

## TechnologyOne ECM Document Summary

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Class	Description	Doc Set Id / Note Id	Version	Date
PUB_ACC	Email IN: From agent with PSI attached - 14 Apr 2021	6928730	1	05-Jul-2021
PUB_ACC	Email IN: From agent with amended landscaping, site selection memo and volunteered acoustic condition - 28 May 2021	6928907	1	05-Jul-2021
PUB_ACC	Appendix [A] - PA20537 - Gibbston - Copeland - Landscape Memo 18 Nov 2021	7186113	1	23-Mar-2022
PUB_ACC	RM210184 Monterosa Estate External Corres	7186120	1	23-Mar-2022
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PUB_ACC	RM210814 - Updated AEE_Final 3 December 2021	7186124	1	23-Mar-2022
PUB_ACC	RM210814 - RFI Response	7186125	1	23-Mar-2022

**From:** "Tim Williams" <tim@williamsandco.nz>  
**Sent:** Wed, 14 Apr 2021 10:26:13 +1200  
**To:** "Kenny Macdonald" <Kenny.Macdonald@qldc.govt.nz>  
**Subject:** Re: RM210184 - Monterosa Estate (NZ) Limited - PSI  
**Attachments:** Monterosa Estate PSI\_final\_w\_apps.pdf

Hi Kenny,  
Attached is the PSI from E3.  
Any questions let me know.  
Regards



On 18/03/2021, at 3:57 PM, Kenny Macdonald <[kenny.macdonald@qldc.govt.nz](mailto:kenny.macdonald@qldc.govt.nz)> wrote:

Hi Tim,

I've been allocated this application and I've been vetting it. I've just tried calling you to chat about it but didn't get through – give me a call back if you want to discuss any of the below.

Unfortunately there's a couple of matters that the application doesn't satisfactorily address so I'm having to return it incomplete – see full details below. I've included another couple of matters that do not warrant returning the application incomplete but that you should consider addressing nonetheless.

The application is not complete because the following information has not been adequately provided for in the application:

**NES – Assessing and Managing Contaminants in Soil to Protect Human Health**

- The proposal is to establish a building platform on a piece of land where a HAIL activity has occurred (any or all of A1 – *Agrichemicals*, A10 – *Persistent pesticide use*, I – *Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment*). The proposal will result in disturbance of soil and a change of use and therefore requires consent under the NES. Please address this by submitting a Detailed Site Investigation with the application.

**Earthworks**

- The submitted plans/AEE are insufficient to demonstrate the extent of earthworks required. I'm unable to determine what volume of earthworks are proposed and although the Landscape Assessment states that the mounds will be 1m high, there is insufficient detail on their design/contours to determine how they might decrease visibility of a future building and appear naturalistic. In addition, this lack of information means that it's unclear whether Rule 25.5.21 will be breached. Please provide additional earthworks plans/details which provide this information.

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#### Other matters

Although not required to complete the application at this stage, you may wish to consider the following issue that I've identified:

- The proposed variation to the wording of the Covenant will not achieve what the proposal intends. The proposed wording seeks to allow an exemption for what is provided for by RM210184, however this application is for the establishment of a building platform only. Therefore, any future built form (since it is not being applied for by RM210184) would still be prohibited by the Covenant since it precludes 'residential development'. You may wish to consider providing an alternative covenant wording. I suggest something along the lines of "*A covenant shall be registered on the title of Lot 7 restricting this allotment from further residential subdivision or residential development except for residential use and residential buildings within the building platform consented by RM210184.*"
- The application discusses the positive effects of having a worker/manager residing on site and the Operational Statement from the Copland's also leans heavily on this assertion. Can you confirm whether or not the building will be used by workers/a manager? Is a restriction to this effect to be volunteered as part of the proposal?

---

We need this information before we can formally accept your application, progress with the processing and make a decision.

You can find further details about the information requirements for resource consent applications on the Ministry for the Environment website at:

<http://www.mfe.govt.nz/publications/rma/guide-section-88-and-schedule-4-resource-management-act-1991>

Time has been spent checking your application, and these charges have been deducted from the initial fee that you have paid. If you decide not to re-submit your application, please confirm in writing (email or letter) that you wish to withdraw the application, along with your bank details so we can organise a refund of the portion of the initial fee not used.

If you disagree with our decision that your application is incomplete you can lodge an official objection under Section 357 of the RMA.

If you have any queries, please contact me on 03 450 1718 and quote the application number above.

Kind regards,

---

**Kenny Macdonald** | Senior Planner (Consents) | Planning & Development  
Queenstown Lakes District Council  
DD: +64 3 450 1718 | P: +64 3 441 0499  
E: [kenny.macdonald@qldc.govt.nz](mailto:kenny.macdonald@qldc.govt.nz)

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[<image003.jpg>](#)





# **37 Bluff Lane, Gibbston Preliminary Site Investigation**

**Monterosa  
Estate (NZ) Ltd**

*April 2021*



Arrow Lane Arrowtown 9302

[www.e3scientific.co.nz](http://www.e3scientific.co.nz)

**37 Bluff Lane, Gibbston  
Preliminary Site Investigation**

**Document Status**

Version	Purpose of Document	Prepared By	Reviewer	Review Date
0.1	Draft for internal review	SDB	JH	12 April 2021
1.0	FINAL	SDB	JH	13 April 2021



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## Executive Summary

Monterosa Estate (NZ) Limited ('the client') is seeking consent to establish a 1,000 m<sup>2</sup> building platform at 37 Bluff Lane, Gibbston. The site under investigation includes the proposed building platform and corridor for the proposed driveway where land use change and earthworks will occur as part of residential development of the site. The site covers the location of the building and the surrounding curtilage where residents would be expected to spend most of their time, and accordingly where most exposure to soils will take place.

To assist the client in managing the risks associated with contaminants in soil, as well as satisfy requirements of the NESCS, e3Scientific has undertaken a Preliminary Site Investigation (PSI) to determine whether any activities or industries listed on the HAIL have taken place within piece of land where land use change and earthworks will occur.

The scope of work completed during the investigation included the following:

- Review of land use history from historic aerial photographs, historic certificates of title, QLDC property files, information available from the Otago Regional Council (ORC) and discussions with the landowner and current vineyard manager.
- Inspection of the site.
- Consideration of risks to human health, the need for any further investigation, and the status of the development under the NESCS.
- Preparation of a Preliminary Site Investigation report in accordance with the requirements of the Contaminated Land Management Guidelines (CLMG) No. 1: Reporting on Contaminated Sites in New Zealand (Ministry for the Environment, 2003).

Based on a detailed review of site history information, site inspection, and interviews with the vineyard manager, no HAIL activities occurring within the site have been identified. As such, it is more likely than not that no activities or industries described in the HAIL have been undertaken on the site.

The site is located within the Monterosa Vineyard property; however, it is clear from aerial images and discussions with the vineyard manager that the site has not contained grape vines or other infrastructure associated with the vineyard, such as spray sheds, and it is unlikely that contaminants could have migrated from



the adjacent properties in sufficient quantities to pose a risk to human health or the environment at the site.

Based on the findings of this investigation, e3s provides the following conclusions:

- The site has been used for agricultural purposes from the late 19<sup>th</sup> century until the wider property was developed as a vineyard in 1999.
- Although the site is located within a property used for viticulture, it is highly unlikely that any contaminants associated with the vineyard could have migrated to the site in sufficient quantity to pose a risk to human health or the environment.
- Based on a detailed review of site history information and site walkover, no HAIL activities have been identified. It is more likely than not that no activities or industries described in the HAIL have been undertaken on the site.
- As such, the NESCS does not apply to the site.



# 1 Introduction

## 1.1 Purpose

Monterosa Estate (NZ) Limited ('the client') is seeking consent to establish a 1,000 m<sup>2</sup> building platform at 37 Bluff Lane, Gibbston.

37 Bluff Lane is located at the eastern edge of the Gibbston Valley. Much of the site is occupied by a working vineyard, known as Monterosa Estate, which wraps around a schist rock outcrop containing 6 rural residential lots formed by earlier subdivision.

The proposed building platform will be located on the northern side of the rock outcrop, in between groupings of planted vines. The building platform will be accessed from State Highway 8 via an 85 m long driveway from an existing crossing point. Proposed landscaping around the building platform includes rows of oak trees along the driveway, and two 1 m high vegetated mounds between the highway and building platform. It is proposed that the maximum building coverage within the platform will be 35% (350 m<sup>2</sup>).

A site plan showing the location and proposed lay out of the building platform is shown in Figure 1 Appendix A.

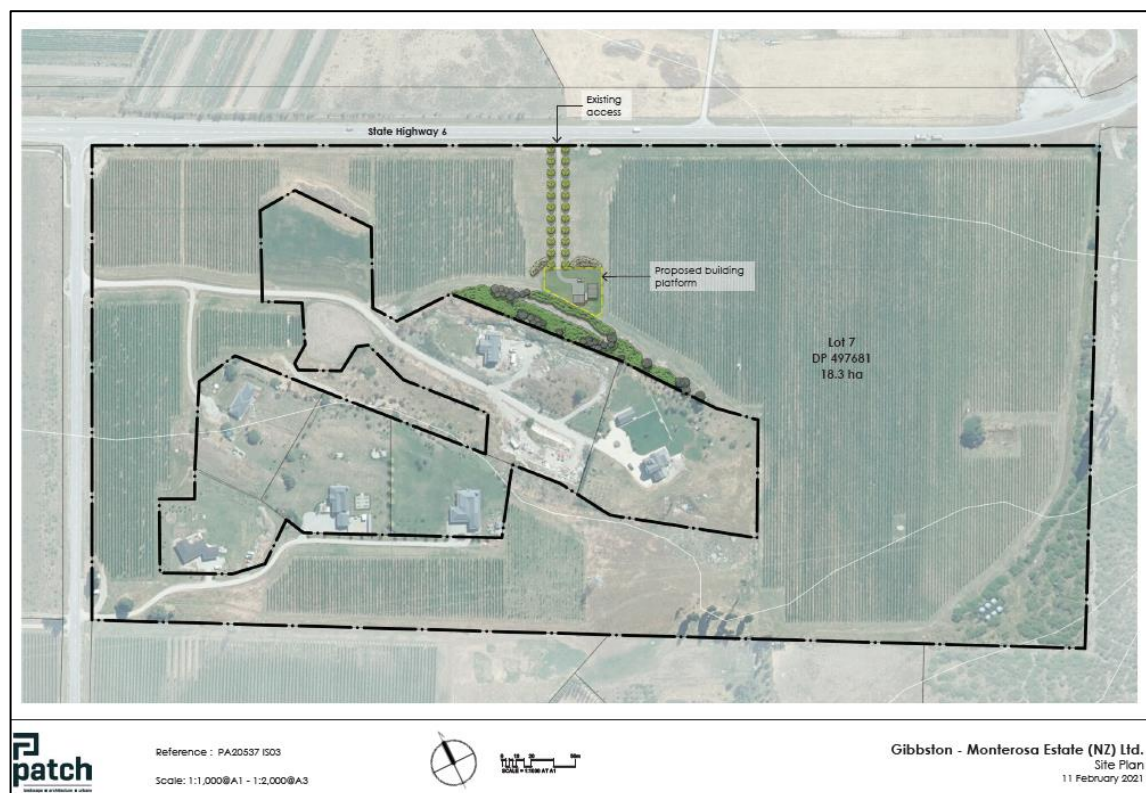
Establishing the building platform within the property will require a change in land use and earthworks. These activities are subject to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC) if they occur on land that is or has the potential to be contaminated with hazardous substances. Activities with the potential to contaminate land are described in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL). The HAIL is a compilation of 52 activities and industries that are considered capable of causing land contamination from hazardous substance use, storage or disposal.

To assist the client in managing the risks associated with contaminants in soil, as well as satisfy requirements of the NESC, e3Scientific has undertaken a Preliminary Site Investigation (PSI) to determine whether any activities or industries



listed on the HAIL have taken place within piece of land where land use change and earthworks will occur.

e3Scientific's experience in the provision of contaminated land services is provided in Appendix A.



**Figure 1: Site Development Plan**

## 1.2 Scope of Work

The scope of work completed during the investigation included the following:

- Review of land use history from historic aerial photographs, historic certificates of title, QLDC property files, information available from the Otago Regional Council (ORC) and discussions with the landowner and current vineyard manager.
- Inspection of the site.
- Consideration of risks to human health, the need for any further investigation, and the status of the development under the NESCS.
- Preparation of a Preliminary Site Investigation report in accordance with the requirements of the Contaminated Land Management Guidelines (CLMG)





No. 1: Reporting on Contaminated Sites in New Zealand (Ministry for the Environment, 2003).

### 1.3 Limitations

The findings of this report are based on the Scope of Work outlined above. e3Scientific Limited (e3s) performed the services in a manner consistent with the normal level of care and expertise exercised by members of the environmental science profession. No warranties, express or implied, are made. Subject to the Scope of Work, e3s's assessment is limited strictly to identifying the risk to human health based on the historical activities on the site. The confidence in the findings is limited by the Scope of Work.

The results of this assessment are based upon site inspections conducted by e3s personnel, information from interviews with people who have knowledge of site conditions and information provided in previous reports. All conclusions and recommendations regarding the properties are the professional opinions of e3s personnel involved with the project, subject to the qualifications made above. While normal assessments of data reliability have been made, e3s assumes no responsibility or liability for errors in any data obtained from regulatory agencies, statements from sources outside e3s, or developments resulting from situations outside the scope of this project.

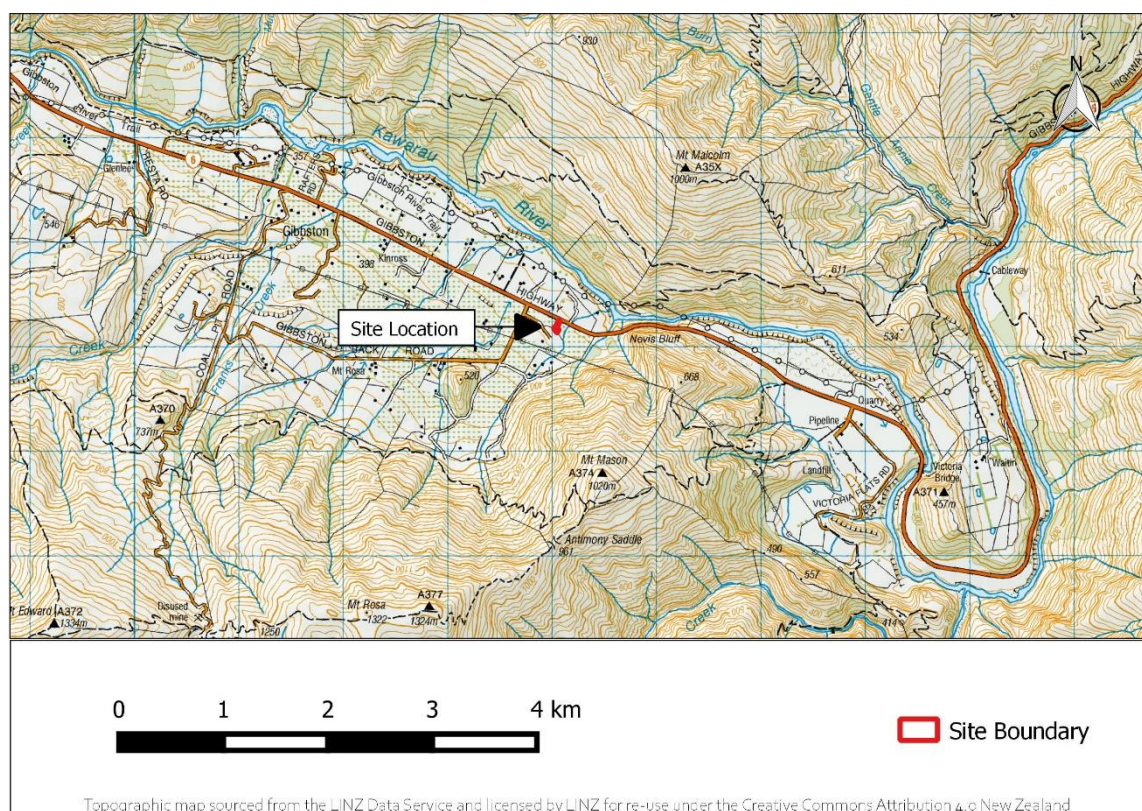


## 2 Site Location and Description

### 2.1 Site Location

The area under investigation (the site) is a piece of land within 37 Bluff Lane at the eastern end of Gibbston Valley (Figure 2). The site includes the proposed building platform and corridor for the proposed driveway where land use change and earthworks will occur as part of residential development of the site. The site covers the location of the building and the surrounding curtilage where residents would be expected to spend most of their time, and accordingly where most exposure to soils will take place. The site covers approximately 3,000 m<sup>2</sup> of Lot 7 DP 497681. The site is bordered by State Highway 8 to the north, rows of grape vines to the east and west, and a rocky outcrop, with rural residential properties beyond (Figure 3).

Central Coordinates for the site are: E: 1284019 N: 5005141 (NZTM).



**Figure 2: Site Location (topographic).**



## 2.2 Topography

The site is predominantly flat with a slight rise towards the schist outcrops to the south of the building platform,

## 2.3 Geology

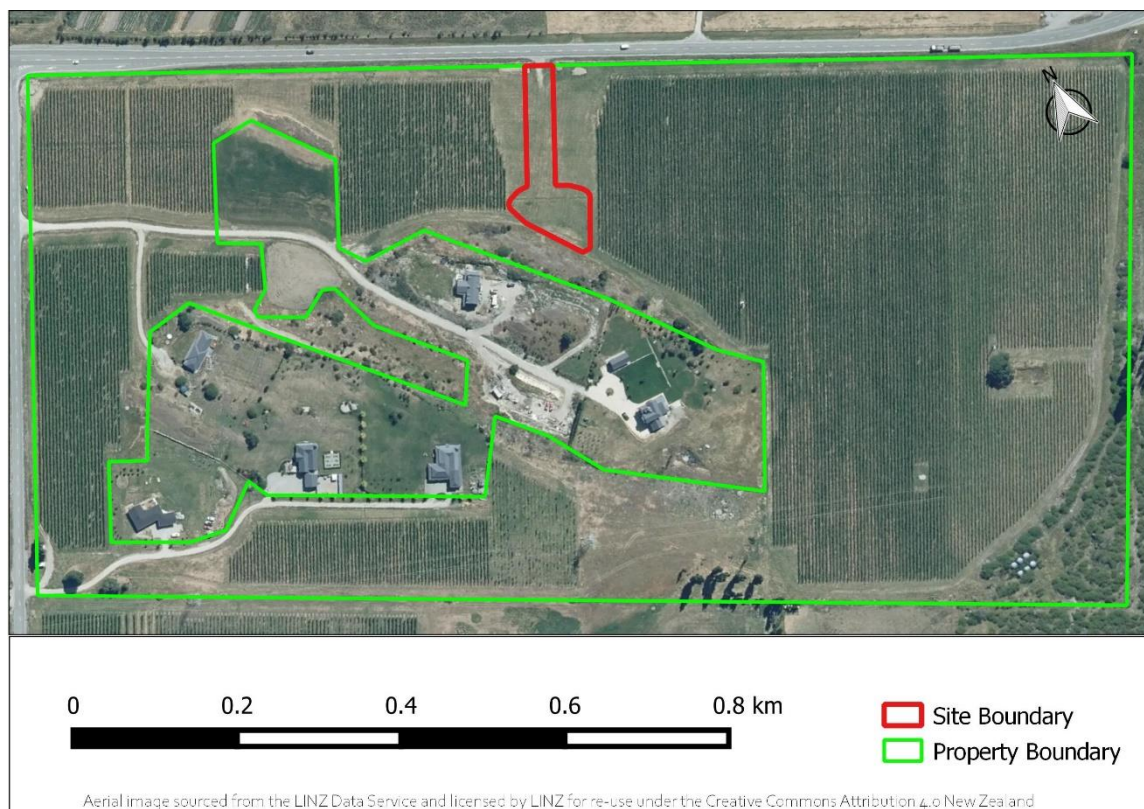
Based on the 1:250,000 Geological Map of New Zealand, the site is situated on two different geological units. The building platform and southern end of the driveway is situated on middle Pleistocene river deposits, consisting of moderately weathered sandy clayey gravel in fans. The northern end of the driveway is situated on late Pleistocene river deposits which consist of unweathered to slightly weathered loose sandy to silty well-rounded gravel. (GNS Science, 2021).

Ground Consulting Limited (2021) report that silty brown topsoil was encountered to a depth of 0.6 m. Loess deposits were also encountered in the vicinity of the building platform to a depth of 1.4m to 2.2m, consisting of a layer of silty SAND, light brown in colour, loose to medium dense, dry. Dense, dry, light brown, grey sandy GRAVEL was encountered in all four test pits below the loess deposits.

## 2.4 Hydrogeology and Hydrology

A detailed groundwater assessment was not within the scope of the investigation. Based on the Otago Regional Council (ORC) online mapping portal, there are four bores within 500 m of the site. Based on these bores, groundwater is expected to occur at depths greater than 25 m below ground level. There are no surface water features on site. The nearest surface water body is the Kawarau River, which is located at 400 m north of the site.





**Figure 3: Site Location (aerial)**

**Table 1: Summary of Site Location and Description Information**

Address:	37 Bluff Lane
Legal Descriptions	Lot 7 DP 497681
Location	Gibbston Valley
NZTM Coordinates:	E: 1284019 N: 5005141
Owners:	Monterosa Estate (NZ) Limited
Site area:	3,000 m <sup>2</sup>
Regulatory Authorities:	Regional Authority: Otago Regional Council Local Authority: Queenstown Lakes District Council
Zoning:	Gibbston Character
Current Land Use:	Vacant land between vineyard plantings
Future Land Use:	Residential





**Table 2: Summary of Environmental Setting**

Local setting:	Gibbston Valley
Surrounding Land Uses:	North: State Highway 8, with rural residential properties beyond. East and West: Vineyard South: Schist Outcrop with rural residential properties beyond
Topography:	Flat
Geology:	Middle and Late Pleistocene river deposits
Hydrogeology:	Groundwater >25 m below ground level
Surface water:	Kawarau River, 400 m north of the site
Nearby Sensitive Sites:	Kawarau River, 400 m north of the site



## 3 Site History

### 3.1 Historic Certificates of Title and Surveys

A survey plan from circa 1885 (SO735) shows the site included within Section 7 Block III, Kawarau District. The survey plan indicates that the section was gazetted as a plantation reserve, similar to the Queenstown Gardens, but the site does not appear to ever have been planted. The earliest title (OT251/224) was a renewable lease issued in 1935 to Frederick Perriam, farmer. Perriam died in 1943, but the land stayed in the family until Alexander Hugh Miller, also listed as a farmer, acquired it in 1959. A new fee simple title (OT12D/592) was issued in 1989 to Landcorp Investments Limited, with the Millers listed as tenants in common. The property was then sold to Gibbston Valley Estates Limited in 1995, Sloan Chambers Limited in 1996, Coolhire Storage Limited in 1996, and Mt Rosa Estate Limited in 1999.

The current owner purchased the property from Mt Rosa Estate in 2015.

In summary, the historic certificates of title suggest that the property has been used for farming since at least 1935.

Historic surveys and certificates of title are provided in Appendix B.

### 3.2 Historic Aerial Photography

Historic aerial images sourced from retrolens.nz, the National Library, and from Google Earth Pro have been reviewed. A summary of notable observations is presented in Table 3. Selected images are included in Appendix C.

The review of aerial photographs was completed using digital copies of the images, which provide better resolution than those in the appendix.



**Table 3: Summary of Aerial Images and Maps**

Date	Source	Site Observations
1958	Retrolens	The site is undeveloped pasture, which looks to have been recently cut for silage.
1964, 1966, 1969, 1970, 1975, 1976, 1979, 1983, 1984, 2001	Retrolens	The site is undeveloped agricultural land, with no significant features.
2006	Google Earth ©	The vineyard surrounding the site has been planted. The access from the State Highway has been constructed. Driveways have been constructed to the rural residential lots to the south of the site.
2010, 2011, 2012, 2014	Google Earth ©	The site is unchanged from the previous image. Building platforms have been constructed on some of the rural residential lots to the south of the site.
2018, 2019	Google Earth ©	The site is unchanged from the previous image. Several dwellings have been constructed south of the site.

In summary, the site remained as undeveloped production land until the early 2000's, when a vineyard was developed on the property. After the vineyard was planted, the site has remained an empty grass paddock, with no evidence of vineyard activity occurring.

### 3.3 District Council Information

Under the current and proposed QLDC district plans, the site lies within the Gibbston Character Zone and an outstanding natural landscape.

Other than the current application for the building platform, there was no information contained with the QLDC e-docs property file.

### 3.4 Regional Council Information

The site is not currently recorded on the Otago Regional Council's HAIL database. However, the ORC notes that the database is continually under development and should not be regarded as a complete record of all properties in Otago. The absence of available information does not necessarily mean that the property is uncontaminated; rather no information exists on the database.

There are no current consents for the property, and three expired consents. Two consents authorised the construction of bores, and one consent, held by the



previous owner Stephen Laign, authorised extraction of for the purpose of irrigation, frost-fighting and potable supply.

Supporting documentation from ORC is provided in Appendix D.

### 3.5 Information Provided by the Owner and Vineyard Manager

Monterosa Estate (NZ) Limited has owned the property since 2015. Director Phil Copland advised when the vineyard was planted in 1999, the intention was to use this piece of land as a future house site because of the highway access, and because this part of the property was subject to frosting, and therefore not suitable for growing grapes. To Mr. Copland's knowledge, the proposed building platform has not been used for vineyard activities.

The vineyard has been managed by Viticultura Contracting Limited since 2015. Operations manager Tim Deaker provided a typical spray diary for the vineyard, which included typical applications of fertilisers, micronutrients, and fungicides. This list is provided in Appendix E. Mr. Deaker advised that they do store or mix any agrichemicals or fuel on site.





## 4 Site Inspection

e3s staff conducted a site walkover on 31 March 2021.

The site is accessible via State Highway via an existing crossing. The site is not fenced from the balance of the property; however, the State Highway, rows of grape vines, and schist outcrop form natural boundaries.

The site is covered in a mixture of grasses, which have been mown. Other than four small areas of ground disturbance from the test-pitting conducted as part of the geotechnical investigation, the ground is uniformly covered in grasses. Four warratahs mark the extent of the proposed building platform. There are no structures present within the site.

There was no rubbish or fly-tipping within the site, and no visible signs of contamination, such as protruding rubbish, dead or dying vegetation, soil staining or odour.



**Figure 4: Site from SH8**



**Figure 5: Site from the outcrop**



**Figure 6: Panorama of the site looking west**



## 5 Identified HAIL Activities

### 5.1 Identified HAIL activities

Based on a detailed review of site history information, site inspection, and interviews with the vineyard manager, no HAIL activities occurring within the site have been identified. As such, it is more likely than not that no activities or industries described in the HAIL have been undertaken on the site.

During the period of low intensity use as farmland, it is likely that applications of superphosphate would have occurred, and it is possible that DDT was applied to pasture. These agrichemicals were commonly used to fertilise soil and control pests such as grass grub. e3Scientific has assessed Organochlorine Pesticides (such as DDT) and cadmium (a contaminant associated with superphosphate) concentrations in soils throughout Otago and Southland. In all investigations, contaminants have only been encountered at elevated concentrations approaching NESCS soil contaminant standards in the vicinity of sheep dips, sheep footbaths, dusting yards and areas of historic agrichemical storage. It is highly unlikely the broadacre application of agrichemicals over the site have occurred at a rate and intensity that would result in an accumulation of contaminants in concentrations that could present a risk to human health or the environment. As such, this activity is generally not considered a HAIL activity.

The site is located within the Monterosa Vineyard property. Vineyards can be considered a HAIL activity under category A10: *Persistent pesticide bulk storage or use including sport turfs, market gardens, orchards, glass houses or spray sheds*. Vineyards can also be considered a HAIL activity under category I: *Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment* because leaching of copper, chromium and arsenic from treated timber posts may, in some cases, pose a risk to human health (Waikato Regional Council, 2018). However, in this case, it is clear from aerial images and discussions with the vineyard manager that the site has not contained grape vines or other infrastructure associated with the vineyard, such as spray sheds.

Migration of contaminants from adjacent sites is considered a HAIL activity under category H: *Any land that has been subject to the migration of hazardous*



*substances from adjacent land in sufficient quantity that it could be a risk to human health or the environment.* Although parts of the site are close to the vines, it is highly unlikely that contaminants associated with spraying or treated posts could have migrated to the site in sufficient quantity to pose a risk to human health or the environment. All of the organic agrichemicals used on site have a half-life (the time needed for a chemical to degrade to half of its initial concentration) less than 6 months, and are not considered persistent pesticides, as defined by the United Nations Environment Program Secretariat of the Stockholm Convention on Persistent Organic Pollutants. Inorganic elements, such as copper and zinc, may persist in soil, and have been shown to accumulate in vineyard soil; however, the toxicities of these contaminants are very low. Because of the short half-lives and/or low toxicity of the products used on site, it is highly unlikely that contaminants associated with agrichemical use within the vineyard would pose a risk to human health. Similarly, migration of copper, chromium, and arsenic treated posts is typically limited to less than 20 cm from each post (Waikato Regional Council, 2018) and unlikely to have migrated from the planted rows onto the site.

As such, it is unlikely that spray drift, leaching or run-off has occurred in sufficient concentrations to pose a risk to human health, and the site is not considered to meet the definition of HAIL category H.

## 5.2 Integrity Assessment

Overall, the established site history spans a period of approximately 60 years. The site was used for extensive farming before the wider property was developed into a vineyard in 1999. Information obtained from the historic certificates of title, eighteen historic aerial images (with a maximum interval between them of seventeen years), local authorities, a site walkover and interviews with the site owner and vineyard manager has provided a thorough understanding of the site history.

# 6 Preliminary Conceptual Site Model

A conceptual site model for assessing site contamination provides an overview of the interaction between contaminants on site and potential receptors. Also



referred to as the pollutant linkage model, the conceptual site model consists of three components (source-pathway-receptor), which if linked, indicate a risk may be present.

In this case, a detailed review of site history information and site walkover has not identified any past or present activities on site that are associated with the storage, use or disposal of hazardous substances. There are no identified sources of potential contamination, and it is highly unlikely there is a risk to human health from the proposed land use change or earthworks.

## 7 Activity Status under the NESCS

The land use change and earthworks required to establish the new building platform are both activities listed in Regulation 5 of the NESCS. However, the NESCS only applies to a piece of land where:

- a) an activity or industry described in the HAIL is being undertaken on it;
- b) an activity or industry described in the HAIL has been undertaken on it;
- c) it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.

The conclusion of this Preliminary Site Investigation is that it is more likely than not that activities or industries described in the HAIL have not been undertaken on the piece of land where land use change and earthworks will occur as part of the current proposal. As such, the NESCS does not apply.



## 8 Summary and Conclusions

Based on the findings of this investigation, e3s provides the following conclusions:

- The site has been used for agricultural purposes from the late 19<sup>th</sup> century until the wider property was developed as a vineyard in 1999.
- Although the site is located within a property used for viticulture, it is highly unlikely that any contaminants associated with the vineyard could have migrated to the site in sufficient quantity to pose a risk to human health or the environment.
- Based on a detailed review of site history information and site walkover, no HAIL activities have been identified. It is more likely than not that no activities or industries described in the HAIL have been undertaken on the site.
- As such, the NESCS does not apply to the site.



## 9 References

- Geosolve. (2020) *Preliminary Site Assessment and Slope Stability Analysis, Clyde Wastewater Pump Station (Site F)*.
- GNS Science. (2020). *New Zealand Geology Web Map*. Retrieved from <http://data.gns.cri.nz/geology/>
- GNS Science. (2021). *New Zealand Geology Web Map*. Retrieved from <http://data.gns.cri.nz/geology/>
- Ministry for the Environment. (2003). *Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand (revised 2011)*. Wellington: Ministry for the Environment.
- Ministry for the Environment. (2012). *Users' Guide: National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*. Wellington: Ministry for the Environment.
- New Zealand Geomechanical Society. (2005). *Guideline for the field description of soil and rock for engineering purposes*.
- Waikato Regional Council. (2018). *Making good decisions: Risk characterisation and management of CCA post hotspots at vineyards and kiwifruit orchards*.



## **Appendices**

**Appendix A:**  
**e3Scientific Limited Contaminated Land Experience**





## ***Contaminated Land Services***

e3Scientific Limited (e3Scientific) is a New Zealand owned and operated environmental science consultancy. Our team deliver technical, innovative science; practical solutions; and expert advice to assist our clients in the smart management of the environment.

e3Scientific provides a range contaminated land services, including:

- Due Diligence Investigations.
- Preliminary Site Investigations.
- Detailed Site Investigations.
- Soil and groundwater remedial advice and management.

Our Contaminated Land Team has a sound understanding of New Zealand's regulatory environment with respect to the assessment and management of contaminated land and has been a major supplier of contaminated land services in Otago and Southland since the contaminated land National Environmental Standard (NES) took effect in January 2012.

Glenn Davis is the Managing Director of the e3Scientific Contaminated Land team and has over 20 years post graduate experience working as an Environmental Scientist. Glenn has completed preliminary site investigations, soil and groundwater investigations, detailed site investigations, and remediation projects for the oil and gas industry, transport, agricultural and land development industries and local and national governments in New Zealand, Australia, Asia, the United Kingdom and Ireland. Glenn is responsible for technical oversight of projects and sign off of contaminated land investigations and is supported by Fiona Rowley, Carrie Pritchard, Simon Beardmore, Simon Bloomberg (Senior Environmental Scientists, specialising in Contaminated Land Investigation and Remedial Work) and Alexandra Badenhop (Principal Hydrogeologist).

The e3scientific team has completed many Preliminary Site Investigations, Detailed Site Investigations and remedial projects across New Zealand and regularly provides peer review of site investigations for district and regional councils. Projects have involved investigations into the impact on soil quality associated with operational and historic timber treatment plants, fuel storage and distribution facilities, substations, sheep dips and yards, orchards, vineyards, agricultural activities, gasworks, service stations, and operational and closed landfills.





The following provides a summary of key contaminated land work e3scientific is involved in or has completed:

- Hundreds of Preliminary Site Investigations and Detailed Site Investigations to support subdivision, landuse change and earthworks consent applications.
- Support Environment Southland's Selected Landuse Register including the identification of Hazardous Activities on properties across Southland and the registration of HAIL sites.
- Review of groundwater contamination associated with the former Invercargill gasworks site including the completion of a groundwater investigations and an environmental risk assessment to support a discharge consent application.
- Large scale remedial works of former timber treatment plants and sheep dips including the completion of detailed investigations to delineate the extent of contaminated soils, design of remedial action plans, project management of remedial works and completion of site validation and council close out reports.
- Investigations into an area of arsenic impacted soils in Frankton including the completion of detailed investigations to delineate the horizontal extent, consideration of the source of the arsenic, liaison with property owners and council.
- Project management of a bioavailability study of arsenic impacted soils in Gibbston Valley to support a Tier 2 risk assessment associated with a residential development.
- Oversight of the removal of multiple underground fuel storage systems for private residences, schools and oil and gas clients.

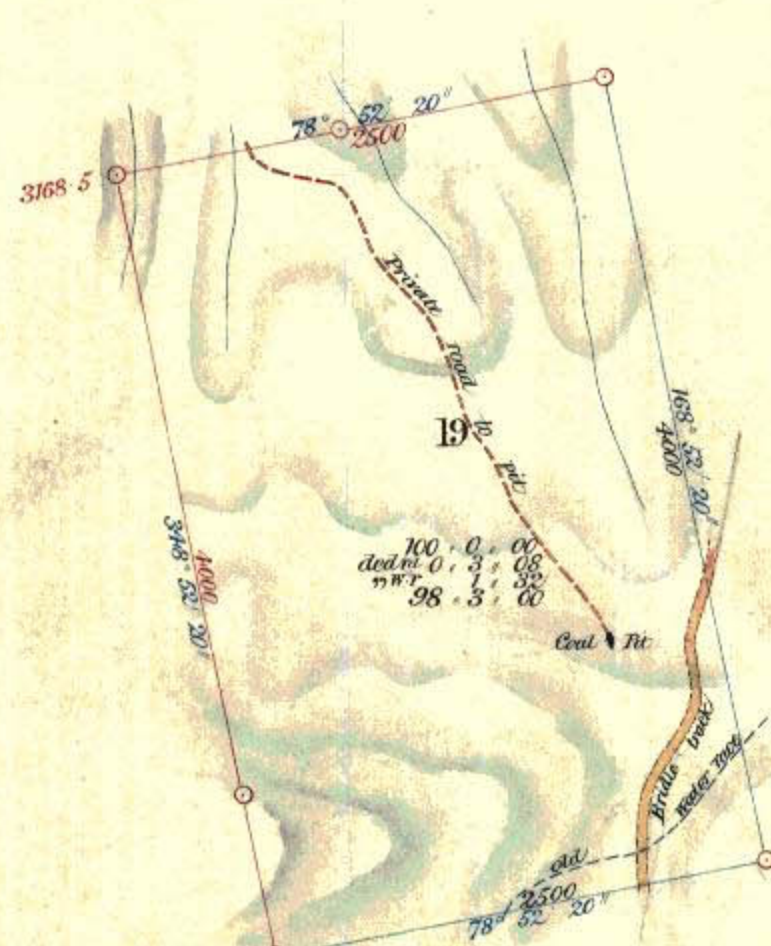
The e3Scientific team is committed to professional development, and employing new technologies in the prevention, assessment and remediation of contaminated land. e3Scientific is an active member of the Australasian Land & Groundwater Association and WasteMINZ.



**Appendix B:**  
**Historic Certificates of Title**



735

735  
12

735

## BLOCK III KAWARAU DISTRICT







References

Prior C/T 251/224

Transfer No

N/C. Order No 735587/1

Land and Deeds 69



REGISTER

CERTIFICATE OF TITLE UNDER LAND TRANSFER ACT

This Certificate dated the 16th day of August one thousand nine hundred and Eighty Nine under the seal of the District Land Registrar of the Land Registration District of OTAGO

WITNESSETH that LANDCORP INVESTMENTS LIMITED at Wellington

is seised of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or endorsed hereon) in the land hereinafter described, delineated with bold black lines on the plan hereon, be the several admeasurements a little more or less, that is to say All that parcel of land containing 12.1861 hectares more or less being Section 7 Block III KAWARAU SURVEY DISTRICT

Renewable lease embodied in the Register as Volume 251 P. 355-924

Vide 1

A.L.R.

735587/3 Transfer to Geoffrey Alexander Miller of Gibbston Farmer and Alexander Hugh Miller of Gibbston Farmer as tenants in common in equal shares - 16.8.1989 at 9.27am

A.L.R.

764633 Transmission of the 1/2 share of Alexander Hugh Miller to Geoffrey Alexander Miller of Gibbston Farmer and Charlotte Emily Miller of Arrowtown Widow as Executors - 4.10.1990 at 9.03am

A.L.R.

ASSISTANT LAND REGISTRAR

787943 Transfer of the 1/2 share acquired by Transmission 764633 to Geoffrey Alexander Miller of Gibbston farmer and Stephen Hugh Miller of Lumsden farmer as tenants in common in equal shares - 11.9.1991 at 10.13 am

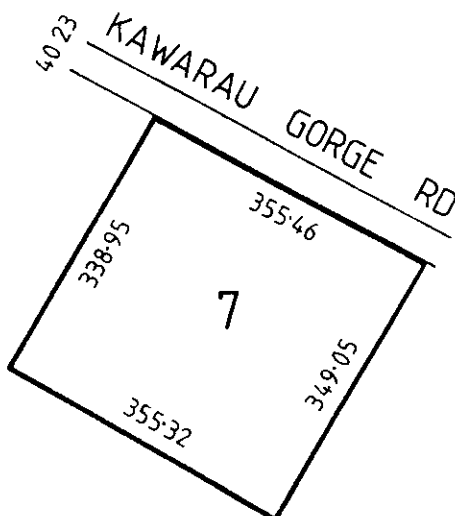
A.L.R.

889978 Transfer to Gibbston Valley Estates Limited and Hampstead Holdings Limited as tenants in common in equal shares - 29.8.1995 at 9.18 am

A.L.R.

909503/2 Transfer to Sloan Chambers Limited - 10.6.1996 at 10.58am

A.L.R.



over . . .

Measurements are Metric

AREA = 12.1861ha

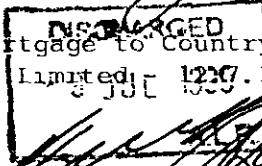
SO 736

SO. 735

CERTIFICATE OF TITLE No 1

911930/1 Transfer to Coolhire Storage  
Limited - 12.7.1996 at 10.10am

911930/2 Mortgage to Countrywide Banking  
Corporation Limited - 12.7.1996 at  
10.10am



A.L.R.

971208

A.L.R.

Appurtenant hereto are rights to  
convey water over


1. part Lot 26 DP 23709 CT  
18C/220 marked A-B, C & D-E  
DP 24427
2. part Lot 3 DP 26546 CT 18C/219  
marked D-E DP 24427  
created by Transfer 962007.27

Appurtenant hereto is a right to  
convey water over part Lot 24 DP  
23709 marked E-F and F-A1 DP  
24427 CT 15D/435 created by  
Transfer 962007.28


Appurtenant hereto is a right to  
convey water over part Section 41  
Block III Kawarau SD marked A1-B1  
DP 24425 CT 10C/78 created by  
Transfer 962007.29

962007.62 Encumbrance to Gibbston  
Valley Irrigation Limited

All 9.2.1999 at 10.10

  
for RGL

965662.1 Gazette Notice declaring that  
part State Highway No. 6 (Nevis Bluff to  
Kawarau River) to be a limited access  
road  
14.4.1999 at 11.45

  
for RGL

969696.3 Transfer to Mt Rosa  
Estate Limited

969696.4 Mortgage to The  
National Bank of New Zealand  
Limited

969696.5 Mortgage to Coolhire  
Storage Limited

All 16.6.1999 at 3.19

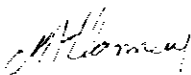
  
for RGL



Image Quality due  
to Condition  
of Original

CANCELLED

NEW ZEALAND.

GIBSTON

[Lands-B. 24.  
Particulars entered in the Register-book, Vol. 251,  
fol. 224,  
the 18<sup>th</sup> day of November  
1935, at 3 o'clock.



OTAGO

LAND DISTRICT.

RENEWABLE LEASE UNDER PART III OF THE LAND ACT, 1924,  
AND THE MINING ACT, 1926.

No. 236.

This Deed,

made the eleventh day of September, 1935, between His Majesty the King (who, with his  
heirs and successors, is hereinafter termed "the Lessor") of the one part, and  
FREDERICK CHARLES PERRIAM, .....

of GIBSTON

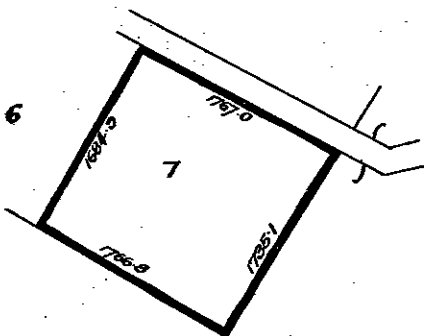
, in the Land District of OTAGO,

in the Dominion of New Zealand (hereinafter, with his executors, administrators, and permitted  
assigns, referred to as and included in the term "the Lessee"), of the other part, witnesseth that, in  
consideration of the rent hereinafter reserved, and of the covenants, conditions, and agreements herein  
contained and implied and on the part of the Lessee to be paid, observed, and performed, the Lessor  
doth hereby demise and lease unto the Lessee all that piece or parcel of land, containing by  
admeasurement ..... Thirty (30) .. acres .....  
roods and eighteen (18) ..... perches, a little more or less, situated in the Land  
District of ..... Otago ..... aforesaid, and being Section  
numbered Seven (7) .., .....  
Block Three (III) .., Survey District of Kawarau .....  
as the same is more particularly delineated and described in the plan drawn hereon, and therein  
coloured red in outline; together with the rights, easements, and appurtenances to the same  
belonging: To hold the said several premises intended to be hereby demised unto the Lessee for the  
term of sixty-six years, commencing from the 1st day of January, 1936, holding and paying  
therefor unto the Receiver of Land Revenue for the said District of Otago .....  
the annual rent of Three pounds .....

(£ 3 : 0 : 0), payable half-yearly in advance on the 1st day of January and 1st day of July  
in each and every year during the said term, free from all deductions whatsoever.

And it is hereby declared and agreed that these presents are intended to take effect as a Renewable  
Lease under Part III of the Land Act, 1924 (hereinafter termed "the said Act"); and the pro-  
visions of the said Act applicable to such leases, so far as the same apply to the term, estate, or  
interest hereby granted or created, and to the relations between the Lessor and Lessee from time  
to time, shall, subject to the provisions of section 19 of the Mining Act, 1926, be binding in  
all respects upon the parties hereto in the same manner as if such provisions had been fully  
set out herein: And it is hereby further declared that if any dispute or disagreement shall arise  
between the parties hereto touching the construction of these presents, or in anywise relating hereto,  
such dispute or disagreement shall be referred to arbitration in the manner set forth in section 86 of the  
Land Act, 1924; and neither of the said parties shall take or cause to be taken any steps or proceedings  
to set aside or call in question any award or decision which may have been given upon any such  
reference as final: And it is hereby further declared that the Lessee shall have no right or claim to  
any of the minerals, metals, valuable stone, or coal under the surface of the land hereby demised, and  
the Lessee's rights are limited to the surface soil comprised in his lease: And also that all persons  
lawfully engaged in working such minerals, metals, stones, coal, &c., shall have the right to sink shafts  
under or through the said land, and to take watercourses over the same, and the right to ingress,  
egress, or regress. This lease is issued subject to the provisions of Section 153  
of the Land Act, 1924.

In Witness whereof the Commissioner of Crown Lands for the Land District of Otago .....  
on behalf of the Lessor, hath hereunto set his hand, and these presents have been also executed by the  
said Lessee.



Run 345e

Scale: 10 chains to an inch.

Scale: chains to an inch.

Signed by the said Commissioner, on  
behalf of the Lessor, in the  
presence of

Witness,  
Berk, Land Survey Department

Signed by the above-named

FREDERICK CHARLES PERRIAM,

as Lessee in the presence of—

Frederick Charles Perriam

The Land Act, 1924, Part III  
Witness:  
Occupation:  
Address:

J. C. Newnham  
Commissioner of Crown Lands

Lessee.



Transmission 25487 to Margaret Ethel Perriam  
of Gibbston Widow as executrix. Entered 1st  
December 1943 at 2.50.00 *Perriam* A.L.R.

Transfer 142100 Margaret Ethel Perriam  
to the said Margaret Ethel Perriam  
produced 1st December 1943 at 2.50.00 *Perriam* A.L.R.

Transmission 40774 to Harry Wood Perriam of  
Gibbston Farmer as Executor, Entered 29<sup>th</sup> July 1958  
at 10.10.00 *Perriam* A.L.R.

Transfer 209646 Harry Wood Perriam to the said Harry  
Wood Perriam produced 29<sup>th</sup> July 1958 at 10.10.00 *Perriam* A.L.R.

Mortgage 176137 Harry Wood Perriam to the Bank of  
New Zealand produced 29<sup>th</sup> July 1958 at 10.20.00 *Perriam* A.L.R.

Transfer 214747 Harry Wood Perriam to -  
Alexander Hugh Miller of Gibbston Farmer  
produced 7 September 1959 at 10.32.00 *Perriam* A.L.R.

THIS REPRODUCTION (ON A REDUCED SCALE)  
CERTIFIED TO BE A TRUE COPY OF THE  
ORIGINAL REGISTER FOR THE PURPOSES OF  
SECTION 215A LAND TRANSFER ACT 1952.

*J. L. McKinnon* A.L.R.

522738/1 Transfer of a 1/2 share to  
Geoffrey Alexander Miller of Gibbston  
Farmer - 13.9.1979 at 2.42 pm *Miller* A.L.R.

522738/2 Mortgage of his 1/2 share  
Geoffrey Alexander Miller to Alexander Hugh  
Miller - 13.9.1979 at 2.42 pm *Miller* A.L.R.

524959 Variation of Mortgage 522738/2 -  
24.10.1979 at 10.06 am *Miller* A.L.R.

545520 Variation of Mortgage 522738/2 -  
25.11.1980 at 10.10 am *Miller* A.L.R.

568292 Variation of Mortgage 522738/2 -  
18.12.1981 at 2.26 pm *Miller* A.L.R.

735587/1 Application pursuant to Section  
25(1)(a) State Owned Enterprises Act 1986  
whereby Landcorp Investments Limited is  
registered as the lessor under the within  
lease - 15.8.1989 at 9.27 am *Perriam* A.L.R.

735587/2 Order for new Certificate of Title  
pursuant to Section 25(3) State Owned Enter-  
prises Act 1986 C.T. 12D/592 issued for  
the fee simple *Perriam* A.L.R.

251/224

Fee simple acquired New C.T. 12D/592  
and Transfer 735587/3

*Perriam* A.L.R.

DUPLICATE DESTROYED

6/19/1989

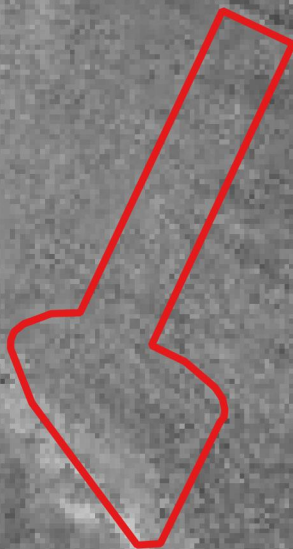
DISTRICT LAND  
REGISTRAR

Cancelled

OTAGO  
NEW ZEALAND

**Appendix C:**  
**Historic Aerial Images**

1958



0 50 100 150 m



 Site Boundary

1969



0 50 100 150 m



 Site Boundary

Document Set ID: 6928730

Version: 1, Version Date: 05/07/2024 sourced from <http://retrolens.nz> and licensed by LINZ for reuse under the CC-BY 3.0 license.

1975



0 50 100 150 m



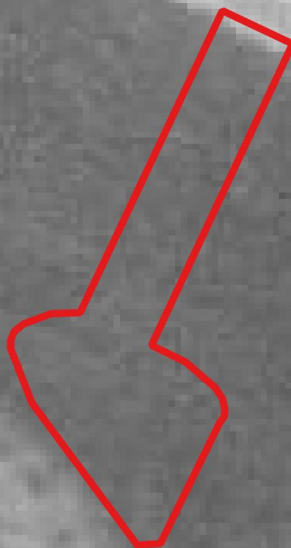
 Site Boundary

Document Set ID: 6928730

Version: 1, Version Date: 05/07/2024 sourced from <http://retrolens.nz> and licensed by LINZ for reuse under the CC-BY 3.0 license.



1984



0 50 100 150 m



 Site Boundary

2001



0 50 100 150 m



 Site Boundary

2006



0 50 100 150 m



 Site Boundary



2010



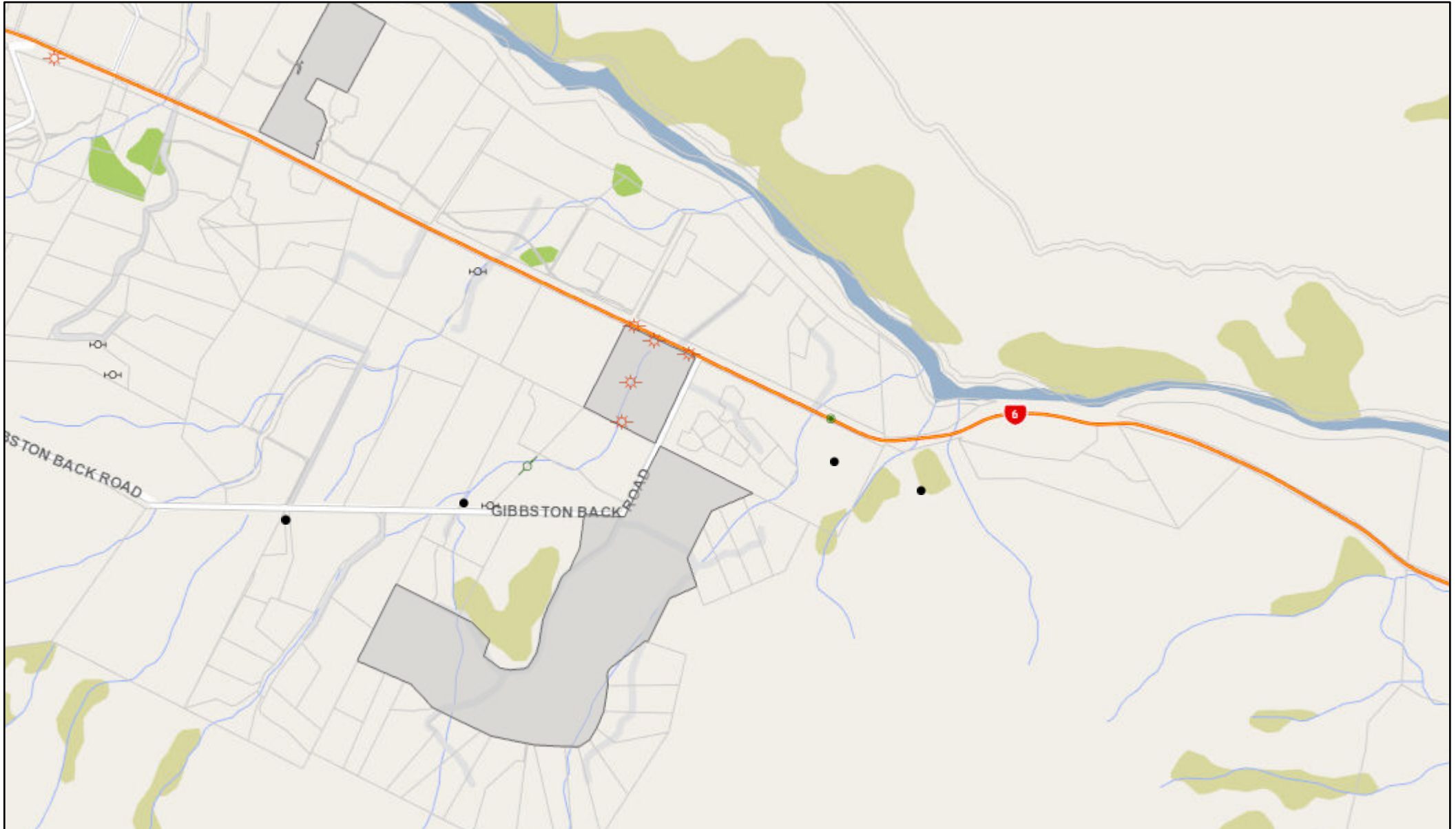
0 50 100 150 m



 Site Boundary

**Appendix D:**  
**Supporting Information from ORC**

# 37 Bluff Lane - Hail Search



31/03/2021, 12:54:49

BoreData - Bores



Commercial



Disused



Domestic



Investigation



HAIL Register

1:18,056

0 0.15 0.3 0.6 mi

0 0.23 0.45 0.9 km

LINZ, DCC, WDC, CDC, QLDC, CODC and ORC, Land Information New Zealand, Eagle Technology

The map displays the study area with various sampling locations marked by colored symbols (blue squares, red squares, black triangles, and blue circles) and labeled with alphanumeric codes. A large blue circular area is centered on the map, highlighting a specific region of interest. The background shows a network of roads, rivers, and green spaces.

Document Set ID: 6928730  
Version: 1, Version Date: 05/07/2021



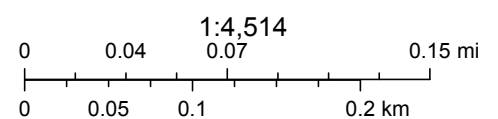
# LocalMaps Print



March 31, 2021

## Current Consents

- |  |  |
|--|--|
| <span style="color: red;">■</span> Bore Construction Consent | <span style="color: lightblue;">■</span> Discharge to Air Permit       |
| <span style="color: blue;">+</span> CMA Use Permit           | <span style="color: brown;">■</span> Discharge to Land Permit          |
| <span style="color: blue;">■</span> Coastal Discharge Permit | <span style="color: blue;">■</span> Discharge to Water Permit          |
| <span style="color: lightblue;">◇</span> Dam Water Permit    | <span style="color: grey;">▲</span> Divert Water Permit                |
|  | <span style="color: grey;">▲</span> General/Structure Land Use Consent |



Eagle Technology, Land Information New Zealand, Otago Regional Council

Bores within 1  
km of the site

WellNumber	Status	Type	DepthTo		Water	DrillDate	Owner	Location	Driller	Drawdown	PumpRate	PumpDuration	Use1	Consent
			Depth	Diameter										
F41/0096	Dry	Closed hole	22			7/26/2006	Pociecha J	Gibbston Back Road Gibbston	McNeill				Disused	2006.137
F41/0165													Domestic	95690
F41/0274			26.5	0.15			Mount Rosa Estate	South of SH 6 at Gibbston 1			311.9		Domestic	2001.557
F41/0292	Comple	Borehole	25.51	0.15	12.7	12/02/02	Laing S	South of SH6 between						
	ed	Investigation					Nevis River Holdings Ltd c/- W	Gibbston Back Rd & Nevis Bluff	McNeill	0.02	475.2	90	Commercial	2002.234
F41/0354	Dry	hole	9	0.075		8/20/2007	H Dawson	32 Granville Terrace Dunedin	McNeill				Investigation	2007.4
		Investigation					Nevis River Holdings Ltd c/- W							
F41/0355	Dry	hole	8	0.075		8/20/2007	H Dawson	32 Granville Terrace Dunedin	McNeill				Investigation	2007.4
		Investigation					Nevis River Holdings Ltd c/- W							
F41/0356	Dry	hole	10	0.075		8/20/2007	H Dawson	32 Granville Terrace Dunedin	McNeill				Investigation	2007.4
		Investigation					Nevis River Holdings Ltd c/- W							
F41/0357	Dry	hole	24	0.075	23.4	8/20/2007	H Dawson	32 Granville Terrace Dunedin	McNeill				Investigation	2007.4
		Investigation					Nevis River Holdings Ltd c/- W							
F41/0358	Dry	hole	32	0.075	31.5	8/20/2007	H Dawson	32 Granville Terrace Dunedin	McNeill				Investigation	2007.4

**Appendix E:**  
**Information Provided by the Vineyard Manager**

Spray #	Approx Date	EL Stage	Growth Stage	Water Rate	Product	Label Rate	100L Rate	HA Rate	Unit	Notes
0	20-Sep	1	Winter Bud	300 L/ha	Lime Sulphur ( 7L/100L / 3.5L	3.5	10.5		L	Preseason clean up. 2-3 weeks clear before budmate spray. Pips Run, Matapari PG, Last Chance. <b>DO NOT SPRAY OVER 20 DEGREES</b>
0	4-Oct	2	Bud Scales Opening	300 L/ha	Budmate 2-4L/ha Booster Zn Mo 2-3L/ha	1L 670ml	3 2		litre litre	Waitaki/Gibbston - Bud burst nutrition
1st 7 Days	28-Oct	9	2-3 leaf	300 L/ha	Sulphur 150-300g/100L Grocal MGB 2-4L/ha Bio Elite 110ml/ha	1kg 1L 33ml	3 3 0.100		kgs litre L	PM Protection, Strengthen of cell walls and internal defence
2nd 7 Days	4-Nov	12	5 leaf	300 L/ha	Sulphur 150-300g/L Protector 500ml/100L Aminofeed 2-4L/ha	1kg 500ml 1L	3 1.5 3		kgs litres litres	PM protection and adjuvant to help transport on plant growth. Amino acids to satisfy crop demand
2.5 Spray Holding Spray - If EL stage is behind				300 L/ha	Sulphur 150-300g/L Protector (20L 500ml/100L Activist Mag fli 2.5-4L/ha	1kg 500ml 1L	3 1.5 3		kgs litres litres	PM protection and adjuvant to help transport on plant growth. Nutrition boost
3rd		Stage 17	12 leaf	300 L/ha	Sulphur 150-300g/L Manzate Evo 200g/100L Kelpak 2 L/ha Supa 3 ZBM 2-5L/ha	1kg 200g 670ml 670ml	3 0.600 2 2		Kgs Gram litres litres	PM and Phomopsis protection, magnesium for low light boost & flowering nutrition
4th 10 Days	28-Nov	Stage 18	Pre Cap Fall	400 L/ha	Sulphur 150-300g/L Kelpak 2 L/ha Supa 3 ZBM 2-5L/ha Miravis 20ml/100	750g 500ml 500ml 20ml	3 2 2 0.08		Kgs litres litres ML	PM protection, flowering nutrition
5th 10 Days	8-Dec	Stage 20	Flowering 10% Cap off	400 L/ha	Sulphur 150-300g/L Activist Mag fli 2.5-4L/ha	750g 750ml	3 3		kgs litres	Flowering Nutrition
6th 10 Days	18-Dec	Stage 25	Flowering 80% Cap Off	400 L/ha	Spiral 120ml/110 no Supa Cal Bor 3-5L/ha Savvy 100ml/100L nc	150ml 1L 250ml	600 4 1		ML litres litres	King hit PM spray, botrytis protectant, calcium for cell structure and improved fruit set
7th 10 Days	28-Dec	Stage 29	Berries pepper corn size (4mm)	600 L/ha	HML32 1.25/100L HML Potum 300g/100L Nordox Coppe 70g/100L	1.25L 300g 70g	7.5 1.8 0.42		L kg kg	Christmas clean up - protectant and eradicant for PM and Bot. <b>Leaf pluck prior to application</b>
8th 14 Days	7-Jan	Stage 32	Pre Bunch Closure	600 L/ha	Nando 100ml/100L r Vivando 10-20ml/100L Supa Cal Bor 3-5L/ha	167ml 20ml 667ml	1 0.12 4		L ML Litres	Dual action Botryticide, calcium for fruit growth, cell strengthen and firmness
9th 14 Days	21-Jan	Stage 34	Berry Softening	600 L/ha	Sulphur 150-300g/L Bio Elite 110ml/ha Activist Mag fli 2.5-4L/ha Enhance KCS 5-6L/ha	500g 16ml 500ml 500ml	3 0.100 3 3		Kgs litres litres litres	PM protectant, nutrition boost
10th	4-Feb	Stage 36	Veraison	600 L/ha	Sulphur 150-300g/L Bio Elite 110ml/ha Enhance KCS 5-6L/ha	500g 16ml 500ml	3 0.100 3		Kgs Litres litres	PM protectant, nutrition boost

Vivando - use up tp pre cap fall - do not apply once pre cap fall has commenced 20ml/100L

Check ha rates on red savvy especially 100ml/100L ensure 1L/ha used

90g or 70 g for round 7 nordox??

Miravis up untill EL 18 - 20ml/100L

Spiral – 120ml/100L water rate 500L/ha product rate 600ml/ha

All fine - change water run off rate to 1000L on grape link



**From:** "Tim Williams" <tim@williamsandco.nz>  
**Sent:** Fri, 28 May 2021 09:54:42 +1200  
**To:** "Kenny Macdonald" <Kenny.Macdonald@qldc.govt.nz>  
**Subject:** RM210184 Lot 7 Gibbston - Updates  
**Attachments:** RM210814 - Updated Landscape Plan & Site Selection Summary.pdf, Appendix [A] - Updated Landscape Plan - PA20537 - Gibbston - Monterosa Estate NZ Ltd - Landscape Plans IS04.pdf, RM210814 - Volunteered Noise Insulation Condition.pdf

Hi Kenny,

Following on from our meeting please find attached an updated landscape plan making the adjustments as we discussed.

I have also included a memo covering off these changes and other matters covered at the meeting.

In addition, we have also drafted a condition to be secured via consent notice to cover off insulation of the future house to address potential acoustic matters from the frost fan. This condition follows similar examples we have used elsewhere.

Based on the above information and amendments to the application we would like to proceed with the acoustic and viticultural reporting you wanted to seek. If you can ensure all the RFI information including the attached is provided to both the noise and viticultural people.

Can you also give me a call to discuss these additional expert reports before you formally engage the consultants as I was keen to discuss the alternative site to the east of Lot 5 Bluff Lane and whether it should be noted to those experts to see if they see any issues from an acoustic/viticultural perspective as it appeared from the meeting Meghan may have had a preference for house in that location.

Cheers

TIM WILLIAMS - 0212098149  
**WILLIAMS & CO.**  
PLANNING / URBAN DESIGN / DEVELOPMENT  
WWW.WILLIAMSANDCO.NZ

## **RM200999: Monterosa Estate**

### **Updated Landscape Plan**

**27 May 2021**

### **Updated Landscape Plan**

Following our meeting on 19 May 2021 to discuss the *Landscape Peer Review* and our *Summary Landscape Matters* (dated May 2021), please find attached an updated landscape plan, **Appendix [A]**.

As was identified from the meeting several areas of refinement of the design were considered advantageous to further reduce potential landscape and visual amenity effects, these can be summarised as follows:

1. Removal of the Pin Oak Avenue along the driveway and mounds.
2. Infill of the remaining gap within the vines with new vine rows.
3. Refinement of the building location within the platform such that the buildable area is limited to 350m<sup>2</sup> within the South-Eastern corner of the Building Platform. The land outside of this 350m<sup>2</sup> area within the building platform would become the defined curtilage area for the future house.

As summarised in our *Summary Landscape Matters* memo and discussed at our meeting these changes would address those matters raised in the landscape peer review in particular paras 7.6.2, 8.2.5, 8.2.7 relating to the potential adverse effects of the avenue and mounds/potential to infill the gap with vines and paras 7.6.5 & 8.3.2 relating to potential visibility of future house depending on where it was located within the platform.

### **Site Selection**

At the meeting several of the cumulative effects matters noted in the peer review related to the rationale for the location proposed for the building platform. As was discussed a considerable process was utilised to work through potential site options taking into various landscape, viticultural, noise, servicing and neighbour considerations.

In summary, the location proposed for the building platform was considered most appropriate because:

- It would limit the disruption to the existing viticultural activity taking place on the site by being located within the existing 'gap' where no productive viticultural activity is taking place.
- Utilises an existing approved and formed vehicle crossing
- Could be set back from the highway with the opportunity for planting to screen the foreground and the bluff behind to form a backdrop to the future dwelling. This arrangement being in character with as similar to other developments in the Gibbston Valley e.g. Kinross.
- Would not be visible from neighbouring properties in Bluff Lane.
- Is no closer to the existing frost fans than other houses in Bluff Lane.
- Can be serviced easily.

In terms of the other locations a number of factors lead to those locations being seen as less favourable which can be summarised as follows:

1. The high voltage transmission lines run along the southern portion of the site prohibiting a dwelling being located within proximity to the lines. This effectively removes any locations along the southern boundary of the site.
2. Potential sites in the western portion of the site were considered to have visibility issues to neighbouring sites in Bluff Lane
3. Potential sites in the western portion of the site would require removal of productive vines for the building platform and access.
4. A potential site to the east of 37 Bluff Lane (Lot 5) was explored but again would require removal of productive vines, and would place the platform closer to the frost fans given the requirement in Covenant 100999904.2 (attached to the original application) requiring any dwelling to be 35m from the boundary of Lot 5.

## Cumulative Effects & Open Space Covenant

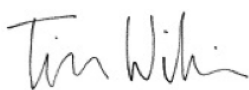
As was discussed at the meeting and was apparent from the landscape peer review a concern was raised regarding cumulative effects and the existing covenant - described in the landscape peer review as an 'open space covenant'. In this respect in regard to the landscape peer review an 'intention on Lot 7 to protect this area from further development and to maintain the viticultural character'<sup>1</sup> was noted.

We would respectfully like to note the following, which confirms that to interpret the covenant in this manner and more generally that the site is to remain as 'open space' is incorrect:

1. The covenant does not require the continued retention of the existing vines and therefore they can be removed at any time. As has been noted in the application, providing for a dwelling on the block will assist with the ease of continued viticultural activity on the site and it is somewhat unusual to have a productive vineyard without at least one dwelling located on the site in association with its operational requirements.
2. The covenant does not prohibit further built form on the site. The wording of the covenant references back to the original consent. The original consent specifies the following:
  - a. All future buildings and other structures constructed on Lot 7 shall be located to provide a minimum clearance distance of 8 meters from any transmission line conductor (Subdivision Condition 10a).
  - b. Buildings, structures and vegetation on Lot 7 shall not be located to preclude existing 4-wheel drive access to the existing support towers on the lot. (Condition 10 d)
  - c. Lot 7 shall be restricted from further residential subdivision or residential development (Condition 12)
3. Taking into account the above covenant controls and relevant provisions of the Gibbston Character zone, buildings up to 300m<sup>2</sup> and 10m in height are anticipated on the site for Winery purposes. Council retains control over the building via Rule 23.4.15.

In summary the existing covenant does not preclude further building form on the site or require the retention of the lot in open space (or vines), whilst the district plan anticipates building forms up to 10m in height. Accordingly, it is considered any potential adverse effects of a modest dwelling carefully located as proposed must be assessed against this relevant baseline.

We would also note that given all these relatively unique factors it is difficult to see how the proposal can create a precedent as is suggested in the landscape peer review.

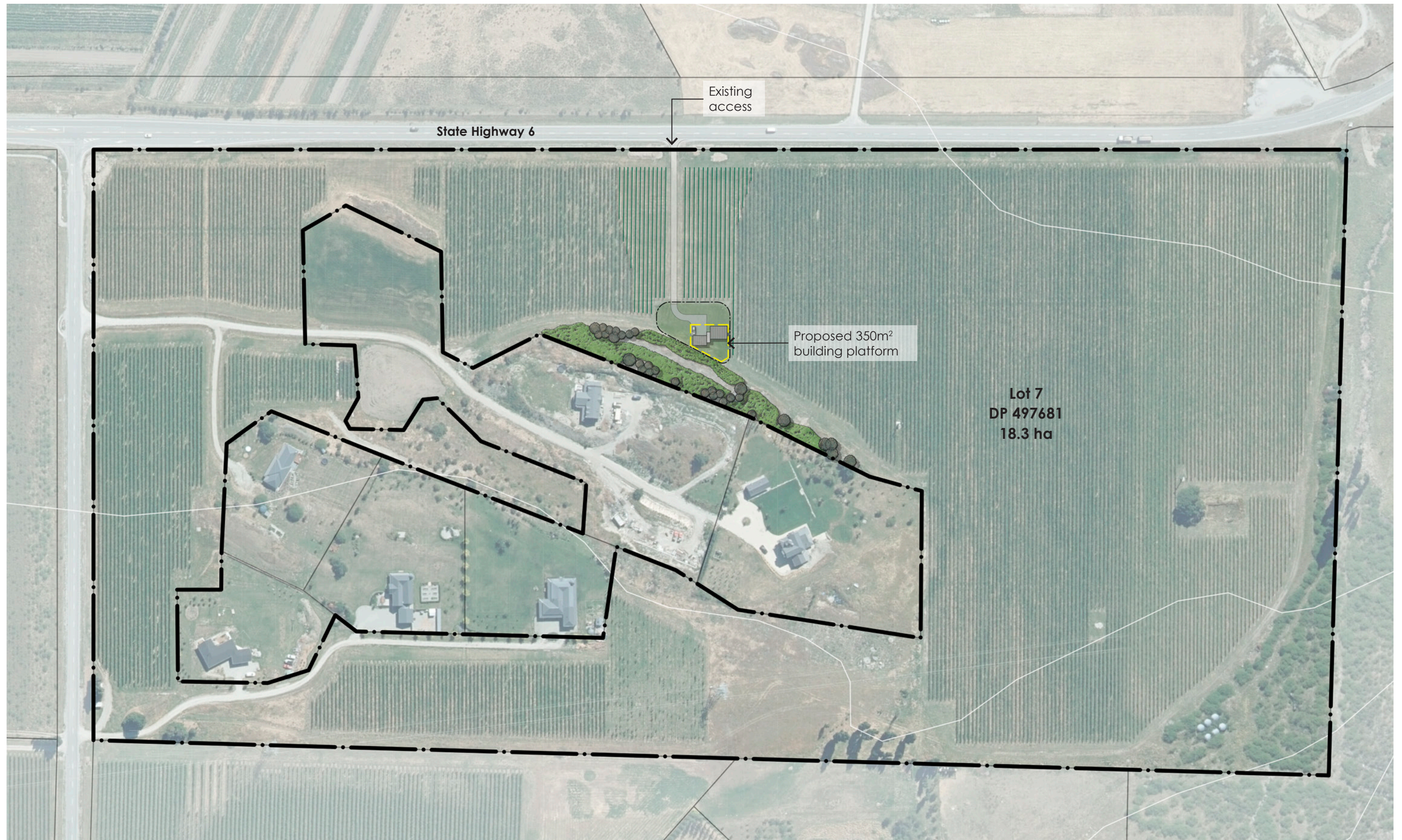


Tim Williams

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<sup>1</sup> Para 9.4 Landscape Peer Review











### RM200999: Monterosa Estate Proposed Noise Insulation Condition 27 May 2021

#### Future Dwelling – Noise Insulation

To address the potential for noise associated with the frost fans located on the subject site the following noise insulation requirement is volunteered to be secured via consent notice. We note this is this is a fairly standard insulation requirement commonly adopted in similar situations:

*Any residential dwelling shall be designed, constructed, and maintained to ensure that, within the external building envelope surrounding any bedroom (when windows are closed), the internal level does not exceed 30dB<sub>L</sub>Aeq(15min).*

*Compliance shall be demonstrated by either adhering to the sound insulation requirements specified below, or by submitting a certificate to the Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the 30dB<sub>L</sub>Aeq(15min) with the windows closed*

*For the purposes of this condition, "external building envelope" means an envelope defined by the outermost physical parts of the building, normally the cladding and roof;*

**Table 1: Example bedroom constructions**

Building element	Minimum bedroom construction requirement
<b>30dB <math>L_{Aeq(15)}</math> reduction</b>	
<b>External walls</b>	
Cladding	Minimum 70mm thick brick (or equivalent mass)
Insulation	Minimum 75mm thick fibrous insulation
Internal lining	Single layer of minimum 10mm thick plasterboard
Windows/glazed doors	Double glazed aluminium joinery consisting of one minimum 6mm thick glass pane and one minimum 6.38mm thick laminated glass pane separated by a 12mm air gap, e.g. 6/12/6.38L. No more than 40% of external wall area
<b>Roof/ceiling</b>	

<i>Cladding</i>	<i>Minimum 0.55mm thick profiled steel</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Ceiling</i>	<i>Two layers of minimum 13mm thick high-density plasterboard (<math>\geq 12 \text{ kg/m}^2</math>) linings (e.g. 2x13mm GIB Noiseline)</i>
<i>External doors</i>	<i>Solid core door (minimum <math>24 \text{ kg/m}^2</math>) with full perimeter seals</i>

### **35dB $L_{Aeq(15)}$ reduction**

#### *External walls*

<i>Cladding</i>	<i>Minimum 70mm thick brick (or equivalent mass)</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Internal lining</i>	<i>Single layer of minimum 10mm thick plasterboard</i>
<i>Windows</i>	<i>Double glazed aluminium joinery consisting of one minimum 6mm thick glass pane and one minimum 10.76mm thick laminated glass pane separated by a 12mm air gap, e.g. 6/12/10.76L. No more than 20% of external wall area. No doors permitted</i>

#### *Roof/ceiling*

<i>Cladding</i>	<i>Minimum 0.55mm thick profiled steel</i>
<i>Sarking</i>	<i>Minimum 9mm thick fibre cement board sarking (<math>\geq 12 \text{ kg/m}^2</math>) to entire dwelling roof, e.g. 9mm RAB board sarking</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Ceiling</i>	<i>Two layers of minimum 13mm thick high-density plasterboard (<math>\geq 12 \text{ kg/m}^2</math>) linings (e.g. 2x13mm GIB Noiseline)</i>
<i>External doors</i>	<i>Not permitted</i>

*Note: For the avoidance of doubt, where the windows need to be closed to achieve the internal design level it is not necessary to provide alternate ventilation.*



Tim Williams



## MEMO

**RE: RM210184 - Landscape Addendum**

18 November 2021

1. This memo provides brief landscape comment with respect to changes to the RM210184 application. The applicant has proposed a new location for the building platform, locating it to the east of the existing cluster of buildings.
2. In 2001, RM0100388 approved the subdivision of the parent, 23.5ha property, creating Lots 1-7, with land use consent to establish a single residential unit within the residential building platforms identified within proposed Lots 1-4 and to establish and operate a 22 room visitor accommodation lodge (Lot 5), and to establish and operate commercial/industrial facilities including a winery, restaurant and bar (Lot 6). This decision was appealed and the development was granted by way of an Environment Court consent order issued on 15 August 2003. The consent order included a covenant that Lot 7 be held in equal shares between Lot 1-4. Subsequently, RM070663 approved a variation of the covenant such that Lot 7 no longer needed to be held by Lot 1-4. It became a standalone vineyard block.
3. Since the covenant was imposed nearly 20 years ago, the landscape has materially changed. The approved Lodge on Lot 5 and commercial activities on Lot 6 were never built and houses were



erected instead. Several more houses have been built nearby and the rural living character of the landscape has become increasingly prevalent.

4. The proposal now seeks to establish one small building platform on the vineyard lot, in close proximity to the existing rural living areas. This small building platform will be set within an area of vines and will be well screened from westerly public views by landform. It will exist in the context of the existing rural living cluster of development and will result in no more than low adverse effects on visual amenity or landscape character.
5. I have been asked to assess the effects of the revised building location on the neighbouring properties; Lots 5 and 6. The new location is to the east of Lot 5 and 6. The proposed BP will not be visible from Lot 5.
6. The dwelling on Lot 6, and indeed most dwellings in Gibbston are orientated to the northwest to take in long range views of the distant mountains. This is the primary visual amenity. A secondary amenity are views to the southwest of the more proximate mountains. Other amenity is embodied in views to the northeast of the Nevis Bluff, to the north of the southern slopes of the Pisa Range and to the south of the northern slopes of the Carrick Range. Most of these views are visible across the Gibbston Valley.
7. The proposed BP be low in the landscape, and it may be visible from the eastern extents of Lot 6's boundaries. It is possible that from the BP on Lot 6, the proposed BP will be visible. However, any visibility of the proposed BP will not adversely affect the amenity experienced from Lot 6's BP as the proposed BP will be set within the least desirable view from Lot 6's BP

Steve Skelton



Registered Landscape Architect



PO BOX 1634, Queenstown, 9348 • +64 (0)3 409 2878 • +64 (0)21 020 99933  
steve@patchlandscape.co.nz • [www.patchlandscape.co.nz](http://www.patchlandscape.co.nz)

**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs - Draft Conditions for Review  
**Date:** Wednesday, 16 February 2022 at 11:50:44 AM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** Tim Williams  
**CC:** Antony Yates  
**Attachments:** Email\_Signature.jpg, Screen Shot 2022-02-15 at 8.46.29 AM.png

Hi Tim

Thanks for this.

Happy to change 20(c) as Council's noise guy indicated that the conditions were effectively the same. However, in accordance with your noise assessment I have the following (refer underline)

20(c) - Prior to issue of building consent the consent holder shall demonstrate to QLDC that the following minimum construction requirements have been met to achieve a 30 dB L<sub>Aeq</sub> for any bedrooms within the dwelling:

...

I also agree with your comment on the vine planting. As a result, I have dropped this out of the main conditions and made it a clause in the covenant as follows:

- (i) Within the first planting season following the substantial completion of a dwelling on the approved RBP, the vine planting identified on the plan titled: "Site Plan" dated 30 August 2021 by Patch shall be implemented and thereafter be maintained. If any vine should die or become diseased it shall be replaced within the next available planting season.

The previous consent notice conditions have been removed (against the wishes of Council engineer) however, I think these are essentially a duplication of condition 19(f).

I'll wrap my end up today and get it to Kenny for review. I'm not sure his timeline for review, but hopefully it won't be too long and he is happy with my recommendation given his previous concerns with it. In regards to the latter, I have tried to make my report as thorough as possible.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: antony@aypl.co.nz

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**From:** Tim Williams <tim@williamsandco.nz>  
**Date:** Tuesday, 15 February 2022 at 8:54 AM  
**To:** Antony Yates <antony@aypl.co.nz>  
**Cc:** Antony Yates <antony.yates@qldc.govt.nz>

**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs - Draft Conditions for Review

Hi Antony,

Thanks again for sending though. Having reviewed the conditions just have a couple of queries as follows:

**Condition 16** - I think this should relate to the timing of the house being built as this is when the effect the vines are offsetting/mitigating occurs particularly given the consent might not be implemented for five years.

I similar trigger point as noted for Condition 20 c would make sense i.e within the first planting season following issue of a building consent the vine planting .....

**Condition 20 c** - As noted before the expert noise assessment recommend a condition to achieve suitable insulation so we would think this should replace the current wording of Condition 20c noting the wording as suggested by the acoustic consultant is common to address noise insulation requirements. Also as was confirmed in the acoustic report and discussed the nearest frost fans are on the applicants own property and there is not the potential for further frost fans on neighbouring properties within proximity to the dwelling given the position of existing houses etc in the surrounding area so this further supports the wording as follows as the fans creating the most noise can't get any closer to the platform than already exist. Suggested wording as follows:

Prior to issue of building consent the consent holder shall demonstrate to QLDC that the following minimum construction requirements have been met for any bedrooms within the dwelling

**Table 1: Minimum construction requirements for bedrooms**

Building element	Minimum bedroom construction requirement
External walls	
Cladding	Minimum 140 mm filled concrete block
Insulation	Minimum 75 mm thick fibrous insulation
Internal lining	Single layer of minimum 10 mm thick plasterboard. Studs must be at 600 mm centres.
Windows	Double glazed aluminium joinery consisting of one minimum 6 mm thick glass pane and one minimum 12.76 mm thick laminated glass pane separated by a 12 mm air gap, i.e. 6/12/12.76L Total window area in any one bedroom to be no greater than 1.5 m <sup>2</sup> .
Roof/ceiling	
Cladding	Minimum 0.55 mm thick profiled steel
Sarking	Minimum 9 mm thick fibre cement board sarking ( $\geq 12$ kg/m <sup>2</sup> ) <u>to entire dwelling roof</u> , e.g. 9 mm RAB board sarking
Insulation	Minimum 75 mm thick fibrous insulation
Ceiling	Two layers of minimum 13 mm thick high-density plasterboard ( $\geq 12$ kg/m <sup>2</sup> ) linings (e.g. 2x13 mm GIB Noiseline)
External doors	Not permitted

**Conditions 20 i & j** - As you have noted I don't think these conditions are necessary so can be deleted.

Given time elapsed to date on this one would be appreciated if we can try have this confirmed so a decision can be issued this week. Really want to avoid more time slipping by if possible.

Cheers



On 10/02/2022, at 11:38 AM, Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)> wrote:

Hi Tim

Sorry for the continued delay, trying to cover everything off my recommendation has not proven straight forward.

However, I am almost there and please find attached the draft conditions for review and applicant endorsement.

Please let me know if this is accepted by the applicant and or please make suggestions / give me a call to discuss? Mobile is best 021574036.

Please note I am chasing the engineer regarding the last two 'consent notice' conditions, as 1) this is not a subdivision and 2) I cannot work out what they are asking / their relevance. At this stage I have left them in noting that if they are relevant any reference to 'consent notice' will be deleted and they will be added as clauses to the covenant condition.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Date:** Friday, 4 February 2022 at 3:35 PM  
**To:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>  
**Cc:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs - update

Hi Tim

Just by way of an update I am making good progress writing up my recommendation for this consent, however, I am not going to finish this by the C.O.B today.

I'll distribute the draft conditions for review Tuesday.

Have a great weekend

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036  
Tel: (09) 372 2569  
Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Date:** Friday, 14 January 2022 at 10:18 AM  
**To:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>, Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Tim

Sorry, I'm still on leave returning to work Monday 17<sup>th</sup>.

I'll provide an update then.

Kind regards

Antony



**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**From:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>

**Date:** Wednesday, 12 January 2022 at 9:46 AM

**To:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>

**Cc:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>

**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Antony.

Hope you had a good break?

Keen to try get this consent wrapped up and off to the Senior.

Are you able to update us on timing?

Cheers

<Email\_Signature.jpg>

On 10/12/2021, at 11:45 AM, Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)> wrote:

Hi,

Yes that should be fine. Can we try get things together so we can confirm if Kenny will sign it off or not?

The engineering points are just a formality really so the sooner we can understand if Kenny is going to accept the assessment etc the better.

Cheers

<Email\_Signature.jpg>

On 10/12/2021, at 11:11 AM, Antony Yates  
<[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)> wrote:

Hi Tim

Thanks for this information. I have fired it back to the engineer.

I will be in Queenstown next Friday afternoon and over the weekend. I'll most likely pop out to the site Saturday before lunch

if that is okay?

Kind regards

Antony

---

**Antony Yates** | Resource Management Consultant | Planning and Development  
Queenstown Lakes District Council  
M: +64 21574036  
E: [antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)

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**From:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>  
**Sent:** Monday, 06 December 2021 8:42 AM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Cc:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Antony,

Attached is the updated AEE as requested along with the landscape memo and additional geotech and detail to cover the driveway.

In terms of the photos or video I wondered if you might now be looking to come to Queenstown? If not will go get some taken.

But in the meantime if we can try tidy everything else up that would be appreciated.

Regards

<image003.jpg>

On 9/11/2021, at 1:30 PM, Antony Yates  
<[antony@aypl.co.nz](mailto:antony@aypl.co.nz)> wrote:

Hi Tim

As discussed last week, I have started to write up my recommendation for this assessment. In short, I

believe the proposal has merit given; the new location of the building platform, the positive feedback from Council's consulting LVA specialist in relation to effects on persons and the landscape character, the separation to neighbours and the net gain in production from the additional vine planting. However, I believe this is a very fine call and it is my view that it is likely to be opposed by Council's delegated decision maker, as we have divergent views on the proposal. The areas of contention are:

## 23.2 Objectives and Policies Objective –

*The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other appropriate activities that rely on the rural resource of the Gibbston Valley and managing the adverse effects resulting from other activities locating in the Zone.*

*23.2.1.2 Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*

*23.2.1.3 Ensure activities not based on the rural resources of the area occur only where the character and productivity of the Gibbston Character zone and wider Gibbston Valley will not be adversely impacted.*

*23.2.1.10 Provide for the establishment of activities such as commercial recreation, visitor accommodation and rural living that are complementary to the character and viability of the Gibbston Character zone, providing they do not impinge on rural productive activities.*

The feedback I have had from Council is that the wording of these policies are absolute (use of terms such as “ ... *not compromised* ...” “ ... *not be adversely impacted*” etc). Applying these to the proposal, could mean that despite the mitigation of

additional vine planting, this mitigation is on land, that whilst not currently planted in vines, has an underlying productive potential / capacity. Therefore, you cannot argue that there will be no loss of productive land or productive capacity as a result of occupying of existing productive land for the dwelling. In turn, these policies being expressed in absolute terms means you are likely to be contrary to the underlying intent of these provisions.

I have attached my comments/ assessment on the relevant objectives and policies. In short given the very small area involved, the net gain in vines, and the positive LVA assessment, on balance I do not think the proposal is contrary to the provisions as a whole. However, given the likely position of Council, you may want to address these aspects more fully in an updated AEE.

The other main area of contention is the caselaw Kenny MacDonald referred me to, being: CIV-2018-425-000079 [2019] NZHC 2844 whereby the High Court has indicated the following in relation to changes to consent notices (and by default covenants) (I have cut out the relevant part of this decision below):

[1] *In my view, there was insufficient evidence to support such a bald conclusion. Furthermore, it contradicts the reliance that the Environment Court has repeatedly placed on the use of consent notices. For example, the Court in McKinlay Family Trust v Tauranga City Council stated:*<sup>17</sup>

*... we have concluded that the ability of people and communities to rely on conditions of consent proffered by applicants and imposed by agreement by consent authorities or the Court when making significant investment decisions is central to the enabling purpose of the Act. Such conditions should only be set aside when there are clear benefits to the environment and to the persons who have acted in reliance on them.*

[2] *In Foster v Rodney District Council, the Environment Court noted that the following criteria may have some relevance in considering whether to vary or cancel a consent notice:*<sup>18</sup>

- (a) *the circumstances in which the condition was imposed;*
- (b) *the environmental values it sought to protect; or*
- (c) *pertinent general purposes of the Act as set out in sections 5-8.*

[3] *Ironically in Foster, the application to vary a consent notice which was required for the proposal to proceed was declined, with the Court recording that the purpose for which the consent notice was imposed “remains as pertinent today as it did in 2001”.*<sup>19</sup> *The Court went on to say:*

[129] *Accordingly, we consider that the purpose of the existing consent notice is to provide a high level of certainty to public and owners as to the obligations contained within that notice. It is intended to protect the environmental values of the soil reserve ...*

[130] *... In our view nothing has changed which justifies changing the original consent notice and*

*there is no proper basis for a Variation of it at this stage. Accordingly, we would in any event refuse the Variation or cancellation of the consent notice which would make the grant of any consent to subdivision of limited usefulness to the applicant given that it would not enable the construction of a further dwelling.*

[4] *In considering such applications this Court has emphasised that “good planning practice should require an examination of the purpose of the consent notice and an inquiry into whether some change of circumstances has rendered the consent notice of no further value”.<sup>20</sup>*

[5] *The case law makes it clear that because a consent notice gives a high degree of certainty both to the immediately affected parties at the time subdivision consent is granted, and to the public at large, it should only be altered when there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management purposes of the RMA. In such circumstances, the ability to vary or cancel the consent notice condition can hardly be seen as objectionable.*

[6] *Accordingly, I concur with the appellant’s submission that the Court’s assumption that a consent notice could be altered “relatively easily” was not a reasonable assumption. It was not supported by evidence and was inconsistent with decided cases on the circumstances in which a consent notice can be varied. To the extent the Court*



*limited the terms of the subdivision consent because it assumed that the proposed consent notice condition would be ineffective to prevent future inappropriate subdivision, the Court was in error to do so.*

In relation to this decision, it is a hard one from a planning perspective and the direction from the court doesn't sit that well with me (appreciating that I do not have a legal background). Again, it seems that it is expressed as an absolute, that is, no matter how comprehensive or meritorious your assessment under the provisions of section 95, s127(4) Section 104 of the Act, if you cannot demonstrate " ... *there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management purposes of the RMA*" , then the change should be declined. In this case, I would assume that this becomes another matter for consideration under section 104.1.(c) with a resulting decision under Part 2. That is, if the benchmark of 'material change' is not met then despite the a favourable assessment the change should be declined under what I assume will be Part 2.

- For the benefit of fairness to the applicant, they may want to address the impact of this caselaw in context of this proposal and provide a legal opinion as to its relevance, or not, in this case.

The above are the sticking points in the proposal and as stated I believe it reasonable that the applicant has an opportunity to address these matters should they want to before I complete my recommendation to Council.

However, given the changes to the proposal, I also need the following updates:

- An updated AEE, addressing the adverse effects of the new location on the wider environment and the adverse effects on neighbours.

In this regard, Important to my assessment is the adverse effects on the neighbouring properties and in this regard, I recognise the underlying covenants on the title for Lots 5 & 6.

It is my opinion that these private covenants denoting a civil arrangement, separate to the RMA process and whilst very relevant to the applicant, they do not allow me to forgo the assessment of adverse effects on these persons under section 95B. Rather, they impose a civil requirement on the owners of these lots to 'not object' should Council deem them adverse affected under section 95 of the Act.

As a result, I still need to do full assessment of the adverse effects on these properties. Being hampered by the Lockdown I cannot undertake a site visit and it would be very helpful for you to take photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform.

- Please provide photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform:
  - amended building location back to the road and the adjacent neighbours;
  - The new accessway entrance and route along the rear of the adjacent neighbours including the proposed extension down to the new building platform.

Part of my assessment will be whether the proposal is " ... suitably screened so that it is reasonably difficult to see from the building platform on Lot 5 " as per the covenant requirements

- Can I also have an addendum or comment from your Landscape architect as to the adverse effects or otherwise of the new location on the environment. This is obviously better, however, the original assessment as quoted in your AEE is solely relates to the old location.
- Also, the proposed vine removal for the building platform is 1,100m<sup>2</sup>, does this calculation include the vine removal for the driveway to the platform? If not, please calculate this?

In addition, Council's engineer is seeking the following clarifications as a result of the new location:

*My initial review of the amended resource consent application for RM210184 has highlighted the following areas which require further clarification/justification.*

#### **1.0 Earthworks Details:**

*The application information does not provide any details around the extent of earthworks proposed to establish the new building platform and new vehicle access extension. Please provide an earthworks plan which clearly shows:*

- *The locations and amount of cut and fill and total volume of earthworks shown in m3.*
- *The distance of earthworks in proximity to site boundaries/neighbouring properties*
- *The maximum depths of cut and fill in meters*
- *If any retaining is proposed*
- *If any fill material will be placed within the building platform area*

#### **2.0 Geotech Report:**

*The geotech report by GCL Consulting Titled "Geotechnical, Stormwater and Effluent Disposal*

*Assessment for Proposed Residential Dwelling" (REF: R6655 – 1B, dated 23 February 2021) was based on the previous building platform location. Given the generous area of the subject site concerns are raised that the ground conditions could vary from the ground conditions discovered within the original building platform position. Please therefore provide an updated geotech report based on the newly proposed building platform location or alternatively please provide a brief statement from GCL Consulting confirming that ground conditions are the same as discovered within the original building platform location and all information within the geotech report remains relevant to the new building platform location.*

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Happy to discuss. Mobile is best 021574036

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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<Consent notice caselaw.docx><Objectives and  
Policies draft assessment.docx>

<RM210184 Draft Conditions.docx>

**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs - Draft Conditions for Review  
**Date:** Thursday, 10 February 2022 at 11:38:02 AM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** Tim Williams  
**CC:** Antony Yates  
**Attachments:** RM210184 Draft Conditions.docx, Email\_Signature.jpg

Hi Tim

Sorry for the continued delay, trying to cover everything off my recommendation has not proven straight forward.

However, I am almost there and please find attached the draft conditions for review and applicant endorsement.

Please let me know if this is accepted by the applicant and or please make suggestions / give me a call to discuss? Mobile is best 021574036.

Please note I am chasing the engineer regarding the last two 'consent notice' conditions, as 1) this is not a subdivision and 2) I cannot work out what they are asking / their relevance. At this stage I have left them in noting that if they are relevant any reference to 'consent notice' will be deleted and they will be added as clauses to the covenant condition.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: antony@aypl.co.nz

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**From:** Antony Yates <antony@aypl.co.nz>

**Date:** Friday, 4 February 2022 at 3:35 PM

**To:** Tim Williams <tim@williamsandco.nz>  
**Cc:** Antony Yates <antony.yates@qldc.govt.nz>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs - update

Hi Tim

Just by way of an update I am making good progress writing up my recommendation for this consent, however, I am not going to finish this by the C.O.B today.

I'll distribute the draft conditions for review Tuesday.

Have a great weekend

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: antony@aypl.co.nz

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**From:** Antony Yates <antony@aypl.co.nz>  
**Date:** Friday, 14 January 2022 at 10:18 AM  
**To:** Tim Williams <tim@williamsandco.nz>, Antony Yates <antony.yates@qldc.govt.nz>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Tim

Sorry, I'm still on leave returning to work Monday 17<sup>th</sup>.

I'll provide an update then.

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: antony@aypl.co.nz

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**From:** Tim Williams <tim@williamsandco.nz>  
**Date:** Wednesday, 12 January 2022 at 9:46 AM  
**To:** Antony Yates <antony.yates@qldc.govt.nz>  
**Cc:** Antony Yates <antony@aypl.co.nz>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Antony.

Hope you had a good break?

Keen to try get this consent wrapped up and off to the Senior.

Are you able to update us on timing?

Cheers



On 10/12/2021, at 11:45 AM, Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)> wrote:

Hi,

Yes that should be fine. Can we try get things together so we can confirm if Kenny will sign it off or not?

The engineering points are just a formality really so the sooner we can understand if Kenny is going to accept the assessment etc the better.

Cheers

<Email\_Signature.jpg>

On 10/12/2021, at 11:11 AM, Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)> wrote:

Hi Tim

Thanks for this information. I have fired it back to the engineer.

I will be in Queenstown next Friday afternoon and over the weekend. I'll most likely pop out to the site Saturday before lunch if that is okay?

Kind regards

Antony

---

**Antony Yates** | Resource Management Consultant | Planning and Development  
Queenstown Lakes District Council  
M: +64 21574036  
E: [antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)

<



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**From:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>  
**Sent:** Monday, 06 December 2021 8:42 AM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Cc:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>  
**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Antony,

Attached is the updated AEE as requested along with the landscape memo and additional geotech and detail to cover the driveway.

In terms of the photos or video I wondered if you might now be looking to come to Queenstown? If not will you get some taken.

But in the meantime if we can try tidy everything else up that would be appreciated.

Regards

<image003.jpg>

On 9/11/2021, at 1:30 PM, Antony Yates  
<[antony@aypl.co.nz](mailto:antony@aypl.co.nz)> wrote:

Hi Tim

As discussed last week, I have started to write up my recommendation for this assessment. In short, I believe the proposal has merit given; the new location of the building platform, the positive feedback from Council's consulting LVA specialist in relation to effects on persons and the landscape character, the separation to neighbours and the net gain in production from the additional vine planting. However, I believe this is a very fine call and it is my view that it is likely to be opposed by Council's delegated decision maker, as we have divergent views on the proposal. The areas of contention are:

#### 23.2 Objectives and Policies Objective –

*The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other appropriate activities that rely on the rural resource of the Gibbston Valley and managing the adverse effects resulting from other activities locating in the Zone.*

23.2.1.2 *Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*

23.2.1.3 *Ensure activities not based on the rural resources of the area occur only where the character and productivity of the Gibbston Character zone and wider Gibbston Valley will not be adversely impacted.*

23.2.1.10 *Provide for the establishment of activities such as commercial recreation, visitor accommodation and rural living that are complementary to the character and viability of the Gibbston Character zone, providing they do not impinge on rural productive activities.*

The feedback I have had from Council is that the wording of these policies are absolute (use of terms such as “ ... *not compromised* ...” “ ... *not be adversely impacted*” etc). Applying these to the proposal, could mean that despite the mitigation of additional vine planting, this mitigation is on land, that whilst not currently planted in vines, has an underlying productive potential / capacity. Therefore, you cannot argue that there will be no loss of productive land or productive capacity as a result of occupying of existing productive land for the dwelling. In turn, these policies being expressed in absolute terms means you are likely to be contrary to the underlying intent of these provisions.

I have attached my comments/ assessment on the relevant objectives and policies. In short given the very small area involved, the net gain in vines, and the positive LVA assessment, on balance I do not think the proposal is contrary to the provisions as a whole. However, given the likely position of Council, you may want to address these aspects more fully in an updated AEE.

The other main area of contention is the caselaw Kenny MacDonald referred me to, being: CIV-2018-425-000079 [2019] NZHC 2844 whereby the High Court has indicated the following in relation to changes to consent notices (and by default covenants) (I have cut out the relevant part of this decision below):

[1] *In my view, there was insufficient evidence to support such a bald conclusion. Furthermore, it contradicts the reliance that the Environment Court has repeatedly placed on the use of consent notices. For example, the Court in McKinlay Family Trust v Tauranga City Council stated:*<sup>17</sup>

*... we have concluded that the ability of people and communities to rely on conditions of consent proffered by applicants and imposed by agreement by consent authorities or the Court when making significant investment decisions is central to the enabling purpose of the Act. Such conditions should only be set aside when there are clear benefits to the environment and to the persons who have acted in reliance on them.*

[2] *In Foster v Rodney District Council, the Environment Court noted that the following criteria may have some relevance in considering whether to vary or cancel a consent notice:*<sup>18</sup>

- (a) the circumstances in which the condition was imposed;*
- (b) the environmental values it sought to protect; or*
- (c) pertinent general purposes of the Act as set out in sections 5-8.*

[3] *Ironically in Foster, the application to vary a consent notice which was required for the proposal to proceed was declined, with the Court recording that the purpose for which the consent notice was imposed “remains as pertinent today as it did in 2001”.*<sup>19</sup>  
*The Court went on to say:*

[129] *Accordingly, we consider that the purpose of the existing consent notice is to provide a high level of certainty to public and owners as to the obligations contained within that notice. It is intended to protect the environmental values of the soil reserve*  
...

[130] ... In our view nothing has changed which justifies changing the original consent notice and there is no proper basis for a Variation of it at this stage. Accordingly, we would in any event refuse the Variation or cancellation of the consent notice which would make the grant of any consent to subdivision of limited usefulness to the applicant given that it would not enable the construction of a further dwelling.

[4] In considering such applications this Court has emphasised that “good planning practice should require an examination of the purpose of the consent notice and an inquiry into whether some change of circumstances has rendered the consent notice of no further value”.<sup>20</sup>

[5] *The case law makes it clear that because a consent notice gives a high degree of certainty both to the immediately affected parties at the time subdivision consent is granted, and to the public at large, it should only be altered when there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management purposes of the RMA. In such circumstances, the ability to vary or cancel the consent notice condition can hardly be seen as objectionable.*

[6] Accordingly, I concur with the appellant’s submission that the Court’s assumption that a consent notice could be altered “relatively easily” was not a reasonable assumption. It was not supported by evidence and was inconsistent with decided cases on the circumstances in which a consent notice can be varied. To the extent the Court limited the terms of the subdivision consent because it assumed that the proposed consent notice condition would be ineffective to prevent future inappropriate subdivision, the Court was in error to do so.

In relation to this decision, it is a hard one from a planning perspective and the direction from the court doesn’t sit that well with me (appreciating that I do not have a legal background). Again, it seems that it is expressed as an absolute, that is, no matter how comprehensive or meritorious your assessment under

the provisions of section 95, s127(4) Section 104 of the Act, if you cannot demonstrate “ ... *there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management purposes of the RMA*” , then the change should be declined. In this case, I would assume that this becomes another matter for consideration under section 104.1.(c) with a resulting decision under Part 2. That is, if the benchmark of ‘material change’ is not met then despite the a favourable assessment the change should be declined under what I assume will be Part 2.

- For the benefit of fairness to the applicant, they may want to address the impact of this caselaw in context of this proposal and provide a legal opinion as to its relevance, or not, in this case.

The above are the sticking points in the proposal and as stated I believe it reasonable that the applicant has an opportunity to address these matters should they want to before I complete my recommendation to Council.

However, given the changes to the proposal, I also need the following updates:

- An updated AEE, addressing the adverse effects of the new location on the wider environment and the adverse effects on neighbours.

In this regard, Important to my assessment is the adverse effects on the neighbouring properties and in this regard, I recognise the underlying covenants on the title for Lots 5 & 6.

It is my opinion that these private covenants denoting a civil arrangement, separate to the RMA process and whilst very relevant to the applicant, they do not allow me to forgo the assessment of adverse effects on these persons under section 95B. Rather, they impose a civil requirement on the owners of these lots to ‘not object’ should Council deem them adverse affected under section 95 of the Act.

As a result, I still need to do full assessment of the adverse effects on these properties. Being hampered by the Lockdown I cannot undertake a site visit and it would be very helpful for you to take photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform.

- Please provide photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform:
  - amended building location back to the road and the adjacent neighbours;
  - The new accessway entrance and route along the rear of the adjacent neighbours including the proposed

extension down to the new building platform.

Part of my assessment will be whether the proposal is “ ... *suitably screened so that it is reasonably difficult to see from the building platform on Lot 5* ” as per the covenant requirements

- Can I also have an addendum or comment from your Landscape architect as to the adverse effects or otherwise of the new location on the environment. This is obviously better, however, the original assessment as quoted in your AEE is solely relates to the old location.
- Also, the proposed vine removal for the building platform is 1,100m<sup>2</sup>, does this calculation include the vine removal for the driveway to the platform? If not, please calculate this?

In addition, Council’s engineer is seeking the following clarifications as a result of the new location:

*My initial review of the amended resource consent application for RM210184 has highlighted the following areas which require further clarification/justification.*

#### **1.0 Earthworks Details:**

*The application information does not provide any details around the extent of earthworks proposed to establish the new building platform and new vehicle access extension. Please provide an earthworks plan which clearly shows:*

- *The locations and amount of cut and fill and total volume of earthworks shown in m3.*
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*The geotech report by GCL Consulting Titled “Geotechnical, Stormwater and Effluent Disposal Assessment for Proposed Residential Dwelling” (REF: R6655 – 1B, dated 23 February 2021) was based on the previous building platform location. Given the generous area of the subject site concerns are raised that the ground conditions could vary from the ground conditions discovered within the original building platform position. Please therefore provide an updated geotech report based on the newly proposed building platform location or alternatively please provide a brief statement from GCL Consulting confirming that ground conditions are the same as discovered within the original building platform location and all information within the geotech report remains relevant to the new building platform location.*

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Happy to discuss. Mobile is best 021574036

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<Consent notice caselaw.docx><Objectives and Polices draft assessment.docx>



**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs  
**Date:** Tuesday, 9 November 2021 at 1:30:46 PM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** tim@williamsandco.nz  
**CC:** Antony Yates  
**Attachments:** Consent notice caselaw.docx, Objectives and Policies draft assessment.docx

Hi Tim

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Happy to discuss. Mobile is best 021574036

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

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**Subject:** FW: RM210184 Feedback and further planning and engineering RFIs  
**Date:** Friday, 4 February 2022 at 12:58:31 PM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** Antony Yates  
**Attachments:** Email\_Signature.jpg, image001.png, image002.png, Appendix [A] - PA20537 - Gibbston - Copeland - Landscape Memo 18 Nov 2021.pdf

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**From:** Antony Yates  
**Sent:** Friday, 10 December 2021 11:06 AM  
**To:** Megan Ash <Megan.Ash@boffamiskell.co.nz>  
**Subject:** FW: RM210184 Feedback and further planning and engineering RFIs

Hi Megan

This one is still bubbling along.

At my request the applicant has provided some further information around potentially affected neighbours, as per the LVA memo above.

This assessment I am willing to accept as it reinforces my opinion and I asked for it not out of a position of concern rather that the applicant need to beef up their application, so that I and Council are not taking on all the risk regarding the final decision.

However, what I would like you to make a quick comment on, is whether you agree with the statements in paragraphs 3 (key statements are underlined)

*Since the covenant was imposed nearly 20 years ago, the landscape has materially changed. The approved Lodge on Lot 5 and commercial activities on Lot 6 were never built and houses were erected instead. Several more houses have been built nearby and the rural living character of the landscape has become increasingly prevalent.*

Having these statements confirmed (or otherwise) helps me in my assessment of the proposal in relation to the PDP objectives and policies and the consent notice cancellation component. This in turn will inform substantive assessment under s104.

Kind regards

Antony

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**Antony Yates** | Resource Management Consultant | Planning and Development  
Queenstown Lakes District Council  
M: +64 21574036  
E: [antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)



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**From:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>  
**Sent:** Monday, 06 December 2021 8:42 AM  
**To:** Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)>  
**Cc:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>

**Subject:** Re: RM210184 Feedback and further planning and engineering RFIs

Hi Antony,

Attached is the updated AEE as requested along with the landscape memo and additional geotech and detail to cover the driveway.

In terms of the photos or video I wondered if you might now be looking to come to Queenstown? If not will go get some taken.

But in the meantime if we can try tidy everything else up that would be appreciated.

Regards



On 9/11/2021, at 1:30 PM, Antony Yates <[antony@aypl.co.nz](mailto:antony@aypl.co.nz)> wrote:

Hi Tim

As discussed last week, I have started to write up my recommendation for this assessment. In short, I believe the proposal has merit given; the new location of the building platform, the positive feedback from Council's consulting LVA specialist in relation to effects on persons and the landscape character, the separation to neighbours and the net gain in production from the additional vine planting. However, I believe this is a very fine call and it is my view that it is likely to be opposed by Council's delegated decision maker, as we have divergent views on the proposal. The areas of contention are:

#### 23.2 Objectives and Policies Objective –

*The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other appropriate activities that rely on the rural resource of the Gibbston Valley and managing the adverse effects resulting from other activities locating in the Zone.*

*23.2.1.2 Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*

*23.2.1.3 Ensure activities not based on the rural resources of the area occur only where the character and productivity of the Gibbston Character zone and wider Gibbston Valley will not be adversely impacted.*

*23.2.1.10 Provide for the establishment of activities such as commercial recreation, visitor accommodation and rural living that are complementary to the character and viability of the Gibbston Character zone, providing they do not impinge on rural productive activities.*

The feedback I have had from Council is that the wording of these policies are absolute (use of terms such as “ ... *not compromised* ...” “ ... *not be adversely impacted*” etc). Applying these to the proposal, could mean that despite the mitigation of additional vine planting,

this mitigation is on land, that whilst not currently planted in vines, has an underlying productive potential / capacity. Therefore, you cannot argue that there will be no loss of productive land or productive capacity as a result of occupying of existing productive land for the dwelling. In turn, these policies being expressed in absolute terms means you are likely to be contrary to the underlying intent of these provisions.

I have attached my comments/ assessment on the relevant objectives and policies. In short given the very small area involved, the net gain in vines, and the positive LVA assessment, on balance I do not think the proposal is contrary to the provisions as a whole. However, given the likely position of Council, you may want to address these aspects more fully in an updated AEE.

The other main area of contention is the caselaw Kenny MacDonald referred me to, being: CIV-2018-425-000079 [2019] NZHC 2844 whereby the High Court has indicated the following in relation to changes to consent notices (and by default covenants) (I have cut out the relevant part of this decision below):

[1] *In my view, there was insufficient evidence to support such a bald conclusion. Furthermore, it contradicts the reliance that the Environment Court has repeatedly placed on the use of consent notices. For example, the Court in McKinlay Family Trust v Tauranga City Council stated:*<sup>17</sup>

*... we have concluded that the ability of people and communities to rely on conditions of consent proffered by applicants and imposed by consent authorities or the Court when making significant investment decisions is central to the enabling purpose of the Act. Such conditions should only be set aside when there are clear benefits to the environment and to the persons who have acted in reliance on them.*

[2] *In Foster v Rodney District Council, the Environment Court noted that the following criteria may have some relevance in considering whether to vary or cancel a consent notice:*<sup>18</sup>

- (a) the circumstances in which the condition was imposed;*
- (b) the environmental values it sought to protect; or*
- (c) pertinent general purposes of the Act as set out in sections 5-8.*

[3] *Ironically in Foster, the application to vary a consent notice which was required for the proposal to proceed was declined, with the Court recording that the purpose for which the consent notice was imposed “remains as pertinent today as it did in 2001”.*<sup>19</sup> *The Court went on to say:*

[129] *Accordingly, we consider that the purpose of the existing consent notice is to provide a high level of certainty to public and owners as to the obligations contained within that notice. It is intended to protect the environmental values of the soil reserve ...*

[130] ... In our view nothing has changed which justifies changing the original consent notice and there is no proper basis for a Variation of it at this stage. Accordingly, we would in any event refuse the Variation or cancellation of the consent notice which would make the grant of any consent to subdivision of limited usefulness to the applicant given that it would not enable the construction of a further dwelling.

[4] In considering such applications this Court has emphasised that “good planning practice should require an examination of the purpose of the consent notice and an inquiry into whether some change of circumstances has rendered the consent notice of no further value”.<sup>20</sup>

[5] *The case law makes it clear that because a consent notice gives a high degree of certainty both to the immediately affected parties at the time subdivision consent is granted, and to the public at large, it should only be altered when there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management purposes of the RMA. In such circumstances, the ability to vary or cancel the consent notice condition can hardly be seen as objectionable.*

[6] Accordingly, I concur with the appellant’s submission that the Court’s assumption that a consent notice could be altered “relatively easily” was not a reasonable assumption. It was not supported by evidence and was inconsistent with decided cases on the circumstances in which a consent notice can be varied. To the extent the Court limited the terms of the subdivision consent because it assumed that the proposed consent notice condition would be ineffective to prevent future inappropriate subdivision, the Court was in error to do so.

In relation to this decision, it is a hard one from a planning perspective and the direction from the court doesn’t sit that well with me (appreciating that I do not have a legal background). Again, it seems that it is expressed as an absolute, that is, no matter how comprehensive or meritorious your assessment under the provisions of section 95, s127(4) Section 104 of the Act, if you cannot demonstrate “... *there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer achieves, but rather obstructs, the sustainable management*

*purposes of the RMA*”, then the change should be declined. In this case, I would assume that this becomes another matter for consideration under section 104.1.(c) with a resulting decision under Part 2. That is, if the benchmark of ‘*material change*’ is not met then despite the a favourable assessment the change should be declined under what I assume will be Part 2.

- For the benefit of fairness to the applicant, they may want to address the impact of this caselaw in context of this proposal and provide a legal opinion as to its relevance, or not, in this case.

The above are the sticking points in the proposal and as stated I believe it reasonable that the applicant has an opportunity to address these matters should they want to before I complete my recommendation to Council.

However, given the changes to the proposal, I also need the following updates:

- An updated AEE, addressing the adverse effects of the new location on the wider environment and the adverse effects on neighbours.

In this regard, Important to my assessment is the adverse effects on the neighbouring properties and in this regard, I recognise the underlying covenants on the title for Lots 5 & 6.

It is my opinion that these private covenants denoting a civil arrangement, separate to the RMA process and whilst very relevant to the applicant, they do not allow me to forgo the assessment of adverse effects on these persons under section 95B. Rather, they impose a civil requirement on the owners of these lots to ‘not object’ should Council deem them adverse affected under section 95 of the Act.

As a result, I still need to do full assessment of the adverse effects on these properties. Being hampered by the Lockdown I cannot undertake a site visit and it would be very helpful for you to take photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform.

- Please provide photographs (or video if possible) of the neighbouring sites from the new building platform and then again from the proposed rear access to the platform:
  - amended building location back to the road and the adjacent neighbours;
  - The new accessway entrance and route along the rear of the adjacent neighbours including the proposed extension down to the new building platform.

Part of my assessment will be whether the proposal is “ ... *suitably screened so that it is reasonably difficult to see from the building platform on Lot 5* ” as per the covenant requirements

- Can I also have an addendum or comment from your Landscape architect as to

the adverse effects or otherwise of the new location on the environment. This is obviously better, however, the original assessment as quoted in your AEE is solely relates to the old location.

- Also, the proposed vine removal for the building platform is 1,100m<sup>2</sup>, does this calculation include the vine removal for the driveway to the platform? If not, please calculate this?

In addition, Council's engineer is seeking the following clarifications as a result of the new location:

*My initial review of the amended resource consent application for RM210184 has highlighted the following areas which require further clarification/justification.*

### **1.0 Earthworks Details:**

*The application information does not provide any details around the extent of earthworks proposed to establish the new building platform and new vehicle access extension. Please provide an earthworks plan which clearly shows:*

- *The locations and amount of cut and fill and total volume of earthworks shown in m3.*
- *The distance of earthworks in proximity to site boundaries/neighbouring properties*
- *The maximum depths of cut and fill in meters*
- *If any retaining is proposed*
- *If any fill material will be placed within the building platform area*

### **2.0 Geotech Report:**

*The geotech report by GCL Consulting Titled "Geotechnical, Stormwater and Effluent Disposal Assessment for Proposed Residential Dwelling" (REF: R6655 – 1B, dated 23 February 2021) was based on the previous building platform location. Given the generous area of the subject site concerns are raised that the ground conditions could vary from the ground conditions discovered within the original building platform position. Please therefore provide an updated geotech report based on the newly proposed building platform location or alternatively please provide a brief statement from GCL Consulting confirming that ground conditions are the same as discovered within the original building platform location and all information within the geotech report remains relevant to the new building platform location.*

### **3.0 Access:**

*No details have been provided around the formation of the new vehicle access extension. To ensure compliance with the QLDC Land Development and Subdivision Code of Practice, please provide formation details (including width, chainage length, surfacing type, passing bay provision and stormwater provision) of the new vehicle access extension to the new building platform location.*



Happy to discuss. Mobile is best 021574036

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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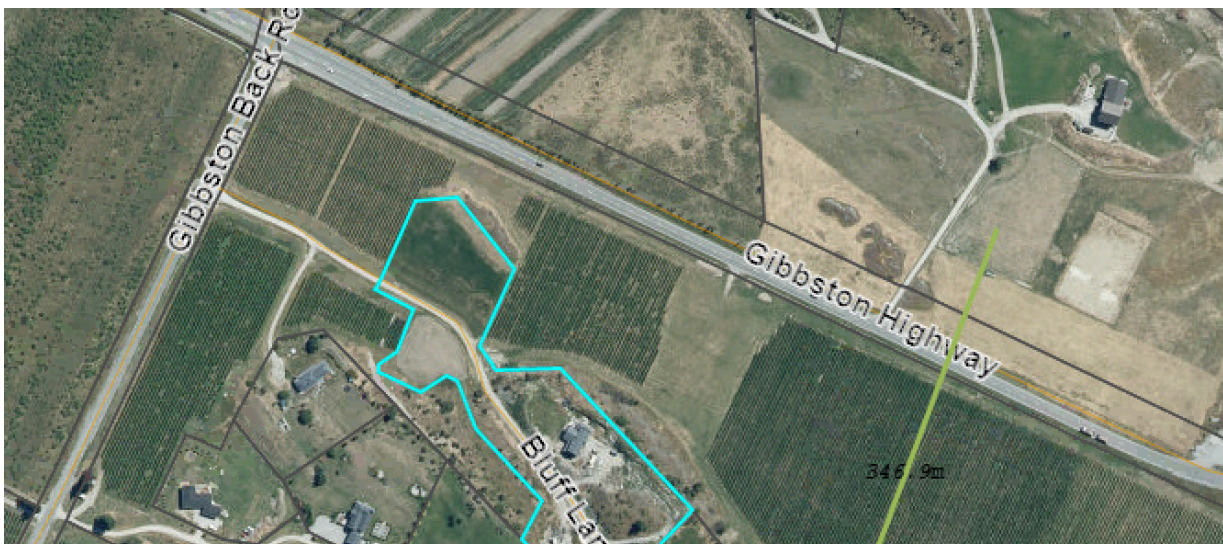
<Consent notice caselaw.docx><Objectives and Polices draft assessment.docx>

**Subject:** FW: FW- FW- RM210184 - Monterosa Estate (NZ) Ltd - request for further information - frost fan location  
**Date:** Tuesday, 9 November 2021 at 2:41:01 PM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** Jamie Exeter  
**Attachments:** FW- FW- RM210184 - Monterosa Estate (NZ) Ltd - request for further information.eml, image001.png

Hi Jamie

Please see the assessment attached from the viticulturalist (noting that this relates to the old building platform).

I have extrapolated this to the new building platform below and as you can see, technically there is a potential site for a frost fan 346 metres (approximately) over the road to the north. The frost fan to the south west is 400m + away.





Is this going to be a problem / need further clarification from the applicant?

Kind regards

Antony

**ANTONY YATES PLANNING LIMITED**

Mobile: 021 574 036

Tel: (09) 372 2569

Email: [antony@aypl.co.nz](mailto:antony@aypl.co.nz)

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**Subject:** FW: RM210184 - Monterosa Estate (NZ) Ltd - UPdate information and building location  
**Date:** Tuesday, 9 November 2021 at 10:58:51 AM New Zealand Daylight Time  
**From:** Antony Yates  
**To:** Antony Yates  
**Attachments:** Email\_Signature.jpg, image001.png, image002.png, RM210814 - Amended Proposal & Noise Assessment\_Final.pdf, Appendix [A] - PA20537 - Gibbston - Monterosa Estate NZ Ltd - Landscape Plans IS06.pdf, Appendix [B] - Lt 001 20210748 Gibbston Valley Dwelling Frost Fan Sound Insulation Assessment.pdf

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**From:** Antony Yates  
**Sent:** Thursday, 16 September 2021 3:30 PM  
**To:** Megan Ash <Megan.Ash@boffamiskell.co.nz>; jamie@stylesgroup.co.nz; james@grapevision.co.nz; Mike Pridham <michael.pridham@qldc.govt.nz>  
**Cc:** Resource Consent <resourceconsent@qldc.govt.nz>; Kenny Macdonald <Kenny.Macdonald@qldc.govt.nz>  
**Subject:** FW: RM210184 - Monterosa Estate (NZ) Ltd - UPdate information and building location

Hi All

Please find attached further information from the Applicant that reflects a change in location of the building to the rear southern part of the property.

**Megan** – it would be great if you could comment on the new location from a LVA perspective. In addition, I would be very interested in the visual effects of a residence in the location on each of the immediately surrounding dwellings (that have visibility to the building platform) and how a building in this location might impact their existing outlook and character / amenity values?.

**Jamie** – can you please review the updated acoustic comment and confirm if you concur with the conclusions in relation to noise. In addition, please suggest possible conditions if warranted?

**James** – Given the new location, it appears that your concerns potentially fall away. However, it would be good to understand what level of production would the removal of 1100m<sup>2</sup> vines create. Also noting they will lose a bit more with the access into the back of the site.

**Mike** – can you please have a look at the engineering matters? The suitability of the building platform location etc. I am wondering if the driveway extension needs a design with passing bays, which then would lead to earthworks plans etc?

**Consent Admin** – Kenny has asked if the clock can be restarted on this one, from Monday 13/9 as effectively it is a new proposal.

Kind regards

Antony

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**Antony Yates** | Resource Management Consultant | Planning and Development  
Queenstown Lakes District Council  
M: +64 21574036  
E: [antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)

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**From:** Tim Williams <[tim@williamsandco.nz](mailto:tim@williamsandco.nz)>  
**Sent:** Monday, 13 September 2021 10:15 AM  
**To:** Antony Yates <[antony.yates@qldc.govt.nz](mailto:antony.yates@qldc.govt.nz)>  
**Subject:** RM210184 - Monterosa Estate (NZ) Ltd

Hi Antony,

Further to our discussions please find attached summary letter and updated landscape plan moving the building platform location and acoustic assessment confirming the suitability of this position. We have also proposed areas of additional vine planting so there is a big net increase when compared to the area occupied by the building platform to further respond to the initial viticultural comments.

Would be good to discuss once you have had a chance to review.

Regards

TIM WILLIAMS - 0212098149  
**WILLIAMS & CO.**  
PLANNING / URBAN DESIGN / DEVELOPMENT  
[WWW.WILLIAMSANDCO.NZ](http://WWW.WILLIAMSANDCO.NZ)

## **RM200999: MONTEROSA ESTATE** **3 DECEMBER 2021**

### **UPDATED AEE** **AMENDED BUILDING PLATFORM LOCATION**

#### **A: Introduction**

An updated building platform location was submitted on 13 September 2021 along with an acoustic assessment. Council has subsequently outlined via email (9 November 2021) that the proposed amends have addressed concerns originally raised with the original building platform location.

This letter represents an updated AEE and provides responses to matters noted in the 9 November 2021 email.

#### **B: Application Updates**

As noted above the proposal has formally been amended to shift the position of the building platform to address matters raised by Council. Updated landscape plans have already been submitted (13 September 2021) and attached is a landscape memo **Appendix [A]** confirming the suitability of the new location along with addressing potential effects to neighbours and also confirming the environment has materially changed since the original consent (RM0100388) that created Lot 7 was approved some 20 years ago.

Attached as **Appendix [B]** is an updated geotechnical reporting confirming the suitability of the new building platform position and **Appendix [C]** provides an earthworks plan and typical driveway cross section for the extension of the existing driveway that is required to access the amended building platform position.

The driveway extension equates to an additional 250m of driveway to be formed with an estimated cut of 630m<sup>3</sup>. Given the relatively flat nature of the topography no retaining is proposed or cut and fill that would extend above permitted limits. Noting earthworks up to 1000m<sup>3</sup> and cuts of 2.4m and fill of 2m is permitted. The typical cross section details confirm the driveway will be formed to a rural standard as anticipated with a gravel formation, noting this will match the existing driveway treatment.

We can confirm that to provide for the amended building platform location the total area of vines to be removed is 1,100m<sup>2</sup>. No removal is required for the driveway.

## **C: Updated Assessment of Effects**

### **C1: Effects on the Environment**

The amended location has sought to locate the building platform (RBP) further away from the State Highway and to more closely locate it within the existing cluster of housing in the locality. The same height (4.5m) and design controls would apply for the proposed RBP with a modest platform size being retained to minimise land occupied.

As such, effects on the wider environment of the amended proposal will be mitigated and minor. The impact in terms of any visibility, dominance and on the landscape of the area will be minimal given the clustering approach and where development on the RBP will be controlled by a set of design parameters to ensure that it will be appropriately scaled and appear in keeping with the character of the locality.

The effects on visual amenity and landscape character being successfully avoided are confirmed by the expert landscape reporting (memo Appendix A attached) where the landscape architect records (para 4) that the RBP *'will exist in the context of the existing rural living cluster of development and will result in no more than low adverse effects on visual amenity or landscape character'*.

Access will now be from Gibbston Back Road utilising the existing formed driveway to existing houses accessed through the subject site. This has further positive benefits in utilising an existing formed access. Effects on the environment are less than minor given existing driveway access will be utilised, and the area of further driveway to be formed is minimal. From the wider environment, this will be imperceptible and in keeping with the existing character of the locality, being a driveway already established for use to access dwellings. There is no impact on the capacity of the local roading network to absorb the anticipated traffic from one new dwelling, and as such no effects will arise in this respect.

Having reviewed the draft viticultural assessment, we note that the amended proposal includes the addition of several areas of additional vine planting equating to 6,150m<sup>2</sup> of additional planting with 1,100m<sup>2</sup> being removed to accommodate the new building platform location. This represents a net increase of over 5000m<sup>2</sup> of vine planting or nearly 5.6 times that being removed.

Further, although the physical location of any buildings on the site would effectively mean a loss of physical land area that could potentially be planted in grape vines in this case this area would equate to less than 1% of the total site. This is a very small portion of the overall site and in this case the additional planting proposed will result in more land utilised in a productive manner with significant net increase overall. As such the vineyard will remain productive and the building platform location will have no impact on this – rather it will ensure a net increase in vine planting can occur therefore represent an appropriate development and location for buildings and therefore productivity of the vineyard will not be adversely impacted.

In this respect no adverse effects can be said to result and effects in terms of viticultural planting area will be positive overall.

In regard to all of the above, to supplement the information previously provided, it is assessed that the proposal will have only minor effects on the environment, including visual amenity and landscape character, with regard to the minimal increase of traffic on the existing roading network, and given the proposal will increase rural productive (vineyard) use of the subject land.



## C2: Potential Effects on Persons

Assessment in respect to Lots 5 & 6 has been requested. It is concluded that no neighbouring property will be adversely affected by the proposed location RBP. In particular, Mr Skelton has undertaken an analysis of views from Lots 5 & 6, contained within Appendix A.

Mr Skelton's reporting confirms that the new proposed RBP *will not be visible* from Lot 5. In this respect we can confirm that the '*suitably screened so that reasonably difficult to see*' test is met. Further, consideration of views from Lot 6 have been undertaken and outlined in the landscape reporting. The proposed RBP is noted as being low in the landscape, and as such while it may be visible from the eastern extent of the Lot 6 boundaries, and possible discernible from the RBP on Lot 6, any resulting effects will be less than minor given this level of visibility has been found to not affect the amenity experienced from this property given the dominant and primary views and the low extent of visibility.

No other aspects of the proposed activity are considered to affect any persons, given the location, position and controls volunteered on the RBP, that this RBP will be contained within the property which contains the vineyard (no reverse sensitivity) and where the activity can be absorbed into the locality and infrastructure existing without resulting in adverse effects on any persons.

## D: Objectives & Policies

Further assessment has been requested in respect to the PDP provisions, in this case Objectives and Policies and specifically 23.2 and Policies 23.2.1.2 and 23.2.1.3. These provisions read as follows:

### 23.2 Objectives and Policies Objective -

***The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other appropriate activities that rely on the rural resource of the Gibbston Valley and managing the adverse effects resulting from other activities locating in the Zone.***

Firstly, the **Objective** must be considered in order to provide guidance to the policies. The objective in this case looks to protect the economic viability, character and landscape values of the GCZ. It looks to do this in two ways, the first being the *enabling of certain activities (viticulture and other appropriate activities that rely upon the rural resource)* and secondly by *managing the adverse effects* of others.

As we have previously outlined, in this case the proposal, being a residential dwelling, which will allow for a resident to be on the site of the vineyard (which does not otherwise have an on-site management presence, e.g., a person on the property for oversight 24hrs per day) is in this case contributing to the economic viability of the vineyard, which makes an important contribution Gibbston Character Zone.

As such it meets the overall intent of the Objective. The protection of the vineyard in terms of its *viability* will be upheld by having a residential presence on site and having a vineyard on this area of land in the Gibbston Valley is important to the GCZ. The vineyard contributes not only aesthetically (what it looks like in terms of landscape character), but economically, and the presence of vineyards in the GCZ has other intrinsic benefits to the District and wider region.

We continue to maintain that this activity is part of the first limb of the objective, being an *appropriate activity that relies upon the rural resource*, as it is an important part of the activity considered by the owner necessary for continued efficient and effective running of the vineyard. As such it is enabled by the objective.

However, even if this were not accepted, and the activity is to be considered as an *other activity*, the case is that its effects are to be *managed*. This is not an avoidance policy. In this case the proposal has been shown to have adopted methods to ensure the appropriate protection of character and landscape values, such that these will have a minor impact only and the overall character of the zone suitably protected.

*Policy 23.2.1.1*

*Enable viticulture activities and provide for other appropriate activities that rely on the rural resource of the Gibbston Valley while protecting, maintaining or enhancing the values of indigenous biodiversity, ecosystems services, the landscape and surface of lakes and rivers and their margins.*

This first policy repeats the first theme of the objective, being the enabling of viticultural activities and other appropriate activities. As above it is considered that the proposal meets this policy as it is an activity closely associated and important activity for the effective and efficient running and long-term viability and maintenance of the vineyard. The proposal does this while maintaining indigenous biodiversity and landscape values. The policy is enabling of the activity in this respect.

*Policy 23.2.1.2*

*Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*

The land which makes up the site has already utilised its value for rural productive activities by being planted in vines for commercial purposes, producing grapes for viticultural use. The proposal will result in no loss of this rural productivity in terms of one measurement, being land area (it will increase land area of vines on the site) and the proposal will increase rural productivity by other measures, given the maintenance and management efficiencies of having a resident on the site. In this respect the land, and its potential value in terms of rural productiveness will not be compromised by the building as proposed, it will be improved.

It has been advised<sup>1</sup> that there is a potential view that this policy wording '*not compromised*' is an 'absolute' e.g. that any land taken up for buildings would be contrary to the policy. With respect, this interpretation is not considered valid given that it fails to recognise that the appropriate addition of buildings onto land can assist in improving the rural productivity of a site, as in this case, and its absoluteness is not aligned with the overall thrust of the provisions, as referring back to the overarching objective it is clear that both 'viticultural and appropriate' buildings are *enabled*, and that *other activities* - if not viticultural are to be *managed* with a focus on adverse effects mitigation. A black and white interpretation that essentially no land may be taken up by any building is far from the thrust of the provisions.

The above policy 23.2.1.2 has a focus on reverse sensitivity where it is concerned with ensuring that for example activities surrounding a vineyard (the land with value for productive activities) is not compromised by the location of *other* developments. In this case there is no concerns in this respect given the proposed activity is located on the same site and will be held in the same ownership as the productive land and cannot generate sensitivity to its own site.

The proposal meets this policy as the land in question will not be compromised.

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<sup>1</sup> Email 9 November 2021 Antony Yates to Tim Williams

*23.2.1.3 Ensure activities not based on the rural resources of the area occur only where the character and productivity of the Gibbston Character zone and wider Gibbston Valley will not be adversely impacted.*

As above the activity in this case is based upon the management and viability of an existing rural resource and as such the on-site residence is not considered to have any adverse effect on productivity rather it will be positive in this respect. In terms of a crude vineyard 'measurement' the overall area of vineyard is net positive. However, as mentioned above this policy indicates that a wider, overall assessment is required (zone and valley based) when considering character and productivity matters. This further emphasises that the pure 'loss' of a certain m2 of land being unacceptable is not the thrust of these provisions and an inappropriate application of their intent.

Further the landscape character and visual amenity of the locality will not be adversely impacted to any unacceptable level as evidenced by the landscape analysis. The proposal meets this policy.

*23.2.1.4 Provide for a range of buildings allied to rural productive activity and worker accommodation*

Again this policy emphasises the PDP framework in which the provision for a range of buildings, including (but not limited to) those for residential accommodation which are allied to the rural productive activity on a site are supported (rather than any suggestion of avoidance). The proposal for providing accommodation on the site is connected to the needs of the productive activity (it will benefit from having this residence on the site). The proposal is supported (is to be provided for) by this policy.

*23.2.1.5 Avoid or mitigate adverse effects of development on the landscape and economic values of the Gibbston Character zone and wider Gibbston Valley*

The proposal has been located to both avoid, and mitigate any residual effects in this location on the landscape values of the GCZ and wider valley. This is confirmed by the landscape expert reporting provided to accompany the application, in regard to the new RBP location. It is submitted that the economic productivity of the site and therefore the wider zone will be improved by way of the proposal for the reasons set out above. Certainly there will be no adverse effects of the development on the economic values of the zone and valley. The proposal meets this policy.

*23.2.1.6 Protect, maintain and enhance landscape values by ensuring all structures are located in areas with the potential to absorb change.*

The RBP has been relocated to ensure that this policy is met. The new location will ensure that the RBP is located in a position with the potential to absorb the change that it brings about. This is confirmed by the landscape reporting. The proposal meets this policy.

*23.2.1.7 Avoid the location of structures, including water tanks, other than regionally significant infrastructure, on skylines, ridges, hills and prominent slopes.*

This policy, in contrast to others does use the wording 'avoid'. This illustrates that it has been chosen to be utilised deliberately and cannot be 'read into' other policies. In this case the proposal will not introduce structures on any skylines, ridges hills or prominent slopes and the proposal meets this policy.

*23.2.1.8 N/A*

*23.2.1.9 N/A*

*23.2.1.10 Provide for the establishment of activities such as commercial recreation, visitor accommodation and rural living that are complementary to the character and viability of the Gibbston Character zone, providing they do not impinge on rural productive activities.*

This policy is central to the application and as such can be given weight being the most specific policy. The provision seeks to provide for the establishment of activities, including rural living – which the application is. This is qualified on the basis that the rural living is complementary to the character and viability of the zone, and does not impinge on rural productive activities. The proposal is therefore enabled by this policy (or provided for, anticipated) given that it has been shown to be aligned with and having no effects on the landscape character of the location (clustered within a locale of rural living within the vineyard surrounds) and will be *complementary to* the viability of the specific vineyard which is established on the subject site.

In this respect the proposal cannot be said to impinge on the rural productivity of the vineyard, it will increase the m2 area of vines planted on the subject site and will assist with the land and vine management activities that take place to ensure the site is and continues to be productive. The proposal is clearly supported by this policy which allows for rural living to be provided for in the zone. This again emphasises that there is no 'black and white' thrust of rural living being repugnant to the policies at all or the overall objective for the GCZ. That appears to be an artificial construct which is not upheld by a reading of any of the policies or the provisions as a whole.

*23.2.1.11 The location and direction of lights do not cause glare to other properties, roads, public places of degrade views of the night sky.*

The proposal given its location is not anticipated to result in any light spill or glare in respect of other properties, and design controls on the RBP can ensure that this is the case.

*23.2.1.12 Avoid adverse cumulative impacts on ecosystem and nature conservation values.*

The proposal is not considered to have any impact on ecosystem or nature conservation values as such is able to be supportable under this avoidance policy.

*23.2.1.13 Have regard to the risk of fire from vegetation and the potential risk to people and buildings, when assessing subdivision and development.*

*23.2.1.14 Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.*

The proposal is considered to be aligned with these given the RBP size and subsequent distance to surrounding vegetation (and the nature of that vegetation). The necessary standards in respect to ff ws and access can be provided for and in this respect the proposal will meet these policies.

#### D1: Summary -Objective and Policies

Overall given the enabling nature of these provisions for rural living in particular rural living connected to a rural productive activity (such as the vineyard on this site) the proposal must be considered aligned with the outcomes sought by these policies. It is also necessary to refer back to the overarching intent of these provisions being the Objective. This objective confirms this approach, that rural living buildings are not assigned by their very nature as incompatible with the zone, rather that it is the economic viability, character and landscape values of the zone that are to be protected. Where rural living can be shown to be allied with rural productivity as in this case, and contribute to economic viability

the proposal must be supported, and it is only residual adverse effects if any that are to be managed. An approach that argues that any m2 of land taken up by a building is a simplistic approach in terms of viability and productivity in the first place, and is not reflective of the plan provisions. Even in the case that a m2 area of land utilised for a RBP was considered a loss, then it is this adverse effect that is to be *managed* (rather than avoided), and can be mitigated by replacement planting (as in this case).

Overall the proposal is considered well aligned with the relevant provisions including the overarching objective, is enabled by the most specific policies in respect to rural living and as such is considered squarely within the outcomes (rural living which assists the productivity of an existing vineyard) anticipated by the plan for the GCZ.

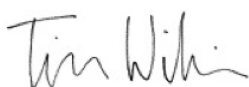
## **E: Consent Notice**

A query has been raised in respect to the matter of application to change existing instrument, in response to the email matters set out the following points are identified:

- The site has been rezoned through a plan review process, and as the proposal has been shown to be aligned with the provisions of the new zoning, the consent notice can be said to no longer meet the sustainable management purpose of the RMA as it has now been set down for the new Gibbston Character Zone. In other words, a new framework has now been set down to define what is sustainable development in this valley, and the proposal aligns with that. The consent notice can be said to obstruct the achievement of these sustainable management goals as they now exist.
- Since this instrument was imposed nearly 20 years ago the landscape environment has materially changed as further dwellings have been established nearby by way of consent, establishing a rural living cluster located within the surrounding vineyard which makes up the subject site. The site itself is also materially different than it was established by way of consent (RM0100388), given the Lodge approved on Lot 5 and the Commercial Activities approved on Lot 6 were never established.
- A period of nearly 20 years has passed with the outcomes anticipated by RM0100388 (which imposed the instrument) not having eventuated in terms of the wider and comprehensive development of the vineyard associated activities. Instead (as a materially different outcome) the vineyard itself has been established and by way of variation is a stand-alone block, with no on-site management presence. As described within the landscape reporting, the context of the site has changed with a prevalent rural living cluster.

## **F: Conclusions**

Overall, the amended building platform location will further reduce any residual adverse effects and represents a proposal that has responded to all matters raised by Council, to be aligned with the District Plan provisions. The application to change the existing instrument is able to be supported on the basis that plan rezoning and material changes have taken place which means that the instrument no longer achieves the sustainable management purposes for which it was originally imposed.



**Tim Williams**

3 December 2021

# WILLIAMS & CO.

PLANNING / URBAN DESIGN / DEVELOPMENT

## **RM200999: Monterosa Estate**

**RFI Dated 5 July 2021**

**12 July 2021**

### **Response to RFI**

Please find outlined below responses to the matters noted in the RFI. We note the Acoustic assessment requested under Point 6 is currently being progressed and will be submitted when received as is the recent lab test of the water supply Point 9.

*1. What is the current operational structure of the vineyard - is it run by the owners or leased out (my understanding the latter)? How long is the lease for? Are there any terms in the lease that require on site accommodation? Does the lease anticipate leaving machinery?*

The Vineyard is currently leased out and the clients intention is to possibly operate it ourselves once the lease expires. As we do not live near Gibbston, we may wish to have a manager on site, or move onto the property ourselves.

The lease has 2 more years left to run, with expiry September 2023. There are no terms of the lease that require on site accommodation. I presume (lessee), the lessee may leave machinery, however we do own some of our own.

*2. Why is the front of the property not fenced to prevent people from coming on to the property (and to address the risk of damage from rabbits)?*

There are 3 reasons the front of the property is not fenced. 1, Fences are ugly and because our property fronts the Highway, we maintain it by mowing right to the verge of the road so it is kept tidy and attractive. 2, The rabbit population is mostly condensed to the upper areas of the vineyard which we control reasonably successfully. There are few rabbits that enter the property from the highway. 3, As you will appreciate a large tractor requires a large turning circle when exiting and entering a new row, hence the more room available to turn, the easier it is.

*3. Why are the wind machines located where they are?*

The winds machines are strategically located to provide the best coverage to the vineyard, in this case the Pinot Noir, which has the greatest value. The remaining vineyard is planted in Pinot Gris and Sauvignon Blanc. In both cases, these values are significantly less than Pinot Noir.

*4. What is the water right for the vineyard?*

The water right for the Vineyard is 366,690 litres per day "Gibbston Valley Irrigation Limited".

*5. What has been the production on the property for the last 5-7 years? Ideally t/ha for the different varieties planted there.*

2016 year - Pinot Noir - 52.02 tonnes, Pinot Gris - 3.83 tonnes, Sauvignon Blanc - 0.0




2017 year- Pinot Noir – 48.34 tonnes, Pinot Gris – 10.82 tonnes, Sauvignon Blanc - 0.0  
2018 year- Pinot Noir - 61.86 tonnes, Pinot Gris - 24.79 tonnes, Sauvignon Blanc – 0.0  
2019 year - Pinot Noir – 60.06 tonnes, Pinot Gris – 28.18 tonnes, Sauvignon Blanc- 12.49 tonnes  
2020-2021 – Is still being confirmed

7. Written permission from the management entity to draw water from the bore;

As was confirmed in the application no permission is necessary from the management entity as Encumbrance 962007.62 (Appendix [K]) confirms a potable water supply is be available for Lot 7. Condition 4 of the encumbrance. In addition attached is the agreement for the supply to Lot 7, **Attachment [A]**.

*8. Details around how many properties already rely on the bore for potable water supply and a recent bore log which details total amount of water which can be drawn from the bore as evidence there is sufficient capacity within the bore to cater for the new Building Platform;*

As above Encumbrance 962007.62 establishes the allocation and arrangements for water supply and confirms sufficient supply exists as was approved in the original subdivision, **Attachment [A]** provides the agreement. Attached is a copy of the original bore log associated with confirmation of the supply, **Attachment [B]**.



Tim Williams