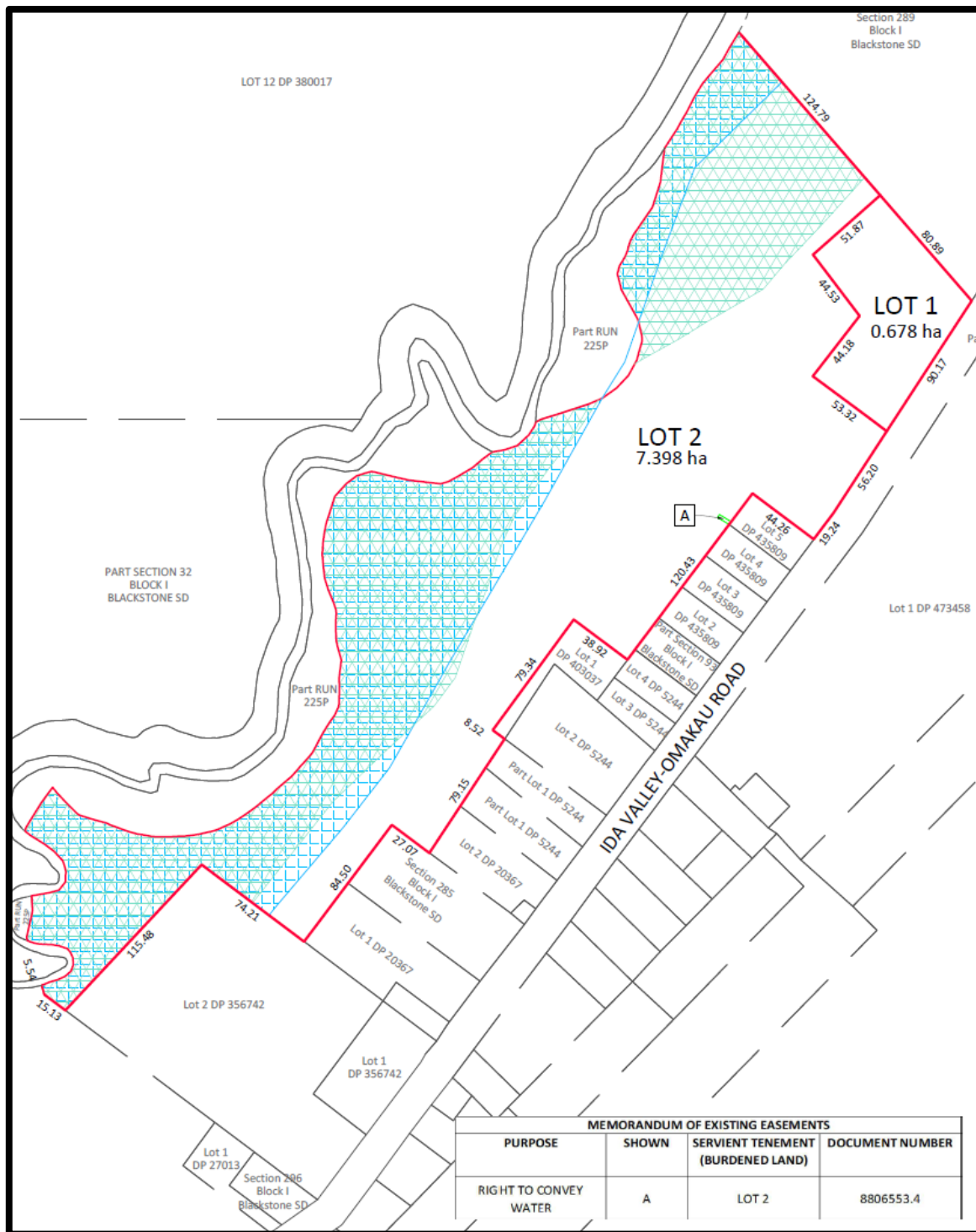


**CENTRAL OTAGO DISTRICT COUNCIL  
S95A-F DECISION FOR RC230253  
3381 Ida Valley-Omakau Road**

**INTRODUCTION**

The application seeks resource consent for a non-complying two-lot subdivision and a restricted discretionary land use activity to establish a residential building platform and associated earth works at 3381 Ida Valley-Omakau Road (Figure 1).



**Figure 1: Proposed Plan of Subdivision (Source: Application)**

This application replaces RC220203 and is assessed *de novo*.

The applicant proposed that the following controls be imposed on the future development within the RBP for Lot 1 as follows:

- All buildings shall be confined to the RBP;
- All buildings (dwellings and sheds) shall be single storey only and no greater than 7.0 metres in height; and
- All buildings shall consist of exterior colours with a Light Reflectance Value no greater than 36%.
- The roof of any dwelling on Lot 1 will have a Light Reflectance Value no greater than 32%.
- A 30,000 Litre tank for firefighting purposes.
- Subject to advice from a suitably qualified person to design and install an adequate onsite wastewater system in accordance with AS/NZS1547:2012 or any updated standards prior to occupation of the dwelling. All relevant discharge permits from Otago Regional Council (if required) to be secured.
- Subject to a requirement to submit a geotechnical report prior to the construction of dwellings as the site contains a series of 'wet areas' and so confirmation on the ground conditions and foundation requirements will be necessary at detailed design stage.

The applicant notes that access to the existing dwelling currently occurs via an existing entry point next to Lot 5 DP 435809 (3379 Ida Valley-Omakau Road). The location of this access is to remain unchanged. Access to proposed Lot 1 will be achieved via an existing gate off Ida Valley-Omakau Road near the boundary shared with the Oturehua Domain. This access will run parallel to the cricket domain (north-east boundary) so to avoid a wetland contained within this lot. The applicant proposes that accesses meet Part 29 of Council's roading standards.

The applicant proposes to service the subdivision via the existing Oturehua Community Water Scheme. The applicant has received confirmation from the Oturehua Water Company that the proposed subdivision can be suitably serviced by the Scheme. The Oturehua Water Scheme is registered as an 'on-demand' scheme with Taumata Arowai (Supply ID OTU009). The applicant advises that the exact reticulation arrangement will be determined during the detailed design process although it is noted that the pipeline is already located within the applicant's property. All necessary easements to secure access to the reticulation for Lot 1 will be duly reserved and granted upon submission of the survey plan for approval. A consent notice condition is offered regarding firefighting capacity for proposed Lot 1.

The applicant advises that Lot 1 will be required to have its own onsite wastewater treatment and disposal system. Onsite wastewater disposal assessments by Kirk Roberts Consulting Limited and E3 Scientific were submitted with the application. These assessments promote conditions regarding the wastewater disposal and identify that consent from the Otago Regional Council (ORC) will be required. The applicant offers these conditions as part of this proposal.

No earthworks other than the construction of the access is proposed as part of this application. The applicant advises that the future Lot owner will be responsible for securing any consents for earthworks (from either CODC or ORC) given that the degree of works will be entirely dependent on future dwelling designs.

The applicant advises that the trees located along the road frontage within Lot 1 will be maintained in perpetuity and offers to provide a plan of the trees so that it clear which trees are to be retained.

The subject site has an identified flood risk and the applicant has provided a hazard assessment in respect of the flood risk which confirms that the proposed Lot 1 and in particular the RBP will be clear of the flood risk.

## **SITE DESCRIPTION**

The site was created as part of six lot subdivision being RC070334. The existing dwelling was established under RC110261. The subject site is well described in the application and is considered to accurately identify the key features of the site. The applicant's site description is adopted for the purposes of this report. Notably, the entire western boundary is bordered by the Ida Burn, the eastern boundary is largely bound by residential properties that adjoins the main road into Oturehua and the northern boundary is bound by the Oturehua Domain. There is an existing natural inland wetland network located within subject site.

## **REASONS FOR APPLICATION**

### Central Otago District Plan

The subject site is located within the Rural Resource Area of the Central Otago District Plan (the District Plan) as shown on Map 40A. The site has a flood hazard notation over the north/north-western portion of the site. There are no other District Plan annotations for the site.

Other notable planning features include that:

- The subject site is located adjacent to Designated site D184 – being a recreation reserve for “Recreation Purposes”.
- The land within the site is identified as Land Use Capability 3 according to the Maanaki Whenua Land Care Research Maps.
- The site is also partially subject to the ‘Otago Flood Hazard’ as referenced on the Otago Regional Council Hazard database.

Rule 4.7.4(iii)(b) states that where a subdivision will create lots with an average size of no less than 8ha and a minimum lot size of no less than 2ha then this is assessed as a discretionary activity. The subdivision results in an average lot size of 4.038 hectares and while the balance lot will have an area greater than 2ha, Lot 2 is significantly less than 2ha in area. Accordingly, the subdivision will not meet either the minimum and average lots sizes required to be considered as a discretionary activity and is assessed as a non-complying activity pursuant to Rule 4.7.5(iii).

Rule 4.7.4(iii)(d) of the Plan states that where a subdivision involves land that is subject to or potentially subject to, the effects of any hazard as identified on the planning maps, or land that is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source, then, this is a discretionary activity. In this instance, the site is subject to a flood hazard notation and is assessed as a non-complying activity pursuant to Rule 4.7.5(iii).

Rule 4.7.3(iiv) states that that a RBP is a restricted discretionary activity providing it meets the criteria set out in Rule 4.7.3(iiv)(a-d). In this instance:

- the proposal breaches Rule 4.7.3(iiv)(a) as it fails 4.7.6A(a) which relates to the 25 metre internal setbacks. In this case, the proposed RBP on Lot 1 will be located 10

metres from the internal boundaries and is assessed as a restricted discretionary activity pursuant to Rule 4.7.3(i).

- The RBP will be contained with its own lot meaning that there will be no more than one residential unit per lot.
- No new access is proposed from the State Highway
- A 50m separation distance from all other residential units will be achieved by the proposed RBP.

No earthworks rules under the District Plan are triggered because the volumes and area proposed at this stage will fall within the permitted thresholds. Furthermore, any earthworks will be well setback from the Ida Burn and the natural inland wetland is not identified in Schedule 19.6.1.

It should also be noted that proposed Lot 1 is clear of the Mapped Flood Hazard in the District Plan (Figure 2) and the ORC Hazard Database (Figure 3) and is unlikely to trigger Rule 4.7.6A(j) and 4.7.5(i). No additional development is proposed for Lot 2 as part of this proposal.



Figure 2: Mapped Flood Hazard in the District Plan (Source: CODC GIS)



**Figure 3: Mapped Flood Hazard in the ORC Hazard Database (Source: Application)**

For completeness the existing dwelling is to be contained within the balance Lot 2 and has been approved under RC 110261 and RC 120212. Given the separation of this dwelling to proposed Lot 1, no further consideration is given to the existing dwelling in this report.

### **National Environmental Standards**

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

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

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

#### *Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFW)*

Pursuant to Regulation 54(b) of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFW), earthworks within, or within ten metres of a natural wetland is to be assessed as a non-complying activity. It is noted that the

NESFW is administered by the Otago Regional Council and resource consent will be required from that agency.

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

### **Overall Status**

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

In this case, there is more than one rule involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is considered to be a non-complying activity.

## **SECTION 95A NOTIFICATION**

### **PUBLIC NOTIFICATION**

The applicant has requested that the application be publicly notified. Pursuant to section 95A(2)(a) of the Resource Management Act 1991, the consent authority must notify an application for a resource consent if requested by the applicant (section 95A(3)(a)).

It is therefore recommended that the application be publicly notified pursuant to section 95A(2)(a) of the Resource Management Act 1991.

Section 2AA of the Resource Management Act sets out that *public notification* means the following:

- (a) *giving notice of the application or matter in the manner required by section 2AB;*
- and*
- (b) *giving that notice within the time limit specified by section 95, 169(1), or 190(1); and*
- (c) *serving notice of the application or matter on every prescribed person.*

The applicant has requested public notification under section 95A(3)(a), therefore Section 95B(1), Steps 1-4 to determine Limited Notification are not relevant.

## **SERVICE**

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

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

- (a) *every person who the consent authority decides is an affected person under section 95B of the Act in relation to the activity that is the subject of the application or review:*
- (b) *every person, other than the applicant, who the consent authority knows is an owner or occupier of land to which the application or review relates:*

- (c) *the regional council or territorial authority for the region or district to which the application or review relates:*
- (d) *any other iwi authorities, local authorities, persons with a relevant statutory acknowledgement, persons, or bodies that the consent authority considers should have notice of the application or review:*
- (e) *the Minister of Conservation, if the application or review relates to an activity in a coastal marine area or on land that adjoins a coastal marine area:*
- (f) *the Minister of Fisheries, the Minister of Conservation, and the relevant Fish and Game Council, if an application relates to fish farming (as defined in the Fisheries Act 1996) other than in the coastal marine area:*
- (g) *Heritage New Zealand Pouhere Taonga, if the application or review—*
  - (i) *relates to land that is subject to a heritage order or a requirement for a heritage order or that is otherwise identified in the plan or proposed plan as having heritage value; or*
  - (ii) *affects any historic place, historic area, wāhi tūpuna, wahi tapu, or wahi tapu area entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:*
- (h) *a protected customary rights group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent or the review of consent conditions.*
- (ha) *a customary marine title group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent for an accommodated activity:*
  - (i) *Transpower New Zealand, if the application or review may affect the national grid.*

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

Party to be served	Reasons for service
Aukaha Limited	Cultural Values – due to proximity of the Ida Burn and wetland
Hokonui Rūnanga	Cultural Values – due to proximity of the Ida Burn and wetland
Te Ao Marama Incorporated	Cultural Values– due to proximity of the Ida Burn and wetland
Te Rūnanga O Ngai Tahu	Cultural Values – due to proximity of the Ida Burn and wetland
Department of Conservation	Riparian Habitat Management - – due to proximity of the Ida Burn and wetland
Otago Regional Council	Proximity of the Ida Burn and wetland

In terms of other adjacent landowners, it is noted that the written approvals of the following parties (marked in green in Figure 4) have been submitted with the application and no notice is required to be served on these persons:

Name	Address	Date
Bridget Musters	3375 Ida Valley-Omakau Road Oturehua (Lot 3 DP 435809)	7 June 2022
Rosemary Hossack Riddell on behalf of Gracelaw Limited	3377 Ida Valley-Omakau Road Oturehua (Lots 4 and 5 DP 435809)	6 June 2022

In terms of other adjacent landowners, the applicant has provided a comprehensive assessment of effects on the properties (marked in red in Figure 4) and concluded that the effects on these parties are likely to be less than minor. Relying on this assessment, I consider that there is no need to serve notice of the application on these properties specifically. That said, the owners of these properties will have a reasonable opportunity to make a submission on the proposal through the public notification process should they wish.



**Figure 4: Adjacent properties to the subject site. (Source Application)**

**OVERALL NOTIFICATION DETERMINATION**

Given the decisions made under s95A and s95B, the application is to be processed on a publicly notified basis.

It is noted that the tests for whether an application should be notified or not are distinctive from the tests to be considered in making a decision on the application itself.



Prepared by:



Kirstyn Royce  
**Planning Officer**

Date: 29 August 2023

Reviewed by:



Oli McIntosh  
**Planning Officer**

Date: 29 August 2023

Approved under Delegated Authority by:



Lee Webster  
**Planning and Regulatory Services Manager**

Date: 4 September 2023