In short, the good land has already been developed.

115. The nearest building platform proposed is ~400m from the McIntosh Orchard boundary. Therefore, their establishment presents no impediment to establishment of frost fans at McIntosh Orchards in accordance with the Plan provisions. There are numerous existing dwellings in much closer proximity already and the 'compliance point' for frost fan is not contingent on dwelling location in any event.

116. It is also relevant that McIntosh Orchards does not currently hold any consents authorising breach of the Plan's noise standards. Orchard operations are therefore expected to comply with Rule 4.7.6.E. As a result, it is not clear why a more stringent approach is required than already provided for through the Plan regarding rural activities bird scaring or frost fan management.

117. It is further noted that the dwellings on the proposed lots will have to achieve the standards in 4.7.6.E(d) which is in place to manage reverse sensitivity.

118. No evidence has been produced identifying that Plan noise levels or standards are unable to be complied by McIntosh Orchards or would create a breach at the proposed building platform locations. It is submitted that the acoustic insulation conditions proposed by the submitter are excessive and unjustified. The existing Plan provisions are sufficient to address the reverse sensitivity risks.

119. With respect to the non-complaints covenant. The Applicant is willing to agree to a non-complaints condition incorporated into the consent notice. This would apply to lawful activities – i.e. those permitted by the Plan or authorised by resource consent.

Conditions

120. The Applicant has provided an updated suite of consent conditions alongside these submissions, **Appendix 1**. The amendments address the following matters:

(a) Clarification of stormwater requirements,

(b) Deletion of unnecessary bore consent conditions.

(c) Securing the QEII covenant,

(d) Preparation of an Ecological Management Plan, and

(e) Amendments to remove irrelevant aspects of the reverse sensitivity condition (removing reference of the joinery workshop).

121. In the s 42A report, Mr Anderson suggests a condition to mitigate the wildfire risk. He suggests that FENZ be provided a plan which addresses these risks, including defendable spaces, seasonal maintenance programmes and evacuation planning. He recommends "a condition for such a plan to be submitted and approved by FENZ prior to the issue of titles". [22]

122. Condition 13 is proposed:

[22] Page 11.

Prior to 224(c) certification the applicant shall prepare a plan for approval by Fire and Emergency New Zealand to address wildfire risk outlining defendable spaces, seasonal maintenance programs and evacuation planning.

123. The Applicant does not object to preparing and implementing a wildfire management plan. However, care is required in drafting the condition. The drafting proposed by Mr Anderson unlawfully delegates an approval requirement to FENZ.

124. Amended drafting is proposed to address this.

Conclusion

125. The proposal gives rise to no more than minor adverse effects and secures substantial positive outcomes through the protection of Lot 1 by way of QEII covenant, ecological restoration and long-term biodiversity management.

126. While the proposal is non-complying because of its departure from the allotment size framework, it nevertheless achieves the environmental outcomes sought by the planning framework. The proposal is not contrary to the relevant objectives and policies, does not raise genuine plan integrity concerns, and should be granted subject to the Applicant's proposed conditions.

Dated 15 September 2026

Bridget Irving / Hannah Perkin

Counsel for Ao Marama Limited

Appendix 1

Draft Subdivision Conditions:

1. The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on date, 30 September 2024, and further information received on 10 March 2026, where modified by the following conditions.

2. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:

    a) Administration, monitoring and inspection relating to this consent; and

    b) Charges authorised by regulations.

3. Unless modified by other conditions, all designs and approvals are to be in accordance with NZS 4404:2004 and the July 2008 CODC Addendum. Together these two documents form the Council's Code of Practice for subdivision.

4. Prior to commencement of any physical work the consent holder must receive council Engineering Acceptance of any designs including:
    - Confirming who their representative is for the design and execution of the engineering work.
    - Provide copies of design: reports, calculations, specifications, schedules, and drawings, as applicable.

5. Certificates Schedule 1A, Schedule 1B, and Schedule 1C are to be submitted at the appropriate times as per NZS 4404:2004 where appropriate. Note any three waters installations must have a standalone Schedule 1B completed and signed by a suitably qualified person for the three waters work.

6. Within 3 months of issuing of this consent the applicant must complete the following;

~~i)~~ Submission of a drainage design completed by a suitably qualified person that is consistent with the Calder Surveying ' Ao Marama – Access Road Stormwater Management Plan, Hawley Road, Blackmans, dated 16 June 2026 and demonstrating that the culverts proposed will convey flood flows during a 1% AEP Event.~~addresses the stormwater ingress into 96 Hawley Road.~~

~~ii) Evidence of liaison with any adjacent landowners affected by the proposed drainage improvements.~~

Prior to Certification Under s223

7. Any easements required to protect access or for access to services must be duly granted or reserved including:

    ~~a)~~ Any n~~N~~ecessary easements must be in place for pipework and access to water sources to, or within the boundary of, each lot.

a)
b) An easement (Covenant) over 182ha of Lot 1 for the benefit of QEII Trust to protect the indigenous ecological and natural landscape values, and native planting of the identified area in perpetuity. In the event that the QEII Trust do not agree to the registration of the Covenant the covenant shall be registered for the benefit of the Council.

Prior to Certification under 224(c)

Services

8. Prior to 224c certification, an adequate working water supply (with consent notice on title advising that this is an unpowered water source only) must be provided individually to each of the proposed Lots 2-8 from the on-site bore(s) in accordance with the CODC Addendum, including Clause 6.3.15 Small Rural Water Supplies, and other relevant provisions of NZS 4404:2004, with the following specific requirements:

a) **Quality**.

i) Resolution of any non-compliance, through installation of point-of-use remedial treatment, must be confirmed by being retested fully compliant. Or,

ii) a consent notice must be registered on the title/s describing any non-compliant aspects of the water supply and detailing installation of point-of-use remedial treatment required, and that the adequacy of such treatment must be confirmed through retesting as fully compliant, prior to any domestic use of the water supply or occupation of any connected dwelling.

~~b)~~c) **Documentation**. A new or updated, as appropriate, operation and maintenance manual including a description of the water supply system and as-built drawings of the reticulation layout, and formal ownership and management documentation, must be provided to Council for each network water supply system.

~~c) **Design.**~~

~~*i) The bore must be inspected by a suitably qualified person to confirm it is constructed, maintained, tested, and records kept (drilling log), in accordance with NZS 4411:2001 - Environmental Standard for Drilling of Soil and Rock. Including that the bore is constructed to ensure the bore head casing and reticulation is sealed to avoid ingress of surface water and other foreign matter at all times. Specific consideration of the onsite wastewater fields must be made, and the designer is to demonstrate that the required setbacks from the fields are achieved. This confirmation must be submitted to, and accepted by, Council. If this cannot be achieved, then a new bore must be installed as per ii) below.*~~

~~ii) The bore must be designed and constructed by a suitably qualified person, and a description of the design along with as-built drawings must be submitted to, and accepted by, Council. Specific consideration of the onsite~~

Commented [HP1]: The bore has already been consented by the ORC
RM23.660.01 and RM24.696.01

~~wastewater fields must be made, and the designer is to demonstrate that the required setbacks from the fields are achieved.~~

The consent holder should be aware of the requirements of, and their obligations under, the Water Services Act 2021.

9. Prior to 224c certification, operational underground power and telecommunication connections must be provided to the boundary of proposed Lots 2 to 7. Alternatively, telecommunications may be by wireless technology if desired by the applicant and Lots 2-4 may be serviced by off-grid electricity such as solar arrays and batteries.

Access

10. Prior to 224c certification, ~~A~~ the existing ~~new~~ vehicle entranceway/crossing from Hawley Road to serve proposed Lot 2-4 must be ~~constructed~~ upgraded, if necessary, ~~in~~ to complyiance with the requirements of Part 29 of Council's Roading Policies January 2015.

11. For crossings onto sealed roads an upgraded crossing must include a cutout 300 mm into the sealed road or until the full thickness of the sealed road is reached, whichever is greater. The interface must have tape seal banding over all joins for new asphalt crossings, and at least 150 mm chip seal overlap for new chip seal crossings. Chip seal crossings must be two- coat.

12. The proposed right-of-Way (ROW) extending off Hawley Road must be constructed in accordance with the ROW requirements of Table 3.2 (a) of Council's July 2008 Addendum to NZS 4404:2004, and with the following specific requirements:

- Minimum formed carriageway width of 4.5 metres.
- Minimum road reserve / legal width of 10.0 metres.
- Camber of 5-8%.
- Subgrade >CBR of 7.
- Durable well-bound wearing course to be constructed over pit-run base to provide all-weather traction and prevent surface ravelling.
- Shallow trafficable side-drains / water channels over level sections.
- Stormwater discharging to soak pits within the ROW or to natural water courses.
- Accessway/crossings to proposed Lots 1 and 2 must be provided off the ROW in compliance with Part 29 of Council's Roading Policies January 2015.

13. The section of existing farm track extending from the Hawley Road to service Lots 5-8 must be demonstrated (upgraded as necessary) ~~and vested~~ in accordance with the Local Access B category requirements of Table 3.2 (a) of Council's July 2008 Addendum to NZS4404:2004, with the following specific requirements:

- Minimum formed carriageway width of 4.5 metres.
- Minimum road reserve / legal width of 10.0 metres.
- Camber of 5-8%.
- Subgrade >CBR of 7.

- Durable well-bound wearing course to be constructed over pit-run base to provide all-weather traction and prevent surface ravelling.
- Shallow trafficable side-drains / water channels over level sections.
- ~~Stormwater discharging to soak pits within the ROW or to natural water courses including rectification of drainage issues identified with the stormwater ingress to 93 Hawley Road in Condition (6).~~
- Accessway/crossings to proposed Lots 1 and 2 must be provided off the ROW in compliance with Part 29 of Council's Roading Policies January 2015.

~~Prior to 224(c) certification the applicant shall prepare a plan for approval by Fire and Emergency New Zealand to address wildfire risk outlining defendable spaces, seasonal maintenance programs and evacuation planning.~~

Ecological Management Plan

14. The consent holder shall prepare and submit for certification an Ecological Management Plan for Lot 1 on the scheme plan. The objective of the EMP is to support and enhance the existing indigenous biodiversity values on the site and increase the diversity of indigenous flora and fauna within Lot 1. The EMP must include the following:
    a. Identification of the existing indigenous biodiversity values within Lot 1.
    b. Actions to be taken to maintain and enhance the identified indigenous biodiversity values including but not limited to:
        i. Selective planting plans to provide seed source diversity for forest/shrubland regeneration including the planting identified in Appendix 1 Ao Marama Planting Plan attached within this consent.
        ii. Control plan for broom, gorse, cotoneaster, wilding conifers, and invasive shrub species;
        iii. ~~Ongoing weed and~~Animal pest control plans in relation to rabbits, mustelids, deer, goats, and pigs.~~.~~
    c. Triennial monitoring for at least 12 years of ecological values ~~in areas~~ to determine whether the ecological values are being maintained and ~~improved~~enhanced and whether any amendments to the EMP are required to improve outcomes for the identified ecological values.

The following conditions are to be included on the titles of Lots 2-8 as consent notices pursuant to s221

Services

~~14.~~15. Prior to the occupation of any residential buildings on Lots 2-8, the following requirements must be met: minimum domestic water and firefighting storage is to be provided by a standard 30,000 litre tank. Of this total capacity, a minimum of 20,000 litres must be always maintained 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. To ensure that connections are compatible with Fire and Emergency New Zealand (FENZ) equipment the fittings are to comply with the following standards:

a) 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 must provide written approval of Fire and Emergency New Zealand to confirm that the couplings are appropriate for firefighting purposes.

b) All connections must be capable of providing a flow rate of 25 litres per second at the connection point.

c) The connection must have a hardstand area adjacent to it to allow a Fire and Emergency New Zealand appliance to park on it. The hardstand area must be located at the centre of a clear working space with a minimum width of 4.5 metres. Access must be always maintained to the hardstand area.

d) 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.

e) Any new water tank must be coloured dark green/grey/brown or similar, and located to ensure it is not visible against the skyline when viewed from any public place.

Advice Note 1: *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.*

Advice Note 2: *Firefighting water supply may be provided by alternative means to the above with written approval of FENZ.*

15. A consent notice must be attached to the new title for proposed Lots 2 -8 requiring the design and installation of an on-site wastewater disposal system by a suitably qualified and experienced person, in compliance with Clauses 5.5 b), c), d), and e) of Council's July 2008 Addendum to NZS4404:2004 (note compliance with 2012 version of AS/NZS1547 required), and sited in compliance with Otago Regional Council requirements, at the time of dwelling construction.

16. Stormwater from buildings and other impervious surfaces within each of proposed Lots 2-8 must be stored for beneficial reuse or disposed of by soak-pit designed by a suitably qualified and experienced person within the boundary of each lot. Any soakpit must be sited down-slope from any wastewater disposal field. This requirement must be secured by means of a consent notice attached to the new titles.

17. This consent authorises the use of non-wired telecommunications for Lot 2. If a wired connection is preferred this shall be underground and the installation shall be at the expense of the owner at the time.

18. Lots 2-4 will not be provided with wired electricity and may have electricity provided by an alternative means, such as solar array and battery. If a wired connection is preferred

this shall be underground and the installation shall be at the expense of the owner at the time.

Landscaping

19. Pursuant to section 221 of the Act the following landscaping requirements shall be registered as a consent notice registered in the titles of Lots 2-3 hereon.

a) All residential buildings must be located within the identified residential building platforms.

b) Maximum building heights above existing or modified ground level shall be as follows:

Lots 2 – 4 - All buildings – 4m
Lots 5 – 8 - Dwellings – 5m - - Buildings accessory to dwellings – 4m.
Other buildings including buildings accessory to farm activity – 4m

c) Unless buildings are clad in naturally finished, natural materials (e.g. stone or timber), building colours for new buildings are to be selected to ensure that contrast with the dominant hues of the surrounding rural landscape is minimized. Light reflectivity values (LRV) for painted finishes shall be no more than 20%. 7 Proposed subdivision, Hawley Road, Earnscleugh - Landscape Effects Assessment

d) Access driveways are to retain a rural character. Monumental gates, signage and driveway lighting is not permitted. Driveway surfaces shall be metaled with soft edges (i.e., no kerbs).

e) Water tanks (including those on Lot 1) are to be coloured, sited, and fully or partially buried and / or screened (by existing rocks or planting) to have minimal visual impact from beyond the property.

f) All fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock.

g) All services are to be located below ground.

h) Earthworks associated with buildings or driveways or other development, shall be minimized and shall be designed and finished to blend as seamlessly and naturally as possible with the natural contours. Subtle, well blended mounding is acceptable but no bunding or retaining walls shall be constructed. Cut and fill batter slopes are to be re grassed (sown or hydro-seeded) no later than the next growing season following the earthworks.

i) Any planting (excluding fruit trees and vegetable gardens) further than 20m from a dwelling shall be comprised of locally appropriate indigenous species only.

j) Wilding exotic tree species on Lots 2 – 8 are to be managed to remove / kill those present and to prevent future establishment and spread. ~~1~~

k) Any outdoor lighting shall have all exterior lighting fixed and be capped, filtered or pointed downwards and screened to reduce light spill. There shall be no outdoor feature lighting.

Reverse Sensitivity

20. The consent holder will take reasonable and appropriate steps to advise all purchasers, lessees, licences or tenants, or any other users having an interest in Lot 2-8-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.
~~iv. The potential effects of daytime noise resulting from the consented activities within the joinery workshop on Lot 1.~~

20A. The registered proprietor or occupier of Lot 2-8 must not make complaints about lawful rural activities being undertaken on surrounding land.

High Voltage Lines

21. Pursuant to Section 221 of the Resource Management Act 1991, consent notices must be prepared for registration on the record of title for Lot 7 for the following ongoing conditions:

a) No habitable buildings/structures shall be located within 12m of the centreline of the National Grid Transmission Line.

b) No buildings or structures shall be located within 12m from any outer visible edge of the foundation of a National Grid Transmission support structure; except for non-conductive fencing, which can be located 5m from any outer visible edge of the support structure foundation.

c) The consent holder shall ensure that access is maintained to the Roxburgh – Twizel A (ROX-TWZ A) National Grid transmission lines, including support structures, for maintenance at all reasonable times, and emergency works at all times.

d) All machinery and mobile plant operated in association with the works shall maintain a minimum clearance distance of 4 metres from the conductors (wires) of the Roxburgh – Twizel A (ROX-TWZ A) National Grid transmission lines at all times.

e) All land use activities, including the construction of new buildings/structures, earthworks, fences, any operation of mobile plant and/or persons working near exposed line parts shall comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) or any subsequent revision of the code.

Wildfire Risks

22. Pursuant to Section 221 of the Resource Management Act 1991, consent notices must be prepared for registration on the records of title for Lots 2-8 for the following requirements in relation to Fire Smart guidance;~~,~~

a) No plants or flammable mulches are to be located within 1.5m of any buildings.
b) Planting within 10m of buildings shall be restricted to mown~~green~~ lawns and species of low flammability.
c) Any planting on steep slopes within 30m of a house shall be of low flammability
d) Any planting within 30m of a house in the direction of the prevailing wind shall be of low flammability.
e) All gutters shall be kept free of dead vegetation.

Advice Notes:

General

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

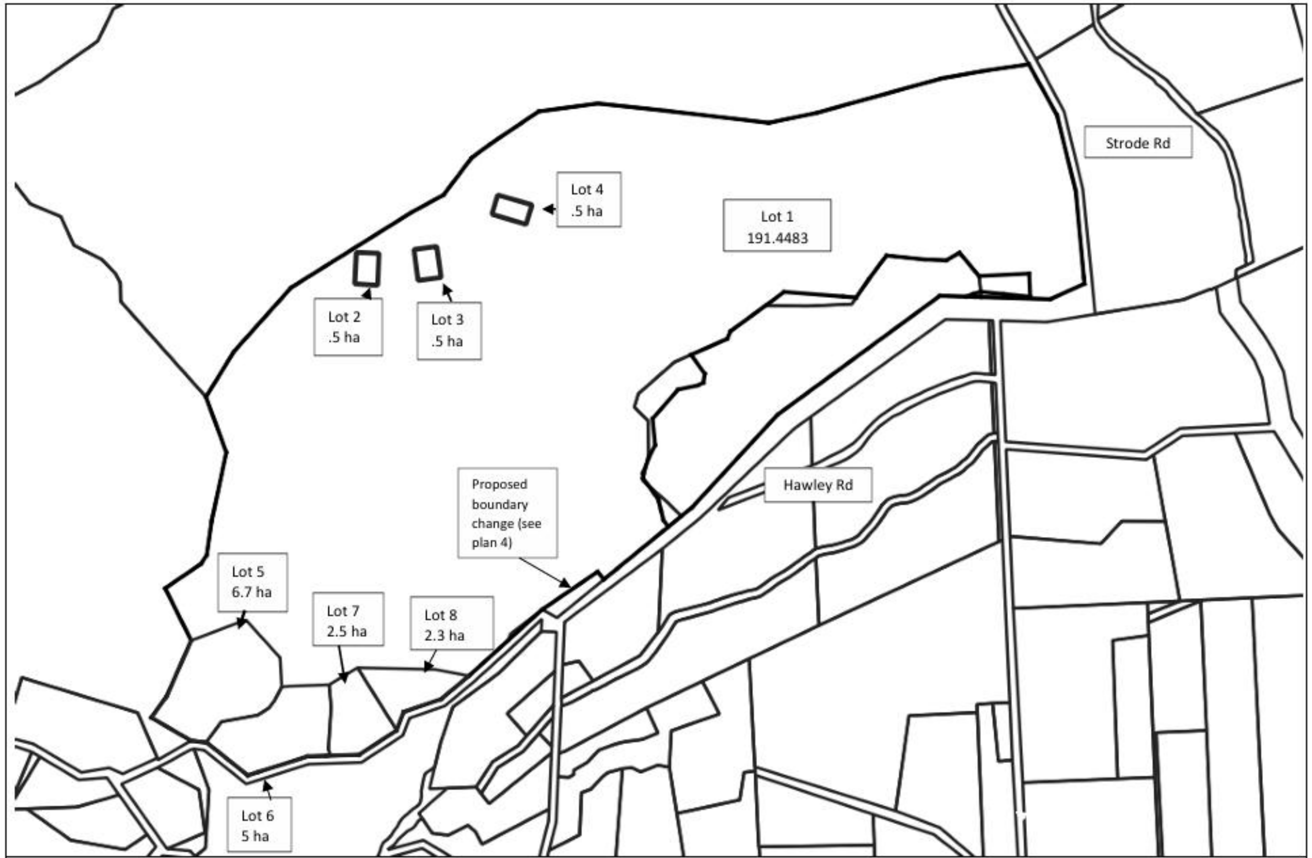
2. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.

3. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.

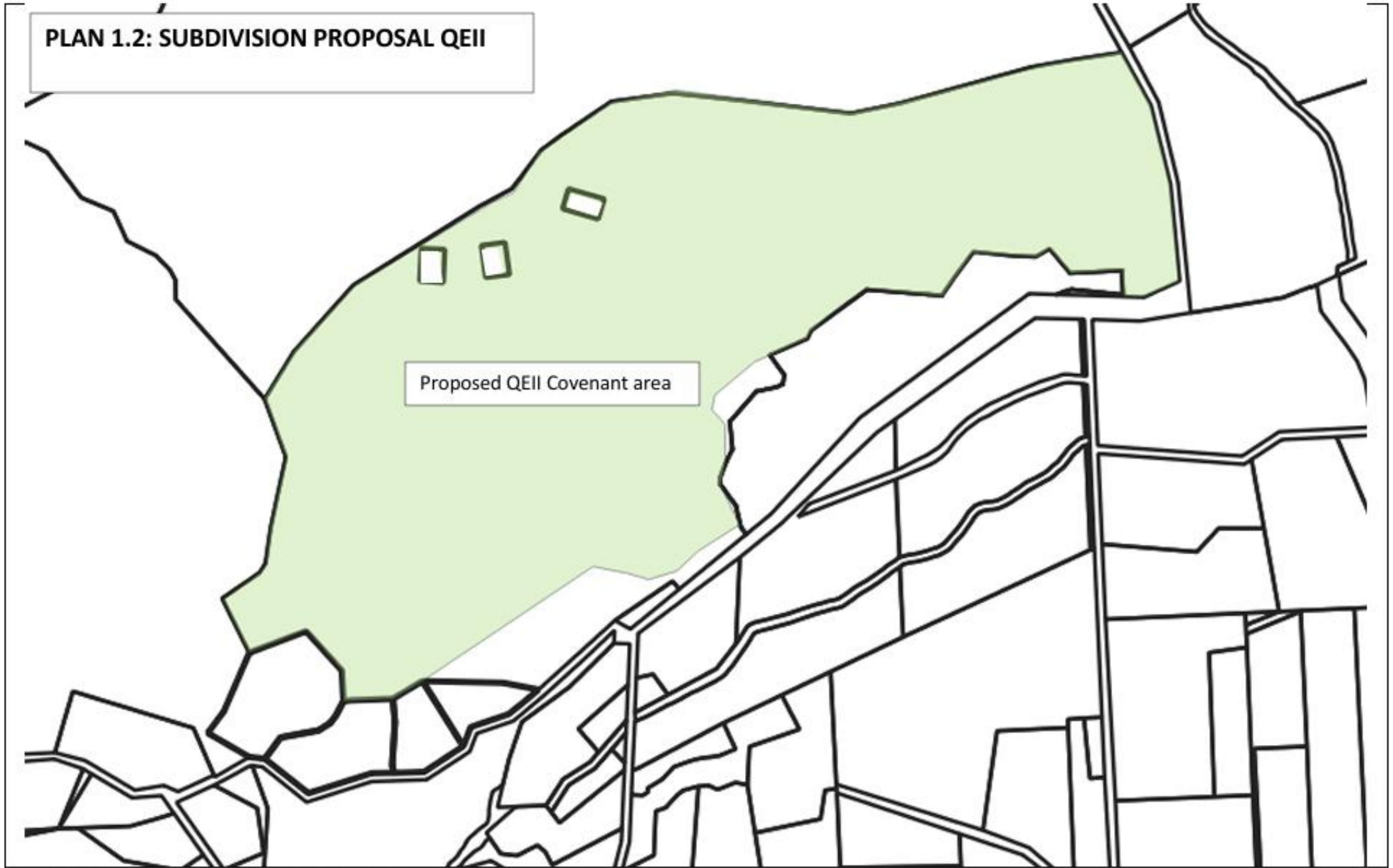
4. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

5. This is a resource consent. Please contact the Council's Building Services Department, about any building consent requirements for the work.

Appendix One: Approved Plan/s for RC250259 (scanned image(s), not to scale)

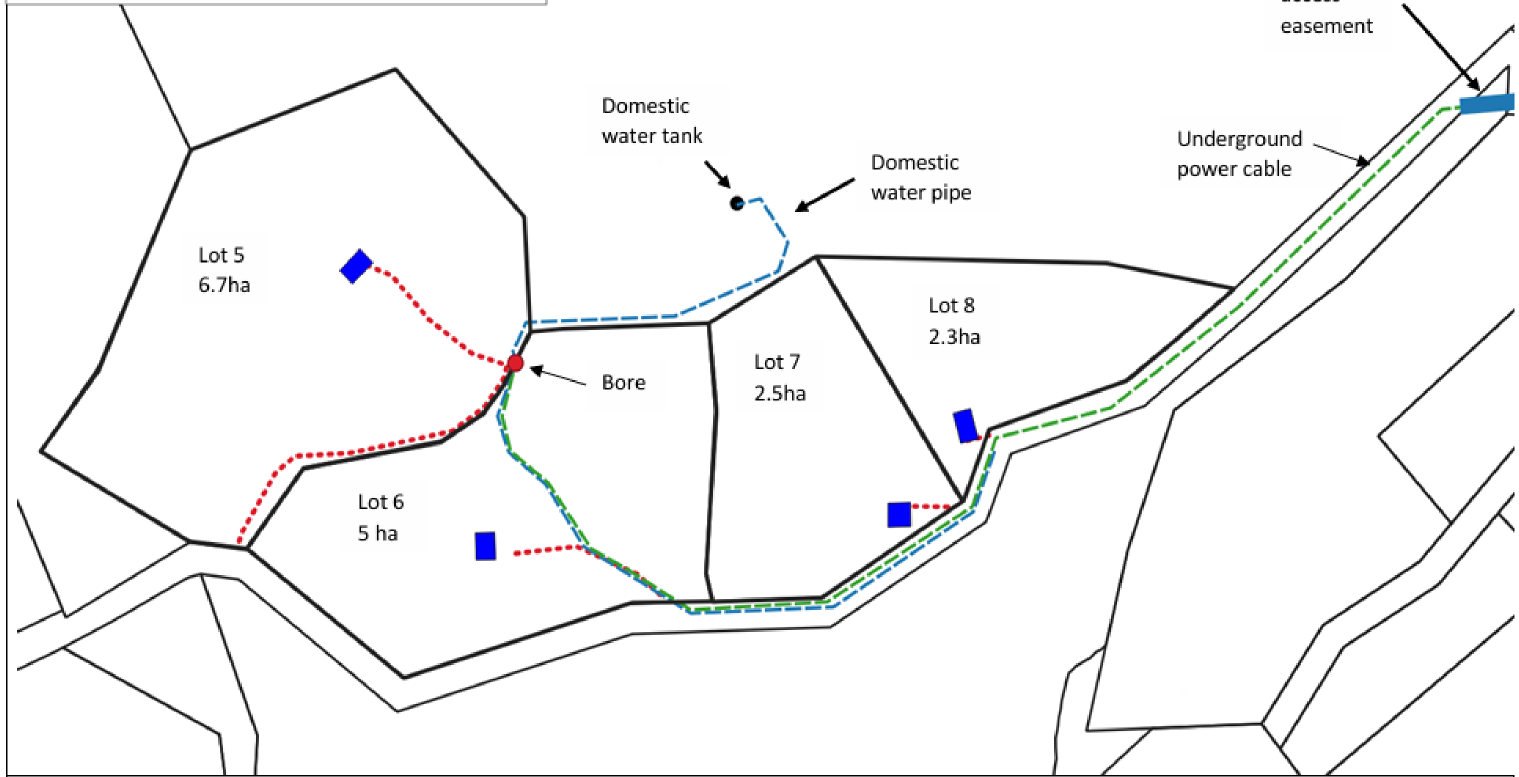


PLAN 1.1: SUBDIVISION PROPOSAL PLAN
LOTS 1 TO 8 BEING A PROPOSED SUBDIVISION OF LOT 1 DP 590633.
HAWLEY ROAD, EARNSCLEUGH



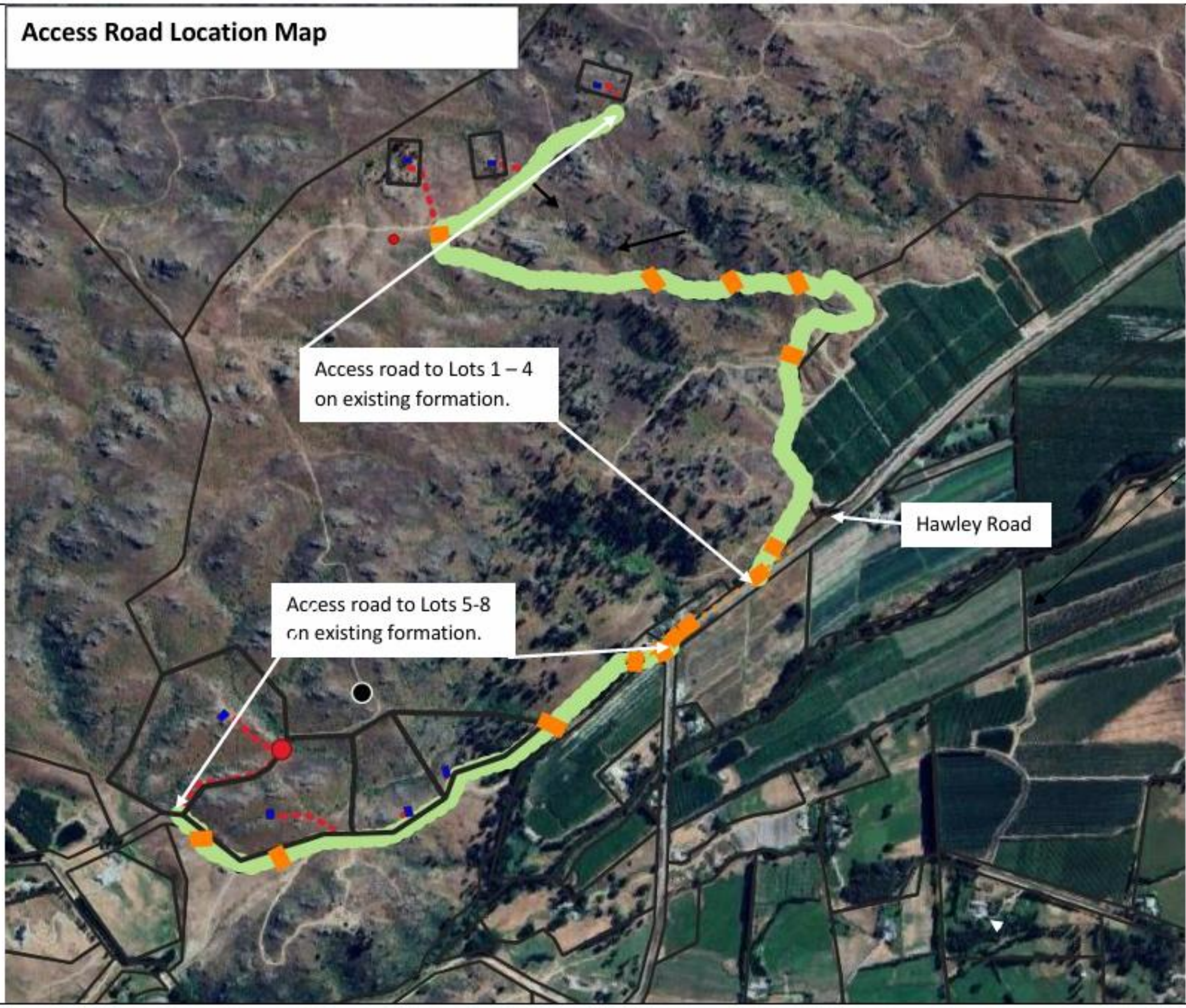
PROPOSED QEII COVENANT AREA, 182 ha approx.
LOTS 1 TO 8 BEING A PROPOSED SUBDIVISION OF LOT 1 DP 590633.
HAWLEY ROAD, EARNSCLEUGH

PLAN 2.1: SUBDIVISION PROPOSAL PLAN



LOTS 5 TO 8 BEING A PROPOSED SUBDIVISION OF LOT 1 DP 590633.
HAWLEY ROAD, EARNSCLEUGH

Scale 1:2500

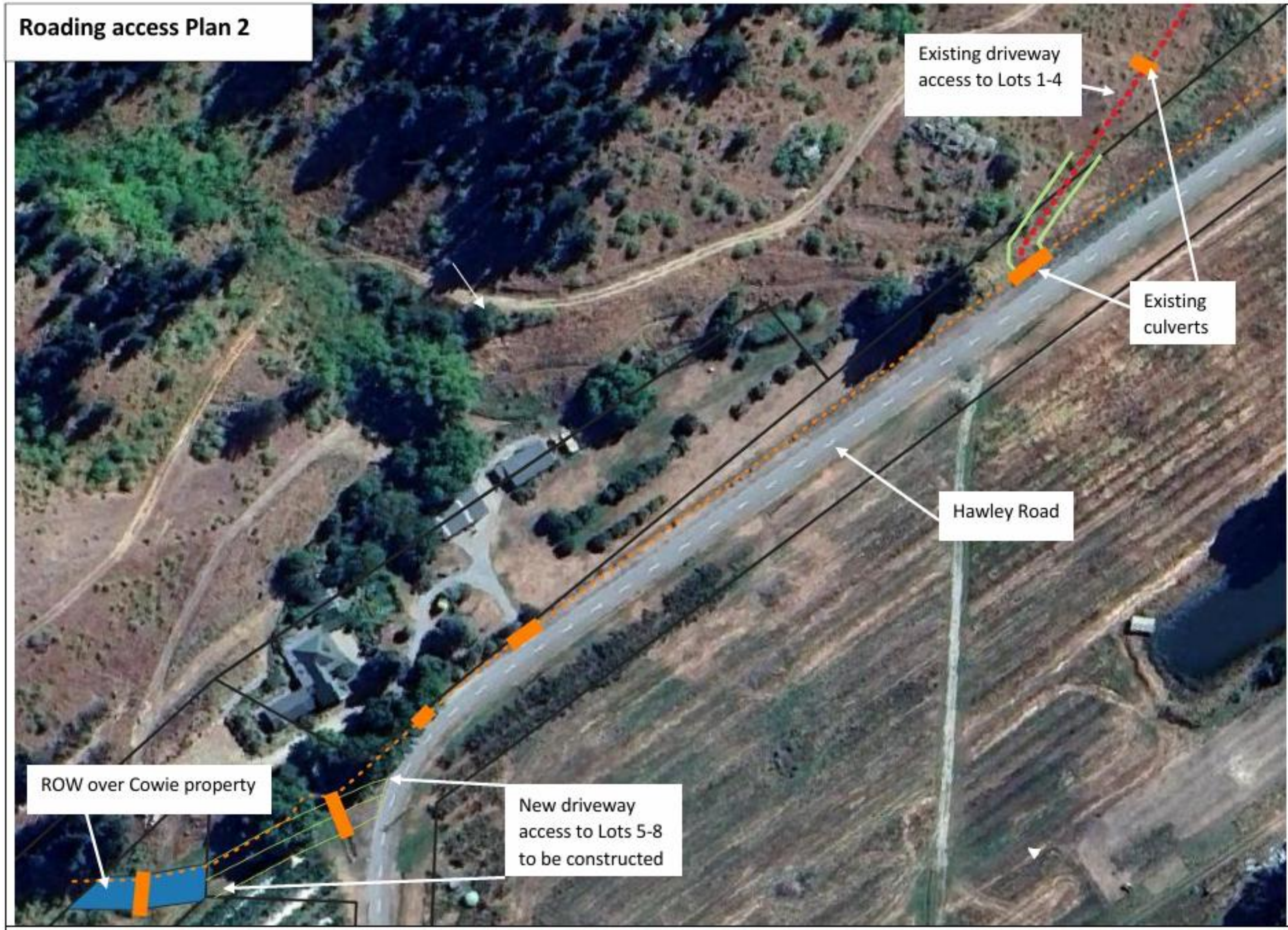


Access Road location map for proposed subdivision of LOT 1 DP 590633, HAWLEY ROAD, EARNSCLEUGH

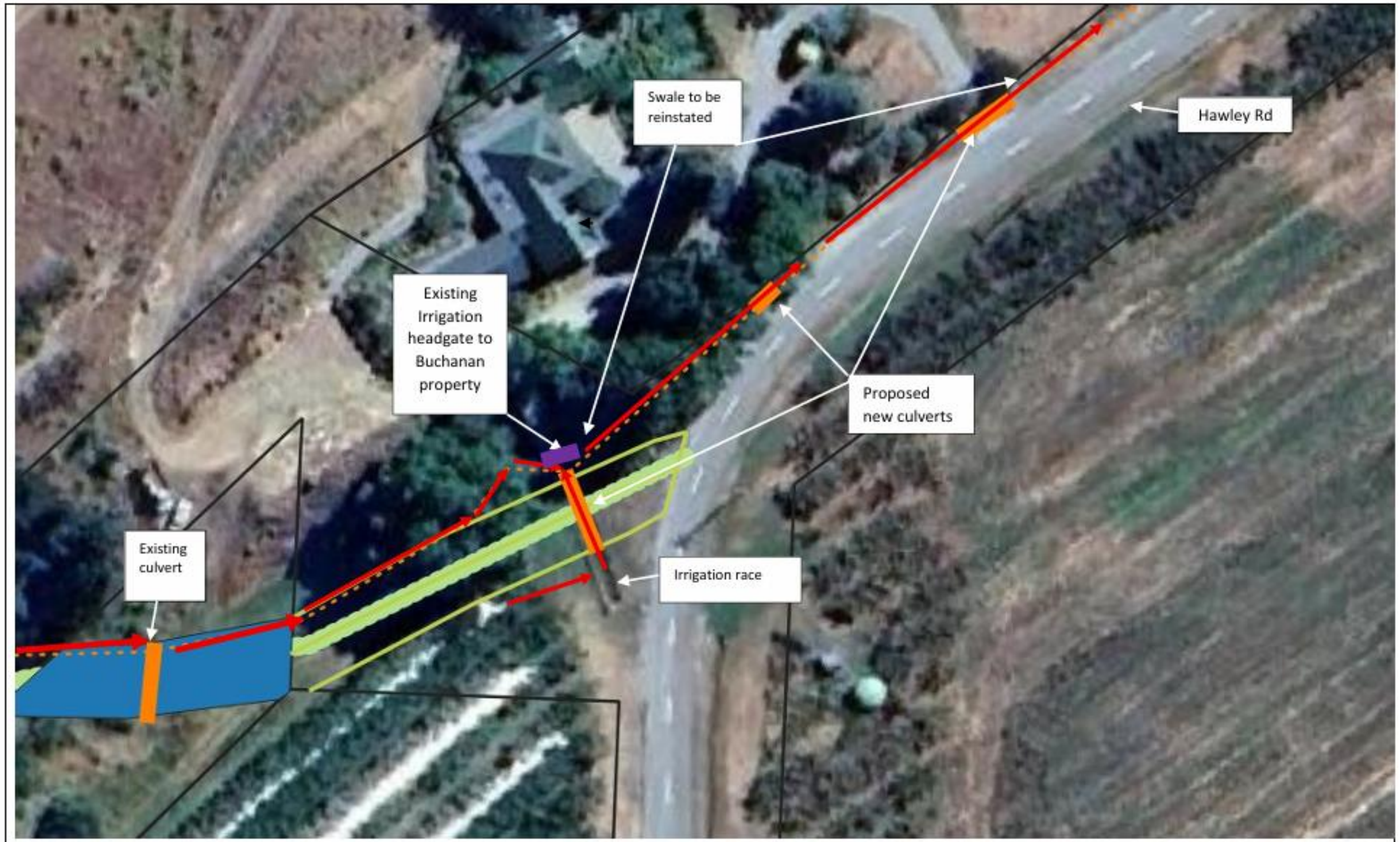
Roading access Plan 1

Roading access plan for proposed subdivision of LOT 1 DP 590633, access to Lots 5-8.
HAWLEY ROAD, EARNSCLEUGH

Roading access Plan 2

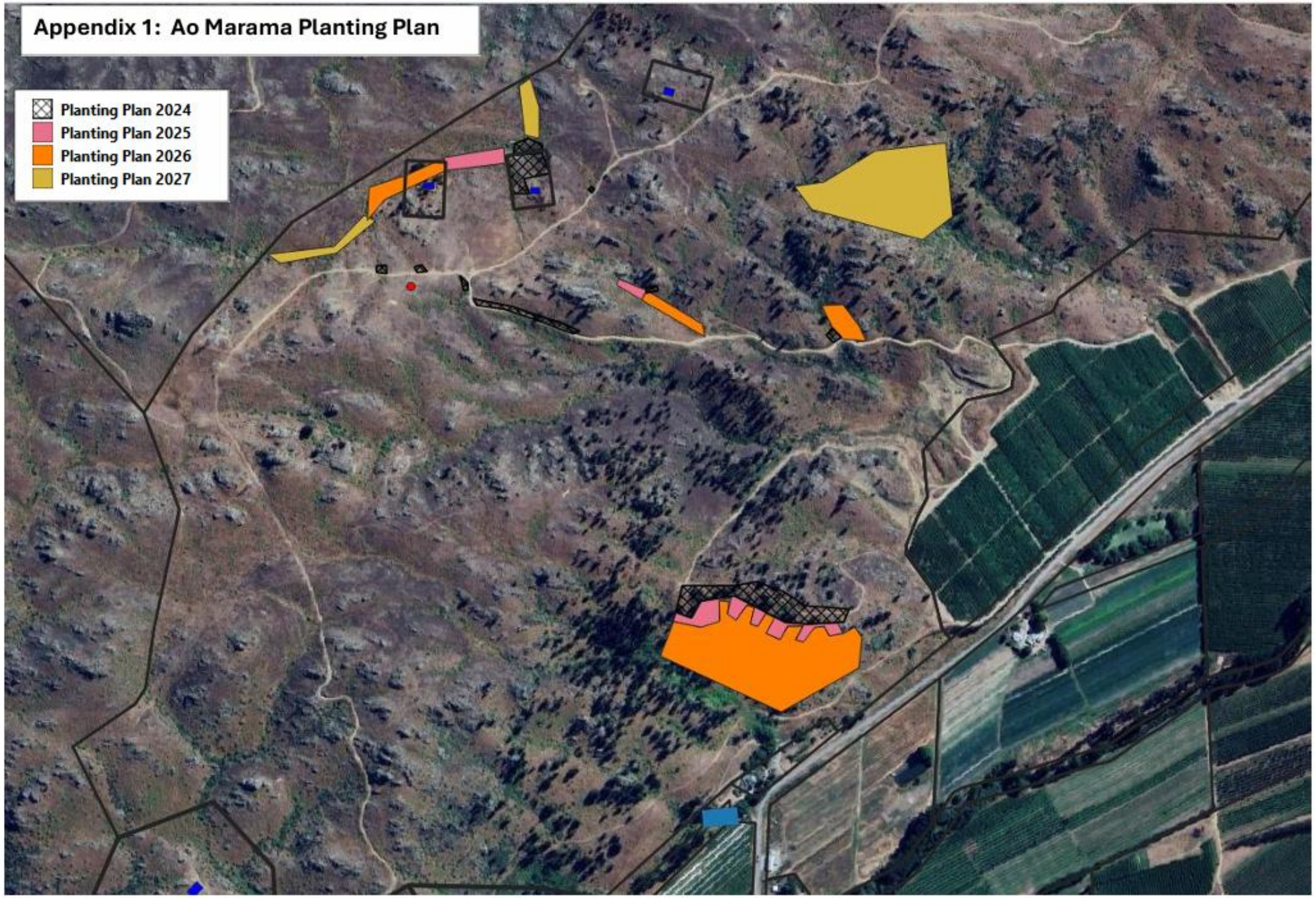


Roading access plan for proposed subdivision of LOT 1 DP 590633, access to Lots 1-4 and 5-8.



STORMWATER DRAINAGE PLAN 3
LOTS 1 TO 8 BEING A PROPOSED SUBDIVISION OF LOT 1 DP 590633.
HAWLEY ROAD, EARNSCLEUGH

Irrigation head gate
Stormwater flow direction
Road formation


Appendix 1: Ao Marama Planting Plan
Planting Plan 2024
Planting Plan 2025
Planting Plan 2026
Planting Plan 2027