

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

APPLICANT: Douglas Developments Ltd, 185 Jolly Road, Tarras (RC200142)

The applicant, Douglas Developments Ltd, seeks to undertake a seventeen (17) lot subdivision at their property at 185 Jolly Road, Tarras. The subject site is legally described as Lot 1 DP 540743, held in Record of Title 907205 with an area of approximately 132.6 hectares (ha). Consent Notices 10885458.4 and 11588766.4 are registered against the title.

The applicant originally sought to undertake a unit title subdivision of the site but subsequently revised this on to a fee simple subdivision on 21 May 2021. Further information was provided on 5 August 2021 and 29 September 2021 and this information is now considered to form part of the application. Of note the layout of Lots 2-5 have been revised from that originally proposed. A Landscape and Visual Effects (LVE) assessment by Align Limited has been submitted as part of the further information response along with subsequent points of clarification arising from the LVE.

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 subject site is located within the Rural Resource Area as shown on Planning Map 46. The subject site contains Scheduled Activity (SA33) which is a gravel pit on Jolly Road. Additionally, to the north of the subject site there is Designation Activity (D209) which is the Tarras closed landfill on Jolly Road. There are no other annotations for this site.

Rule 4.7.4(iii)(b) of the Central Otago District Plan states that where a subdivision will create lots with an average size of no less than 8 hectares (ha) and a minimum lot size of no less than 2ha within the Rural Resource Area, then, this is a discretionary activity. In this instance, none of the lots except for the balance lot (Lot 17) meet the 2ha minimum, and the average lot size is approximately 1.133 ha. For the purposes averaging, Lot 17 is treated as 16ha in accordance with the guidance in Rule 4.7.4(iii). The subdivision is assessed as a non-complying activity pursuant to Rule 4.7.5(iii).

For completeness, I note that the creation of 16 lots from the 132.6ha site is an overall average of 8.28ha.

No land use consent is sought at this time and each lot will be required to get a resource consent pursuant to Rule 4.37.3(vii) of the District Plan as each lot is developed.

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the soil contamination NES and/or might require resource consent.

I note that Lot 17 is to remain in production land and it is, therefore, exempt in accordance with Regulation 5(8) of the NESCS. As such, it is the lots which are to be used for residential purposes that are relevant to the NESCS. The applicant advises that a desktop assessment of the site has been completed, using a historical imagery and a search of the Otago Regional Council's (ORC) Hazardous Activities, Industries and Bores Search. This is considered to meet method 6(2)(a) as per the NESCS.

For completeness, the applicant notes that, there is a verified HAIL site on the adjacent property to the north. The site contains the Tarras closed landfill and is owned by CODC. This site is managed by CODC through ORC consents, under which CODC are required to undertake quarterly visual inspections and annual groundwater sampling. Discussions between the applicant and CODC engineering staff confirmed that the site is fully capped and is in good condition, meaning it is highly unlikely that landfill gas, odour, and dust from the landfill reaches air. Furthermore, the onsite monitoring wells are dry, meaning it is highly unlikely that landfill leachate is able to reach groundwater resources. CODC informally consider that the site is unlikely to pose a risk to human health.

Overall, the site is not assessed as a HAIL site and the NESCS is not triggered by this application.

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

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.

COMMENT ON PROPOSAL:

Part 2 of the RMA and Section 104(1)

This application must be considered in terms of Section 104 of the RMA. Subject to Part 2 of the RMA, Section 104(1) sets out those matters to be considered by the consent authority when considering a resource consent application. 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 standards;*
 - (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.*

Section 104D

As noted above that the proposed subdivision has status as a non-complying activity in the Rural Resource Area of the Operative Central Otago District Plan as the allotments have an average area less than 8ha. It is therefore appropriate that the proposal be considered as an application for subdivision consent under the District Plan for a non-complying activity pursuant to sections 104, 104B and 104D of the Resource Management Act 1991.

In terms of section 104D (as amended by the Resource Management Amendment Act 2003) 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.*

Sections 108 and 220

Sections 108 and 220 empower the Hearings Panel to impose conditions on a resource consent should it be of a mind to grant consent.

DESCRIPTION OF PROPOSAL:

The subdivision seeks to take the form of a farm park whereby 16 small lots are held by individuals and the larger balance lots is held in equal 16th shares. As noted above, this application was originally lodged as a unit title development but was subsequently revised to a fee simple proposal. This clarification is expected to address the matter raised in Molyneux Farms Limited, in its submission, regarding the legal form of the subdivision.

- Lot 1 will have an area of 5503m²
- Lots 2-16 will range in area from 1735m² to 1914m² and will be developed for residential purposes.
- Lot 17 is to be the balance lot and will contain the working farm and communal facilities.

The applicant is also proposing a community facility for use by the lot owners. This facility may include any or a combination of a kitchen, lounge, small gym, and tennis court. This building will be approximately 40m² and will have a similar design and colouring as the buildings described above. This would be located within the footprint of the existing hayshed on the upper terrace. No limits on the use of this facility are proposed.

The lots are to be clustered but no specific design controls are proposed for this development of the lots, except for landscape mitigation as recommended by Align Limited. The applicant anticipates that low profile, single storied residential dwellings will be built, designed in a style and theme with local stone, probably with high pitched /volume roof spaces common in Central Otago. However, it is the applicant's preference that no building height restrictions are imposed as part of this subdivision application, to allow individual lot owners to design a house suitable for each lot, while conforming with the preferred style of the subdivision. They note that each future dwelling will require further resource consent and the applicant considers it appropriate to allow each design to be considered on its merits.

That said the application identifies that a future dwelling contained with proposed Lot 9 has the potential to breach the skyline when viewed from Jolly Road looking south. This would occur if a dwelling was placed at the northern boundary of this lot. Given that the height poles were placed on the corners of the lot, this height pole represents the corner of Lot 9, which means the skyline may not be breached by a potential building. However, the applicant acknowledges that future residential development within the lot boundary has the potential to cause a minor breach of the skyline, specifically when Lot 9 is viewed directly from Jolly Road.

Jolly Road is proposed to be used as the primary access for this subdivision. The applicant proposes to upgrade Jolly Road from the point that is 1.07km distance from the State Highway 8 intersection. This point is proposed as Jolly Road is already required to be sealed to this point as per conditions of RC190042. The applicant is also proposing for a private road to be constructed from Jolly Road to provide access to each lot. The applicant is proposing that this be a private road across the farm to ensure that there is no disruption to ongoing farming activities from external traffic, to maintain stock security, and to ensure compliance with Health and Safety expectations on-farm. The applicant does not wish the road to be vested.

The applicant is proposing that water can be supplied to the lots through the following methods:

- Rainwater – each lot would collect rainwater off the roof, to then be stored in three partially buried 25,000 L concrete tanks within the lot. As water is drawn from the tanks, it will be passed through a proprietary filtration system and UV Light to filter out any airborne impurities.
- Groundwater – there is an existing bore on the lower terrace of the property. This supply would be pumped up to the top terrace and supplied to the tanks on each lot, to supplement the rainwater supply during prolonged dry spells.
- Lindis Irrigation Scheme – the property has a water right to access water from this supply. This supply only runs during summer and would be used as a backup supply to supplement other methods as required.
- Secondary rainwater – there will be three partially buried 25,000 L tanks connected to the implement shed, which has a 400m² roof area. Water will be able to be taken from these tanks to supplement the lots.
- The applicant also holds consent to construct up to three bores on the lower terrace, as per RM20.059.01.

The applicant proposed that the network water supply to supply the proposed lots will be registered but a formal water supply document has not yet been drafted.

The applicant proposes that each lot will dispose of wastewater onsite. A report by Mt Iron Geodrill Limited assesses that based on previous investigations of the site, the land is considered suitable for onsite disposal of wastewater. Further investigations by Mt Iron Geodrill in respect of wastewater are on-going and will be provided for when these are completed.

The application does not identify the need for any earthworks which would exceed the permitted activity criteria set out in the District Plan.

A 10-year lapse period is sought for the application.

SITE DESCRIPTION

The application identifies the subject site an active pastoral livestock grazing farm, located approximately 1.6km northwest of Tarras, amongst a neighbourhood of lifestyle block developments and large sheep/beef and dairy stations. The two nearest existing farm residences are approximately 1km away to the east and west respectively, with the neighbouring property also being subject to an approved rural subdivision RC190042.

The property is sloping from north to south, being located on three distinctive terrace features. The lower terrace fronts onto SH8A and is part of the Tarras alluvial fan plain. The lower and middle terraces are flood irrigated by the Tarras Irrigation Scheme. The upper terrace, the largest in area (44 ha) is planted in an established lucerne crop and is only irrigated via rainfall. The proposed subdivision is to be located on the upper terrace of the site.

PLANNING BACKGROUND:

The site was created as part of RC190265 which separated three existing parcels into two allotments. The subject site was Lot 1 of the RC190265.

RC210021 was approved in April 2021 which authorised to build a principal dwelling for family use and a minor dwelling that can be used for workers accommodation. A skyline breach was authorised for both residential units. The land to which this consent related is Lot 1 on this subdivision (RC210142). The principal dwelling will have a floor area of 502m² and the highest point of this dwelling is the top of the chimney which is 7.35 metres in height. The dwelling will be clad in stone, timber (board and batten), with coloursteel roofing and the application advises that the exterior colours will comply with the general standards as identified in Rule 4.7.6D. The minor dwelling has a floor area of 98m² and is intended to be used for farm manager’s and farm worker’s accommodation. This dwelling is less than 5 metres in height and will be clad in timber weatherboard with colours in accordance with the District Plan general standards as identified in Rule 4.7.6D.

RC210291 authorised a private airstrip on a farm within 500m of land that may be utilised for residential activity. The use of the airstrip is restricted to the hours of Civil Daylight and Civil Twilight only. I note that this application was lodged after RC210142 was lodged.

For completeness, I had no involvement with the processing of either of the above applications.

AFFECTED PARTIES AND NOTIFICATION:

No affected party approvals were submitted with the application.

A separate notification decision was made on 4 October 2021. 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 19 November 2021 and seven submissions were received by the close of the submission period. The submissions are summarised below:

Summary of Submissions

Submitter	Status	Relief sought	Wishes to be heard
Hudson and Christina Dimock	Support	Considers that the benefit of this smaller subdivision is that it will attract new families to the area and help the community to grow in a safe way without adverse reactions to the infrastructure.	No

		<p>Supports the idea of limited sections which include a common shareholding in a working farm environment is a smart way of allowing each owner the opportunity to live rurally within a beautiful environment, whilst also enjoying the economic and financial benefits of a wider working farm.</p> <p>Supports each section being slightly smaller than those usually permitted by CODC and considers this to be positive with each owner having an active shareholding in the wider farm.</p> <p>Would support covenants placed on future 'owners' to ensure that the properties built are in keeping with the natural landscape and add value to the overall working farm. This would hopefully avoid the possibility of unsightly houses being erected.</p> <p>Considers it to be positive that the location of development minimises earthworks</p> <p>Supports the upgrading of Jolly Road which would assist in mitigating the environmental impacts on neighbouring farms.</p> <p>Seeks that the consent be granted</p>	
Chris Goddard	Support	<p>Supports the application as it aligns with the Tarras community view of sustainable and environmentally thoughtful residential growth, while retaining rural character of the area.</p> <p>Considers that the majority of the Tarras community does not accept industrial development as an alternative pathway to keeping the rural feel or a pathway to sustainable residential growth.</p> <p>Requests that Council support the application with additional requirements (if any are deemed appropriate) to deliver what the majority of the Tarras community feel is appropriate from the 2021 survey and current community plan</p>	Yes
Greenlight Land Limited	Support	<p>The submitter is a wholly owned family entity with the specific purpose of developing high-class, yet discrete, large</p>	Yes

		<p>lifestyle lots within walking distance of the existing Tarras node. We plan to live in the Greenlight Land RC190042 consented development.</p> <p>Greenlight Land Limited, with our existing residential consent for rural lifestyle lot subdivision, view ourselves as the most affected party neighbouring the Douglas Developments application and proposal. Greenlights lots are designed for 360 degree viewing with build platforms facing the sun and views in the W/NW/N direction directly towards Douglas Developments land. The applicants lots are directly in our line of site and potentially have a negative financial impact if not designed or proper consideration is taken into account of our existing consent RC190042.</p> <p>Considers that the applicant has produced a sympathetic plan and design that will positively add to Greenlights existing residential lifestyle consent but also compliment the town of Tarras and surrounding rural area.</p> <p>Considers that the site and locating of all 17 lots on the upper terrace are most compelling to negate wider future negative impacts.</p> <p>Considers that the applicant has produced an advantageous proposal for a future mixed farming operation. We are sympathetic to this. This in turn leading to a strong sense of community and keeping a rural element with the existing land parcel. This seems in keeping, and wish more developers took this approach of minimal negative impact.</p> <p>Seeks that:</p> <ul style="list-style-type: none"> • any approved lots stay fifty metres off the Greenlight Land boundary with Douglas Developments • A similar level of landscaping, and similar plant species that were requested of Greenlights consent to be needed for RC210142 and per the Espie Landscape Assessment report. 	
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		<ul style="list-style-type: none"> • The existing shelter belts on the Douglas Developments/Morris land and within their proposal remain over the long-term to mitigate any perceived negative visual effects of their lot size, amount, and location. • The height of all homes and secondary buildings to be capped at similar height to Greenlights consent RC190042 and single story only allowed. If this is to not be followed, then would ask that a maximum 7.5-meter allowable roof height. • A similar consent life of 10 years as Greenlight Land is approved for Douglas Developments • Greenlight Land in no way wishes to give up ability to oppose any future neighbouring developments that are outside the existing rural and farming activities and not included in this application. • A no-complaints covenant be placed on all Douglas Development lots with regards to Greenlight Land Limited future individual lot titles • Any future sealing requirements for the road from the beginning of SH8/Jolly Road intersection that this be shared on a per lot basis and no individual titles issued until this is sealing is completed per consent RC190042. • Greenlight ask that Douglas Development share in any proportional upgrades to Jolly Road to accommodate future daily traffic flow from this proposed subdivision and new lots using the road. 	
Molyneux Farm Limited	Oppose	<p>Owns the property that directly adjoins the application site to the northwest and as is acknowledged in the application will be directly affected by the proposal.</p> <p>Considers that the application has demonstrated that neither of the Section</p>	Yes

		<p>104D gateway tests are met and therefore the Council has no ability to grant the application.</p> <p>Considers that:</p> <ul style="list-style-type: none"> • There is no information to assess whether there is adequate rain fall in the area to provide for the potable and irrigation water. • There is no information relating to the ability of the bores on the site to provide supplementary water. • There are no details concerning the proposed Body Corporate. Indeed, it is questioned whether the subdivision could be completed under the Unit Titles Act as suggested. • There is no detail given as to how existing or proposed landscaping which it is suggested will be relied on to mitigate effects will be secured in perpetuity. • The applicant suggests certain matters will be secured by private covenant but of course the Council is not party to such covenants. • The application suggests reverse sensitivity issues can be controlled by conditions requiring no complaints covenants, but no proposed wording of such covenants has been provided. • Profile poles should have been erected on site showing all four corners of each proposed lot/unit showing the full extent of such given there are no proposed conditions as to bulk and height of buildings which are allowed in each lot/unit. • There are no details provided as to how the balance of lots/units will be managed. 	
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		<ul style="list-style-type: none"> • A no further subdivision covenant has not been offered over the balance of the lots/units. • There is no commitment by the applicant to seal any part of Jolly Road and the applicant appears to be relying on conditions of the consents to ensure sealing occurs. That consent may never be given effect to. • The application is devoid of confirmation from infrastructure providers (electricity or telecommunications) that there is adequate supply to service the proposed lots/units. • No landscaping plan identify existing or proposed planting relied on for the mitigation is proposed. Further, given the proposed staging of the development (if that can occur with a Unit Title subdivision) no detail is provided as to when planting is to occur. • The proposal is contrary to the numerous policies contained in the Plan such as • 4.4.2(b), (e) and (g), 4.4.9, 4.4.10(c) and (e), 16.4.3, 16.4.4(a) and (b) and 16.4.6. • The landscape assessment supplied in respect to a Request for Further Information acknowledges landscape effects will be moderate (being more than minor). • No detail is provided as to how the proposed communal effects will be accessed. • Clustering of development as proposed can have adverse effects as those viewing the site will not be aware of the relationship of the proposed lots/units to the balance land. A number of lots/units will be visible together. Further, given the lack of any offered no further subdivision covenant there is no 	
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		<p>guarantee the balance land will not be subject of the further development in the future.</p> <ul style="list-style-type: none"> Allotments of 1700m² – 1900m² are inappropriate in a rural environment, especially the clustering of the same around external boundaries with neighbours such as proposed Lots 11-16. <p>Seeks that the application be declined</p>	
Stuart Andrew Wards	Support	<p>Support the application as it offers a modern and sustainable approach to breaking up rural land, while offering a rural lifestyle to those who value it but acknowledge that they are not farmers.</p> <p>Considers that the cluster of homes envisioned by this project as no different to the small neighbourhoods that grew around the rural community hall or marae; except that they'd be new, environmentally appropriate, quality lifestyle homes.</p> <p>Supports the proposed ownership model, where the 16 residential owners will own a share of the farm. This approach will lock in some stewardship of the land and environment.</p> <p>Supports the proposal keeping the housing in comfortable proximity of each other; avoiding the spread of infrastructure, driveways, and movement across the farm. This will ensure minimum impact on the operations of the farm and be less upsetting to stock.</p> <p>Considers the proposal will:</p> <ul style="list-style-type: none"> be compatible with the natural and human environment, be temporarily softer than most higher density development works in the district, provide precedent to a better way to subdivide rural land, and add value to the Tarras community. <p>Seeks that consent be granted.</p>	No

<p>Otago Regional Council</p>	<p>Regional Council</p> <p>Oppose</p>	<p>Considers the application fails to achieve the purpose of the RMA, is inconsistent with both the partially operative and the proposed RPS, and the relevant provisions of the Plan.</p> <p>Considers that the density and scale of development, irrespective of the proposed communal farming lot promoted, is residential in character and nature, including the associated roading. This is reinforced by the proposal that each house has its own lawn and gardens which emphasises the residential characteristics.</p> <p>Considers that granting of the proposal would set an undesirable precedent for other similar applications.</p> <p>ORC also considers the application is inappropriate as a resource consent and would be more properly considered through a plan change, where the costs and benefits would be fully considered.</p> <p>Considers that a communal wastewater system is the appropriate mechanism to protect the environment, including water quality. Communal systems provide a higher level of treatment, and less vectors of risk with only one system and disposal field needing to be maintained.</p> <p>Considers the proposal will result in the loss of soils including fertility able to support productive use. The change of land use will remove productive soils from the system, and change the stormwater runoff, assimilative capacity of the land and the general nature of the environment.</p> <p>Considers the potential for reverse sensitivity effects could also result from placing a high concentration of people into a rural environment.</p> <p>Considers the design of the development will create a small neighbourhood among a larger farm setting, which is inconsistent with any strategic planning, and the Rural Zones' objectives.</p> <p>Considers that the developments do not</p>	<p>Yes</p>
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		<p>demonstrate a functional need to be located on this land.</p> <p>Considers that proposal is significantly below both the minimum and average allotment size for development required under the district plan in rural areas.</p> <p>Seeks that the application be declined.</p>	
Hokonui Rūnanga (Kā Rūnaka)	Oppose	<p>Hokonui Rūnanga have responsibilities through whakapapa to act as kaitiaki and care for the environment as a whole. The right of Kāi Tahu to oversee land, resources, aspirations and wellbeing was protected under the Treaty of Waitangi, and this right still exists today, as recognised by the Ngāi Tahu Settlement. Kāi Tahu has a cultural, spiritual, historic, and traditional relationship with the Clutha/Mata-au catchments of which Tarras is a part.</p> <p>Hokonui Rūnanga are concerned about inappropriate subdivision and development which might have adverse effects on the environment or sites of cultural significance to Kāi Tahu. These activities alter the natural elements of a catchment and have a very real potential to undermine the role of the Rūnaka as raketira and kaitiaki of all natural resources.</p> <p>This site is approximately 1.8-2 km from the Mata-au/Clutha River, which is a Statutory Acknowledgement area.</p> <p>The Rūnaka note the nature and form of the overall development, which is not typical, with the clustering of small proposed lots and future building development which it is understood would breach setback distances specified in the District Plan. The Rūnaka are concerned about the capacity of the area to absorb the visual and amenity impacts, and the actual and potential adverse effects including cumulative effects of the subdivision and future built form on cultural landscape values, and the open character and natural elements of the wider landscape of the area.</p>	No

		<p>The Rūnaka are also concerned that the proposal will also exacerbate the potential for degradation of ground and surface water from wastewater and stormwater, given that that the proposed development includes onsite disposal of stormwater and wastewater, particularly given the small size of the allotments, and proximity to each other. The Rūnaka consider that this has the potential to degrade the mauri of the Mata-au/Clutha Catchment. The Rūnaka seek that all measures are taken to protect the groundwater and any surface water resource should consent be granted.</p> <p>The Rūnaka note that although there are no recorded Māori archaeological sites within the boundary of the site, there is the potential to disturb unrecorded sites. Therefore, any works and earthworks undertaken should be carried out in a way that allows for monitoring for artefacts or archaeological material and a condition/s that carefully addresses this aspect is required should consent be granted.</p> <p>Seeks that the application be declined but that is consent is granted that it is subject to conditions which ensure that:</p> <ul style="list-style-type: none"> • a consent notice be registered against the titles that prevents further subdivision • of each lot including the balance lot. That all measures are taken to ensure the protection of the groundwater and surface water resource from contamination. • Condition/s are imposed relating to an Accidental Discovery Protocol/Procedures if māori artefacts or archaeological materials are discovered. 	
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ASSESSMENT OF EFFECTS OF PROPOSAL

Section 104 requires consideration of the effects of the activity. When considering the effects of the proposal, I note that the proposal is for a non-complying activity. 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. In respect of built form, rural purpose buildings are permitted subject to design controls and provide a limited permitted baseline for the future residential component of the proposal.

With regard to the existing environment, this has been described earlier in this report and is not repeated here.

Effects on Rural Character and Amenity Values and Landscape

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

Built Form

The most noticeable effects on the rural character arising from this type of subdivision generally arise as a consequence of the additional domestic activity and associated buildings, and infrastructure that are preceded by the subdivision. In this instance, the proposal has the potential to introduce 16 new residential dwellings into the rural environment. The proposed design will result in a concentration of built form on the upper terrace of the site. Separation distances between future dwellings will be reduced as a result of the configuration of the subdivision. Future built form will also breach the setback distances to internal lots specified in the District Plan, but setbacks to external boundaries will be maintained to the minimum anticipated by the District Plan and increased in some instances.

As noted previously a LVE was submitted by Align Limited. Align assesses that *“The nature of the upper terrace area will change significantly, with the addition of sixteen residential dwellings (including the approved dwelling RC210021) on what is currently used for pastoral farming.”* And that *“the site will be highly visible when viewed from Jolly Road looking southeast due to the relatively open northern boundary (due to the lack of mature vegetation)”*.

However, Align consider that *“the large, existing mature shelterbelts which are to be retained as part of this proposal provide significant screening to the south and west for transient users along State Highways 8 and 8A, while the existing topography and vegetation associated with the neighbouring approved development to the east is anticipated to provide significant screening when viewed from the east.”*

In terms of the built form, no specific design controls are proposed for this development of the lots, except for landscape mitigation as recommended by Align Limited and discussed below. While the applicant anticipates that low profile, single storied residential dwellings will be built, designed in a style and theme with local stone, probably with high pitched /volume roof spaces common in Central Otago, it is the applicant’s preference that no building height restrictions are imposed as part of this subdivision application, to allow individual lot owners to design a house suitable for each lot, while conforming with the preferred style of the subdivision. They note that each future dwelling will require further resource consent and the applicant considers it appropriate to allow each design to be considered on its merits.

While I recognise that this is the applicant's preference, I also recognise that the proposal introduces a significant amount of built form into a relatively small area. In this regard, I consider that any steps able to be taken to reduce the dominance of the development overall, should be encouraged. The applicant refers to conformity with the preferred style of the subdivision but there is no detail regarding this. The Align assessment also notes *"the built form of the proposed development has not been defined, however is anticipated to be predominantly single-storey dwellings, in keeping with the predominant character of the surrounding area."*

Given that this is the basis on which the landscape assessment was made, I consider that it is appropriate to restrict the dwellings to be single storied (approximately 5.5m), should the Panel be of a mind to grant consent. While I am not a landscape architect, I consider it more likely that, with a single-storied dwelling, the screen planting discussed further below will become more effective more quickly.

I note that the application also identifies that a future dwelling contained within proposed Lot 9 has the potential to breach the skyline when viewed from Jolly Road looking south. The applicant considers that this would occur if a dwelling was placed at northern boundary of this lot. Given that the height poles were placed on the corners of the lot, this height pole represents the corner of Lot 9, which means that it is possible to develop the lot without breaching the skyline. However, the future residential development within the lot boundary is acknowledged, specifically when Lot 9 is viewed directly from Jolly Road. Given that the lot can be developed without a skyline breach, it is considered appropriate to assess this at the time plans for the development of the lot are created, should consent be granted.

The applicant is also proposing a community facility for the lot owners within an existing building. This facility may include any, or a combination, of a kitchen, lounge, small gym, and tennis court. This building will be approximately 40m² and will be located within the footprint of the existing hayshed on the upper terrace. No assessment of effects of the proposed facility has been included with the application. However, as noted above, any change of land use associated with the communal facility which is not permitted in the Rural Resource Area is likely to require further resource consent.

Align also note that in terms of visual effects, light from the residential dwellings and light from vehicles travelling to and from the property associated with the additional vehicle movements of sixteen new dwellings would be the most prominent night time visual effect. The most visible location for this would be from Lots 10 to 7 when viewed from Jolly Road until recommended mitigation planting becomes established. Additional controls could include restricting lighting in outdoor areas, to be hooded to prevent light spill into the night sky. There could also be controls around lux levels or colour temperature (kelvin scale) to ensure that any lighting was of a warm colour and not cool colour which would likely be more intrusive.

Align recognises that there will be physical effects for the construction of the access road, which leads to all of the proposed lots but considers that this would be relatively insignificant in terms of landscape values given the visual screening provided by the existing vegetation on site.

Align was also asked to give particular consideration to the potential separation of future dwellings able to be achieved, especially in respect of Lots 3 and 4, Lots 7 and 8, Lots 9 and 10, Lots 11 and 12, Lots 13 and 14 and Lots 15 and 16 and assess how this will impact on rural character and amenity. Align consider that clustering the developments in the manner within the application provides a larger open area which will be under communal ownership which enables rural amenity values by facilitating for productive use of the land. Align considers that this also lessens the impact of the external views of the site as the built form will be contained to certain areas and minimises the impact upon the expansiveness and openness of the landscape as identified as a key value of the wider landscape. Align notes that due to the clustered area, dwellings in adjoining

lots will be closer and, therefore, strategic planting such as hedging can be utilised between adjoining lots to provide screening and ensure privacy is achieved.

The advice from Align is adopted for the purposes of this report.

Open space and visual effects

Intensification of development in an area, such as that proposed by this subdivision, has the potential to result in adverse effects on the rural character of the area.

The wider landscape is described in the Align Report as being located within the Lindis Valley, comprising varied landform of flat and gently rolling terrain with distinct terrace and escarpment landform which the subject site is part of. The backdrop of the Lindis Ranges surrounds the valley and this landform is recognisable and provides a strong sense of place. The wider landscape is characterised by largely a mixture of rural activities, primarily used for farming and viticulture, with small pockets of exotic forestry plantation. The landscape pattern is of divided paddocks, with mature shelterbelts, post and wire boundary fencing and central pivot irrigation. The mixture of sealed and unsealed roads contributes further to the sense of character and reinforces the rural nature of the wider landscape. The sparse nature of existing built form and structured vegetation pattern means that there are expansive views across the landscape.

Align employs the NZILA rating scale to assess the rating of effects. It is accepted through NZILA best practice guidance that moderate to low effects translate to a “minor” effect, with moderate effects considered to be “more than minor”.

The Align report summarises the key values of the receiving landscape into the four points which are closely intertwined:

- The strong rural character through presence of farming activities on divided paddocks, with mature shelterbelts, post and wire boundary fencing and central pivot irrigation
- The expansiveness and openness of the landscape
- The views to natural and topographical features such as the hills, mountains etc
- The sparse pattern of built form

Align notes that *“the wider landscape character is of a rural landscape, dominated by the open, expansive vistas, rural character provided through agricultural activities visible across the landscape, and vegetation in the form of shelterbelts etc”*.

Align finds that the effects of the proposal on rural character, rural amenity and landscape character range from low to moderate (negative) depending on the viewpoint. The moderate effects relate to the view from Jolly Road. The NZILA rating scale applied by Align determines that moderate effects are considered to be “more than minor”. Mitigation in the form of screen planting along the northern boundary adjacent to Lots 7 through 10 is recommended by Align to integrate the built form and provide screening from Jolly Road when approaching from the north. Align predict that these mitigation measures will result in the proposal experiencing a reduced effect in the long term, which will integrate the lots within the site context.

The wider landscape is described in the Align Report as being located within the Lindis Valley, comprising varied landform of flat and gently rolling terrain with distinct terrace and escarpment landform which the subject site is part of. The backdrop of the Lindis Ranges surrounds the valley and this landform is recognisable and provides a strong sense of place. The wider landscape is characterised by largely a mixture of rural activities, primarily used for farming and viticulture, with small pockets of exotic forestry plantation. The landscape pattern is of divided paddocks, with mature shelterbelts, post and wire boundary fencing and central pivot irrigation. The mixture of sealed and unsealed roads contributes further to the sense of character and reinforces the rural

nature of the wider landscape. The sparse nature of existing built form and structured vegetation pattern means that there are expansive views across the landscape.

The subject site comprises two terraced areas, of which the top terrace/ escarpment is taller, with relatively flat to gently rolling upper terrace area. A number of mature shelterbelts are present on site which are to be retained as part of this proposal.

The upper portion of the site currently contains two existing buildings, one of which is located in an open area and is visible from surrounding areas such as State Highway 8 and 8A, while one is located behind a shelterbelt and is assessed by Align as less visually prominent as a result. It is unclear from Align's assessment as to whether either of these buildings are those approved by RC210021 and if not, whether these have been considered by Align.

As noted by Align, the nature of the upper terrace area will change significantly as a result of the proposal and the site will be highly visible when viewed from Jolly Road. Mitigation for this change, as offered by the applicant, relies in part on screen planting which will not achieve mitigation for some years or will only be implemented at the time each lot is developed. However, Align consider that this built form and visibility existing on the site acts as visual precedence. Align consider that:

"The elevated nature of the site means that this location is more prominent than others for development as it offers less opportunity for screening by landform and, as such, vegetation is a key means to ensure that the proposed subdivision sits comfortably within it's landscape setting."

Align notes that:

"The proposal retains all existing shelterbelts within the site, and due to the location of the proposal, much of the proposed built form will be screened, apart from likely pockets located on the eastern side of the site and the north."

Align recommends mitigation screen planting consistent with the species currently situated on site and the proposed planting as part of the approved neighbouring development (RC190042). Align considers that this will give a consistent aesthetic which will anchor new planting seamlessly within the existing environment whilst achieving sufficient screening, which is estimated to be at approximately 10 to 15 metres tall currently.

Additional layering of planting is recommended which would visually increase the density of the planting and therefore screening ability when compared with having one line/row of planting. This also provides the opportunity to include native plant species which are endemic to the Central Otago region.

Align consider that species could include (but are not limited to) *Cupressus leylandii* (to match proposed on neighbouring site and provide a strong 'spine' for the development), *Pittosporum tenuifolium*, *Kunzea ericoides*, *Plagianthus regius*, along with *Phormium* and tussock grass species. The anticipated height of *Cupressus leylandii* after 5 years is approximately 5-7 metres. Mitigation planting should include evergreen varieties to ensure screening is provided year-round. Align advise that additional deciduous specimen planting could be provided to further enhance the visual amenity.

Align recommends that a landscape plan be prepared. I note that the applicant's preference is for any landscaping on site to be influenced by each individual lot owner, which the applicant considers will ensure that the landscape planting relates to the built form and provides customised screening for each property. The applicant considers that a landscape architect would be able to advise lot owners on suitable species.

When considering Align's comments that *"apart from these rows of shelterbelts, vegetation is sparse, predominantly within valleys of the surrounding hills and along property boundaries."* I question whether landscaping undertaken in the manner proposed (potentially a number of ad hoc planting plans developed to complement each individual dwelling) will maintain or enhance the "sparse vegetation element" identified by Align as a key element within this environment. I consider that the maintenance or enhancement of this key element lends support to implementing a cohesive structure planting plan to ensure that plantings, while offering screening, will maintain the character of the wider area and assimilate with the planting required by RC190042.

Furthermore, given that the landscaping is critical to screening the development to reduce visual effects from a public, I recommend that a structure landscaping plan be prepared and planted out prior to issue of titles, should the Panel be of a mind to grant consent. Curtilage planting can potentially be left to individual lot owners providing the structure planting is effective at screening public views.

Align considers that, overall, the effects of the proposal on the landscape are low (negative). However, I note that Align assesses that without the mitigation planting (namely the planting to screen Lots 7 - 10), the proposal will result in moderate (negative) effects. As noted above, the NZILA rating scale that moderate effects considered to be "more than minor". I note that it will take time for any mitigation to become established and I also note the applicant's preferred approach that the landscaping be deferred so that planting for each lot be the responsibility of the new land owners and at their preference. As such, I consider that the temporary effects of the development while this planting is becoming established cannot be disregarded and, in this regard, I consider that the visual effects of the proposal to be more than minor. However, if structure planting was able to be established well prior to any development occurring on the site (noting the estimated plant height of approximately 5-7 metres after 5 years), these effects arising from a lack of screening may reduce to moderate-low at the time the lots are actually developed.

I also consider that one aspect that will assist in maintaining wider rural character and amenity is the preservation of the open space character of Lot 17. The applicant seeks to cluster the residential lots and retain the balance lot as working farm. I consider that, should consent be granted, it would be helpful for the applicant to offer a "no further subdivision" condition of Lot 17. This will ensure that that the development occurring within the underlying site will not exceed the capacity provided for by the District Plan overall. This condition has also been recommended by Hokonui Rūnanga.

Overall, when reviewing the assessment by Align Limited, I consider that the visibility of the proposal from Jolly Road and the clustering of the lots and creation of lots where separation distances and setbacks cannot be achieved means that the effects (including temporary effects) of the proposal on the character and rural amenity have the potential to be more than minor. That said, I note that it may be some time before each individual lot is developed and this would allow time for the screen planting to become established which is expected to reduce the visual effects from moderate to low-moderate (minor) by the time the substantive built form effects are established.

The negative effects on rural character within the site are expected to remain due to the form of the development as a residential enclave within a rural environment, but I consider that once screened these effects will be internal to the development and able to be largely disregarded. Given the management structure of the site, I consider that the purchasers will be well aware of the rural character environment they are buying into.

Subject to the recommended structure planting condition, along with lot development conditions, and a no further subdivision condition, I consider that the effects of the development on rural character and amenity can be reduced to the level that these are no more than minor.

Effects on productive capacity of the land and reverse sensitivity effects

The applicant states that the proposed subdivision is located in the least productive part of the farm, being the unirrigated upper terrace. This assertion is supported by the submission of Greenlight Land Limited. It is ORC's position in its submission that proposal will result in the loss of soils able to support productive use. ORC notes that in response to the further information request, the applicant confirms that water is able to be supplied to the top terrace, and the property has a water right from the Lindis Irrigation Scheme that is available during the irrigation season. ORC considers that an irrigable water supply is available to this area of land, irrespective of this proposal.

ORC incorrectly assesses the site as a 44ha site and identifies that the application promotes that 17ha of communally owned land will be available for productive use. I am unclear where the ORC derived the figures of 44ha and 17ha from. The subject site is approximately 130ha and balance Lot 17 (approximately 126.75ha) will be continue to be used for lucerne cropping. There are no lots of 44ha or 17ha.

As noted in the application, the design of the subdivision proposes small rural residential development on the edges of this area, enabling productive activities to continue in the main land area, being part of the larger farm area identified as Lot 17. Up to 3.25ha will be diverted from productive use being approximately 2.5% of the land associated with this property with additional land lost to access. I consider this to be comparative to the amount of land which would be converted to domestic use if the site were to be divided into 16 eight hectare lots. The applicant considers that the clustering of residential lots is intended to ensure that the productive land is contained in a single viable parcel rather than being split into 16 smaller lots (as a discretionary subdivision with an 8ha average) which could result in a loss of cohesion in the way the productive land was managed. Overall, I consider that the style of subdivision to be an efficient way of managing the productive land when compared to the reasonable alternative of creating 16 individual lots with a minimum lot size of 2ha and an average lot size of 8ha similar to that approved under RC190042 on the adjacent site.

I note that each smaller lot does rely on the large land area of the balance lot to justify its existence and I note that there is nothing in the application which would prevent Lot 17 being further subdivided under the current District Plan rules. This was a concern also raised by submitters. To prevent further subdivision of Lot 17, I recommend a no further subdivision consent notice be placed on the title of this lot should the Panel be of a mind to grant consent. This condition will ensure that the overall density for the underlying land area will not drop below an average of 8ha.

ORC also raise concerns regarding the application's premise that lot owners will, due to shared ownership, be interested in actively farming the communal land and that this conflicts with statement by the applicant that the development promotes a lifestyle development, residential in character and for which the application expresses the sections are to be of a size that do not absorb excessive amounts of time for the owners. To clarify any confusion by ORC, I note the applicant's advice that under the design model, those purchasing the lots in the future will have an interest in the proposed management (body corporate style) company. It is my understanding that, it is through interests in this management company, that the lot owners will have an interest in actively farming the communal land, rather each lot owner expected to jump on a tractor to do their bit. This management company will also manage the water supply and private ROW discussed below. I am satisfied that each lot owner will own the balance farm land and its management will be through a company owned collectively by the lot owners.

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

Reverse Sensitivity Effects

With regard to reverse sensitivity effects, all lots will be setback at least 25m from the external boundaries. The applicant recognises that the neighbours to the north and northwest may have concerns regarding reverse sensitivity effects, however the applicant offers to mitigate this by proposing both a reverse sensitivity condition on the consent and a 'no complaints' covenant. It is also noted that the lots are located within, and in ownership of, a working farm.

I note the submissions by Greenlight Land Limited, Molyneux Farm Limited and ORC in this matter.

ORC considers that the residential activity may adversely affect primary production activities the land may support and that there is the potential for reverse sensitivity effects from placing a high concentration of people into a rural environment. These reverse sensitivities could result from an increase in traffic, along with noise and odour from neighbouring production activities. I am unclear about the concerns regarding the reverse sensitivity effects arising from an increase in traffic as this would seem to be an effect arising from within the development rather than an external effect experienced by the new residential activities. I agree that there will be a clustering of residential activity but note that each lot will be associated with the working farm and will be adequately setback to boundaries. The property to the south was recently subdivided into nine lots in 2019 with residential activity intended for each lot.

Greenlight Land Limited seek a setback of 50m to their shared boundary in order to mitigate the effects of the proposal on its development for RC190042. The applicant has confirmed that Lots 2, 3 and 4 are to be setback 50m from the external boundary and this is shown on the plan of subdivision (Revision D). All other residential lots will achieve 25m.

Molyneux Farm Limited notes that the applicant suggests reverse sensitivity issues can be controlled by conditions requiring no complaints covenants, but no proposed wording of such covenants has been provided.

I note that there is a standard reverse sensitivity condition often imposed by Council which may address the concerns held by the submitter. The condition is as follows:

Prior to section 224(c) certification, the consent holder must prepare a consent notice to be registered on the Record of Title for Lots 1-16 which states that:

- a) *All purchasers, lessees, licences or tenants and any other users having an interest in Lot 2 are advised that:*
 - i) *Horticultural, viticultural and agricultural activities 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, hay making, chemical spraying, pest control (including by use of poison, night shooting and helicopters) deer stag roaring, irrigations, frost control and bird scaring may have amenity effects beyond the boundaries of adjoining properties*
 - iii) *Appropriate siting, design, and screening of dwellings and other sensitive land uses to mitigate adverse effects associated with noise and spray drift from adjacent horticultural activities is required.*

That said, I am open to any condition promoted by the applicant which could better address the submitters concerns.

Overall, given that all lots will hold a share of the working farm, all future purchasers will be cognisant of the working rural environment they are entering into. Furthermore, I consider that given the nature of the development, purchasers of these lots are likely to have actively sought out a rural environment. When considering the factors above, I consider that reverse sensitivity effects can be managed such that these are no more than minor.

Servicing

The applicant proposes each of the lots contain three 23,000 L tanks. One tank would be dedicated for firefighting purposes, while the other two would be for potable water and landscaping. Water is be supplied to the lots via the following methods:

- Rainwater – each lot will collect rainwater off the roof, to then be stored in three partially buried 25,000 L concrete tanks within the lot. As water is drawn from the tanks, it will be passed through a proprietary filtration system and UV Light to filter out any airborne impurities.
- Groundwater – there is an existing bore on the lower terrace of the property. This supply will be pumped up to the top terrace and supplied to the tanks on each lot, to supplement the rainwater supply during prolonged dry spells.
- Lindis Irrigation Scheme – the property has a water right to access water from this supply. This supply only runs during summer and would be used as a backup supply to supplement other methods as required.
- Secondary rainwater – there will be three partially buried 25,000 L tanks connected to the implement shed, which has a 400m² roof area. Water will be able to be taken from these tanks to supplement the lots.
- The applicant also holds consent to construct up to three bores on the lower terrace, as per ORC consent RM20.059.01.

The proposed water supply will be registered, most likely with Taumata Arowai once the Water Services Bill is passed. A formal water supply document has not yet been drafted. This would preferably be done once resource consent is approved and physical work is underway, as the document can then reflect what is physically installed. I consider that this approach is reasonable.

An allocation of at least 1000 litres per lot per day is proposed. Providing a secure potable water supply of a minimum 1000 litres per lot per day can be guaranteed and treatment of water from all sources is provided at point of use, then I consider that the no adverse effects will arise in respect of water. Conditions of consent will ensure a safe and reliable potable water supply.

In respect of wastewater disposal, Mt Iron Geodrill has provided a brief assessment of the proposal and consider that the site is generally suitable for onsite disposal of wastewater, and that the depth to groundwater resources will mitigate risks from effluent. I note the ORC's submission that recommends a communal wastewater system as the appropriate mechanism to protect the environment, including water quality. ORC consider that communal systems provide a higher level of treatment, and less vectors of risk with only one system and disposal field needing to be maintained. As noted above, a brief from Mt Iron Geodrill has been provided and this also notes that the soils are likely to have a low rate of pathogen reduction and that secondary treatment is recommended. ORC considers that this supports its position that a communal system is appropriate for a proposal of this size and location.

I note that the applicant intends that the development is to be operated under a management company which will manage the farming operations on the balance lot, the private ROW and the

water supply. I consider that this management could be extended to manage the wastewater also.

The idea of a communal wastewater treatment plant has been assessed by the Council's consultant engineer who notes that this is the preferred treatment option for a development of this type, given the creation of a management company. He notes however, that such a system will also require ORC approval due to the discharge volume exceed in 2000 litres per day.

I consider that a communal wastewater treatment plant with a good level of treatment may also address one of the main concerns raised by the Runanga regarding the discharge to land and its potential adverse effect on water quality.

The applicant states that all utilities will be provided as appropriate for their intended use and required by Council standards. Overall, I consider that the proposed lots can be serviced in principle in compliance with the requirements of the District Plan with no additional demand on Council infrastructure and without adverse effects on the environment which are more than minor.

Effects on Access

The applicant notes that while the property has dual access via State Highway 8 and Jolly Road, Jolly Road is proposed to be used as the primary access for this subdivision. The Jolly Road access will be at least 6 m wide legally and 4m wide formed, with a crossfall of at least 6%. The applicant proposes to upgrade Jolly Road to the Local Sealed Road category under Table 3.2(a) of the Council's July 2008 Addendum, based on the likely number of road users and the potential for dust generation. The applicant proposes to upgrade this from the point on Jolly Road that is 1.07km distance from the State Highway 8 intersection. This location is proposed as Jolly Road is proposed already to be sealed to this point as per RC190042.

I note that this upgrade is supported in the submission by Greenlight Land Limited who are the consent holders of RC1900142. However, the Greenlight submission seeks specifically that the applicant share in any proportional upgrades to Jolly Road to accommodate future daily traffic flow from this proposed subdivision and new lots using the road. In particular the submitter seeks that in sealing Jolly Road from SH8/Jolly Road intersection to the Douglas Developments entrance each party would share in their pro-rata proportional share relative capital costs to the number of lots consented each developer is consented for example if submitter has 9 lots and the applicant has 17 lots, Greenlight would share in 9/26th the cost and Douglas 17/26th the cost to bring the road up to CODC requirement per the consent RC190042.

In my reading of the application, I do not believe that this is what the applicant is proposing, rather as noted above, the applicant intends to seal the road from where the seal requirement for RC210142 ends to the entrance of the subject site. I consider that the environmental considerations relate to whether or not Jolly Road will be sealed from SH8 to the applicant's access point. At this time, the sealing conditions for RC190042 are imposed regardless of any outcome of this proposal. However, a potential issue will arise if RC190042 is not given effect to, or is given effect to after RC210142 is given effect to, should consent be granted.

Policy 15.4.3 requires that Financial Contributions are to be fair and reasonable and directs that consideration be given to any negotiated private agreements between the subdivider and affected parties and the extent to which another subdivision and/or development contributes to the adverse effect. The effects arising from RC190042 have been established and a condition of consent requires Jolly Road to be sealed to a certain point to mitigate the effects on the roading network. In this regard, I consider that it would be in the applicant's best interest to reach a cost sharing agreement with the consent holder of RC190042 as proposed by Greenlight Land Limited above. I am wary of proposing a condition which reflects the agreement above as it relies on a third party (Greenlight Land Limited) to comply with the condition and could frustrate the consent if they chose not to comply. As such, I recommend a condition of consent (draft condition 14)

which requires the full length of Jolly Road from the edge of the seal (be that State highway or the point sealed to under RC210142) to the subdivision access point be sealed. I am open to reviewing any alternative option or agreement between the applicant and Greenlight Land Limited tabled prior to the hearing.

The applicant is also proposing for a private road (ROW) to be constructed from Jolly Road to provide access to each lot. This is label as Lot 100 on the subdivision plan but I consider that this will effectively be a ROW access over the shared Lot 17. The applicant may wish to provide the Panel with an updated plan to reflect that there is no Lot 100.

The applicant is proposing that this be a private ROW across the farm to ensure that there is no disruption to ongoing farming activities from external traffic, to maintain stock security, and to ensure compliance with Health and Safety expectations on-farm. A private ROW would ensure that the common interest amenity and privacy for lot owners can be provided for. The applicant is proposing that this private ROW be a gravel road to ensure that the road does not conflict with the rural area. The applicant considers that a sealed internal road is likely to be damaged by effluent from stock on the farm, as well as by heavy machinery that will continue to be working on the farm. I consider that the sealing of Jolly Road should extend into the property (~10 metres) to avoid gravel being tracked onto the newly sealed Jolly Road as discussed above.

The applicant does not wish the new internal road to be vested. While the applicant recognises that private roads with large numbers of users can result in issues around road maintenance, in this instance it is proposed that all lot owners own a share of the balance land and the road will be managed by the body corporate-style company (which will also be managing the water supply and wider farm). The applicant considers that this will avoid any issues about maintenance contributions and ensure that the road is maintained.

The engineer did not identify any objection to the road not being vested for the reasons outlined above. He notes that this only marginally exceeds the 15 lot threshold for a gravel road, under Council's Addendum guidelines. He, therefore, consider a gravel road to be acceptable on that basis and when combined with the private road/body corporate/working farm style of the development.

The engineer notes the formation standards of the private road and upgrade of Jolly Road offered by the applicant and considers that the access to the site can be formed and managed in principle without adverse effects on the transportation network.

Cumulative effects

The cumulative impacts of this development have the potential to erode the rural character and amenity values of the surrounding area to the extent that the adverse effects are more than minor. However, I recognise that cumulative effects are a subjective assessment and often finely balanced. The applicant in its response to further information notes that in respect of cumulative effects:

The proposed lots are clustered to minimise visual effects and to better provide for rural character values for lot owners. The proposal is located in a less sensitive location, being not within a landscape overlay, and not near significant features or planning designations. The site is largely screened by the topography and existing vegetation.

The proposal is not out of character from the surrounding area, with a similar proposal consented on the neighbouring property and two resource consents approved for activities on the site. The development from these proposals existing

onsite will form part of what is proposed in this application. Cumulative effects are subjective. Adverse effects on character, visual, and amenity effects are not considered to be significant as described above, and the proposal is anticipated to meet Objectives 4.4.3 and Policy 4.4.2.

While the applicant and I agree that cumulative effects are subjective, I consider that it is cumulative effects of this proposal in conjunction with RC190042 which must be considered closely.

Align notes that:

"It is considered that the cumulative effect of the proposed development are low. Whilst it is agreed that the style of developments between the applicant's proposal and the approved neighbouring development do vary, the site is relatively well contained by the existing shelterbelts. Additional dwellings and additional vehicle movements associated with 16 dwellings within the landscape will have an effect, it is my opinion that the landscape has the capacity for this minor addition and the landscape values will not be compromised."

While, this development when viewed in conjunction with the development in RC190042, is considered to significantly increase the domestic elements introduced into this rural environment and this change is likely to occur over a relatively short period of time, I defer to the assessment of Align Limited noting that the contained nature of the site will reduce the potential for cumulative effects.

I further note that the subdivision could have been configured in any number of ways to ensure that the subdivision would meet the 2ha/8ha rules and be of a form anticipated by the plan. I consider the rationale for the current lot configuration to be reasonable in that the proposal seeks to retain the productive land within a cohesively managed block. The applicant could have reasonably sought to divide the underlying site into sixteen 8ha lots. However, the applicant seeks to maintain the integrity of the balance lot by retaining it in a single title, while creating an unorthodox development pattern within the underlying zoning. Given the rationale for the subdivision configuration, I consider that the integrity of the overall land use could be further maintained if restrictions were imposed on the balance lot which would prohibit any further subdivision of this land as recommended above. This approach would ensure that the overall site will not be developed beyond that envisioned by the District Plan. With some assurance of this nature, I am satisfied that the cumulative effects would be no more than minor.

Easements and Amalgamations

The applicant has requested the following amalgamation condition be imposed on the consent:

That Pursuant to section 220(1)(b) of the RMA 1991,

"That Lots 1 – 16 Hereon hold an undivided 1/16th share of Lot 17 Hereon and individual Records of Title be issued for each lot."

The condition has been reviewed by Land Information New Zealand who confirm that the application is practicable (see CSN request 1727250).

With regard to easements, any easements required for servicing or access will be confirmed at the time of survey and a recommended condition of consent provides for these. Any existing easements will need to be carried down on the new lots or cancelled as appropriate. An advice note reminds the applicant of this obligation.

Financial contributions.

The following financial contributions have been calculated for this site:

Activity	Payment
Water Supply	\$Nil
Wastewater	\$Nil
Reserves	\$15,280.00 +GST
Roading	\$28,352.00 +GST
Total	\$43,632.00 +GST

Summary of Effects on the Environment

Generally, I am supportive of the “farm park” approach overall to ensure the residential development is clustered and a large productive block is maintained as a cohesive unit. I consider that the site can be serviced subject to conditions of consent and reverse sensitivity effects can be managed. I do hold concerns regarding the visibility of the site and the impact that this will have on rural character and amenity. While I recognise that screen planting is recommended, there will be high visibility of the site from certain viewpoints until this is established. If the applicant can reassure the Panel that the screening (structure planting) can be effectively and rapidly established, then I consider that the proposal may cross over the threshold where the effects are no more than minor overall.

Should the Hearings Panel be of a mind to grant consent, a full suite of draft conditions of consent which may assist in mitigating the effects are annexed as Annexure 1 of this report.

OBJECTIVES AND POLICIES FRAMEWORK

Central Otago District Plan

Objectives and policies are to be considered in a suite, with relevant policies being read in the context of the specific objectives they are seeking to achieve. The relevant objectives and policies of the Operative District Plan 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.

4.3.7 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.

4.4.6 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 fresh water 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 respect of Policy 4.4.2, I consider that the applicant has established that the proposal is consistent with this policy, subject to recommended conditions of consent.

When considering Policy 4.4.3, the site is able to be adequately serviced, subject to recommended conditions of consent.

With regard to Policy 4.4.6, I consider that the retention of the large productive block will be sufficient to ensure that the proposal will not adversely affect the productive capacity of the soil.

In respect of Policy 4.4.7, the proposal is not located within a mapped area of Significant indigenous vegetation, significant habitats of indigenous fauna, or a significant wetland.

When considering Policy 4.4.8, the site will be screened and residential lots setback from external boundaries and is not expected to significantly adversely affect the amenity values and privacy of neighbouring properties or the safe and efficient operation of the roading network.

With regard to Policy 4.4.9, I expect that reverse sensitivity effects are able to be adequately managed.

In respect of Policy 4.4.10:

- I consider that the effects of landscape are able to be adequately mitigated subject to recommended conditions of consent (4.4.10a).
- No changes are anticipated to the natural character and values at any river margin (4.4.10.(b))
- No neighbours have provided written approval to the proposal but one neighbour submitted in support and one neighbour submitted in opposition. It is assessed that the recommended conditions of consent may go some way to addressing the concerns of the opposing neighbour. It is anticipated that reverse sensitivity can be managed through setbacks and via a condition of consent (4.4.10(c)).
- The access to the lots has been assessed and is considered acceptable subject to conditions of consent (4.4.10(d)).
- The site is not identified as have soils with special qualities (4.4.10.(e))
- The site is currently in a productive use (4.4.10.(f)).
- No heritage areas have been identified on the site. An accidental discovery protocol condition is recommended. (4.4.10.(g)).
- Servicing of the site has been assessed as achievable. Discharges which may affect water quality are addressed through conditions of consent (4.4.10(h))
- Existing public access to or along the rivers and lakes of the District will be unaffected,. (4.4.10.i)

When assessing the subdivision in light of what the relevant objectives and policies are trying to achieve, I consider that the proposed subdivision application, subject to recommended conditions of consent, has been sufficiently established as consistent with the key objectives and policies of District Plan as set out in 4.3 and 4.4 of the District Plan.

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 (eg. 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 subject to conditions of consent. No adverse safety effect arising from the proposed access arrangement have been identified subject to compliance with access formation standards. Reserves contributions will ensure that the subdivision contributes to the open space, recreation and reserve needs of the community. I am also comfortable that the physical works involved in preparing land that is part of the subdivision can be undertaken in manner which does not adversely affect the stability of land, water quality and neighbouring properties in respect of the effects of noise, and vibration.

Expert evidence confirms that the amenity values of the District created by the open space, landscape and natural character values, will not be adversely affected by subdivision, subject to recommended conditions of consent.

Partially Operative and Proposed Regional Policy Statement for Otago

The Otago Regional Council have submitted on the application. In respect of the Regional Policy Statement for Otago (RPS) 1998, this is now revoked. The Partially Operative Regional Policy Statement for Otago (PORPS) was made partially operative on 14 January 2019. ORC identify the following relevant objectives and policies of the PORPS:

Policy 3.1.13 Environmental enhancement

Encourage, facilitate and support activities that contribute to the resilience and enhancement of the natural environment, by where applicable:

- a) *Improving water quality and quantity;*
- b) *Protecting or restoring habitat for indigenous species;*
- c) *Regenerating indigenous species;*
- d) *Mitigating natural hazards;*
- e) *Protecting or restoring wetlands;*
- f) *Improving the health and resilience of:*
 - i) *Ecosystems supporting indigenous biological diversity;*
 - ii) *Important ecosystem services, including pollination;*
- g) *Improving access to rivers, lakes, wetlands and their margins, and the coast;*
- h) *Buffering or linking ecosystems, habitats and areas of significance that contribute to ecological corridors;*
- i) *Controlling pest species*

Policy 3.1.7 Soil values

Safeguard the life-supporting capacity of soil and manage soil to:

- a) *Maintain or enhance as far as practicable*
 - i) *Soil biological diversity;*
 - ii) *Biological activity in soils;*
 - iii) *Soil function in the storage and cycling of water, nutrients, and other elements through the biosphere;*
 - iv) *Soil function as a buffer or filter for contaminants resulting from human activities, including aquifers at risk of leachate contamination;*

- v) *Soil fertility where soil is used for primary production;*
- b) *Where a) is not practicable, minimise adverse effects;*
- c) *Recognise that urban and infrastructure development may result in loss of soil values.*
- d) *Control the adverse effects of pest species, prevent their introduction and reduce their spread;*
- e) *Retain the soil mantle where it acts as a repository of historic heritage objects unless an archaeological authority has been obtained*

Objective 5.3 *Sufficient land is managed and protected for economic production*

Policy 5.3.1 *Rural activities*

Managing activities in rural areas, to support the regional's economy and communities, by:

- a) *Enabling primary production and other rural activities that support that production;*
- b) *Providing for mineral exploration, extraction and processing;*
- c) *Minimising the loss of significant soils;*
- d) *Restricting the establishment of incompatible activities in rural areas that are 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;*
- f) *Providing for other activities that have a functional need to locate in rural areas*

ORC identify the following objectives and policies in the Proposed Regional Policy Statement 2021 (PRPS 2021):

Objective: *LF–LS–O12 – Use of land*

The use of land in Otago maintains soil quality and contributes to achieving environmental outcomes for fresh water.

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. *(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:

1. *provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS,*
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. *facilitates rural industry and supporting activities,*
5. *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*
7. *otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate an operational need to be located in rural areas.*

I particularly note the submission points made by ORC in that they consider that the proposed subdivision of land zoned Rural Resource Area would create a density of development that is inconsistent with the objectives and policies of the Partially Operative Regional Policy Statement 2019 (RPS). ORC also considers that the redevelopment of rural land to residential use would contribute to the loss of productive soil and is incompatible with the zoning.

I consider that ORC's incorrect assessment of the underlying land area has resulted in them taking a more conservative assessment regarding productive soils. I note that the soil on this land has not been classified as highly productive. The purpose of the application is to cluster the residential activity so as to leave the productive land (126ha) in a single and cohesive productive block. I consider that this is a positive approach when comparing the potential effect on productivity of dividing the land into sixteen 8-hectare blocks which the subdivision rules in the District Plan anticipate. The applicant also advises that the area of land to be converted to residential is the least productive portion of the larger land holding. Overall, I consider that the approach of this subdivision will help minimise the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency. I consider that there will be no significant loss of productive capacity as a result of this proposal.

Furthermore, the wider 126ha balance lot will be owned by the owners of Lots 1-16 meaning that it could be argued that they have a need or tenure to establish in close proximity to Lot 17. While, this is a rural lifestyle development to some degree, it is also an inherently rural development with the retention of Lot 17 and the shared management of this lot.

I agree with ORC that a communal wastewater treatment system should be installed and have recommended conditions to this effect. An accidental discovery protocol will ensure that should it be discovered that the soil mantle is acting as a repository of historic heritage objects, this will be managed appropriately.

In respect of reverse sensitivity effects, I note that all lots will respect boundary setbacks and the set back has been increased for Lots 2,3 and 4. The lots owners will all be involved within the working productive land holding (Lot 17) and the applicant has offered a reverse sensitivity

condition. Overall, I am satisfied that the reverse sensitivity effects can be managed such that these are no more than minor.

Overall, I consider that the proposal is not inconsistent with the above objectives and policies of the PORPS and PRPS, except that I continue to hold concerns regarding the effects of the proposal on rural amenity and character.

Part 2 of the RMA

While proposal seeks to configure the subdivision in a manner not anticipated by the District Plan, I have assessed that the proposal is not contrary to the objectives and policies of the District Plan. I consider that the policy direction given by the District Plan and the higher order planning instruments is certain and complete and, as such, there is no need to revert to Part 2 of the RMA.

SECTION 104D:

Section 104D of the Resource Management Act 1991 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 district plan and the proposed district plan. In this instance the proposal is not contrary to the objective and policies of the District Plan and, as such, consideration can be given to the granting of the consent.

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. Matters of precedent and plan integrity are relevant here.

Precedent and Plan Integrity

The matters of precedent and plan integrity have been traversed by the Environment Court and consideration is to be given 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.

One of the original intentions of the density requirements for rural subdivision were to enable a range of allotment sizes, while maintaining the overall pattern of development, with larger lots balancing out the establishment of smaller lots. While this application takes this approach by retaining the larger balance lot, the number of lots to be created is not anticipated by the District Plan because of the 16ha restriction placed on Lot 17 for averaging calculations. However, I note that assessment matter 15 of Rule 4.7.4(iii) directs Council to consider whether clustering should be implemented as a means of mitigating potential effects of rural subdivision and, in this regard, has been anticipated by the plan to some degree. The appropriateness of the proposed clustering has been considered above. That noted, I consider that the degree of clustering as proposed by this application is somewhat unorthodox (in the context of Central Otago) and overall, I consider that the "farm park" approach taken by the applicant does set this proposal apart from other rural subdivisions in the District.

That said, with respect to the precedent and plan integrity, the Court has since confirmed that cases should be assessed on their merits to avoid affecting plan integrity. In this regard, I consider that the Hearings Panel should have little concern for precedent and make a decision on the facts of the application.

Plan Change Approach

I note that in its submission, the ORC considers that the proposal should be undertaken as a Plan Change to allow the cost and benefits to be fully assessed. I disagree. The proposal is for a medium size subdivision on a single site. The applicant is intending to upgrade the public road and the development will be self-sufficient in respect of servicing and no reliance on Council services are proposed. The operation of the development will be managed by accompany set up to administer the services. The design of the subdivision seeks to retain the majority of the site in a productive use. I do not consider that the scale and form of the proposal warrants a plan change approach in this instance.

RECOMMENDATION:

Having regard to the information available, prior to the Hearing Panel's consideration of application,

1. It is recommended that the proposal be considered as an application for subdivision consent to a non-complying activity in terms of sections 104, 104B and 104D of the Resource Management Act 1991.
2. For the reasons detailed in this report, I consider that the effects on landscape, rural character and amenity values can be reduced to no more than minor, subject to the recommended conditions of consent which required the structure planting being effectively and rapidly established, no further subdivision of Lot 17, future built form restrictions and a communal wastewater system.
3. I consider that the potential for cumulative effects to be mitigated by contained nature of the site and the recommended restriction for further subdivision of Lot 17. The proposal is found to be generally consistent with the relevant objectives and policies.
4. I recommend that the consent be granted, subject to the draft suite of conditions of consent are attached to this report.



Kirstyn Lindsay

Planning Consultant

Southern Planning Solutions Limited

10 January 2021

ANNEXURE 1 – DRAFT CONDITIONS OF CONSENT RC210142

Subdivision Conditions:

General

1. The subdivision must be undertaken in general accordance with the plans attached as Appendix 1 and the information contained in the resource consent application received by Council on 19 May 2021, further information received on 4 August 2021 and 29 September 2021 except where modified by the following conditions:
2. All subdivision works must comply with NZS 4404:2004 and the Council's July 2008 Addendum to NZS 4404:2004 as modified by these conditions of consent.
3. Prior to Section 224(c) certification, as built and quality records must be provided to the Chief Executive
4. Pursuant to Section 223 of the Resource Management Act 1991, the consent holder must ensure any easements required to provide or protect access or for access to services are duly granted or reserved.

<p>Note: The memorandum of easements prepared for the cadastral dataset submitted for Section 223 certification must show all existing easements, interests and consent notices carried down onto the new lots or cancelled as appropriate.</p>
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5. Pursuant to section 220(3) the following amalgamation conditions must be endorsed on the survey plan prior to section 223 Certification:
 - a) That Lots 1 – 16 Hereon hold an undivided 1/16th share of Lot 17 hereon and individual Records of Title be issued for each lot. (see CSN request 1727250)

Water

6. Prior to Section 224(c) certification, a reliable network potable water supply of 1000 litres per day per lot must be provided to Lots 1-16 in accordance with Clause 6.3.15 of Council's July 2008 Addendum to NZS4404, as modified by the following:
 - a) Source of water must be identified and confirmed as legally available and adequate for subdivision use.
 - b) All source water must be sampled and tested by a testing laboratory recognised by the Ministry of Health with bacteriological and chemical testing to the satisfaction of the Chief Executive.
 - c) Any non compliance with Maximum Allowable Values (MAV's) and Guideline Values (GV's) under New Zealand Drinking Water Standards 2005 (revised 2018) must be highlighted in the Laboratory Report and an appropriate means of remedial treatment and associated costs described.
 - d) Any identified requirement for water treatment at the source of the supply must be installed and satisfactory testing by a testing laboratory recognised by the Ministry of Health with bacteriological and chemical testing to the satisfaction of the Chief Executive must demonstrate compliance with New Zealand Drinking Water Standards 2005 (revised 2018).
 - e) Reticulation must be installed from the source(s) and a standard Acuflo toby assembly with meter/restrictor located at the boundary of Lots 1-16 inclusive.
 - f) Evidence must be provided of:
 - i) application for registration of the Drinking Water Supply with Public Health South
 - ii) a formal water supply document including the daily water entitlement of 1500 litres/day to each lot

- iii) an operation and maintenance manual including as built drawings, system description and quality records for the water supply.

Note: It is strongly recommended that additional treatment be included for all water supply to provide wholesome water by achieving compliance with the Guideline Values (GVs) shown to be exceeded in the laboratory reports.

7. Prior Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the record of title for Lots 1 -16 for the following on-going condition:

- a) At the time a dwelling is established on Lots 1-16, all non-compliant aspects of the water supply and detailing measures to be undertaken by the owner or successor for point of use treatment at the Building Consent stage to provide treatment to achieve full compliance with New Zealand Drinking Water Standards 2005 (revised 2018) by means outlined in the Laboratory Report required under Condition 6(c) of RC210142 or other solutions acceptable to Council. To further clarify this, the water shall as a minimum requirement achieve full compliance with mandatory provisions of New Zealand Drinking Water Standards 2005 (revised 2018) including all Maximum Allowable Values (MAV's) as detailed in the Laboratory Report and the consent holder or successor shall be alerted to any exceedance of Guideline Values (GV's) for which additional treatment is strongly recommended.

Note: It is also strongly recommended that additional treatment be installed to provide compliance with Guideline Values shown to be exceeded in the laboratory report.

8. Prior Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the record of title for Lots 1 -16 for the following on-going conditions:

- a) At the time residential activity (new dwelling) is constructed on Lots 1 -16, 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 maintained at all times as a static firefighting reserve. Alternatively, an 11,000 litre fire fighting 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 fire fighting connection is to be located within 90 metres of any proposed building on the site. In order to ensure that connections are compatible with Fire and Emergency New Zealand equipment the fittings are to comply with the following standards:
 - i) Either: 70 mm Instantaneous Couplings (Female) NZS 4505, or 100 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 confirmation from Fire and Emergency New Zealand to the Chief Executive to confirm that the couplings are appropriate for firefighting purposes.
 - ii) 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 maintained at all times to the hardstand area.
- b) Firefighting water supply may be provided by means other than that provided for above if the written approval of Fire and Emergency New Zealand is obtained for the proposed method and that approval is submitted to the Chief Executive.

Note: For more information on how to comply with Condition 8 above or on how to provide for FENZ operational requirements refer to the Fire and Emergency New Zealand Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 retrieved from http://www.fire.org.nz/CMS_media/pdf/da516e706c1bc49d4440cc1e83f09964.pdf. 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.

Wastewater

9. Prior to Section 224(c) certification, an operational community wastewater treatment system, to be managed by the Management Company, must be installed to serve the residential dwellings Lots 1-16 and the following must be provided to the Central Otago District Council Planning Manager.
- An Operations and Management Manual and as built plans
 - A Management company document describing how the wastewater system is to be suitably operated and funded by all lot owners and linked to the Operations and Management Manual
 - A copy of the system design and
 - Copies of any Otago Regional Council discharge permits necessary for the operation of the community wastewater treatment system

Note:

1. Wastewater disposal areas must be located such that the maximum separation (in all instances greater than 50 metres) is achieved from any water course or any water supply bore.

2. The wastewater discharge is expected to require resource consent from the Otago Regional Council.

10. Prior Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the record of title for Lots 1-16 for the following on-going conditions:
- At the time that a new dwelling is constructed on Lots 1-16 connection must be made to the community wastewater treatment system.
 - The occupier of the dweller must ensure any connection and discharge to the community wastewater treatment system is in accordance with the Operations and Management Manual.

Note: The Operations and Management Manual for community wastewater treatment system must be attached to this consent notice.

Stormwater

11. Prior to Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on Record of Title of Lots 1 -16 for the following on-going condition:
- Stormwater from buildings and impermeable surfaces on Lots 1 -16 must be contained entirely within the lot and discharge to a soakpit except that any roof water must be captured and used for beneficial reuse within the lot. Confirmation of the new stormwater discharge system must be confirmed in writing to the Chief Executive each time a new dwelling is constructed on Lots 1-16.

Electricity and telecommunications

12. Prior to Section 224(c) certification, the consent holder must:
- a) Install operational connections for electricity services underground to the boundary of Lot 1-16 for domestic power supply. It is the consent holder's responsibility to obtain the consent of network utility providers regarding the position of any electricity services to serve Lots 1-16.
 - b) Supply evidence of the consent from the network utility providers to the Chief Executive.
 - c) Meet all the costs associated with the installation of electricity services necessary to serve the needs of the subdivision.
13. Prior to Section 224(c) certification, the consent holder must either:
- a) Install an operational underground connection to telecommunication services to the boundary of Lots 1 -16; or
 - b) Provide confirmation from a cellular provider that there is cellular coverage to Lots 1-16 and a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the record of title for Lots 1 -16 stating that no telecommunication connection is provided and the provision of telecommunications connections is the responsibility of the owner or successor at the time of dwelling construction. Telecommunication connections may include cellular networks, satellite services or wifi.

Access

14. Prior to Section 224(c) certification, the consent holder must:
- a) Upgrade that length of Jolly Road between the existing end of seal and the entrance to the subject site to a '*Local Sealed Road*' classification in accordance with Council's July 2008 Addendum to NZS4404, Table 3.2 a) as modified below:
 - i) Minimum sealed width of 6.0m with standard 0.25m metalled shoulders.
 - ii) Pavement constructed to Austroad standards for rural roads
 - iii) Two coat grades 3 and 5 chip seal
 - iv) A vehicle entranceway must be constructed at the subdivision entrance off Jolly Road in accordance with Part 29 of Council's Roding Policies January 2015.
 - b) Construct the internal access serving Lots 1-17 from Jolly Road in accordance with Council's July 2008 Addendum to NZS4404, Table 3.2 '*Local Access A*' classification as modified below:
 - i) Roads to be held in private ownership and operated and maintained by a body corporate or similar common ownership entity to the satisfaction of the Chief Executive.
 - ii) A minimum top width of 5.5m
 - iii) Construct accessways to all individual lots off the internal road to comply with Part 29 of Council's Roding Policies, January 2015.
 - iv) Suitably sized culverts located in water courses.
 - v) A well bound durable surfacing metal to be used that is resistant to unravelling and provides good all weather traction, except that the access from the sealed carriageway of Jolly Road to 10 metres inside the property boundary must be

- sealed.
- vi) No access shall be allowed to the subdivision off State Highway 8A without the specific approval of Waka Kotahi

Development Conditions

- 15 Prior to Section 224(c) certification, a structure landscape plan must be submitted for certification by the Planning Manager. The structure landscape plan must:
- a) Be prepared by a suitable qualified and experienced person, and
 - b) Detail the level of screening that the planting is intended to achieve; being screen planting of a minimum height of 5 - 7 metres to be achieved within 5 years in such locations as to screen Lots 7 – 10 from Jolly Road.
and
 - c) Must identify:
 - i) The species of plants,
 - ii) Location of plants
 - iii) Size and spacing at the time of planting
 - iv) Intended height after 5 years
 - v) Required watering regime
 - vi) Pest control
 - vii) Retention of all existing shelterbelts within the site
 - viii) Ongoing responsibility of plant maintenance and replacement
16. Prior to Section 224(c) certification, the planting and irrigation method identified in the certified structure landscape plan required by Condition 15 must be established and the irrigation water source and availability must be confirmed.
17. Prior to Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the Record of Title of Lot 17 for the following on-going conditions:
- a) The planting established under the structure landscape plan and existing shelterbelts must be maintained in perpetuity. Any plants which fail or die must be replaced in the next growing season.

Note: It is anticipated that the on-going responsibility for the structure planting will fall to the Management Company.
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18. Prior to Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the Record of Title of Lots 1-16 for the following on-going conditions:
- a) The maximum building height is restricted to 5.5 metres above the existing ground level.
 - b) new fencing must be of post and wire, and a maximum height of 1.2m. No ornamental gates or fences are permitted.
 - c) Water tanks are to be buried or located in a manner, such they are not visible from outside the lot. All water storage tanks must be coloured in the range of black, green or brown.
 - d) All gardens and outdoor domestic activities must be confined within each specific lot.

Notes:

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| <ul style="list-style-type: none">1. All earthworks to develop and/or landscape Lots 1 -16 must comply with Rule 4.7.6J of the Central Otago District Plan or additional resource consent will be required.2. The cladding and roofing materials and finishes of all built form within the lots must accord with Standard 4.7.6 D of the Otago District Plan. |
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- 19 If during any site disturbance, the consent holder or subsequent owners of Lots 1-16:
- a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder or subsequent owner must without delay:
 - i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:
 - i) stop work within the immediate vicinity of the discovery or disturbance; and
 - ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and
 - iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may recommence following consultation with the Consent Authority.

Future subdivision of Lot 17

- 20 Prior Section 224(c) certification, a consent notice must be prepared, in accordance with section 221 of the Resource Management Act 1991, for registration on the Record of Title for Lot 17 that states:
- a) There must be no further subdivision of Lot 17.

Note: The community facility for the lot owners within the existing building will require further resource consent if the land use is not a permitted activity in the Rural Resource Area.
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Reverse Sensitivity

- 21 Prior to section 224(c) certification, the consent holder must prepare a consent notice to be registered on the Record of Title for Lots 1-16 which states that:
- a) All purchasers, lessees, licences or tenants and any other users having an interest in Lots 1-16 are advised that:
 - i) Horticultural, viticultural and agricultural activities 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, hay making, chemical spraying, pest control (including by use of poison, night shooting and helicopters) deer stag roaring, irrigations, frost

- control and bird scaring may have amenity effects beyond the boundaries of adjoining properties
- iii) Appropriate siting, design, and screening of dwellings and other sensitive land uses to mitigate adverse effects associated with noise and spray drift from adjacent horticultural activities is required.

Financial Contributions

22. Payment of a reserves contribution of \$15,280.00 (exclusive of Goods and Services Tax) calculated in terms of Rule 15.6.1(1)(a)(i) of the Operative District Plan on the basis of seven additional dwelling equivalents.

Notes:

1. All charges incurred by the Council relating to the administration, inspection and supervision of conditions of subdivision consent must be paid prior to Section 224(c) certification.
2. Development contributions for roading of \$38,352.00 (exclusive of goods and services tax) are payable for 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.

APPENDIX 1 – PLANS FOR RC210142:

