



# CLUTHA DISTRICT COUNCIL

FORM 13 – Submission on a resource consent application that is subject to public or limited notification.

Please note that all submissions must be received in writing by 22<sup>nd</sup> May 2024 at 5:00PM. All submissions must be either electronically sent to [submissions@cluthadc.govt.nz](mailto:submissions@cluthadc.govt.nz) or hand delivered to 1 Rosebank Terrace, Balclutha 9230 and addressed to the Planning Department.

## 1. Submitter details

Full Name:	Margaret Susan Morton and Robert Mackay Morton
Contact Number:	0274893967 and 0274893968
Email Address:	rmmorton56@gmail.com
Postal Address:	26 McFadden Drive Mosgiel 9024

## 2. Application Details

Name of Applicant:	Clark and Megan Campbell
Application Reference:	RM3030
Application Site Address:	239D Moturata Road, Taieri Mouth Legal Description: Lot 9 DP 399272
Details of Application:	<p>Application under Section 88 of the Resource Management Act 1991 (RMA) to undertake a subdivision and residential activity within the Coastal Resource Area of the Clutha District Plan.</p> <p>The subdivision will create 1 additional Lot for residential activity comprising approximately 9,720m<sup>2</sup> within the Coastal Resource Area, while the balance lot (Lot 2) will be 2ha and located within the Coastal Resource Area. Lot 2 will retain an existing dwelling.</p> <p>Please see the attached full application for further information</p>



# CLUTHA DISTRICT COUNCIL

## 3. Submission

Before making a submission, please ensure you have read/seen the full resource consent application, including the assessment of environmental effects (AEE) and all the plans. (Select one of the below options)

I/ we support the application in whole or in part.

I/we oppose the application in whole or in part.

Please specify below-

- i. The matters within the application that you support or oppose or wish to comment on.
- ii. The reasons for making this submission (please give details)

*please see accompanying document.*

*We were unable to type into this field as it did not format properly*



# CLUTHA DISTRICT COUNCIL.

Please attach any further comments to the end of the submission or as an additional document

Number of additional documents 1



#### 4. Submissions at the hearing

- I/we wish to speak in support of my/our submission.
- I/we do not wish to speak in support of my/our submission.
- If others make a similar submission I/we will consider presenting a joint case with them at the hearing.

#### 5. Signature of submitters

Signature:

Signature:

Date: 21 May 2024

Date: 21 May 2024

#### 6. Important information

- You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.
- The Council will serve all formal documents electronically via the email address provided above. Where there is no email address provided the documents will be posted to the provided postal address.
- The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given.
- If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.
- The Council must receive this submission before the closing date and time for submissions on this application.
- If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.
- Please note that submissions are public. Your name and submission will be included in papers that are available to the media and the public. Your submission will only be used for the purpose of the submission process.
- If a submitter requests the use of hearings commissioners under s100A they may be liable to meet or contribute to the costs of the hearing's commissioner or commissioners.



## CLUTHA DISTRICT COUNCIL

- All submitters will be advised of hearing details at least 10 working days before the hearing. If you change your mind about whether you wish to speak at the hearing, please contact the Council by emailing [planning@cluthadc.govt.nz](mailto:planning@cluthadc.govt.nz)
- Only those submitters who indicate they wish to speak at the hearing will be sent a copy of the planning report.
- If you state that you do not wish to be heard, the Council is not obliged to advise you of the hearing or send you the hearing documents. However, you will be sent a copy of the decision and retain your right to appeal.

SUBMISSION OF MARGARET SUSAN MORTON AND ROBERT MACKAY MORTON REGARDING CLUTHA DISTRICT COUNCIL NOTIFICATION UNDER SECTION 95A AND SECTION 95B OF THE RMA 1991

APPLICANTS CLARK AND MEGAN CAMPBELL

RM REFERENCE RM 3030

We oppose this subdivision

Our reason for making a submission is that we believe we are affected parties and we wish to present information to try and convince the council to deny this application to subdivide.

Our property borders the proposed subdivision. We have read the council decision that the application will be processed on a limited notification basis and all the accompanying documents.

In our opinion the effects of this subdivision will be very significant. We also believe that it contradicts the consent notice which created the Moturata Views Subdivision

This reads :

1.) **Consent Notice 7921033.5.** authorised on 3 June 2008

*In the Matter of Section 221 of the Resource Management Act 1991 AND in the Matter of an application for Subdivision Consent RM1411:*

*Whereas Council has granted Resource Consent to the proposed subdivision comprised in DP399272 subject to the following **conditions which are required to be complied with on a continuing basis by the owners and subsequent owners of the land or parts thereof being the condition specified in the operative part of this notice***

***Operative Part***

*Conditions relating to Lots 2-9 DP 399272 (computer Registers 396012 – 396019)*

***(vii) Dwellings and ancillary buildings shall be located within the building platforms designated for each allotment.***

We purchased our section in 2008 when the subdivision was first brought to the market. It comprised 9 lots all of which had carefully planned and surveyed 900m<sup>2</sup> building platforms. These were positioned in such a way that all property holders had minimal obstruction of their views. We were attracted to the site in part because of the emphasis on nature restoration of the coastal strip and the privacy, and the certainty that we could never be built out.

There were Land use covenants and conditions related to Dwellings and associated development. We attach a copy of these covenants as specified on our sale and purchase agreement from 2008.

We were led to believe when we bought our land that no further subdivision would be permitted. Our neighbors on Lot 5 were told this by the real estate agent when they purchased their property at the end of 2022.

## FIRST SCHEDULE

### 1. Land Use Covenants:

- 1.1 That if, during the excavation or other development activity, previously unidentified archaeological material or sites of possible interest to Manawhenua are identified or disturbed then the following shall occur:
- (i) All work that may affect the archaeological site shall cease;
  - (ii) The consent holder shall contact the New Zealand Historic Places Trust and obtain all necessary authorisation in terms section 14 of the Historic Places Act 1993;
  - (iii) The consent holder shall contact Kai Tahu ki Otago Ltd Resource Management Office of Dunedin in the event that the site is of significance to Iwi:
- 1.2 That no earthworks or excavation, except for the purpose of constructing access, shall occur on the allotment prior to issue of building consent.
- 1.3 That sewage and grey water waste treatment shall be designed by a professional qualified person experienced in that field, such design to be submitted with any building consent application made, (together with a Producer Statement), with oversight of the installation to be overseen by that person. This shall include a requirement for secondary treatment systems for the treatment of effluent and wastewater (for example, but not limited to one of the following secondary treatment systems Oasis Clearwater, Filtertech, Inflow) to be installed for each Lots 2-8.

### 2. Conditions Relating to Dwellings and Associated Development

Each Lot Owner agrees to be bound by the following:

- (i) That dwellings and ancillary buildings shall not exceed a single storey and a maximum of 6.0 metres in height, measured from the existing ground level, prior to any excavation of a building platform except for buildings on Lot 3 which shall not exceed a single storey and a maximum of 4.0 metres in height, measured from the existing ground level, prior to any excavation of a building platform;
- (ii) Dwellings and all ancillary buildings shall be located within the Building Platform designated for each allotment;
- (iii) Water tanks and any other accessory structures are to be sited in association with the residential dwelling on each allotment and shall be finished in colours to match the residential dwelling;
- (iv) Material for roofing shall be restricted to steel corrugated iron or tray roofing, or slate (unpainted) or timber shingles (unpainted);
- (v) Material for walls shall be restricted to timber (natural finish or appropriately coloured) or plaster (appropriately painted) or locally sourced rock or corrugated iron (appropriately coloured);
- (vi) The colours of the roofs shall be restricted to colours that blend with the landscape and have a reflectivity value of 10% or less;
- (vii) The colours of the walls shall be restricted to colours that blend with the landscape and have a reflectivity value of 30% or less, although, detailing around verandas, posts, windows and doors may differ and natural or stained timber would be permissible;
- (viii) The exterior design and colouration of dwellings, ancillary buildings and water tanks shall be submitted for Councils approval prior to, or together with, the application for Building Consent;
- (ix) New fencing shall be constructed from post and wire or traditional dry stone walls using local rock only;
- (x) Modification to the natural contours is to be kept to the minimum reasonably required for a house, driveway and any outdoor living areas (e.g. patios etc). Any new earthworks are to be designed to blend seamlessly with the surrounding natural landforms;
- (xi) No monumental gates or lighting shall be associated with driveways and access ways;
- (xii) Any plantings further than 15 metres from the houses are to be comprised of appropriate native species as listed in the Landscape Assessment and Mitigation Report prepared by Mr Moore attached to the application. (Please note the reason for this control is to allow for a variety of small scale garden plantings close to houses whilst retaining a coherent overall effect consistent with the protection of the natural character of the coastal environment);
- (xiii) No Pre-existing dwelling shall be established on the allotments;
- (xiv) Woodlots and/or plantations of exotic trees shall not be established; and
- (xv) Lot 3 shall have a wind-cloth fence not less than 2 metres high, but approximately the height of a standard deer fence, constructed in the position shown on the plan attached as annexure 1 to this resource consent. The fence shall be constructed prior to the construction of any dwelling on Lot 3 starting, and shall be maintained until landscape planting adjacent to the fence required pursuant to subdivision condition 2.4(i) reaches the height of the fence and provides effective screening.

### 3. Additional Land Use Covenants

A Lot Owner must not:

- (i) Raise any cattle, deer, goats or pigs on any Lot; and
- (ii) Dump or trash solid waste or liquid contaminants on any Lot.



The above document contradicts the statement which is written on the top of page 5 of the Planning report and states

**“The subdivision was not subject to covenants”**

We note that the council has determined that this application is to be evaluated as a Limited notification . We also note that this is a significant modification from the original application submitted by the applicants in which they requested the council to process the application as a non- notified consent. If they had been successful in this we would have known nothing about the proposal until the conclusion of the evaluation by the council, and would have had no opportunity for input. It is apparent that the applicants had been preparing this application for a significant period of time, and they at no time consulted with any of their neighbor's about what they were planning.

We thank the council for determining that we may have input.

It appears that the rules around limited notification state that only owners of properties whose dwellings are within a 200m radius from the proposed new building platform are allowed to submit feedback. In this case this excludes at least 4 other parties who will have significant visual effects from the new development. Another party is literally ½ a metre beyond the 200m distance. It also seems rather inconsistent from the point of view of the council, as we were not permitted to submit when Mr Duggan subdivided his land adjacent ours in 2009, and there are at least 4 of the building platforms which are within 200 metres of our dwelling.

'There are various statement in the council Planning report which we wish to comment on :

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*'the effect of the building and any associated signage on the natural Character of the coast particularly in terms of visual impact'*

**We contend there is significant visual impact. Please see further information regarding this later in this submission.**

*'The effect of the proposal on the intensity of the development in the area'*

**This does significantly increase the density. Instead of two buildings on the coast there would now be three [in Moturata Views]i.e a 33% increase in density, and this does not take into account the further 4 coastal buildings which are likely to be constructed on the Duggan subdivision.**

**Page 11**

*Mitigation measures*

*A] all buildings shall have a maximum height of 5m above existing ground level'*

**There is already a precedent on this subdivision of a maximum height of 4m above ground level to mitigate visual effects [note lot 3]**

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*“Council’s Senior Development Engineer has determined the additional dwelling will create a non-compliance for private access ways under the District Plan and NZS4404, whilst these non-compliances will be dealt with under Section 104. The non-compliances that are being created and additional traffic which may occur as a result of the additional dwelling may have adverse effects on the owners and occupiers of Lots 4-8 DP 399272 that are at least minor’*

**We agree with this. There is likely to be a near 50% increase in traffic on the right of way should the proposed subdivision occur and both sites are built upon.**

*“With respect to the existing residential dwellings the established vegetation which was required as a condition of consent under RM1411 helps mitigate the view of future residential activities on proposed Lot 1.”*

**We always knew about Lot1 and planned for it in our plantings. It is much more difficult to mitigate lot 2 due to the position of the driveways.**

*“Cumulative effects are typically interpreted as a consideration of adverse effects in an area that would cumulatively amount to this application being unacceptable through collective degradation of environmental quality.*

*Aforementioned the proposed subdivision design reflects the current density patterns in the area and creates an additional coastal lifestyle block in the middle of an existing subdivision pattern. Regardless of the scale and intensity Council has considered the additional traffic to the private Right of Way which provides access to Lots 4- 8 DP 399272.*

*The Right of Way is contained within the Record of Title for the subject site (existing Lot 9) which is in favour of Lots 4-8 DP 399272 Council’s Senior Development Engineer has determined the additional dwelling will create a non-compliance for private access ways under the District Plan and NZS4404, whilst these non-compliances will be dealt with under Section 104. The non-compliances that are being created and additional traffic which may occur as a result of the additional dwelling may have adverse effects on the owners and occupiers of Lots 4-8 DP 399272 that are at least minor”*

**Again we agree this this assertion. We have tried to access NZS4404 2010 but the Dunedin Public Library only had NZS4404 2004. Nevertheless it seems that creating an extra section on this subdivision will cross a threshold in numbers of properties on the right of way, which will then possibly lead to a requirement for the ROW to be tar-sealed and that a roundabout would need to be created**

*“Mr Forsyth describes the adjacent lots as having similar levels of planting, and which is now a significant landscape feature and character element in this part of the coastline.*

**“This planting was done by us and our neighbors and the original developer of the subdivision Mr Peter Sutherland**

*“While the development will be visible from public places including the coastal environment and the adjoining neighbouring properties, for the above reasons the adverse effects can be avoided and mitigated to the extent that they are not likely to be more than minor.”*

**But they are not less than minor! In our and all our neighbors opinions.**

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*“As outlined above the proposed mitigation planting provided with the Application can mitigate the effects of the development on amenity to a degree, **but this does not fully address the full scope of the character and amenity values of the area as a whole which is influenced by various aspects, including the density of dwellings, access to the existing Lots utilising the ROW, visual amenity, and the scale of the activity** It is noted that the application has not considered additional traffic movements nor noise which may increase with a new dwelling (accommodating a number of people). The subject site is located in the middle of existing subdivision pattern with access gained via a private right of way. Whilst undertaking this assessment as above, the cumulative effects of the development at 239d Moturata Road have been considered in relation to access.*

*The matters above are able to be accommodated through conditions of consent and design at the subdivision and development works stage, these works are not currently resolved, the affect the application site itself and the access do have a fundamental bearing in terms of Section 95a of the Resource Management Act with respect to Lots 4-8 DP 399272”*

**We have no expertise in this field but agree that all the above quoted sections do add up to having a fundamental bearing on our privacy and enjoyment of our section.**

*“In terms of cultural values (if any) from manawhenua are not know at this point with the Applicant electing to have notice served on iwi rather than any consultation prior to lodgement of the application. Therefore, there may be adverse effects on Manawhenua that are at least minor. Council shall notify the consent on a Limited Notification basis to Ngai Tahu Ki Otago who are represented by Aukaha and Te Ao Marama “*

*“239C Moturata Road, Taieri Beach – R.M and M.S Morton The proposed building platform is approximately 82 metres from 239C Moturata Road. Figure 13 below shows the proposed building platform location situated towards the existing dwelling. A site visit performed by the*

*processing planner on the 28th of March 2024, determined that whilst the proposed Building Platform for Lot 2 is approximately 82m from the existing dwelling at 239c Moturata Road, the dwelling is separated by established vegetation which helps mitigate the view of any future residential activities undertaken on proposed Lot 2”*

**This statement almost seems to infer that because we were diligent in planting then that fact can be held against us.**

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*“Further planting is proposed on the road boundary of Lot 1 and 2 and will eventually screen views to the walls of a future structure, with the roof line and chimneys remaining visible. There are unlikely to be the main focal point due to wider coastal vista that is available to 239c.”*

**We disagree with this statement and here are photographs to illustrate the bulk and visibility of the proposed building on lot 2**

**View from 239C Moturata Road**

Before



After



**In our opinion this is HIGHLY visible.**

**It has taken 13 years for our plantings to reach their present height. When we started out there were no shrubs or trees at all. Our intention was always to grow the plants until they could shield views of the proposed Lot 1 and provide shelter , and once the planting reached that level we would prune as required to maintain our sea views.**

**Now we are expected to look at the dwelling on proposed Lot 2 which is closer and much more visible than a building on Lot 1. If it is built as proposed with the long axis north-south, it will be highly visible. The illustration above demonstrates this. The roof of the building will be right up at the horizon line. At present growth rates it will be about 4-5 years or more before the building is not visible.**

**There is an existing precedent for restricting the height of a building on this subdivision to 4m height. See original Moturata views subdivision documents, referencing the original Lot33. This decision was made to mitigate potential visual effects from a neighboring property. The present proposal for the building on Lot 2 to be allowed to be 5m tall is not reasonable and contributes to its visual dominance in the landscape. This affects the views from all Lots on the original Moturata views subdivision and also the properties across the fence in the Duggan subdivision.**

View from 239B Moturata Road



**Note that even with the extra elevation gained at the Rowe property that the proposed building will be highly visible.**

**Mr Forsyth has come to the conclusion that there is a less than minor visual effect. His report shows lots of photos of the surrounding area, but none whatsoever from the vantage points of the inhabitants of the subdivision. We disagree with his conclusion**

**This is text taken from the NZILA Guidelines**

*“Select viewpoints to represent places the proposal will typically be seen from.°Consideration of private views typically focuses on views from houses, although it is worth acknowledging that people may also enjoy views from other parts of their property. A common technique is to interpolate effects based on a combination of desk top analysis and observations from public places (such as road-side). Be clear in explaining this if this is the method used. Such assessments are often tabulated for individual properties or groups of properties.°Public views will typically be from roads/footpaths, key intersections, and other public places such as parks, walkways, town squares.°Selection of viewpoints requires judgement, remembering that the purpose is to describe the visual effects spatially. For substantial applications it is helpful to*

*agree a common set of representative viewpoints with other landscape assessors involved with the project (such as a council peer reviewer). Remember that representative viewpoints are just that—views and effects are not limited to those locations. On the other hand, such viewpoints are often selected to illustrate where the greatest effects will be experienced. It is necessary to use judgement and provide reasons when interpreting representative viewpoints and coming to a finding on the visual effects. Do not use averaged scores from such viewpoints as an overall measure of effect. Such an approach is misleading because the score would be a product of viewpoint selection rather than overall effect. Describe the nature and degree of effect from each viewpoint. Remember that visual effects are a subset of landscape effects—they are effects on landscape values as experienced in views. They are one method to help understand landscape effects. It may be helpful to approach this exercise as a combination of: i) the extent to which something contributes to or detracts from landscape value, and ii) the visual dominance/prominence based on certain parameters.”*

**Mr Forsyth appears to have no attempt to follow this part of the guideline**

### **Conservation**

**It is very surprising that the applicants and the council did not consider that they should consult with the Department of Conservation regarding this proposed subdivision. It appears that they have accepted the opinion of Ms Peters with respect to this. Contrary to her opinion there are marine species which use the beach and sand dunes which are part of Lot 9. Please see the below photographs of New Zealand sea lions. This summer a young female sea lion was seen often on the beach and in the sand dunes and we had hoped she might give birth there. There were multiple tracks on the beach showing that she was investigating the dunes. The beach is secluded as it is protected from significant foot traffic by the reef at the northern end, and can only be accessed from the main Taieri beach at low tide. As the local population of sea lions continues to increase there is a significant chance that the dunes will be used for breeding in the future, but this is more likely if the seclusion is maintained. The proposed new dwelling would be the closest dwelling on the coast from Taieri Beach to Akatore to such a potential breeding beach. The increased density of shorefront buildings increases the chance of human activities interfering with the behaviour of the sea-lions. In addition sea-lions Pakake/Whakahao are a taonga species for the Ngai Tahu and the applicants attempted to have the application for subdivision processed without consulting them .**







The sealions have been intermittently using this beach for years. See these photos of a large male taken in 2013



Ms Peters has detailed that mitigation planting has been undertaken along the northern boundary but is at an early stage. There were two areas fenced off at opposite ends of lot 9 for protecting plantings from animal grazing. These were created in mid 2022. The one at the south end has not been planted at all nearly two years later . The one at the north end has been planted with flaxes and cabbage trees by us [Mortons] as a favour for our new neighbors the Campbells. Subsequently they also planted some Ake Ake in the same area, but have not maintained the plantings at all. Ake Ake are not endemic to the Otago coast and are not in the recommended plantings listed by Mr Moore. We doubt that the applicants will maintain their required plantings as specified in their application.

Here is a photo showing the early stages of our plantings for the Campbells. We planted more than 50 plants [mainly flaxes]



### *Roading*

*“5 of these lots are affected parties as maintenance will now be shared with an additional Lot. As a requirement of NZS4404-2010 section 3.4.3 **requires sealing of the ROW A.**”*

We do not know if this is referring to the 10m of sealing from Moturata Road as mentioned above , or if it means sealing of the entire ROW A

We have been unable to refer to NZS4404 as it is a document which must be purchased. However our interpretation of the above excerpt from the council report is that the whole right of way A will need to be tar-sealed to comply with these standards. It is our understanding that sealing costs are about \$500,000 per kilometre . The distance which would need to be sealed is about 300 metres. This would thus be a many tens of thousands of dollars [and possibly into the hundreds of thousands] cost on the applicants as the

**Developers of the subdivision. FENZ standards also mean there has to be a roundabout created some where on the existing right of way. This will require considerable engineering and a not insignificant cost on the applicants.**

**It might be argued by the applicants that they are creating two still large lots. The positioning of the already agreed building platform on Lot 1 and the proposed platform on Lot 2 are such that they together create a large visual effect especially when viewed from Moturata views Lot 7 DP399272 and Lot 2 DP399272 by virtue of the angle that they have when viewing to the north toward Otago Peninsula and Moturata island.**

This is the end of our submission. We understand that ALL our neighbors on Moturata Views also oppose this subdivision. We ask that council carefully assess our arguments in coming to their decision regarding this application.

**Appendix**

The signees (see below) are all current landowners of the Moturata Views subdivision DP 399272.

The owners of Lots 2-9 DP 399272 (computer Registers 396012 – 396019) by purchase agree with the **Clutha District Council's Consent Notice 7921035.5 authorised on 3 June 2008:**

*In the Matter of Section 221 of the Resource Management Act 1991 AND in the Matter of an application for Subdivision Consent RM1411:*

*Whereas Council has granted Resource Consent to the proposed subdivision comprised in DP399272 subject to the following conditions which are required to be complied with on a continuing basis by the owners and subsequent owners of the land or parts thereof being the condition specified in the operative part of this notice.*

**Operative Part**

Conditions relating to Lots 2-9 DP 399272 (computer Registers 396012 – 396019)

(vii) *Dwellings and ancillary buildings shall be located within the building platforms designated for each allotment.*

The signees (Lots 2-9 DP 399272) have buildings and plantings carefully designed to maximise views carefully taking future buildings on designed platforms as per DP 399272 into account.

The signees are against adding a new building platform to Lot 9 DP 399272 as per proposal RM3030.

Lot 2 DP 399272

B White

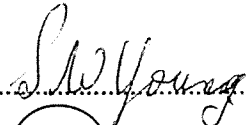
9 Akatore Road

  
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Landowner DP26315/DP419668

SW Young

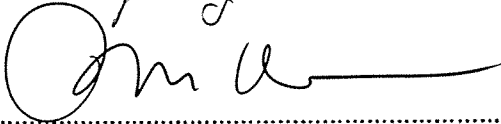
13 Akatore Road

  
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Landowner Lot 3 DP 399272

M and H Hurley

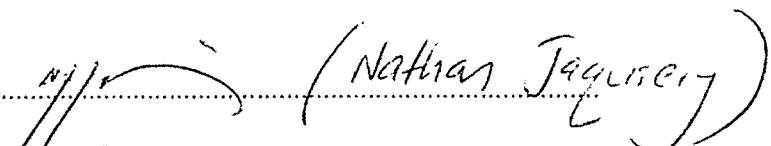
11 Akatore Road

  
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Lot 4 DP 399272

N and C Jaquierey

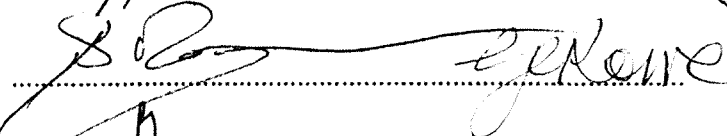
239A Moturata Road

 (Nathan Jaquierey)  
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Lot 5 DP 399272

G.L. and S. Rowe

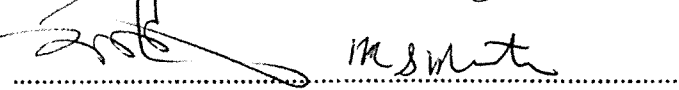
239B Moturata Road

  
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Lot 6 DP 399272

R.M. and M.S. Morton

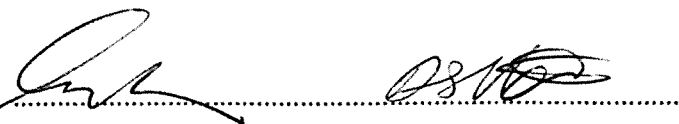
239C Moturata Road

  
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Lot 7 DP 399272

A.D.L. Terry and D.S. Hunter

239E Moturata Road

  
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Lot 8 DP 399272

S.S.J. and A. Tickle

239F Moturata Road

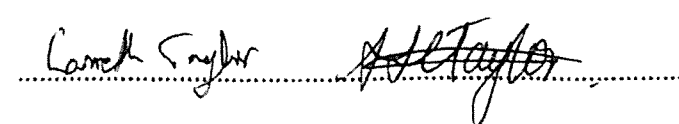
  
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Further the subsequent owners of the pre-existing dwelling Lot 1 DP 399272 also disagree with adding a new building platform as it impacts on their views.

Lot 1 DP 399272

A.J.C and G.B. Taylor

7 Akatore Road

  
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