

Clarity regarding non-complying status of subdivision

The description and Assessment of Environmental Effects submitted in support of the application incorrectly identify the proposed subdivision as a discretionary activity. I note that as the proposed lots do not comply with the 1,500m² minimum allotment size which applies in the Residential Resource Area (4) the proposed subdivision constitutes a non-complying activity in accordance with Rule 7.3.5(iv).

Please be advised that, based on the preliminary assessment undertaken thus far, this application will be publicly notified. In order to ensure the information made available to the public is accurate and to ensure that a full and proper assessment is carried out, you are requested to amend the details submitted with the application to reflect the correct activity status, and provide a 'gateway assessment' pursuant to Section 95D of the Act.

Provision	Text	Assessment
Central Otago District Plan Assessment		
<p>Rule 7.3.3(i)(c)</p>	<p>7.3.3 <u>DISCRETIONARY (RESTRICTED) ACTIVITIES</u></p> <p>(i) <u>Subdivision</u> Except as provided for in Rule 7.3.2(i) and Rule 7.3.4(ii), subdivision shall be a <u>discretionary (restricted) activity</u> provided that:</p> <p><u>PROVIDED THAT</u></p> <p>(c) Notwithstanding (a) and (b) above, the following minimum size for allotments and other standards shall apply in the areas set out below:</p> <p><u>Residential Resource Area (4)</u> Minimum Allotment Area - 1500m² provided that the average allotment size is no less than 2000m².</p>	<p>The proposed development is located within the Residential Resource Area 4.</p> <p>The proposed subdivision activity, now amended to include only 35 residential lots, has:</p> <ul style="list-style-type: none"> a. a minimum lot size of 700m²; and b. an average lot size of 1307m². <p>Therefore, the proposed subdivision activity does not comply with this rule.</p>

<p>Rule 7.3.5(iv)</p>	<p>7.3.5 <u>NON-COMPLYING ACTIVITIES</u></p> <p>(iv) <u>Subdivision – Residential Resource Areas (1) – (13)</u> Subdivision of land in Residential Resource Areas (1) to (13) that is in breach of Rule 7.3.3(i)(c) is a <u>non-complying activity</u>.</p> <p><i>Reason</i> These particular localities are subject to specific subdivision standards which establish a pattern for future subdivision and development consistent with the amenities of these areas. Subdivision that is in breach of these stated standards has the potential to compromise the amenities of these areas.</p>	<p>As the subdivision activity does not comply with above Rule 7.3.3(i)(c), it is a non-complying activity under this rule.</p> <p>We have completed a gateway assessment below under section 104D, accordingly.</p>
<p>Gateway Assessment under section 104D Resource Management Act 1991 (RMA)</p>		
<p>Section 104D RMA</p>	<p>(1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—</p> <p>(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or</p>	<p>It is considered the first gateway test is satisfied. The key effects of concern that result from the proposal are:</p> <ul style="list-style-type: none"> • landscape and visual amenity effects on the nearby rural zone; and • effects on archaeological values. <p>Given that the site is already zoned RR4, the above effects cannot be entirely avoided or remedied if the land use anticipated by the District Plan is to occur.</p> <p>The landscape and visual amenity effects, and effects on archaeological values from the proposal been mitigated. The proposed mitigation arises from recommendations from the applicant’s landscape and archaeological consultants. Both landscape and archaeological consultants consider that if the recommended mitigation is carried out, the effects from the proposal will be acceptable.</p> <p>Regarding landscape effects, Rough and Milne concluded their assessment by saying that:</p> <p><i>It is considered that if the recommendations are adopted then any potential adverse landscape effects will be appropriately mitigated, as the</i></p>

		<p><i>nature and scale of the revised development will maintain the landscape values and character of the Cromwell Basin.</i></p> <p>And with respect to visual amenity effects:</p> <p><i>In the context of visual amenity effects, any potential adverse effects will be contained to viewpoints immediately to the east of the site, from which the revised proposal will be most visible. From these viewpoints, recommendations around building platforms and dwelling heights will help to ensure built form is of a character consistent with the surrounding landscape character and values.</i></p> <p>....</p> <p><i>when considering the visibility of the development from all assessed viewpoints I consider that adverse effects on visual amenity overall will be reduced to moderate-low.</i></p> <p>Based on the above findings, it is considered that the landscape and visual amenity effects of the proposal, taking into account proposed mitigation measures, will be moderate-low overall.</p> <p>To interpret what “moderate-low” means in the RMA sense, we refer to the New Zealand Institute of Landscape Architecture's recently adopted draft Landscape Assessment Guidelines (known as Te Tangi a te Manu - Aotearoa New Zealand Landscape Assessment Guidelines or TTatM). Based on the TTatM, “moderate-low” equates to minor in the RMA sense.</p>
	<p>(b) the application is for an activity that will not be contrary to the objectives and policies of—</p>	<p>An assessment of the proposal against the objectives and policies of the relevant planning documents is included in the original Application, and an updated</p>

	<p>(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or</p> <p>(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or</p> <p>(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.</p>	<p>objectives and policies assessment is included in this RFI response at Appendix B.</p> <p>In summary, the proposal is assessed as being not contrary to the objectives and policies of the relevant plan.</p>
<p>Conclusion: the proposal meets the gateway assessment requirements under section 104D.</p>		

Clarity regarding land use consent for a breach of Rule 12.7.7

Likewise, the fact that the consent seeks land use consent (for a breach of Rule 12.7.7) should be made clear in the opening description of the proposal. Given the nature of the subdivision layout it is considered appropriate that LUC be sought for any lot where the buildable area is affected by the BLR. This amendment to your application should be supported an amended scheme plan showing the location of the BLR in relation to the proposed lots and areas requiring land use consent.

Provision	Text	Assessment
Central Otago District Plan Assessment		
Rule 12.7.7		<p>See Figure 1 below for the relevant planning map showing the Building Line Restriction (BLR) area affecting the subject land.</p> <p>A total of 25 lots within the proposed subdivision overlap with the BLR area (see Figure 2 below), and may have building platforms within the BLR area.</p> <p>The lots affected are:</p> <ul style="list-style-type: none"> Lot 3 Lot 4 Lot 5 Lot 6 Lot 7 Lot 8

	<p>12.7.7 BUILDING LINE RESTRICTIONS</p> <p>(i) No building shall be erected within any building line restriction shown on the planning maps between the building line and the feature to which it relates.</p> <p>(ii) <u>Breach of Standard</u> Any activity which does not comply with this rule shall be a <u>discretionary restricted activity</u>.</p> <p>Council shall restrict the exercise of its discretion to the following matters:</p> <ol style="list-style-type: none"> 1. The effect on the natural character of water bodies and their margins. 2. The effect on amenity values of the neighbourhood in particular the character of the streetscape. 3. The effect on the safe and efficient operation of the roading network. 4. The effect on infrastructure. 5. The effect on the safety of neighbours. 6. The effects of noise from the operation of the roading network and compliance with AS/NZS 2107:2000. <p><i>Reason</i> <i>Building line restrictions are a useful technique to protect amenity values and the safe and efficient operation of certain roads. They are also useful to avoid the effects of natural hazards on the built environment. The area subject to restriction is shown as 'BLR' on the planning maps.</i></p>	<p>Lot 17 Lot 18 Lot 19 Lot 20 Lot 21 Lot 22 Lot 23 Lot 24 Lot 25 Lot 26 Lot 27 Lot 28 Lot 29 Lot 30 Lot 31 Lot 32 Lot 33 Lot 34 Lot 35</p> <p>Consent as a restricted discretionary activity is therefore sought for these lots.</p>
<p>Conclusion: All lots shown below in Figure 2 as being subject to the BLR area will require a restricted discretionary consent.</p>		

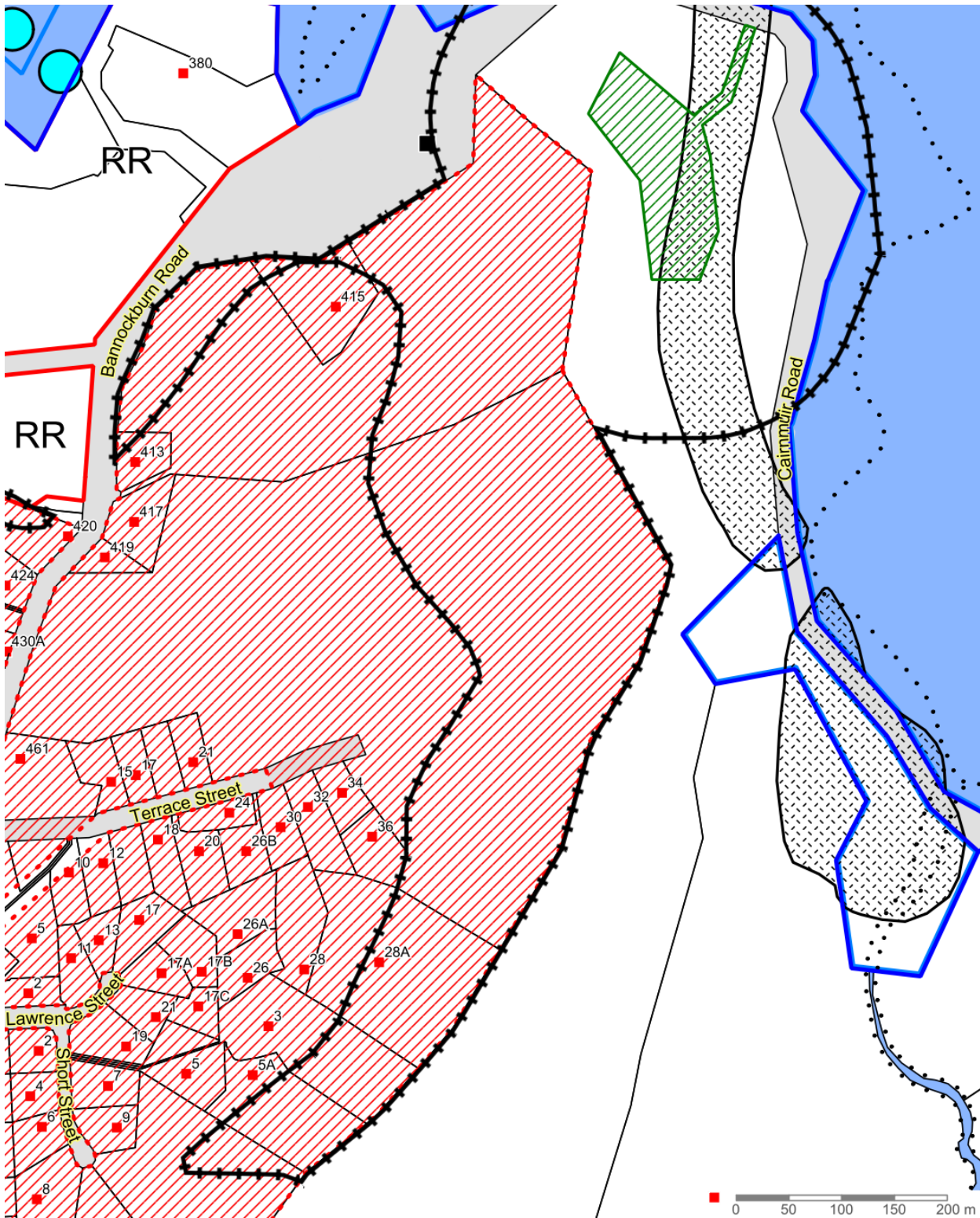


Figure 1 – Central Otago District Planning Map showing the Building Line Restriction

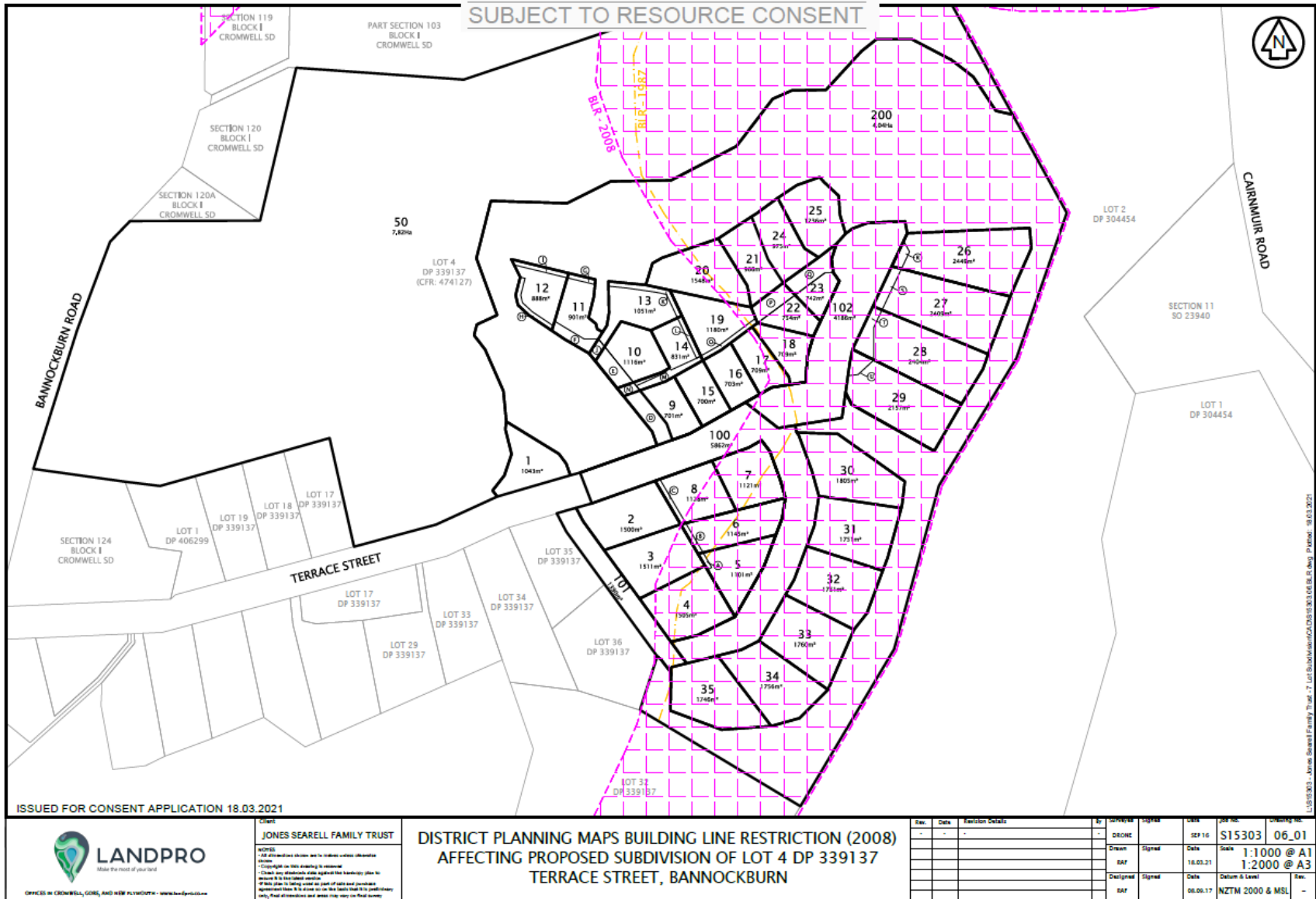


Figure 2 - Plan showing lots affected by BLR (with pink square overlay)