| Applicant            | Clark And Megan Campbell  |  |  |
|----------------------|---|--|--|
| RM Reference         | RM3030  |  |  |
| Location             | 239D Moturata Road, Taieri Mouth.   |  |  |
| Proposal             | Land use and subdivision resource consent to create<br>two lots (one new lot) and a residential building<br>platform. |  |  |
| Legal Description    | Lot 9 DP 399272   |  |  |
| District Plan Zoning | Coastal Resource Area   |  |  |
| Activity Status      | Discretionary   |  |  |
| Notification         | Limited Notified  |  |  |
| Commissioner         | Colin Weatherall  |  |  |
| Date Decision Issued | 30 October 2024   |  |  |
| Decision             | Granted subject to conditions   |  |  |

# **Hearing Appearances**

| Hearing Dates                                  | 5 September 2024 at the Council Chambers, Balclutha.   |  |  |
|--|--|--|--|
| Appearances for the<br>Applicant               | Mr Clark Campbell, Applicant<br>Ms Emma Peters, Planner<br>Mr Hugh Forsyth, Landscape Architect                              |  |  |
| Appearances for the<br>Clutha District Council | Mr Craig Barr, Consultant Planner<br>Mr Mike Moore, Consultant Landscape Architect<br>Ms Olivia Restieaux, Planning Manager. |  |  |

# 1 INTRODUCTION, PRELIMINARY MATTERS AND HEARING PROCESS

I have been delegated authority from the Council to hear and determine this application.

# Hearing Process and Key Dates

The hearing was adjourned to provide the Council's land development engineer the opportunity to provide comment on the two matters relating to the proposed amended location of shared firefighting water supply tanks within the Right of Way, and the turnaround area on the right of way. The Council officers responded on the 16<sup>th</sup> September 2024 with a set of recommended conditions of consent.

On 7 October 2024 the Applicant filed their right of reply.

On 11 October 2024 I undertook a site visit accompanied by Council officers. In addition to visiting the site we also viewed the Site from vantage points within two submitters properties (Dr Alex Tickle at 239F Moturata Road, and Margaret and Robert Morton at 239C Moturata Road).

I closed the hearing on 14 October 2024.

# 2 THE PROPOSAL

Subdivision and land use resource consents are sought to undertake a two lot subdivision of a 2.972 site.

The subdivision will create 1 additional Lot on proposed Lot 2 for residential activity, and will be 0.972ha in area. Lot 1 containing an existing approved building platform will be 2.0ha in area.

Lot 1 has an existing pedestrian ROW which bisects the southern boundary which provides access to the beach. This access will not be affected as a result of this subdivision.

It is proposed that Lot 2 will be developed for residential activity (1 dwelling per site) and that the development site will be self-sufficient in relation to the supply of potable water and the disposal of wastewater and stormwater. Water tanks will be used for the supply of potable water and firefighting purposes. Stormwater and Wastewater from each residential lot will be disposed of within the site. Electricity and telecommunications will be provided to the boundary of the proposed lots.

At the hearing the plan of subdivision was amended to provide for the static firefighting supply to be located within two tanks located within the vehicle access identified as 'Area B' on the plan of subdivision. Separate water tanks would be required for potable water supply for each of Lots 1 and 2.

Vehicle access to Lots 1 and 2 will be from Moturata Road from an established crossing and shared right of way. New rights of way are identified over Lot 1 in favour of Lot 2.

The proposal includes landscaping comprising indigenous vegetation characteristic of the established planting located on Lot 1, to be located south of the existing building platform on Lot 1, and area of planting on the western boundary of Lot 2 and a strip of planting on the northern boundary of Lot 2 and adjacent to the southern boundary of this site to the north, being Lot 2 DP 566422. I observed that this planting on the northern boundary of Lot 2 had recently been installed with pest protection measures in place.

# 3 THE ENVIRONMENT

The site and neighbouring properties located on all sides except for the coast itself are part of a still evolving rural residential enclave located on coastal terraces formerly used for pastoral farming.

The subject site and wider environment is described accurately in the Application's landscape assessment prepared by Mr Hugh Forsyth. I note that Mr Moore, as part of his peer review for the Council generally concurs with this description.

A summary of the characterisations made by the landscape specialists and the description of the environment is as follows.

The site was created by a prior 9-lot subdivision which is now fully developed with 8 built residential dwellings and 1 residential dwelling which has building consent, being the building on Lot 1. The area of development is located on gentle slopes that descend from Akatore Rd to a small coastal terrace that ends at the shoreline escarpment that marks this section of coastline. The boundary between the terrace and the escarpment is marked by a fence line and a change from open pasture to a mix of native and exotic coastal vegetation.

The natural gullies and depressions of the subdivision have been densely planted in indigenous vegetation which appears to be successfully maintained, and the planting in visual appearance terms, is both admirable and effective at creating a sense of enclosure within the site, and also enhances the sense of separation between the individual properties of the subdivision development. The planting of the Morton property at 239C Moturata Road in particular comprises a dense swath of what appear to be hardy indigenous species and these provide a sense of privacy and high amenity value within the site.

The terrace area is slightly elevated above the ROW and rises approximately 4m above at its highest point, and the location of proposed Lot 1 building platform. The top of the terrace forms a small ridge that runs north/west to south/east and provides a foreshore focal point for houses above the site.

A more recent 16-lot subdivision is under construction to the north of the main ROW. The consented platforms end approximately 20m from the northern site boundary on the coastal terrace but are likely to have the main aspect towards the north.

Mr Forsyth identifies the biophysical factors of the site as being part of the coastal terrace than extends for approximately 450m from the southern boundary of 239f Moturata Road to a headland point approximately 250m north of the site boundary. The terrace edge then extends inland to the route of Moturata Rd with coastal flats continuing to the outfall of Akatore Creek. Mr Moore also notes that the schist rock shelves identifiable along the coast are identified in Table 13.3 of the District Plan as an Outstanding Natural Feature.

The associative factors are described as having a coastal rural character that reflects the farming land use that was predominant on this part of the coastline before residential subdivision began. Mr Moore also notes that the area has Kā i Tahu cultural landscape values recognized generally, in the Statutory Acknowledgement for Te Tai o Arai te Uru (Otago Coastal Marine Area). Otuarae is the name of the headland to the north-east of the site and there are wā hi tapu values associated with a cave.

The perceptual factors are the regular topography and open pasture provide a visual boundary between the slopes and the shoreline and the change to the coastal landscape to the north and south.

# 4 RULE FRAMEWORK AND REASONS FOR CONSENT

The Site is zoned Coastal Resource Area and Rural Resource Area under the Operative Clutha District Plan.

The S42A authors and Ms Peters for the Applicant are both in agreement that the activity requires the following resource consents:

- A discretionary activity for subdivision in the Coastal Resource Area (Rule SUB.2);
- A controlled activity for roads and access to lots (Rule TRAN.1);
- A discretionary activity because the future dwellings on each lot will be closer than 200m to each other (Rule RRA.3(I)(a).2), with the proposal introducing a new residential on Lot 2;
- A discretionary activity for not undertaking consultation (Rule COA.2);
- A restricted discretionary activity for dwellings in the Coastal Resource Area (Rule COA.4(b)), comprising the new dwelling to be located within the proposed building platform on Lot 2;
- A discretionary activity for subdivision in the Coastal Resource Area (Rule COA.5).

At the hearing Mr Barr identified that the existing consent notice (instrument reference: 7321033.5) registered on the Site's record of title would need to be amended as it relates to the existing building platform and development area of Proposed Lot 1 in relation to landscaping, and that the conditions of this consent notice would need to apply to Lot 2 which is subject to its own suite of landscape and building design mitigation conditions. Ms Peter's agreed, and acknowledged this in her closing statement. Therefore a discretionary activity resource consent is required to vary consent notice 7321033.5, pursuant to section 221 of the RMA.

Overall, the proposal shall be treated as a discretionary activity. Both Ms Peters and Mr Barr agree with the overall activity status. No Submitters disputed the activity status.

# 5 NOTIFICATION AND SUBMISSIONS

The application has been processed on a limited notified basis, with notice of the application served on the following persons:

- Iwi (both Aukaha and Te Ao Marama); and
- 239F Moturata Road, Taieri Beach S.S.J and A Tickle;
- 239E Moturata Road, Taieri Beach A.D.L Terry and D.S Hunter;
- Akatore Road, Taieri Beach A.J.C and G.B Taylor;
- 239C Moturata Road, Taieri Beach R.M and M.S Morton;
- 239B Moturata Road, Taieri Beach G.L and S Rowe;
- 229 Moturata Road, Taieri Beach N.A and H.M Eason;
- 227 Moturata Road, Taieri Beach J. A Saunders and T.G McNeill;
- 30 Otuarae Drive, Taieri Limited Cathcart Limited;
- 29 Otuarae Drive, Taieri Limited Cathcart Limited;
- Lot 9 DP 556422 A.A Newall and SC Nominees 2019 Limited; and
- Lot 8 DP 556422 Downie Stewart Trustee 2013 and K.B Duggan.

Five submissions were received, all within the prescribed timeframe.

The submission from Dr. Alex Tickle and Shane Tickle opposed the application, with their concerns being the departure from the compliance with the existing consent notice imposed at the time of the original subdivision, the significant impacts on visual amenity, privacy, increase traffic and sound/light.

Concerns with the increased population density, which could impact the visual amenity and privacy of existing residence, increases in traffic and the introduction of more sound and light, and adverse effects on sea lion habitat. Dr. Tickle attended the hearing and emphasised these matters, in particular views from her property which is located to the south - west of the site, across the Site towards the coast and Moturata Island, and that the introduction of additional residential buildings would detrimentally affect those views and the open space afforded by site in its present state. Dr Tickle also emphasised that the nearby beach was a habitat for sea lions and that she did not want this habitat or the sea lions themselves to be compromised through the introduction of additional residential activity.

The submission from Robert Morton of 239C Moturata Road also identified concerns with the Concerns with the impacts on visual amenity and privacy that may occur. As well as the visibility of the dwelling from their property. Mr Morton raised concerns with the proposed mitigation measures the height proposed by the applicant which is a metre higher than the consent notice allows for Lots 2-8 DP 399272. It is noted that at the hearing the Applicant confirmed that the building height has been reduced to 4.5 maximum on Lot 2. Mr Morton attended the hearing and spoke to his submission, emphasising the outlook from his dwelling and that the proposed 5

building platform on Lot 2 was direction east and toward the coast as viewed from Mr Morton's dwelling.

Submissions were also received from Ana Terry and Don Hunter of 239E Moturata Road who raised similar concerns associated with the disruption of views from their properties toward the coast and Moturata Road which his located northeast of Site. This submission also questioned the validity of the Applications' landscape assessment and whether it was consistent with the New Zealand Landscape Institute Guidelines. The Hunter's did not appear to support their argument any further in relation to the veracity of the landscape assessment and I have not taken this matter no further. While they did not take the opportunity to appear at the hearing, the views in their submission have been taken into account.

Mr Kevin Duggan who owns properties located to the north of Lot 2, made a submission in opposition expressing concern with the building heights and sought that this was reduced, and that there was additional planting located on his southern property boundary (the northern boundary of Lot 2). I understand that while Mr Duggan had planned to attend the hearing he fell unwell the morning of, and decided not attend. Mr Duggan advised the Hearing's secretary and Planning Support Officer Ms Olivia Dickson that he felt that his issues were mostly resolved in the way of conditions of consent and was happy to not be heard. I observe that the additional planting installed along the northern boundary of Lot 2 (indicated by the blue strip on the plan of subdivision) and the building height has been reduced from 5m to 4.5m.

Te Rūnanga o Ōtākou made a submission opposing the activity, and identifying concerns with the onsite wastewater disposal noting that a feasibility assessment was not provided with the application.

Their submission identified that there was insufficient information provided in the application to enable the submitter to assess the impacts of onsite wastewater and stormwater on the cultural values, coastal environment; and any cumulative effects that may occur.

Mr Bill Young was not served notice and did not make a submission but appeared at the hearing and voiced his concerns with the Application. Although Mr Young is not able to make a formal submission on the application, the issues raised by Mr Young were consistent with those of other submitters in relation to effects on the visibility of buildings on Lot 2 and the increase in residential density.

# 6 SECTION 104 MATTERS

# Permitted Baseline

Under section 104(2) of the RMA, the Council may disregard an adverse effect of a proposed activity on the environment if a plan permits an activity with that effect. Such activities form part of the permitted baseline. I note from the planning framework and reasons for consent identified above that any subdivision requires at least a restricted discretionary activity subdivision resource consent, and that any residential activity requires a restricted discretionary land use resource consent.

There are not any relevant permitted baseline effects that are able to be disregarded.

Other than the building platform and approved building consent for a dwelling within Lot 1, I have not been made aware of any resource consent on the subject site which are likely to be implemented that could form part of the environment.

# **Receiving Environment**

The site and wider area and its character are described above. It is important to reiterate that on Lot 1 there is an approved building platform which permits buildings to a maximum height of 6m, and that there is an approved building consent for a dwelling. There are also building platforms registered on the records of titles of the properties located to the north of the Site at 27, 29 and 30 Otuarae Drive.

# Key Issues in Contention

The key issues in contention relate to the additional lot and the proposed building platform and residential activity on Lot 2.

Submitters expressed concern that additional residential development on Lot 2 would adversely affect their outlook and visual amenity, particular those views from their properties toward the coast, and in particular the northern eastern view out toward Moturata Island.

The submitters concerns included that future buildings within the proposed building platform on Lot 2 would obstruct those views.

The Submitters were also opposed to the subdivision on the matter of principle that there was a consent notice in place, which was registered on the record of title to all lots in the subdivision, which required development to be contained to the identified building platform area on each property and that the proposal was a violation of this instrument.

Submitters, including Dr Tickle in particular, opposed the subdivision on the basis that the additional residential activity would have a detrimental effect on sea lion habitat, with the coastal area a well know haul-out spot for breeding sea lions.

By the time of the hearing, the Applicant sought to address these concerns to an extent, with additional planting areas on the northern boundary of Lot 2, an area to the west of the building platform on Lot 2 which serves as supplementary planting of existing indigenous vegetation planting located on the Site, and an irregular U-shaped are located to the south-west and south of the existing building platform on Lot 1 which will augment the existing planting already established.

# Natural Character Effects and Landscape Effects

The Application was supported by an assessment and evidence presented at the hearing by Mr Hugh Forsyth. Mr Mike Moore undertook a review on behalf of the Council.

Both Mr Forsyth and Mr Moore consider that adverse effects on natural character will be low. I agree with this in that the proposed building platform on Lot 2 is located further from the edge of the coastal terrace than other existing buildings, including that at Lot 9 DP 399272 (Owned by Dr Tickle), and approved building platforms located to the north of the site. While the Site and therefore, part of Lot 2 is located beyond the crest of the coastal terrace, this is the case for a number of properties in the vicinity, and importantly there are not proposed to be any modifications to the site at this location. I do not consider the subdivision to result in a greater risk of activity occurring within the coastal environment beyond the crest of the terrace, than what may already exist on the Site or the neighbouring sites which are also developed for rural residential purposes.

I also note that the Applicant has volunteered a condition that the existing fence along the crest of the terrace shall be maintained with no modification (such as planting of exotic species) to occur on the coastal side of the terrace.

For these reasons, I consider that adverse effects on natural character will be minor.

Both landscape specialists have come to the same view, as confirmed at the hearing and in Mr Moore's review, that the landscape effects will be low-medium over the short term (1-3 years) and low in the longer term. I understand the key reason for this is that the additional building on Lot 2 will be a continuation of buildings and associated effects on rural character and openness which already form the environment as created by the previous subdivision. Another reason is that Lot 2 is setback from the coastal terrace a similar degree to existing and consented development located to the north and sought of the site. Another reason also is that indigenous vegetation planting will be located and of a species that are consistent with the character of the existing planting, and the suite of building mitigation measures would be effective at ensuring buildings are not dominant, and the building elements are consistent with existing development.

The Applicant has also volunteered conditions to ensure that buildings are finished in a visually recessive colour and that other landscaping treatment and boundary fencing limits are imposed. These will also assist with ensuing buildings will integrate successfully into the environment and will not be visually prominent.

I have had particular regard to the views and outlook from the building platform area on Dr Tickle's property, I consider that the existing building platform on Lot 1 would tend to dominate views from this location, and that the additional built form on Lot 2 would appear more distant, further to the east and subservient than what would occur on Lot 1. I do not consider the additional building platform on Lot 2, with its height limit of 4.5m to obstruct views of the coast or Moturata Island. Views across the Site and specifically to Lot 2 are already present with buildings, including those on Lot 1 in terms of what is able to occur within the approved building platform, and the properties to the north where the buildings are to be located in a more eastward position than that on Lot 2. I find that the landscape and visual amenity related adverse effects of the subdivision and building platform of

Lot 2 on this submitter are minor.

The Morton property is located directly to the west and contains established coastal landscaping comprising indigenous species which provides for a sense of seclusion and privacy, and as noted above high onsite amenity values. I was invited into the Morton's dwelling which their upper storey window provides views directly into the building platform area on Lot 2 and it is clear, that from this vantage point at least that their view to the coast will be obstructed. The established landscaping on the Morton property and the Site and the proposed planting will assist with providing screening of activities at ground level. However future building façade and roof from will be plainly visible from the upper storey east facing window.

While this view is a valued view to the submitter, I consider that this view needs to be considered in the context of approved residential development to the north (Lots 10 and 11 DP 556422), and south (proposed Lot 1), that the environment constitutes a node of rural residential development and that this view is but one of multiple views available from the property. From this property the location of the subtle crown that the building platform on lot 2 sit upon is clearly noticeable, including the slight fall in elevation toward the west. For this reason I consider that the Lot 2 building platform is more appropriate in relation to this property if it is shifted from its current location a distance of 10 metres to the west. This will have the effect of lessening the amount of built form on the crown of the elevation, and better tucking the building platform into the existing and proposed indigenous vegetation located between the Morton's property and the building platform. With this change in place, I find that the adverse effects of the subdivision and building platform of Lot 2 on this submitter are minor. I also consider that the change in location to the building platform will not affect any greater the views from other submitters properties

I note that Mr Moore identified at the hearing that he would be more comfortable with the proposal to minimise adverse effects further by tucking the building further into the bush. In relation to this, I note that Paragraph 13 of Ms Peter's reply statement for the Applicant identifies that Mr Moore agreed that the building platform did not need to be moved on the basis that the height was reduced to 4.5. I recall the questioning and response from Mr Moore that while he was more comfortable with the proposal that the maximum building height had been reduced to 4.5m, his preference that moving the building Platform northwards would improve and that by tucking it into the bush would further mitigate adverse effects.

From the wider area and in terms of overall adverse effects on landscape and amenity values, I consider that this proposal constitutes further consolidation of an existing rural residential enclave, and the adverse effects of the proposal as viewed from the coastal environment and public roads and other public places will be minor.

I did not hear any evidence or submissions that the current open space area of the Site (which would be occupied by the building platform of Lot 2) played an important role at providing open space in relation to development and the adjoining coastal area, or that the proposal constituted an adverse cumulative effect in terms of residential density. While this matter is relevant, I do not consider it a significant matter in relation to this proposal. I consider that future buildings on Lot 2, within its revised location, and the subdivision overall can be effectively bedded into the site with the proposed landscaping and the proposed building height of 4.5 metres and use of recessive building colours and materials will further assist. I also consider that from a landscape and amenity perspective the proposed location of the firefighting static supply tanks within ROW B are appropriate.

As noted above the activity requires a variation to the consent notice (7921033.5) in relation to Lot 1 to reflect additional landscaping, and that this existing suite of conditions need not be imposed on Lot 2 which will be subject to its own suite of conditions. Imposing this consent notice on Lot 1 would lead to duplication and ambiguity. There is therefore, a process and administrative reason to vary this consent notice. Submitters expressed concern that the subdivision was in violation of the consent notice and that this was a reason that the Application should be declined. It is available for a landowner to vary or cancel the condition of a consent notice, and the RMA 1991 provides for this process through section 221. The real implication is what those conditions state in the context of what is sought, and the background to why the condition may have been imposed at that time. The consent notice instrument does not identify or refer (by virtue of the resource consent which created the consent notice) to any fundamental reason why further subdivision of the Site should be precluded. I consider that the variation to the consent notice is appropriate and will have minor adverse effects.

For these reasons, the adverse effects in relation to natural character and landscape will be minor.

#### Traffic and access

Access will be from the existing right of way and crossing onto Moturata Road. The Applicant has agreed with the Council officers in relation to conditions of consent requiring the access to be upgraded, a turnaround area at the corner of the ROW. No submitters raised issue with access matters.

The new ROW area B to provide access to Lot 2 is appropriate.

The adverse effects in relation to traffic and access are minor.

#### Stormwater and utility services

Ms Peters advises that there existing electricity services available at the boundary to each Lot and that the applicant will extend electricity and telecommunication services into the site.

Potable Water shall be provided for from roof surfaces to storage in tanks of a suitable size.

It is advised that excess roof collection water will be sent to sump and/or to existing stormwater drainage system within the site. Stormwater from hard surfaced areas will be sent to sump and/or to existing stormwater drainage system within the site.

The applicants request that as a condition of land use consent for Lot 2, that a drainage plan, demonstrating that post development flows are no more than pre-development flows and that the existing stormwater flow

paths through Lot 2 remain viable post development, is submitted for approval by Council at the time of or prior to application for building consent. This is considered appropriate.

The revised subdivision plans provide for two firefighting Tanks capable of achieving a water storage of 45,000 litres (45m<sup>3</sup>) within the ROW B.

These measures can be appropriately addressed and the Applicant has agreed with the Council officers' conditions of consent. I consider that these matters can be provided for and the adverse effects on the environment will be minor.

#### <u>Wastewater</u>

Ms Peters has advised that the wastewater will be dealt with via onsite treatment to at least a secondary standard with dispersal to field. The particular details of the secondary treatment system and dispersal field for Lot 2 will be dealt with at the time of application for building consent when design of the dwelling and sizing and location of treatment plant and dispersal field are known. It is considered the Lots are of size and shape to allow for onsite wastewater disposal without any cross boundary contamination occurring, the minimum size being 4000m<sup>2</sup>.

Council officers concur, noting that there is sufficient size within Lots 1 and 2 to provide onsite wastewater secondary treatment and disposal.

I acknowledge Te Rūnanga o Ōtākou concerns with the cumulative effects associated from a proliferation of individual on site wastewater systems in a concentrated area near the coastal environment. However, their assertions were not further elaborated upon by way of evidence.

For these reasons, I consider that adverse effects from on site wastewater will be minor.

#### Effects on Fauna

I have considered the submission of Dr Tickle who identified concerns with the additional residential activity on the habitat of sea lions. I consider that there is sufficient space between the water line and boundary fence, which is located atop an escarpment. I also note that this property is no more unique than any others which have frontage to the coast in the area, with existing properties containing dogs which may be a threat to sea lions (if not appropriately controlled) and the addition of an additional residential activity does not correlate to a greater threat to sea lions or their habitat which can be regarded to have an influence on my consideration of this matter.

I consider the adverse effects on sea lions and their habitat to be minor.

# Other Effects

With regard to cultural effects associated with accidental discovery during earthworks, The Applicant has

received advice from Te Ao Marama encouraging a kaitiaki be present on site during earthworks, which was opposed by Aukaha.

Ms Peters in her reply, stated that the applicants maintain their offer for a consent condition regarding a Kaitiaki Monitor. That the offer for inclusion of a consent condition regarding a Kaitiaki Monitor is in addition to the standard consent condition regarding accidental discovery protocol as set out in the evidence of Ms Peters, and that it appears to her that the further submission from Te Rūnanga o Ōtākou (Aukaha) believed that the Kaitiaki Monitor consent condition was instead of rather than additional to the accidental discovery protocol. In my consideration, I note that it was Te Rūnanga o Ōtākou through Aukaha who have made a submission and while respecting both agencies and Ms Peter's advice, I take on board what Te Rūnanga o Ōtākou have advised and respect those requests.

I do not support the inclusion of the Kaitaiki Monitor condition and consider that effects can be appropriately managed in its absence through the more standard accidental discovery provisions.

Other matters pertaining to soil and productive land, indigenous biodiversity, natural Hazards and earthworks were addressed in the application documents, Ms Peter's evidence and the Council's s42A report and effects in relation to these matters were addressed with the summary for each that adverse effects would be minor. I adopt these findings and concur that the effects will be minor, subject to any relevant condition of consent being imposed.

#### **Objectives and Policies Framework**

The relevant objectives and policies are in the Clutha District Plan, and a comprehensive assessment of these is in the Council's s42A report, Mr Forsyth and Mr Moore have also addressed and discussed these in their assessment and review including the relevant policies of the New Zealand Coastal Policy Statement and Operative Regional Policy Statement 2019, in addition to Ms Peters assessment in the Application. Those assessments are adopted for this assessment. I note that no submitters provided an assessment of the relevant statutory statutory provisions.

The amenity values of the rural environment will be maintained and the identified important elements of the environment including its coastal context have been carefully considered as part of the subdivision design and mitigation strategy. The activity will achieve Objective RRA.5 of the District Plan.

The activity is also considered to implement, and be consistent with Policy COA.1 because the Site is at the edge of the coastal environment within a node or rural residential activity within the Coastal Resource Area and will not adversely affect the natural character values, outstanding natural features or landscapes of the coastal environment, the amenity values of the coast, safety or the use and enjoyment of the coast by the public.

The activity will also be consistent with Policy COA.08 which is; 'To provide for intensive residential 12

development in existing coastal settlements only, while recognising and providing for the adverse effects of dynamic coastal processes'. The activity is located within an existing rural residential node that while zoned Settlement, has been developed to comprise a coastal settlement. The activity does not result in the expansion of these land areas.

The activity finds support in Objective SUB.1 which is to provide a flexible approach to both urban and rural subdivision and development that allows, in the majority of circumstances, the market to dictate allotment size, while ensuring adverse effects are avoided, remedied or mitigated. I find that that the activity can leverage from the enabling aspects of Objective SUB.1 while appropriately managing adverse effects on the environment.

The activity is consistent with the objectives and policies of the District Plan.

# Higher Order Planning Documents

The key relevant higher order document relevant to this activity is the New Zealand Coastal Policy Statement (NZCPS). Mr Forsyth and Mr Moore has addressed this in their landscape assessments and as noted above the Council s42A report has also considered this document. The NZCPS is also identified by the District Plan to be given effect to through District Plan Policy COA.08 and other Coastal Resource Area objective and policies. Those assessments consider the activity to be consistent with the Coastal Policy Statement because the development would be located on an escarpment that is at the boundary of the coastal environment and is not sensitive from a coastal environment natural processes perspective and I adopt those findings see no need to repeat those policies or their assessment. The activity does not impact any outstanding natural feature or landscape and will avoid significant adverse effects and will avoid remedy or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment as required by Policy 15 of the NZCPS.

# S104(1)(c) Other Matters

Section S104(1)(c) identifies any other matter the consent authority considers relevant and reasonably necessary to determine the application. Submitters have identified the recently published Clutha District Council 'Our Place' document which research the Taieri community's opinion on life and issues on the Coast. That document provides an insightful view into current views of persons who responded to the survey which informed the report, I have had regard to that document and acknowledge that it contains a representation of communities views, but that document is not a statutory document in terms of the RMA and has been given less weight than the provision of the District Plan.

# Section 104(3)(D)

This application was not publicly notified but has been processed on a limited notified basis.

As required by section 104(3)D of the RMA, I have also had regard to whether the application should have been 13

notified and was not. If this were the case I would not be able to grant the consent but refer the matter of public notification back to the Council.

I have also had regard on whether other persons ought to have been served notice as part of the limited notified application process, including the Otago Regional Council, the Department of Conservation and Mr Young. I do not consider that notice ought to have been served on these persons.

I am satisfied that this application need not have been publicly notified. There is no reason to decline the resource consent on this basis.

# 7 PART 2 MATTERS

I do not consider it necessary to traverse Part 2 matters in great depth, this is because the Clutha District Plan is considered the most relevant and complete planning document for the purposes of this activity. I also note that Ms Peters and the Council s42A report has addressed these, and those findings are adopted.

# 8 SECTION 104B DETERMINATION

I have found from the above assessment of the proposal that the effects on the environment of the proposal are acceptable, and that the proposal will be consistent with the relevant District Plan objectives and policies, subject to compliance with conditions of consent.

I am therefore satisfied that the proposal can be granted consent, pursuant to sections 104, 104B and 108 of the RMA, subject to the Conditions in Appendix 1.

2. haleathered

Colin Weatherall Hearings Commissioner 30 October 2024

# Appendix 1 Conditions

Land Use and Subdivision Resource Consent

- That the proposal be given effect to in general accordance with the application received by Council on the 29 January 2024 and the documents held on the Council resource consent file RM3030, and the following approved plans prepared by: Cookson Land Surveying, titled, subject to the requested amendment in Condition 3:
  - 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August<sup>t</sup> Sheet 1 of 4';
  - 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August<sup>2</sup>. Sheet 2 of 4';
  - 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Lot 2 Detail Plan, Project Reference: CLS469, Date: 21<sup>st</sup> August<sup>2</sup> Sheet 3 of 4';
  - 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Lot 1 Detail Plan, Project Reference: CLS469, Date: 21<sup>st</sup> August<sup>2</sup> Sheet 4 of 4'.
- 2. The consent holder shall ensure that a copy of this consent is kept on site at all times, during the activity authorised by this consent. The consent holder shall ensure that all workers and contractors on the site are familiar with the conditions of consent.

# Building Platform on Lot 2

3. The Building Platform on Lot 2 shall retain the same shape and size but is to be relocated ten metres toward the western boundary of Lot 2.

The Consent Holder shall undertake to have the plans referenced in Condition 1 amended within 4 weeks of the date this consent is granted.

#### Accidental Discovery

- 4. If any artefact and/or historical, cultural, or archaeological material of Māori origin or likely to have significance to Māori is found or uncovered during undertaking work authorised by this resource consent, the following must be complied with:
  - a) Work shall cease immediately; the area secured, and any uncovered material must remain untouched;
  - Advice of the discovery must be given within 24 hours of the discovery to the Manager, Planning Clutha District Council and Heritage New Zealand (Pouhere Taonga); and
  - c) No work shall recommence until:
    - i) Three working days have elapsed since the advice has been given or earlier if agreement has

been reached with Iwi and Clutha District Council; and

ii) An Authority has been issued by Heritage New Zealand if the find involves an archaeological site.

# Section 223 Certification

The following conditions of consent must be complied with to Council's satisfaction before a certificate is issued under section 223 of the Resource Management Act 1991.

5. The consent holder shall ensure all necessary Easements and Easements in Gross for Utility Services, Access and Private Drainage for this subdivision and easements to be cancelled shall be shown on the cadastral dataset and that the cadastral dataset shall include a Memorandum of Easements. The costs of the preparation and registration must be met by the consent holder.

# Section 224(c) Certification

The following conditions of consent must be complied with to Council's satisfaction before a certificate is issued under section 224(c) of the Resource Management Act 1991.

# Roading Access Upgrade

6. The existing vehicular crossing serving 5 existing lots, and 1 new lot off ROW A is to be upgraded in accordance with Clutha District Plan rule TRAN.4 (IV) (a) and diagram 11 (b), sealed for a distance of 10 meters from the edge of seal in Moturata Road. The seal shall be 5.7m wide with gates (if any) set back 10 meters from the edge of seal in Moturata Road.

# Right of Way Upgrade and Construction

- 7. The consent holder shall construct a turnaround area and shall be formed in ROW A in accordance with NZS4404-2010 section 3.3.16.1 and figure 3.4.
- 8. Right of way B shall have a minimum legal width of 6m and a minimum formed lane of 2.5m with metalled shoulders in accordance with NZS4404 section 3.3.16.

# Installation of Firefighting Provision

- 9. The consent holder must install provision for onsite firefighting in the location identified on the approved subdivision scheme plan prepared by: Cookson Land Surveying, titled: *'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August':* 
  - a) Two, 25,000 Litre water tanks to be used as static reserve for firefighting purposes. The tanks must be filled with water as part of the installation process, and the water must be maintained in the tanks, so it is available for firefighting purposes. If positioned above ground, the tanks must be coloured to blend with the surrounding rural landscape with a light reflectance value of 30% or less, and must be screened by locally appropriate planting to ensure that they have minimum visual impact from beyond the property, provided that the screening accommodates the safe and efficient operation of access to

the tanks for the purposes of firefighting and replenishing the water supply therein.

 b) Access to the static firefighting reserve and a hard standing area that complies with requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (or subsequent amendments).

# Electricity

- 10. The consent holder shall provide confirmation of electricity supply to the boundary of Lot 2.
- 11. Where a wired electricity connection will not be provided to Lot 2, the consent holder shall provide written confirmation to the Manager Planning from a Company that specialises in Off Grid Electricity Installation confirming that Off Grid Electricity services are suitable for Lot 2.

# Telecommunications/Internet

12. Where wired telephone communication and internet services will not be provided to Lot 2, the consent holder shall provide to the Manager Planning written confirmation from a Wireless Network Utility Provider confirming that wireless telecommunication and internet services are available over the Building Platform of Lot 2 and that the signal strength is not less than 85%.

# Mitigation Planting for Lots 1 & 2

- 13. The consent holder must ensure that the mitigation planting in relation to Lots 1 and 2 shown as, respectively, 'Area D' and 'Area E' on the approved Subdivision Scheme Plan prepared by: Cookson Land Surveying, titled: 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August<sup>2</sup> Sheet 4 of 4', is planted. Planting and maintenance of that planting must be in accordance with Condition 13 a) e) below.
  - a) Control for rabbits and hares is recommended to be undertaken six weeks prior to planting, if these pest species are present.
  - b) Plants are to be a minimum at PB3 and planted at a rate of 1.2m centres and to be protected with paper or bamboo eco planting guards.
  - c) Planting is to be undertaken with the native species listed below, or other locally appropriate indigenous species capable of reaching at least 4m height and suitable for successful establishment in this area:
    - Griselinia littoralis (Broadleaf).
    - Hebe salicifolia (Koromiko).
    - Melicytus ramiflorus (Mahoe).
    - Myoporum laetum (Ngaio).
    - Myrsine australis (Matipo).

- Pittosporum tenuifolium (Kohuhu).
- Cordyline australis (Ti kouka / Cabbage tree).
- d) All new planting areas are to be protected for two years with a horticultural windbreak mesh to a height of 1.2m+ or similar method that achieves protection from on shore wind for this period.
- e) Planting is to be maintained to encourage successful establishment and is to be managed to ensure that its screening / mitigating function is sustained on an on-going basis. Any plants that die or fail to thrive are to be replaced as quickly as practicable.

# **Consent Notice**

14. Pursuant to Section 221 of the Resource Management Act 1991, the consent holder shall prepare a Consent Notice to be registered against the Record of Title for Lot 2 for the following matters:

#### <u>Wastewater</u>

a) Lot 2 shall be serviced by on-site wastewater treatment via, at minimum, an approved secondary treatment system with dispersal to field or such other solution designed by a suitably qualified person.

#### <u>Stormwater</u>

b) Stormwater from hard surfaced areas shall be drained to sumps and/or to an approved existing stormwater drainage system within Lot 2. The development of Lot 2 shall include at the time of Building Consent, a drainage plan, demonstrating that post development flows are no more than predevelopment flows and that the existing stormwater flow paths through Lot 2 remain viable post development.

# Building Platform

c) The dwelling and any ancillary buildings must be confined to the Building Platform on Lot 2 as shown on the approved Subdivision Scheme Plan Prepared by: Cookson Land Surveying, Titled: 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August 2024'. Except water tanks to hold potable water do not need to be located on the identified Building Platform. Where located outside the building platform water tanks must be located in association with the residential buildings, located to the west of the building platform, and shall be either partially of fully buried, and/or have landscaping so as to be screened from public view.

#### Site Development of Lot 2

- d) All buildings shall be a maximum height of 4.5m above existing ground level at the time of subdivision.
- e) All buildings are to be finished in external cladding of either naturally weathered timber or locally appropriate stone, or in colours that have low levels of contrast with the colours of its rural landscape setting. Painted surfaces will have light reflectivity ratings of no more than 30% whilst the roof colour shall have a reflectivity rating of no more than 10%. Material for roofing shall be restricted to steel

corrugated iron or tray roofing, or slate (unpainted) or timber shingles (unpainted).

- f) The colour and materials of the dwelling, ancillary buildings and water tanks shall be submitted for Council's approval prior to, or together with, the application for building consent.
- g) All services within Lot 2 are to be located below ground.
- h) No pre-existing dwellings shall be established on site. For the purpose of this requirement, preexisting dwellings mean a previously used building intended for use as a dwelling to the site. This does not include new prefabricated dwellings erected off-site.
- i) Outdoor lighting shall be:
  - (i) Shielded from above in a manner that the edge of the shield shall be below the whole of the light source.
  - (ii) Have a filter to filter out the blue or ultraviolet light, provided the light source would have more than 15% of the total emergent energy flux in the spectral region below 440nm. The filters used must transmit less than 10% of the light at any wavelength less than 40nm. This, therefore, includes, but is not limited to, fluorescent, mercury vapour and metal halide lamps.
  - (iii) All fixed exterior lighting shall be directed away from adjacent properties, roads, and the marine environment.
- j) New fencing shall be constructed from post and wire or traditional drystone walls using local rocks only.
- k) No monumental gates or lighting shall be associated with driveways or accessways.
- I) Woodlots and / or plantations of exotic trees shall not be established.
- m) The existing stock proof fence separating the pasture area from the escarpment and sand dune area must be retained and maintained.
- n) Within the escarpment and sand dune area the only activities which are permitted are conservation activities including planting of appropriate indigenous vegetation and removal of pests and weed species.
- o) New tree and shrub plantings further than 15m from the residential unit are to consist of indigenous species only with a mature height of no more than 7m and must consist of the following species-
  - Griselinia littoralis (Broadleaf).
  - Hebe salicifolia (Koromiko).
  - Melicytus ramiflorus (Mahoe).
  - Myoporum laetum (Ngaio).

- Myrsine australis (Matipo).
- Pittosporum tenuifolium (Kohuhu).
- Cordyline australis (Ti kouka / Cabbage tree).

New tree and shrub plantings within 15m of the residential unit must not exceed a mature height of 5m.

# Consent Notice for Planting

- 15. Pursuant to Section 221 of the Resource Management Act 1991, the consent holder shall prepare a Consent Notice to be registered against the record of Title for Lot 2 for the following matters:
  - a) The areas of mitigation planting identified as 'Area E' for Lot 2 on the approved Subdivision Scheme Plan Prepared by: Cookson Land Surveying, Titled: 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August 2024 Sheet 4 of 4', are to be maintained in accordance with the following:
    - Planting is to be maintained to encourage successful establishment and is to be managed to
      ensure that its screening / mitigating function is sustained on an on-going basis. Any plants that
      die or fail to thrive are to be replaced as quickly as practicable. Planting is to be undertaken with
      the native species listed below, or other locally appropriate indigenous species capable of reaching
      at least 4m height and suitable for successful establishment in this area:
      - i. Griselinia littoralis (Broadleaf).
      - ii. Hebe salicifolia (Koromiko).
      - iii. Melicytus ramiflorus (Mahoe).
      - iv. Myoporum laetum (Ngaio).
      - v. Myrsine australis (Matipo).
      - vi. Pittosporum tenuifolium (Kohuhu).
      - vii. Cordyline australis (Ti kouka / Cabbage tree).
    - Plants are to be a minimum at PB3 and planted at a rate of 1.2m centres and to be protected with paper or bamboo eco planting guards.
    - All new planting areas are to be protected for two years with a horticultural windbreak mesh to a height of 1.2m+ or similar method that achieves protection from on shore wind for this period.
    - A watering regime of at least 1 litre of water per plant per week for the summer period of the first growing season is recommended, that is, November to the end of February, or after the first two week dry period following the start of November.
    - Weeding with the planting guards will improve plant viability in early life. Allowing grass growth

between the plants will provide additional wind shelter while maintaining a clear radius of 300mm from the plant stem free from competing plants. The wind screening will encourage canopy development and spread until the 1.2m point, when native regeneration planting species begin to thicken up and develop a more robust form, often at 2 - 3 years.

## **Reserves Financial Contributions**

16. Pursuant to rule FIN.7 of the Clutha District Plan, the consent holder shall pay a Reserves Contribution based on the creation of one new allotment available for residential development. The financial contributions are based on Council's 2024/2025 Fees and Charges which is \$560.00 (Five-Hundred and Sixty Dollars) per Lot created. The total Financial Contribution to be paid for Lot 2 of \$560.00 per lot is: \$560.00 (Five-Hundred and Sixty Dollars).

# Cost breakdown of the Reserves Contribution per Lot created for residential use based on Council's 2024/2025 Fees and Charges:

\$560.00 per residential lot created x 1 Residential Lot = \$560.00

# Advice Notes

- 1. Unless otherwise specified 'Council' refers to the Regulatory Services Department of the Clutha District Council.
- 2. Pursuant to section 36 of the Resource Management Act 1991 and Clutha District Council's Fees and Charges Schedule, the consent holder shall be responsible for all costs associated with the monitoring of this consent in accordance with the schedule.
- 3. This resource consent does not authorise any building work. The consent holder may be required to apply for a Building Consent under the Building Act 2004 to authorise some of the works that are to be complied with under this resource consent. The consent holder shall seek professional advice on what works will require Building Consent.
- 4. Prior to commencement of any work on Council's Roads a Traffic Management Plan (TMP) and/or Corridor Access Request (CAR) is to be submitted to Council for approval.
- 5. There are no Council reticulated services within the immediate vicinity, Lot 2 is required to be self-sufficient for Potable Water. With any rural/coastal subdivision, the consent holder and future landowners are encouraged to contact Council's Services Team regarding water requirements. Resource consent will be required from the Otago Regional Council if the wastewater system does not comply with all relevant performance standards in Regional Plan: Water for Otago, Rule 12.A.1.4 or any subsequent amendments.
- 6. Future Lot Owners of Lot 2 are advised that electricity and telephone/internet services may not have been connected to Lot 2 in which case it will be the responsibility of the Future Lot Owner to install these services and pay any costs associated with such installation.

- Any written confirmation is to be provided to the Manager Planning by emailing it to planning@cluthadc.govt.nz using the resource consent number as the reference and quoting the condition it relates to.
- 8. At the time of Building Consent any breach to the District Plan will require further Resource Consent.

## Variation to Consent Notice 7321033.5 for Lot 9 DP 399272 as it relates to approved Lot 1 of RM3030

II. That the owners of the allotments shall be responsible for the maintenance of the designated landscape areas shown on the attached plan from Landscape Assessment and Mitigation Report by Mike Moore, including the replacement of diseased or lost specimens and removal of weed species.

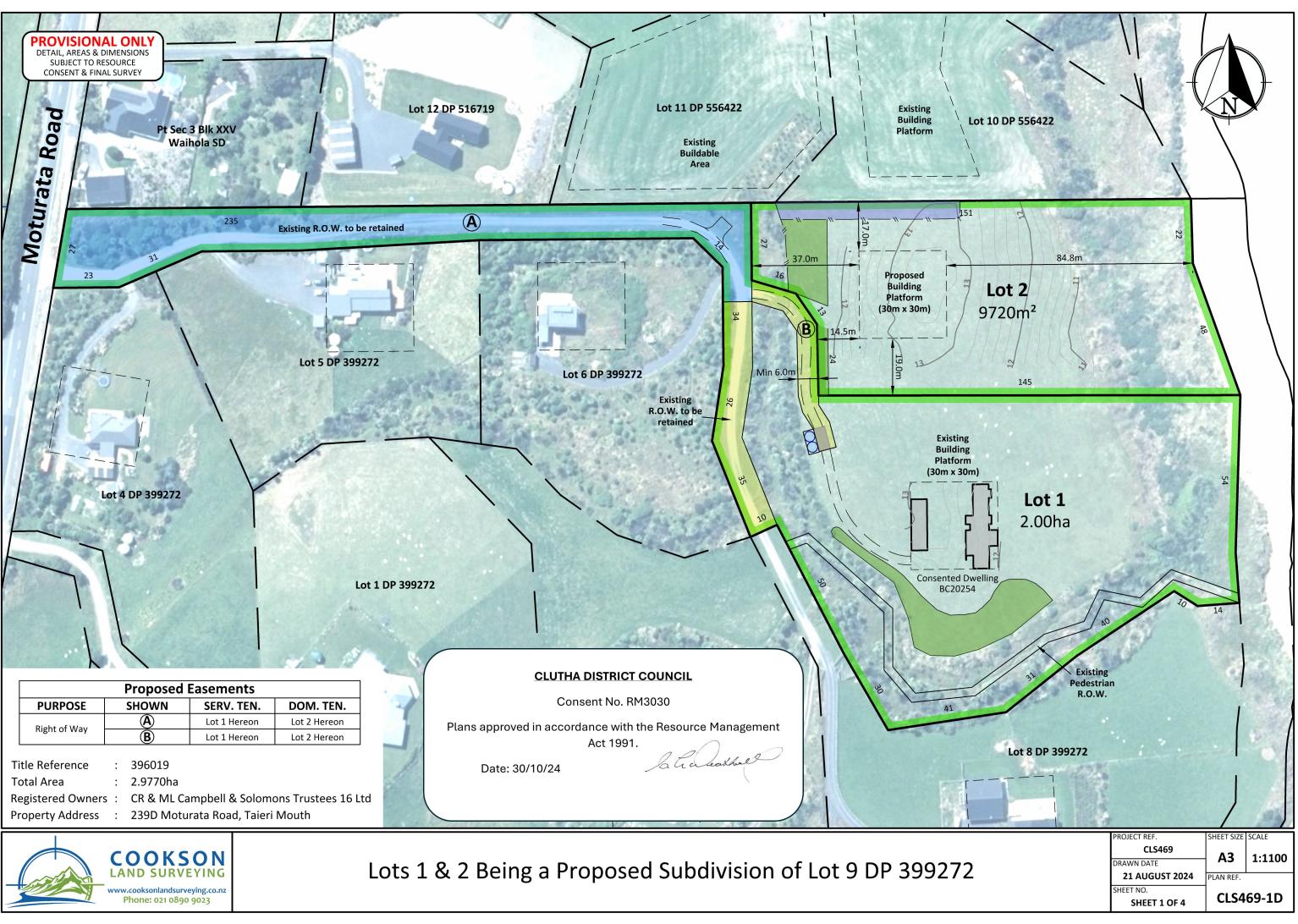
In addition, the areas of mitigation planting identified as 'Area D' for Lot 1 on the approved Subdivision Scheme Plan Prepared by: Cookson Land Surveying, Titled: 'Lots 1 and 2 being a proposed subdivision of Lot 9 DP 399272, Project Reference: CLS469, Date: 21<sup>st</sup> August 2024 Sheet 4 of 4', are to be maintained in accordance with the following:

- Planting is to be maintained to encourage successful establishment and is to be managed to
  ensure that its screening / mitigating function is sustained on an on-going basis. Any plants
  that die or fail to thrive are to be replaced as quickly as practicable. Planting is to be
  undertaken with the native species listed below, or other locally appropriate indigenous
  species capable of reaching at least 4m height and suitable for successful establishment in
  this area:
  - i. Griselinia littoralis (Broadleaf).
  - ii. Hebe salicifolia (Koromiko).
  - iii. Melicytus ramiflorus (Mahoe).
  - iv. Myoporum laetum (Ngaio).
  - v. Myrsine australis (Matipo).
  - vi. Pittosporum tenuifolium (Kohuhu).
  - vii. Cordyline australis (Ti kouka / Cabbage tree).
- Plants are to be a minimum at PB3 and planted at a rate of 1.2m centres and to be protected with paper or bamboo eco planting guards.
- All new planting areas are to be protected for two years with a horticultural windbreak mesh to a height of 1.2m+ or similar method that achieves protection from on shore wind for this period.

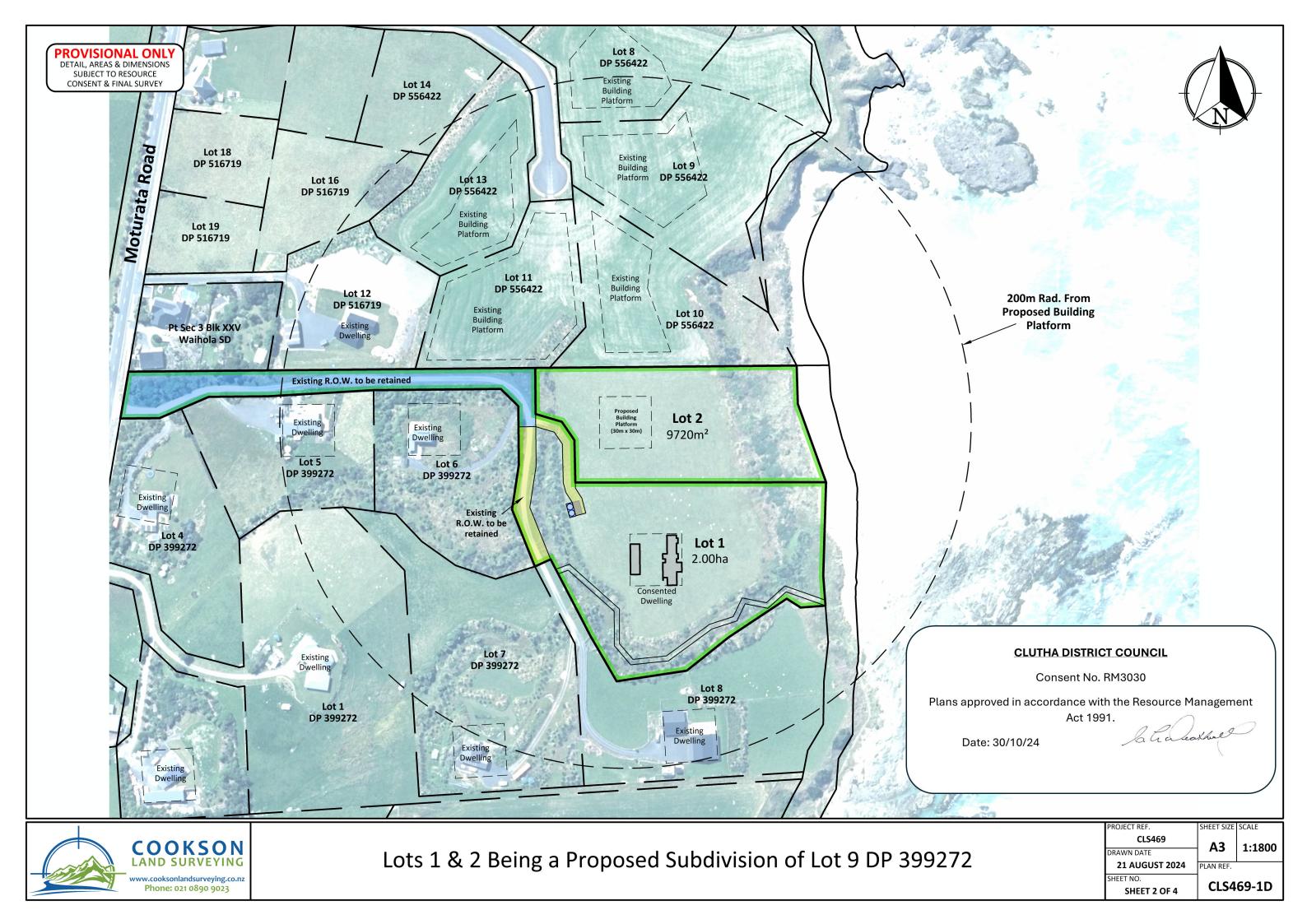
- A watering regime of at least 1 litre of water per plant per week for the summer period of the first growing season is recommended, that is, November to the end of February, or after the first two week dry period following the start of November.
- Weeding with the planting guards will improve plant viability in early life. Allowing grass growth between the plants will provide additional wind shelter while maintaining a clear radius of 300mm from the plant stem free from competing plants. The wind screening will encourage canopy development and spread until the 1.2m point, when native regeneration planting species begin to thicken up and develop a more robust form, often at 2 3 years.
- ii (a) The existing stock proof fence separating the pasture area from the escarpment and sand dune area must be retained and maintained.
- ii (b) Within the escarpment and sand dune area the only activities which are permitted are conservation activities including planting of appropriate indigenous vegetation and removal of pests and weed species.
- Advice Note: This consent notice shall not be varied separate from implementing resource consent RM3030.

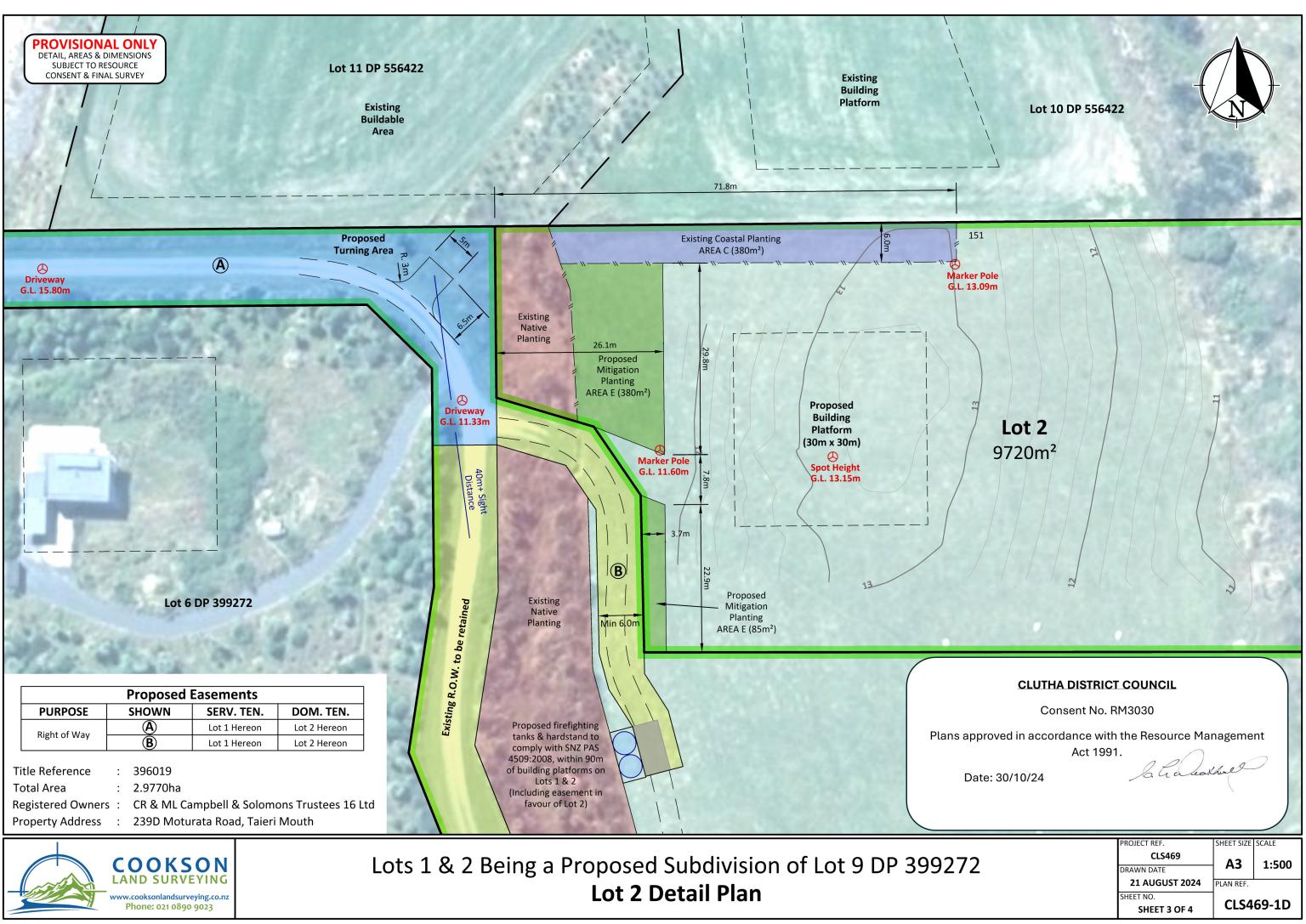
# Cancellation of Consent Notice 7321033.5 for Lot 9 DP 399272 as it relates to approved Lot 2 of RM3030

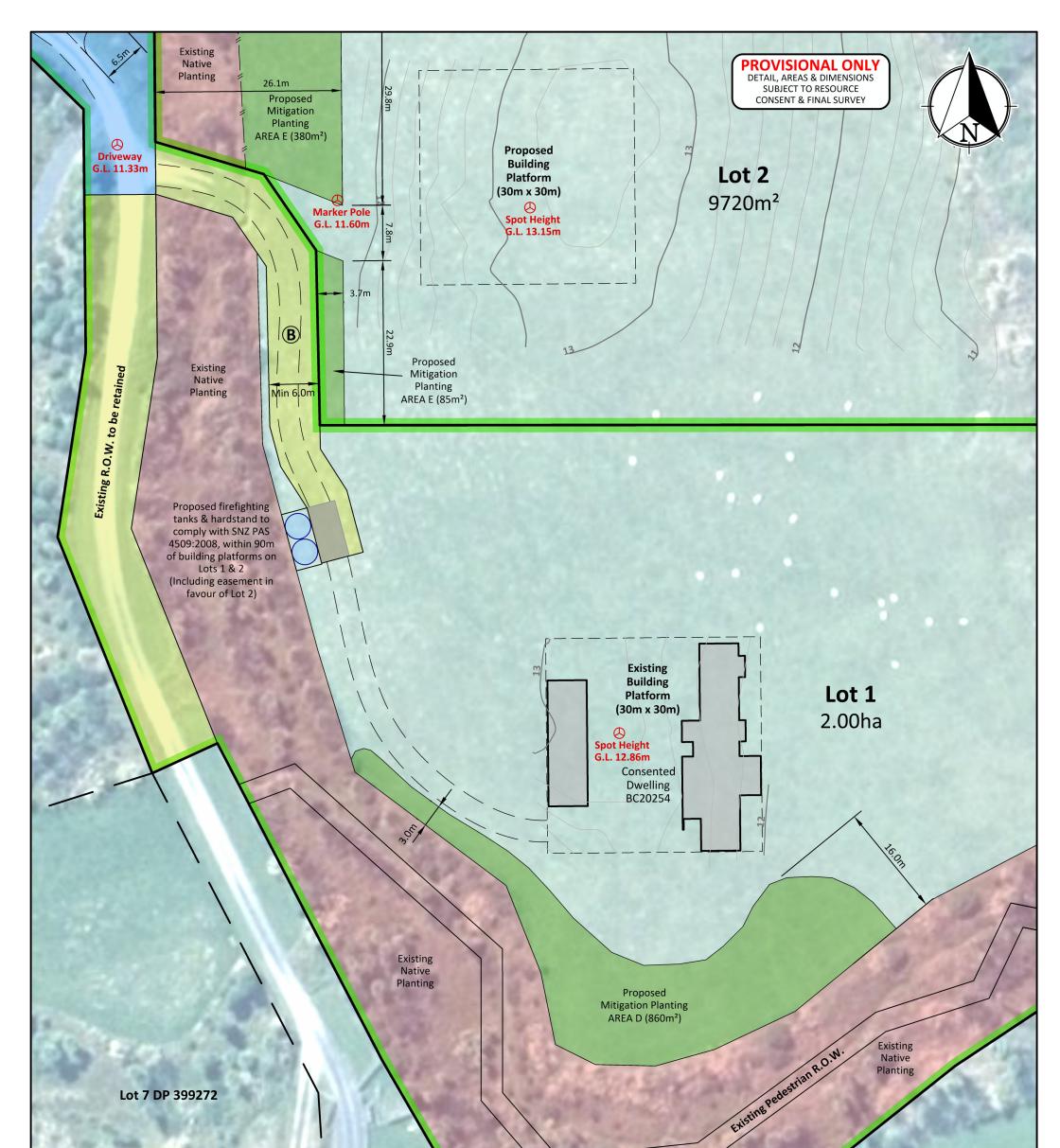
I. Consent Notice 7321033.5 is cancelled and shall not be registered on the record of title of approved Lot 2.











#### **CLUTHA DISTRICT COUNCIL**

#### Consent No. RM3030

Plans approved in accordance with the Resource Management

Act 1991.

6. haleathered

Date: 30/10/24





Lots 1 & 2 Being a Proposed Subdivision of Lot 9 DP 399272 Lot 1 Detail Plan

| PROJECT REF.   | SHEET SIZE | SCALE |
|----------------|------------|-------|
| CLS469         | A3         | 1:500 |
| DRAWN DATE     | AJ         |       |
| 21 AUGUST 2024 | PLAN REF.  |       |
| SHEET NO.      |            |       |
| SHEET 4 OF 4   | CLS469-1D  |       |