

**Before a Panel Appointed by the  
Clutha District Council**

**In the Matter of** the Resource Management Act 1991 (**RMA**)

**And**

**In the Matter of** RM3063 being a resource consent application to subdivide a title within the Rural Resource Area of the Clutha District Plan. The subdivision will create six lots: 4 lots are for residential activity (Lots 2 – 5), 1 lot is for right of way access to Lots 2 – 5 (Lot 6) and a balance lot with an existing dwelling (Lot 1) which will be retained by the applicant.

**Evidence of Emma Rayner Peters  
on behalf of Peter Barnes**

**Dated 25<sup>th</sup> February 2025**

## ***Background***

1. My name is Emma Rayner Peters. I hold a BA and LLB both from the University of Otago and a First Class Honours degree and MA with Distinction, both from the University of Canterbury. I have worked as a solicitor in the areas of commercial and environmental law. I have been the principal of Sweep Consultancy Limited since 2003 providing resource management advice predominantly in the Dunedin City, Clutha, Waitaki, Queenstown Lakes and Central Otago districts. I have produced evidence for hearings at councils and the Environment Court.
2. This evidence has been prepared based upon my investigations and knowledge of the site including several site visits, submissions, *s42A Resource Management Act 1991 (RMA)* report, the report and evidence (including supplementary graphics) of the landscape expert engaged by the applicant and my previous work in the Taieri Mouth area. The scope of this statement will cover the following matters:
  - Section 42A report recommendation.
  - Summary of the amendments made to the proposal since limited notification occurred.
  - Setbacks for Lots 2 – 5 and total ground floor footprint.
  - Landscape, rural character and natural character.
  - Draft conditions of consent.
3. I acknowledge we are not before the Environment Court. However, I have read the Code of Conduct for Expert Witnesses within the Environment Court Consolidated Practice Note 2014 and I agree to comply with that Code. This statement is within my area of expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed in this evidence.

## ***Summary of Application & Amendments made since Limited Notification***

4. The applicant has applied for resource consent to subdivide an existing title<sup>1</sup> at 2 Akatore Road, Taieri Beach. The subdivision will create six lots: Lots 2 – 5 for residential activity, Lot 6 for right of way access to Lots 2 – 5, whilst the balance lot,

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<sup>1</sup> Legally described as Lot 1 Deposited Plan 308807 contained in record of title 44581.

Lot 1, will contain the existing dwelling and be retained by the applicant. Land use consent to establish residential activity within the confines of an identified building platform on Lots 2 – 5 is also sought. The dwellings on Lots 2 – 5 will be self-serviced with respect to 3 waters.

5. The applicant has proffered various mitigation measures in the assessment of environmental effects, response to further information request and expert report and evidence.
6. In response to the submissions received and s42A report:
  - Landscape assessment report including Figure 3 has been updated to ensure consistency with updated copies provided to Council for circulation to parties on 20 February 2025 with Council confirming circulation that same day.
  - The survey plan has been amended to show the building setbacks within each of Lots 2 – 5<sup>2</sup>.

#### **S42A Recommendation**

7. The reporting planner recommends at paragraph [9] of the s42A report that:

*“For the reasons set out in my assessment below, I consider that the relevant matters that relate to the adverse effects of the activity on natural character, landscape, visual amenity and rural character, wastewater, access way and the imposition of financial contributions would be avoided or mitigated, and the activity is consistent with the relevant objectives and policies of the Clutha District Plan. I recommend that subject to appropriate conditions of consent, the adverse effects on the environment of the activity are appropriate and that the consent be granted.”*
8. The reporting planner competently sets out the issues with respect to relevant matters including concerns raised by submitters, and provides the reporting planner’s assessment on each relevant matter.
9. By in large I concur with the reporting planner’s assessment but make comment on the following matters.

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<sup>2</sup> Amended subdivision scheme plan appended at Appendix 1.

### **Setbacks & Total Ground Floor Footprint**

10. The reporting planner states at paragraph [51] of the s42A report that:  
  
*“To manage the adverse effects associated with the density of dwellings and the breach of the 200m separation requirement which are mitigated by the presence of the adjoining Urban Resource Area and dwellings, I recommend there is a 5m setback of buildings from all side and rear yard boundaries. The SEC recommends a 7.5m no build setback (which may include a dispersal field) on Lots 2 and 5 from the eastern boundaries.”*
11. The applicant accepts these setbacks and the subdivision scheme plan has been amended to show the ‘buildable area’ within each of Lots 2 – 5 taking into account the stated setbacks. Mr Cookson, surveyor for the applicant, states: *“Each buildable area is between 800-850m<sup>2</sup> in size.”*
12. The reporting planner states at paragraph [52] that:  
  
*“As no other building setbacks are proposed, I recommend the total ground floor footprint for buildings on Lots 2 – 5 shall not exceed a Building Coverage Area of 500m<sup>2</sup>. The SEC report is based on assumption of limited coverage.”*
13. The applicant agrees to the 500m<sup>2</sup> building coverage area including impermeable surfaces.

### **Landscape & Rural Character / Natural Character<sup>3</sup>**

14. Dealing with natural character first, the report and evidence from the expert landscape witness, Mr Hugh Forsyth, is that the natural character values arise from that part of the site on which Coutts Gully Wetland is situated rather than the pastureland of the balance of the site<sup>4</sup>.
15. The proposed development is located in excess of the 100m setback required from the Coutts Gully Wetland by the National Environmental Standards for Freshwater Management.
16. The Fluent Solutions Memorandum states that onsite wastewater is feasible for Lots 2 – 5 using secondary treatment of effluent and mound dispersal and that the potential effects of treated effluent dispersal and stormwater from the

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<sup>3</sup> Both the s42A report and the evidence of Mr Forsyth assess the concerns of submitters in detail and I rely on those assessments.

<sup>4</sup> See, for example, paragraphs 11 and 12 of Mr Forsyth’s evidence.

development on Coutts Gully Wetland are "...considered to be less than minor."<sup>5</sup>

17. In my opinion, any adverse effects on natural character values including Coutts Gully Wetland will be in the range less than minor to no more than minor. The reporting planner concludes that: *"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."*<sup>6</sup> Or, in other words, presumably, no more than minor.

18. Turning to landscape and rural character, essentially in Mr Forsyth's expert opinion the proposed development, whilst bringing change, will not unduly affect the rural character or visual amenity due to:

- The four residential sites being tucked into the northeast corner of the site immediately adjacent to existing urban development; and
- The proposed mitigation measures including controls on built elements and planting.

19. At paragraph 26 of his evidence, Mr Forsyth states:

*"I do not consider the proposed development of four residential sites in the north/east corner of this pasture area will detract from the site's wider visual value or diminish its prominence and value as a setting and physical continuation of Coutts Gully Wetland. For these reasons I do not consider the proposal will have more than minor adverse effect on existing rural character."*

20. The reporting planner concludes at paragraph [96] that:

*"In my opinion the establishment of four additional dwellings will introduce perceptible change to the existing adjacent dwellings and rural amenity, this will impart a more residential feel to the site. The residential land use in the receiving environment is already dominant. I consider the volunteered mitigation measures will help provide mitigation of any future buildings and use of Lots 2-5.*

*"The adverse effects on natural character and landscape can be avoided or mitigated to the extent that they are no more than minor."*

21. I concur with the reporting planner's conclusion.

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<sup>5</sup> Fluent Solutions Memorandum dated 6 August 2024 MM 24-08-01 EB 000842(Rev A) page 11, 4.0 and page 12, 4.3.2.

<sup>6</sup> See paragraph [71] of the s42A report.

### ***Draft Conditions of Consent***

22. The applicant generally accepts the conditions of consent as contained in Appendix 2 of the s42A report but wishes to reserve its right to make comment on the draft conditions in its written right of reply.
23. However, the applicant does take exception to the inclusion of consent condition 13 on the basis that it has not volunteered this condition and the design and location of the proposed subdivision including proffered mitigation means that the resulting level of adverse effect does not warrant the imposition of a consent notice on Lot 1.

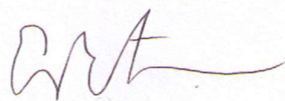
### ***Conclusion***

24. The reporting planner recommends at paragraph [122] of the s42A report that:

*"I consider that the relevant matters that relate to the activity on natural character, landscape visual amenity and rural character, access way and the imposition of financial contributions. I recommend that subject to appropriate conditions of consent, the adverse effects on the environment of the activity can be mitigated and recommend the consent be granted."*

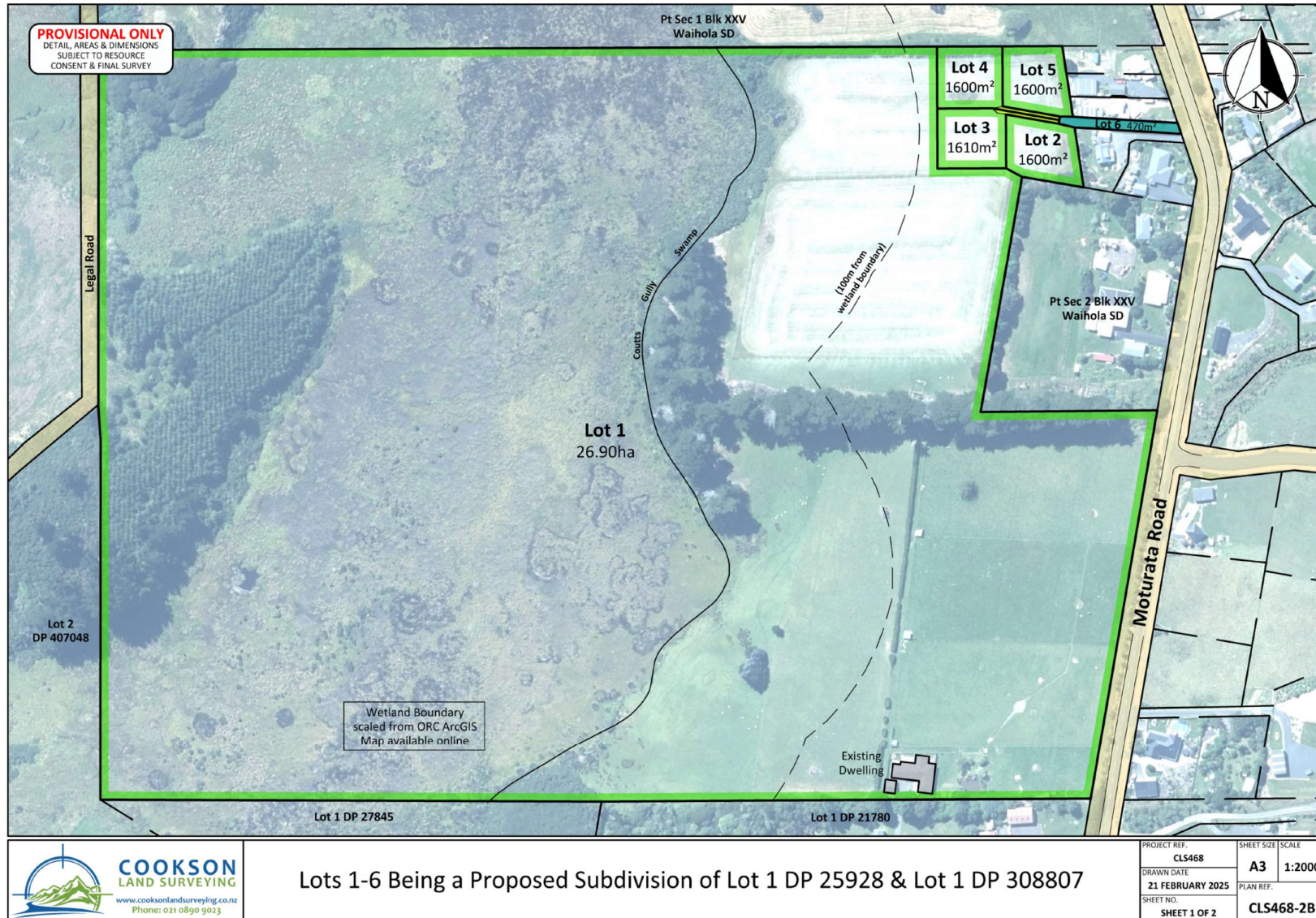
25. A revised set of draft conditions will be required.
26. I concur with the reporting planner that:
  - Any adverse effects arising from the proposed activity are, at worst, **no more than minor** with some effects being in the range negligible to less than minor as set out in the assessment of environmental effects included with the application; and
  - The proposed activity is generally consistent with relevant policy framework.
27. It is, therefore, open to the Commissioner to grant consent to the proposed activity.

Dated this 25<sup>th</sup> day of February 2025

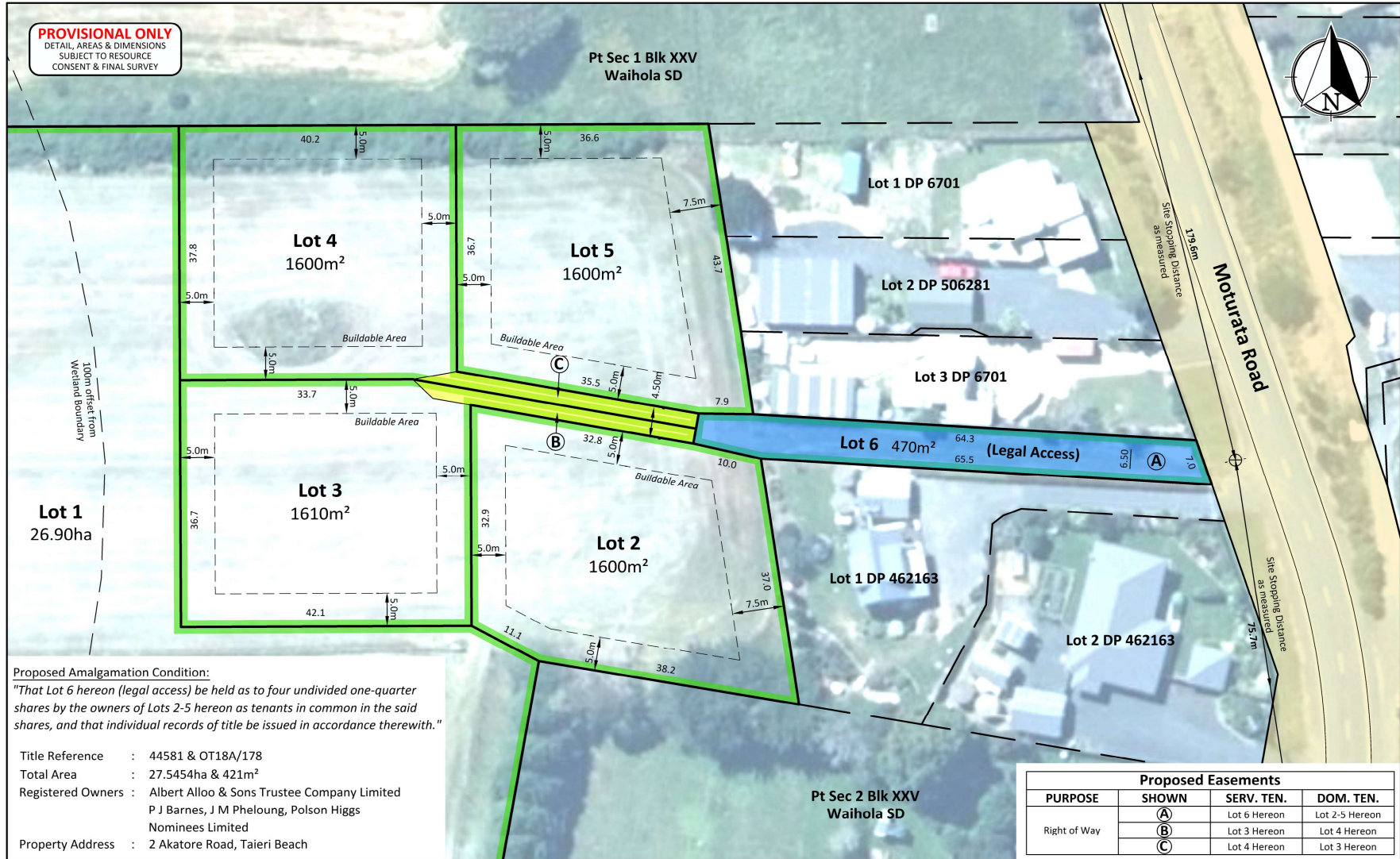


Emma Rayner Peters (BA (First Class Honours), MA (Distinction), LLB)

**Appendix 1: Amended Subdivision Scheme Plan.**



**PROVISIONAL ONLY**  
 DETAIL, AREAS & DIMENSIONS  
 SUBJECT TO RESOURCE  
 CONSENT & FINAL SURVEY



Proposed Amalgamation Condition:  
*"That Lot 6 hereon (legal access) 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."*

Title Reference : 44581 & OT18A/178  
 Total Area : 27.5454ha & 421m²  
 Registered Owners : Albert Alloo & Sons Trustee Company Limited  
 P J Barnes, J M Pheloung, Polson Higgs  
 Nominees Limited  
 Property Address : 2 Akatore Road, Taieri Beach

Proposed Easements			
PURPOSE	SHOWN	SERV. TEN.	DOM. TEN.
Right of Way	(A)	Lot 6 Hereon	Lot 2-5 Hereon
	(B)	Lot 3 Hereon	Lot 4 Hereon
	(C)	Lot 4 Hereon	Lot 3 Hereon



**Lots 1-6 Being a Proposed Subdivision of Lot 1 DP 25928 & Lot 1 DP 308807**

PROJECT REF. <b>CLS468</b>	SHEET SIZE SCALE <b>A3 1:500</b>
DRAWN DATE <b>21 FEBRUARY 2025</b>	PLAN REF.
SHEET NO. <b>SHEET 2 OF 2</b>	<b>CLS468-2B</b>