



Address all correspondence to:
The Chief Executive

CLUTHA DISTRICT COUNCIL

Our Reference: RM3063
ID:908139

DECISIONS OF CLUTHA DISTRICT COUNCIL NOTIFICATION UNDER SECTION 95A AND SECTION 95B THE RMA 1991

Applicant:	Peter Barnes
RM reference:	RM3063
Application:	Application under Section 88 of the Resource Management Act 1991 (RMA) for a subdivision to create 5 new lots each held in their own record of title and a shared accessway for Lots 2-5.
Location:	2 Akatore Road, Taieri Beach
Legal Description:	Lot 1 DP 25928 and Lot 1 DP 308807
Zoning:	Rural Resource Area and Urban Resource Area
Activity Status:	Discretionary Activity
Decision Date:	23 October 2024

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**) the application will be processed on a **limited-notified** basis given the findings of Section 5 of the Section 95A and 95B report. This decision is made by Olivia Restieaux, Manager Planning, on 23 October 2024 under delegated authority pursuant to Section 34A of the RMA.

Summary of Proposal and Site Description

Consent is sought to undertake a subdivision to create 4 new lots (5 lots total) each held in their own record of title and a shared accessway for Lots 2-5 on Lot 1 DP 25928 and Lot 1 DP 308807 within the Rural and Urban Resource Areas of Taieri Beach.

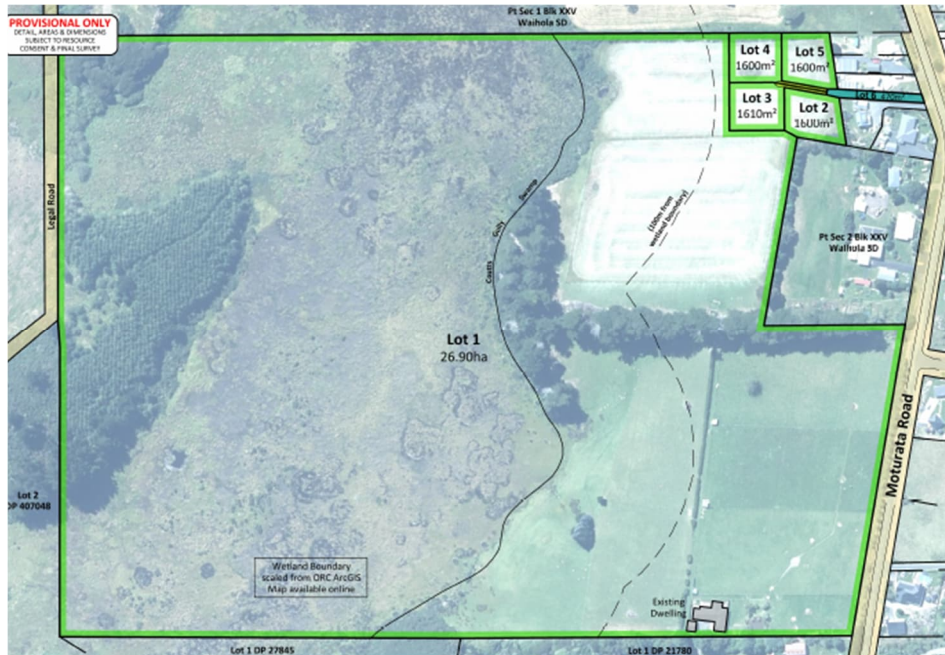


Figure 1: Excerpt of the Proposed Scheme Plan

The application documents prepared by Sweep Consultancy Limited provides an overview of the activity and environment which is adopted. The following is a brief summary of each lot and how the subdivision is proposed to be undertaken:

- Proposed Lot 1 shall be retained by the applicant, there are no proposed change of use to the site. There is an existing dwelling south of the development and contains an existing Wetland of which there are no proposed works as part of this development.
- Proposed Lots 2-5 range in size from approximately 1600-1610 square metres and will be self-sufficient for potable water. Sewerage shall be disposed of onsite via an appropriate effluent field. Stormwater shall also be disposed of onsite by way of dispersion.
- Proposed Lot 6 is an access which is to be held as to four undivided one-quarter shares by the owners of Lots 2-5 hereon as tenants in common in the said shares, and that individual records of title be issued in accordance therewith.

As shown in Figure 2, the proposed residential allotments 2-5 are to gain access directly from Akatore Road, via Lot 6 being a shared access way.

Relevant Site History

RM417 – To undertake a subdivision and land use consent as a result of the accommodation used for forestry accommodation being surplus to requirement.

RM706 – To undertake a boundary adjustment to rectify access concerns.

RM962 – To undertake a two lot subdivision and create two building platforms.

RM1479 – To erect a dwelling that does not comply with the separation distance within the Rural Resource Area.

There are no other resource consents recorded on this property.

There are no building consents registered on the property that are relevant to this resource consent.

Activity Status

DISTRICT PLAN

The site is within the Rural Resource Area of Taieri Beach, except for the access which is zoned Urban Resource Area. The following District Plan rules apply:

Subdivision

Under Rule SUB.1(e) the activity is required to be assessed as a **Restricted Discretionary** Activity subject to compliance with the performance standards identified in rule SUB.4. The applicant has advised the subdivision has been designed to comply with the subdivision performance standards set out within rule SUB.4.

Council shall restrict the exercise of its discretion to the following matters as set out in the District Plan, being:

- The effects of subdivision design
- The effects of natural hazards
- Natural values
- Provision of network utility services
- Financial and reserves requirements
- Public interest
- Electricity transmission line corridor

The Akatore Faultline geological hazard is identified on the Plan Maps over the site. Under Rule SUB.2 Discretionary Activities, Subdivision of land subject to or which is in Council's opinion potentially subject to, the effects of any natural hazard, is a **Discretionary Activity**.

Rural Resource Area

Rule RRA.3(2) requires a dwelling not to be closer than 200 metres to any existing or proposed dwelling or to an Urban, Transitional or Rural Settlement area. Rule RRA.3 (IV) requires that the any residential activity that does not conform with the relevant performance standards of RRA.3(I) to (III) will be assessed as being a Discretionary activity. Any breach of 150 metres or less will be assessed as a **Discretionary** status as per rule RRA.3(IV)(III).

Proposed Lots 2-5 are within 150m of each other, existing dwellings located to the north and east, and the Urban Resource Area. The proposal requires a discretionary activity resource consent. Council's discretion is not restricted under this rule; however, the District Plan identifies that the following matters must be considered when assessing the activity:

- Density of dwellings in the locality
- The effect on soil and water quality
- The effect on indigenous flora and fauna
- The effect on the roading network
- The visual impact of the development

Transportation

Under rule TRAN.1 Roads and Access Lots for the purpose of providing access and legal frontage to developments and subdivision are **controlled activities** provided:

1. There is no adverse effect on; any heritage site listed in Table 13.1 to Table 13.8, and
2. The location is not or is not likely to be subject to material damage by erosion, subsidence, slippage or inundation (including the possibility of sea level rise) and the proposed development is not likely to accelerate any of these processes, and
3. Roads in Rural Areas are constructed in accordance with the "Guide to Geometric Standards for Rural Roads", National Roads Board, New Zealand, 1985 and roads in Urban Areas are constructed in accordance with NZS 4404 1981 Urban Land Subdivision.

Council shall restrict the exercise of its discretion to the following matters as set out in the District Plan being:

- a) The effects of noise, vibration, glare, dust and other similar effects on affected property owners.
- b) Visual effects, and the techniques used to mitigate these.
- c) The roads impact on energy consumption in terms of its design and location.
- d) The method of construction, in particular,
 - o The extent, timing, and duration of bare ground;
 - o the location, timing of construction design, and density of earthworks, and
 - o the re-establishment of an appropriate vegetation cover; and
 - o the disposal and stabilisation of waste material or fill; and
 - o measures to avoid, remedy, or mitigate:
 - (i) loss of or damage to soil; and
 - (ii) movement of vegetation, soil, or debris, into any water body or coastal water; and
 - (iii) damage to riparian vegetation or soil; and
 - (iv) damage to animal or plant communities in water bodies or coastal water; and
 - (v) effects of the activity on river or stream flows.
 - (vi) Stormwater runoff.
- e) Design, construction and location of intersections with public roads excluding State highways in which case these matters will be subject to the requirements of the NZ Transport Agency.

NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH 2011 (NESCS)

The NESCS is a nationally consistent set of planning controls and soil contaminant values. It ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary the land is remediated or the contaminants contained to make the land safe for human use.

The NESCS is relevant because the proposed use of land involves a subdivision. The Applicant has identified that the land uses on the site over Lots 2-5 have been limited to pastoral farming with no activities identified on the Government Hazardous Substances and Industries List (HAIL). It is considered highly unlikely that there will be a risk to human health given the intended activity, and the NESCS does not apply.

In respect to proposed Lot 1 which contains existing stock yards there is a possibility that there is contaminated land under or in the vicinity of the stockyards due to the treatment of stock. Lot 1 will be retained as production land and the NESCS does not apply.

ACTIVITY STATUS SUMMARY

Overall, the application is being considered and processed as a **Discretionary** activity.

NOTIFICATION DETERMINATION DECISION UNDER SECTION 95A AND 95B OF THE RMA 1991

1. SECTION 95A-PUBLIC NOTIFICATION

Section 95A of the RMA requires a decision on whether or not to publicly notify an application. The following steps set out in this section, in the order given, are used to determine whether to publicly notify an application for a resource consent.

Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA (s95A(3)(b)).

The application does not involve exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Therefore, public notification is not required by Step 1.

Step 2 – Public notification precluded

Public notification is not precluded by any rule or national environmental standard

(s95A(5)(a)). The proposal is not:

- a controlled activity; or
- a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying;

Therefore, public notification is not precluded (s95A(5)(b)).

Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a)).

A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

An assessment in this respect is therefore undertaken, and decision made in sections 1.1 – 2.2 below:

1.1 Effects that must / may be disregarded (s95D(a)-(e))

Effects that must be disregarded:

- *Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).*
- *Trade competition and the effects of trade competition (s95D(d)).*

Effects that may be disregarded:

- *An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b) – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is provided in section 3.2 below.*

1.2 Permitted Baseline (s95D(b))

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect.

In this case, all subdivision and land use components require a resource consent, thus the permitted baseline is of no relevance to the activity.

2. ASSESSMENT OF ENVIRONMENTAL EFFECTS

Taking into account the above, the following assessment determines whether the proposed activity will have, or is likely to have, adverse effects on the environment that are more than minor that will require public notification (s95A(8)(b)).

The relevant assessment matters are found in Sections 3.7 (Subdivision) and 4.1 (Rural Resource Area) of the District Plan and have been considered in the assessment below. Council’s Senior Land Development Engineer has also assessed the application and provided comment where relevant.

Assessment of Environmental Effects

Landscape and rural character effects, and the design and density of the development.

The Rural Resource Area does not prescribe a minimum allotment size, but rather signals a desire for flexibility and market and landowner preference to dictate allotment sizes¹. Measures to control the potential adverse effects of subdivision and development, in particular buildings is Rule RRA.3(2) which requires a dwelling (to be a permitted activity) to not to be closer than 200 metres to any existing or proposed dwelling or to an Urban, Transitional or Rural Settlement area. Anticipated environmental outcomes for the Rural Resource Area are identified in section 4.1.6 which are:

- 1. Maintenance of the open-space and natural amenity values of the District*
- 2. Reduced impact on the Districts water and soil resource*
- 3. Minimal adverse effects on the amenity values and public roads of the District from buildings and structure*

¹ As stated in the explanation to Policy RRA.1.

4. Preservation of the natural character of wetlands, lakes, rivers and their margins.

The site is located adjacent to the Urban Resource Area which contains a relative dense settlement pattern, while the environment on the eastern side of Akatore Road contains a rural residential character and is zoned Coastal Resource Area. The land to the west, north and south is zoned RRA and contains a much lower density of buildings. There is a dwelling on the adjoining site to the north at 182 Moturata Road, which is located on a 16.3ha site. As part of this, the land to the west contains wetlands which are protected under both the District Plan and the Otago Regional Plan: Water.

Lots 2-5 will be anticipated to each contain a residential unit and while this represents a relatively intensive allotment size for the RRA, owing to the proximity of these proposed lots to the Urban Resource Area the visual effects as viewed from public places such as Akatore Road, Moturata Road and any public places to the north, west and south, the future buildings on these lots will not be out of character to the receiving environment. The adverse effects associated with the density of dwellings and the breach of the 200m separation requirement are mitigated by the presence of the adjoining Urban Resource Area zoned dwellings located directly to the east of the property, and between Akatore/Moturata Road.

The applicant has volunteered the following mitigation measures:

- a) All buildings shall be single story and a maximum of 6m height above existing ground level.*
- b) All buildings are to be finished in 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 25%.*
- c) All services are to be located below ground.*
- d) Water tanks will be sited, and / or buried and / or screened (by planting), and coloured to match the building colours, to have minimal visual impact from beyond the property.*

These measures will assist with mitigating adverse effects on rural character by ensuring that buildings on lots 2-5 are not visually dominant. It is noted that no controls on the building coverage or setback from boundaries are proposed.

Allotments 2-5 and future dwellings on those lots would be characterised as being part of the urban settlement pattern along Akatore and Moturata Roads at this location, despite the RRA zoning.

For these reasons, it is considered that the adverse effects on the environment in terms of landscape and rural character, are not likely to be more than minor.

The effects of natural hazards

In relation to known Natural Hazards, the applicant advises:

The Otago Regional Council Natural Hazards Portal shows that the only potential natural hazard applicable to proposed Lots 2 – 6 is liquefaction. However, the site falls within Domain A which has a liquefaction potential of low to none.

There are two other natural hazards in the vicinity of the site. These are: (a) storm surge (see light blue shaded area in Figure 5 above); and (b) Akatore Fault (red line in Figure 4 above). The proposed lots are situated sufficient distance from these two natural hazards. The western boundaries of

proposed Lots 3 and 4 are situated more than 50m from the wetland in the area shaded light blue in Figure 5 above.

Council's Development Engineers have reviewed the application and raised not identified any concerns regarding the potential liquefaction or the storm surge area.

With regard to the identified Clutha District Council (CDC) geological fault which bisects proposed Lot 1 (see Figure 2).



Figure 2: CDC Planning Map Fault Line

The fault line is also mapped within the Otago Regional Council (ORC) hazard database, although it is located in a different position to that on the District Plan Maps. The certainty of this fault as recorded by ORC is Definite.



Figure 3: ORC Mapped Fault Line (Definite)

The fault line depicted on both CDC and ORC natural hazard maps either bisects proposed Lot 1 or does not traverse the site at all. In considering this, either location mapped is not bisecting the lots proposed for residential activity. Council's Development Engineer has not required any assessments under Section 106 of the RMA relating to the fault line, and therefore, has not required any conditions relating to this matter.

The applicant has not identified any other known Natural Hazards located on or near to the development site and the processing planner's check of Council's GIS and Otago Regional Council's Hazards Register does not show any other known hazards either. It is considered the effects of natural hazards are not likely to be more than minor.

Natural values

The Wetlands are identified as being located 90-105 metres from the boundaries of proposed Lot 3 and Lot 4, and within the boundaries of Proposed Lot 1 is classified as a Significant Wetland (H135) under the Clutha District Plan.

A greater understanding was necessary of whether the activity could adversely affect the wetland, including activities such as earthworks for accessways required to implement the subdivision works or other earthworks activities reasonable anticipated as part of future residential activity on the proposed lots. It is acknowledged that the National Environmental Standards for Freshwater are administered by the Otago Regional Council, however, as noted above a greater understanding of potential adverse effects on the wetland, which is identified in the District Plan as a significant wetland was sought from the Applicant. This related to more information sought on adverse effects

associated with on-site wastewater discharges in proximity to the wetland.

In response to the Section 92 Request for further information, the applicant provided an assessment from Fluent Solutions who consider that the on-site wastewater treatment and discharge on Lots 2-5 would be appropriate subject to adherence to a suite of recommendations which are outlined in the assessment on wastewater.

With regard to the effects on natural values and in particular the wetlands values, the applicant has advised:

The National Policy Statement of Freshwater Management is a central government policy that gives local authorities direction on how freshwater should be managed in New Zealand. It is based on the concept of Te Mana o te Wai (ensuring the life-supporting capacity of freshwater) and requires improvement of degraded water bodies and avoidance of further loss or degradation of natural wetlands and streams. Clauses 3.22 and 3.23 relate to inland wetlands of which the wetland, Coutts Gully Swamp, adjoining the site is an example.

Clauses 3.22 and 3.23 relate to inland wetlands of which the wetland, Coutts Gully Swamp, adjoining the site is an example. Clause 3.22 sets out changes regional councils must make to their regional plans whilst clause 3.23 details the mapping exercise regional councils must undertake in relation to inland wetlands.

National Environmental Standards for Freshwater

These standards regulate activities that pose risks to the health of freshwater and freshwater ecosystems. Clause 45C sets out urban development activities which have a restricted activity status. Clause 45C proscribes setbacks within which resource consent is required for urban development activities. The urban development activity setbacks proscribed include:

- *Vegetation clearance within 10m of the wetland (clause 45C(1)).*
- *Earthworks or land disturbance within 10m of the wetland (clause 45C(2)) and outside 10m but within*
- *100m of the wetland if it will result in complete or partial drainage of the wetland (clause 45C(3)).*
- *Taking, use, damming, or diversion of water within 100m of the wetland (clause 45C(4)).*
- *The discharge of water within 100m of the wetland (clause 45C(5)).*

The proposed activity does not include any activities that fall within the ambit of clause 45C(1) – (4). With respect to clause 45C(5), the subdivision scheme plan has been updated to show the mapped extent of the Coutts Gully Swamp in relation to Lots 2 – 5 and the 100m setback from that mapped extent shown as a dashed line in Figure 2 below.

All the proposed lots are outside the 100m setback from the mapped extent of the Coutts Gully Swamp. This means that no consent is required pursuant to Clause 45C(5) of the National Environmental Standards for Freshwater.

In assessing the further information provided above, it is considered that the activity will not adversely affect the wetland as a result of this subdivision for the following reasons:

- There is no vegetation clearance proposed as part of the application;

- There are no proposed earthworks occurring within 10 metres of the wetland, nor any significant earthworks within 100 metres of the wetland that would result in complete or partial drainage of the wetland. Further to this there is no proposed taking, use, damming or diversion of water within 100 metres of the wetland;
- The applicant has supplied a memorandum that provides an assessment for onsite wastewater dispersal, prepared by Fluent Solutions which considers that in relation to discharges of treated effluent from onsite wastewater systems at Lots 2-5, the wetland is setback a sufficient distance of over 100 metres and any effects of the dispersal from surface water will be less than minor; and
- As per the above statement the applicant has provided an updated scheme plan showing the approximate siting of proposed Lots 3 and 4 in proximity to the wetland on proposed Lot 1. Proposed Lot 1 shall continue to be utilised for pastoral grazing purposes and there is no change of use occurring.

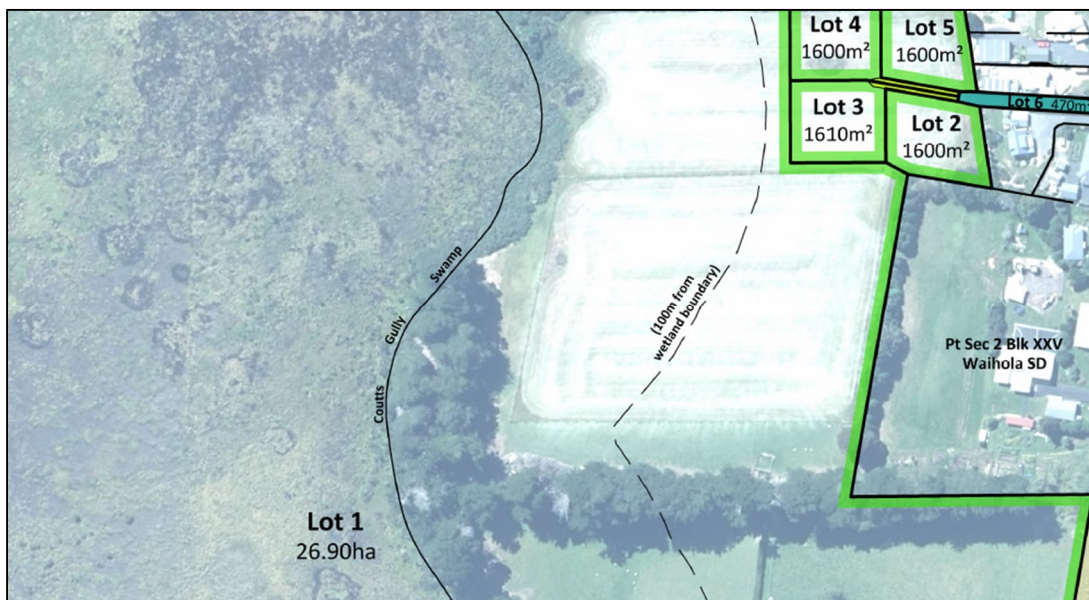


Figure 4: Excerpt of proposed scheme plan showing the boundary of the wetland in proximity Lots 3-4

It is considered that the adverse effects of the subdivision in relation to the wetland and natural values are not likely to be more than minor.

Provision of network utility services

There are no Council reticulated services in this location, as is common for new developments in the Rural Resource Area. This assessment will consider services including electricity/internet; water (sewerage, stormwater, potable water) and access/roading.

Water will be collected via rainwater tanks.

The applicant has obtained a report from Fluent Solutions who supports on site wastewater treatment and disposal subject to the following:

Sewerage Disposal

- *All lots shall be serviced by individual on-site wastewater treatment systems with approved secondary treatment systems and dispersal fields designed by a suitably qualified person all in accordance with the Fluent Solutions Memo job no 842, dated 6 August 2024 and the Building Code. The following recommendations must be addressed at the building consent stage:*
- *Test pits be excavated across each Lot to confirm detailed localised soil characteristics, permeability barriers and localised groundwater depth.*
- *Detailed design of systems to be undertaken by a qualified experienced wastewater professional, at an early layout stage of lot development. Detailed design to include wastewater treatment and dispersal system including loading rates, dispersal field location and size, level of effluent treatment.*
- *Wastewater management should include secondary level effluent treatment and mound dispersal.*
- *Provision of water reduction fixtures in dwellings.*
- *Assessment of pervious and impervious surface areas should be undertaken at detailed Lot layout. Stormwater management would be provided by rainfall tanks (for water supply) with any excess stormflows discharging to soak pits or a vegetated swale that drains to Coutts Gully Swamp (as occurs now). Any stormwater should be located away from wastewater treatment and dispersal systems.*

The report provided by Fluent Solutions also assessed stormwater dispersal onsite, the following condition has been imposed as recommended:

Stormwater Dispersal

- *At the time of Building Consent, the design of the disposal of stormwater from impervious surfaces on each lot shall have regard to the Fluent solutions Memo job no 842, dated 6 August 2024, copy attached.*

Due to the fire risk, it is noted that a standard consent notice for firefighting tanks being required in rural areas will be included in the decision:

Fire Fighting Water Tanks

- *At the time of construction of the residential dwelling on the property owner shall ensure that the firefighting requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (or subsequent amendments) including access to the tanks is complied with.*

Lots 2-5 can be serviced and adverse effects on the environment in relation to these matters are not likely to be more than minor.

Electricity and Telecommunications/Internet

Page 11 of the application states: *“Telecommunications and electricity services will be provided underground to the boundaries of proposed Lots 2 – 5. These services are currently available in the road reserve”*. Conditions have been included in the resource consent written confirmation from an electricity and internet providers confirming electricity is able to be provided at the boundaries of Lots 2-5 as follows:

Telecommunications/Internet

The consent holder shall provide written confirmation from an authorised telecommunications/internet provider confirming that telecommunications/internet is available at the boundaries of Lots 2, 3, 4 and 5.

The applicant has requested an alternative condition for where a wired telephone communication and internet services will not be provided to Lots 2-5, 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 envelope for Lots 2-5 and that the signal strength is not less than 85%. This is considered appropriate and from a telecommunications servicing perspective, the adverse effects on the environment are not likely to be more than minor.

Electricity

The consent holder shall provide written confirmation from an authorised Electricity Distributor confirming that electricity is available at the boundaries of Lots 2, 3, 4 and 5.

The applicant has requested an alternative condition for where a wired electricity connection will not be provided to Lots 2-5, 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 Lots 2-5. This is considered appropriate and from a electrical supply servicing perspective, the adverse effects on the environment are not likely to be more than minor.

Roading/Access

Access to the site is gained via an existing accessway from Akatore Road. The proposed access width for Lots 2-5 is required to be a minimum of 6 metres, as per the SUB.4.B.5 requirements. Right of Way A is proposed to be 6.5 metres in width, providing an adequate width for 4 residential properties.

Council's Service Delivery Roads Team and Senior Development Engineer has reviewed the application and recommended the following conditions.

Access Way

- *The accessway shall be an all-weather surface and a minimum of 3 metres wide. The access shall be constructed perpendicular to Moturata Road.*

Right of Way Construction

- *The consent holder shall construct a vehicular crossing to serve Right of Way A to a commercial standard 5m wide at the boundary and obtain a Vehicular Crossing permit before work commences. The 5m width at the entrance is required because there are 4 Lots that have access.*
- *Right of Way A shall be formed to an E1 standard as shown in table 3.2 Road Design standards NZS4404-2010 and permanently surfaced (seal or concrete) 2.5 meters wide over the full length together with drainage for stormwater control from the ROW and any dwelling on Lots 2 and 5. The construction is to comply with NZS4404-2010 section 3.3.16 Private ways, private roads and other private accesses.*
- *An engineering plan shall be provided showing the entrance configuration and how the adjacent entrance is to be separated, the ROW A formation, and the stormwater drainage of the ROW's, and any underground services.*

- *The construction standard for ROW B and C shall be of a similar standard.*

The Applicant has accepted these conditions and therefore, volunteers them as part of the proposal and mitigation measures, and from a use and functionality perspective the use of the access will have adverse effects on the environment that are not likely to be more than minor.

In terms of traffic generation, Akatore Road is a sealed collector road within the Council’s Roding Hierarchy, with an average of 100-500 vehicle movements per day. Council’s Service Delivery have not raised any concerns with the additional 4-6 (average) traffic movements per day, per unit. It is not expected to generate any effects on the roading network in the urban area.

Financial and reserves requirements

The development will not be connecting to any Council infrastructure, the applicant is not required to make any Financial Contributions, however, they will be required to make a Reserve Contribution as per rule FIN.7 of the District Plan for each proposed lot.

Rule FIN.7 Financial Contributions for the acquisition, improvement and development or reserves states, “A financial contribution for the purpose of acquiring, improving and/ or developing reserves and recreational facilities throughout the district, may be imposed in the following circumstances”:

Rural Resource Area: For the purpose of determining whether a reserves contribution is payable upon subdivision in the Rural Resource Area, an allotment whose size, shape, topography, soil quality or other characteristics, generally precludes it from productive uses, will be considered an allotment for residential, commercial, or industrial purposes unless the subdivider can prove otherwise.

Rule FIN.7 is therefore applicable, and the applicant will need to pay reserves contributions for Lots 2-5 as the new allotments are going to be used for residential purposes. The following conditions will be included in the consent:

Pursuant to rule FIN.7 of the Clutha District Plan, the consent holder shall pay a Reserves Contribution based on the creation of four new allotments 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 Lots 2-5 of \$560.00 per Lot is \$2,240.00 (Two-Thousand Two-Hundred and Forty Dollars).

<p>Cost breakdown of the Reserves Contribution per Lot created for residential use based on Council’s 2024/2025 Fees and Charges:</p> <p>\$560.00 per residential Lot created x 4 Residential Lots = \$2,240.00</p>
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Providing this aspect is managed as part of any substantive decision under s104 of the RMA in that the financial contribution is paid, the adverse effects on the environment are not likely to be more than minor.

Electricity transmission line corridor

The National Grid is not on or near the subject site, there is no effect on the electricity transmission line corridor of the current proposal and therefore has not been considered as part of this assessment.

2.1 DECISION: EFFECTS ON THE ENVIRONMENT (SECTION 95A(8))

On the basis of the above assessment, it is considered that the proposed activity will not or is not likely to have adverse effects on the environment that are more than minor. Therefore, public notification is not required under Step 3.

Step 4 – Public Notification in Special Circumstances

There are no special circumstances in relation to this application.

3. LIMITED NOTIFICATION (SECTION 95B)

Section 95B(1) requires a decision on whether there are any affected persons (under s95E). The following steps set out in this section, in the order given, are used to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

Step 1: Certain affected groups and affected persons must be notified

Determination under s95B(2)

The proposal does not affect protected customary rights groups, and does not affect a customary marine title group; therefore limited notification is not required.

Determination under s95B(3)

Limited notification is not required under Step 1 as the proposal is not on or adjacent to, or may affect land subject to a statutory acknowledgement under Schedule 11, and the person to whom the statutory acknowledgement is made is not determined an affected person under section 95E (s95B(3)).

Step 2: if not required by Step 1, limited notification precluded in certain circumstances

Limited notification is not precluded under Step 2 as the proposal is not subject to a rule in the District Plan or is not subject to a NES that precludes notification (s95B(6)(a)).

Limited notification is not precluded under Step 2 as the proposal is not a controlled activity land use (s95B(6)(b)).

Step 3: if not precluded by Step 2, certain other affected persons must be notified

If limited notification is not precluded by Step 2, a consent authority must determine, in accordance with section 95E, whether the following are affected persons:

Boundary activity

The proposal is not a boundary activity where the owner of an infringed boundary has provided their approval.

Any other activity

The proposal is not a boundary activity and therefore the proposed activity falls into the ‘*any other activity*’ category (s95B(8)), and the adverse effects of the proposed activity are to be assessed in accordance with section 95E.

4.1.1 Considerations in assessing adverse effects on Persons (S95E(2)(a)-(c))

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”).
Section 3.3.2 above sets out the relevance of the permitted baseline to this application.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in [Schedule 11](#).

4.1 ASSESSMENT: EFFECT ON PERSONS

Taking into account the exclusions in sections 95E(2) and (3) as set out in section 5.3.1 above, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

Proposed Lots 2-5 and the establishment of dwellings on them will introduce a perceptible change to the environment of the adjoining sites to the east and north. The applicant’s AEE acknowledges that the owners 190, 192, 196, 200 and 208 Moturata Road, being the adjoining properties located to the east and the school to the south east, are affected.

The adjoining property located to the north at 182 Moturata is also considered to be affected in terms of landscape and rural character effects.

The adjoining site to the west Lot 1 DP 27859 and south west being Lot 2 DP 407048 is located not less than 500m from the edge of Lots 3 and 4 and there is a considerable area, including protected wetlands buffering this site. The adverse effects on the owners and occupiers of this property are considered to be less than minor.

The adjoining landowners located to the south at Lot 1 Deposited Plan 21780 and Lot 1 Deposited Plan 27845 are the Applicants and are therefore not considered adversely affected by the activity.

Consideration has been given as to whether statutory agencies (the Otago Regional Council and the Department of Conservation) and manawhenua are affected by the proposal, particularly in relation to the subdivision land containing significant wetlands and adverse effects associated with on site wastewater treatment and discharges. Given the findings of the Fluent solutions report and the additional information received by the Applicant in relation to the wetland and the NES Freshwater, adverse effects associated with the development on Lots 2-5 can be appropriately avoided or

mitigated to the extent that effects on these person, who will have an interest in the wellbeing of the wetland are considered to be less than minor.

For the reasons set out above, no other persons are considered to be potentially adversely affected by the proposed development.

4.2 DECISION: EFFECTS ON PERSONS (section 95E(1))

In terms of section 95E of the RMA, and on the basis of the above assessment, the persons considered adversely affected are identified on the following map, and limited notification of the application is required to these persons.



Reference	Legal Description	RT
1	Part Section 1 Block XXV Waihola SD	OTA2/248
2	Lot 2 Deposited Plan 506281 and Lot 1 Deposited Plan 6701	766637
3	Lot 1 Deposited Plan 506281 and Lot 3 Deposited Plan 6701	766636
4	Lot 1 Deposited Plan 462163	609117
5	Lot 2 Deposited Plan 462163	609118
6	Part Section 2 Block XXV Waihola SD	<u>OT3B/450</u>

Step 4 – Further Notification in Special Circumstances (s95B(10))

Special circumstances do not apply that require limited notification.

4.2 NOTIFICATION DETERMINATION

For the reasons set out in sections 4 and 5 of this notification decision report, under s95A and s95B of the RMA, the application is to be processed on a limited notified basis.

Prepared by:



Craig Barr
Consultant Planner

Decision made by:



Olivia Restieaux
Manager Planning

Date Signed:

23 October 2024