

BEFORE THE QUEENSTOWN LAKES
DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND in the matter of the Queenstown Lakes
Proposed District Plan

AND in the matter of Hearing Stream 14 – Wakatipu
Basin

**LEGAL SUBMISSIONS FOR X-RAY TRUST LIMITED AND
AVENUE TRUST (#2619)**

Dated this 25th day of July 2018

MACALISTER TODD PHILLIPS

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MAY IT PLEASE THE COMMISSIONERS

Introduction and High Level Summary

- [1] These legal submissions are presented on behalf of X-Ray Trust Limited and the Trustees of the Avenue Trust¹ (hereafter together referred to as “the Submitter”). X-Ray Trust owns those parcels of land legally described as Lots 1 and 2 DP 475822, and the Avenue Trust Lot 3 DP 475822.
- [2] Lots 1 – 3 were consented in June 2012² with titles issuing in August 2014. As you will have noted from your site visit, Lot 1 has been the subject of the majority of development to date, with the main dwelling nearing completion. There is a barn consented on Lot 2. No development or land use consents have been pursued on Lot 3 to date.
- [3] The three lots are subject to extensive consent notice controls. The Lot 3 consent notice mirrors the conditions imposed on the initial grant of consent, whereas the controls on Lots 1 and 2 have been varied over time as development plans on those two lots have progressed over time.
- [4] Lots 1 and 3 have historically been identified as having three landscape/landform components – plateau, hillside and meadow³. This classification seems to find favour with Ms Gilbert, who adopts those descriptions throughout her evidence.
- [5] Whereas Ms Gilbert and Mr Blakely agree with the zoning of the hillside landform, they disagree as to the balance. The evidence for the submitter is that the plateau should be zoned Wakatipu Basin Rural Amenity Zone, including the adjoining Donaldson site⁴, and the meadow – Wakatipu Basin Lifestyle Precinct (“Precinct”).⁵
- [6] The broad extent of relief sought by the Submitter is set out in paragraph 3.1 of Ms Taylor’s evidence.

¹ Craig Leonard Heatley, George Bernard Horton, Sophia Louise Heatley and Haylee Maree Pyle

² By Consent Order of the Environment Court ENV-2010-CHC-272 (attached) (Council reference number RM 100375).

³ See Consent Order conditions that refer to these areas, and as depicted on the consented landscape plans.

⁴ Lot 3 DP 20693

⁵ But subject to a structure plan overlay

- [7] As explained in X-Ray Trusts submission, it submitted to Stage 1 of the District Plan Review. Under the Plan as notified, the Submitters land (and adjoining Donaldson land) was located in the Rural zone. X-Ray Trust's submission provided qualified support for that zoning.
- [8] X-Ray Trust submitted in opposition to the extended Millbrook Resort Zone (encompassing the former Dalglish Farm)⁶. As a result of extensive negotiation with Millbrook, the parties agreed on amendments to the Millbrook Structure Plan and rules that keeps development within the Millbrook Resort zone off the plateau area. It is now somewhat ironic that the existence and development undertaken within Millbrook appears a significant element upon which the Council draws support for the Precinct on the plateau⁷.

Scope – Lifestyle Precinct with Structure Plan

- [9] The submission originally sought that the entire area of the meadows be overlaid with the Precinct. The evidence for the Submitters has refined that relief and proposed that development within the Precinct overlay be subject to a structure plan, where development nodes have been identified.
- [10] It is submitted that the amended relief is within scope of the original submission, as it does not go beyond the bounds of what was sought in the original submission. The amendments have the potential to reduce the reduce effects by confining development to specifically identified areas, where the evidence for the Submitters is that development is best absorbed, whilst maintaining the overall density of development contemplated by the Precinct overlay.

Arrowburn Structure Plan

- [11] Within the umbrella zoning of Lifestyle Precinct, the submitters propose the Arrowburn Structure Plan to control and limit development to five specifically identified nodes on land that is gently inclined. The

⁶ Also discussed in paragraph 2.9 of Ms Taylor's evidence

⁷ Bilbert, rebuttal at paragraph 7.7(b)

identification of these nodes results from detailed landscape and site investigations. No limiting geotechnical issues have been identified.

- [12] 3-Waters servicing⁸ is addressed in the evidence of Mr Steel. While Lots 1 to 3 (and associated development) are not currently within the water and wastewater scheme boundaries⁹, Mr Steele identifies that subject to modelling there may be capacity within the existing council schemes, but if not, viable alternatives exist. No issues with stormwater disposal have been identified.
- [13] The structure planning process is a refinement of the Trusts' submission and identifies the development potential of the site while continuing to appropriately protect the key attributes that are consistent with the proposed variation.
- [14] Approval of the structure plan and associated methods will achieve the overall one-hectare average density over the sites, while retaining large areas of open space¹⁰. In addition, Rule **24.4.5** is amended to exclude from its ambit (as a Restricted Discretionary Activity within the Precinct), buildings outside the development nodes in the Arrowburn Structure Plan. New Rule **24.4.25** is introduced to make non-farming buildings in the building restriction area in the Arrowburn Structure Plan a non-complying activity.

Specific Legal Issues

- [15] The Submitter has no particular issue with the zoning principles derived from the Stage 1 hearing process¹¹. Ms Taylor undertakes a thorough analysis of the rezoning proposal in her evidence, including an evaluation under section 32AA.

⁸ Water, wastewater and stormwater

⁹ Albeit the infrastructure is located nearby - see Steel at paragraphs 11 and 12

¹⁰ See Rule 27.5.1 – no minimum lot size but lots to achieve a 1 ha average across the entire Arrowburn Structure Plan

¹¹ Report and Recommendations of Independent Commissioners Regarding Queenstown (other than Wakatipu Basin) Planning Maps, No. 17.1, from paragraph 5.1

Section 32AA Evaluation

- [16] Ms Taylor carries out a comprehensive evaluation in her evidence from paragraph 6.1. After considering alternative land use zones and methodologies, she supports the proposal put forward in the evidence for the submitter. She observes that the option of retention of the Wakatipu Basin Rural Amenity Zoning for the meadows does not anticipate residential development at the even the limited density proposed. The resource consent process is therefore not an alternative likely to be “friendly” (nor favourable) to the submitters proposal.
- [17] The Precinct, has, based on the submitters evidence, been applied in the wrong location. Based on Mr Blakely’s evidence the Precinct would do little to safeguard the identified landscape characteristics of the site at the elevated pleateau location.

Effects consideration

- [18] As discussed above, no issues with respect to servicing or natural hazards have been identified.
- [19] The evidence for the Submitter is that the elevated land contains ice shaped moraine hills and ridges. They are an important landform and landscape characteristic of the Wakatipu Basin – requiring careful landscape management. In particular, the plateau area has significant and important landscape characteristics – the eastern end is particularly vulnerable to change due to its greater visual prominence. This part of the landscape provides a “foil” and visual relief to adjacent Millbrook development.
- [20] The evidence for the Submitter is that Precinct over the plateau will result in significant adverse landscape and visual effects and will not safeguard identified landscape characteristics and exceed the sites threshold for development.

- [21] Planning over the last 20 years has generally sought to limit development on the ice-sculptured hills rather than enable it as is now proposed.
- [22] Carefully located and comprehensively designed cluster style development on the meadows within contained nodes, with large no build areas will retain rural views and result in a better landscape outcome.

Issues that remain outstanding

Landscape

- [23] The area to which the Submission relates straddles two Landscape Character Units – the Wharehuanui Hills (LCU 6) and Speargrass Flat (LCU 8). Mr Blakely generally agrees with the location and descriptive information for the two LCU's, but points to some important additions and/or differences, summarised as follows.

Wharehuanui Hills

- [24] The LCU displays differing degrees of development with the “cloak of human activity” greater at the mid and western end of the unit.
- [25] That part of LCU 6 that includes the Submitter and Donaldson properties is significantly more open, with larger blocks, fewer trees and ins in general visually exposed to high points and viewing points close to Arrowtown. There is a greater degree of naturalness as a consequence of less development. Mr Blakely describes the eastern end as retaining a “wild, windswept character.”¹² Mr Blakely opines that the landform at the eastern end has a high degree of legibility, which contributes to a higher degree of naturalness.¹³

¹² Paragraph 4.2.4

¹³ Paragraph 4.2.4

[26] Mr Blakely considers the Wharehuanui Hills to be part of a network of ice shaped moraine hills, which are a significant part of the character of the Wakatipu Basin, contrast with, and provide context to the valley floor. In his opinion, development should be limited on these areas¹⁴. He also opines that the Wakatipu Basin Study and ensuing variation gives inadequate recognition of the ice shaped hills as a landscape resource.¹⁵

Speargrass Flat

[27] Mr Blakely agrees that the absence of a robust edge to the Lake Hayes Rural Residential LCU makes Speargrass Flat Vulnerable to development creep. He agrees that views across the open rural flats to the hill slopes and escarpment faces are important to rural character, and allow for appreciation of the hill faces.

[28] In Mr Blakely's opinion however, there is merit in a landscape solution whereby some development can occur on the flats on the north side of the road and thereby balance and consolidate the Lakes Hayes rural residential development. Reducing the one sided, linear development on the south side of Speargrass Flat without compromising the visual relief provided by the flat or the appreciation of the hill faces. This will be achieved by the development nodes accommodating a cluster style development, with the building restrictions area including a 75m setback off Speargrass Flat Road, whilst retaining the open rural flats and views to the escarpment hillside.

[29] Furthermore, this form of development could enable the creation of a defensible edge to the west end of the Lake Hayes Rural Residential zone.

¹⁴ At paragraph 4.3.1

¹⁵ At paragraph 4.3.2

[30] Mr Blakely opines that the relief now sought takes its cue from and respects the historic settlement pattern by placing the development on the valley floor at (or near) the junction of the flat land and hillslope.¹⁶

[31] The two landscape architects disagree with respect to the appropriate zoning for the plateau and the meadows. It will be for the Panel to assess and weigh competing evidence.

Methods

[32] Mr Langman disagrees with the clustered approach proposed by the Submitter, together with the inclusion of a structure plan, preferring to rely on the restricted discretionary consenting regime and associated policy framework and assessment matters to guide an appropriate outcome, in the event the meadows are zoned Precinct.

[33] While a similar result (clustering) could be achieved without the inclusion of a structure plan, the Submitter promotes the structure plan to provide greater certainty of outcome at this stage in the plan formulation process. The evidence for the Submitter is that identified development nodes are an appropriate design response for this Precinct area.

Relevance of neighbour agreements?

[34] The evidence of Mr Brown and legal submissions of Mr Gordon make reference to private neighbour agreements with respect to future development of the Donaldson land. Private agreements are not uncommon between neighbouring landowners. They can range from general all encompassing non-objection agreements to more specific forms, such as appears to be the case for the Donaldson land. It is submitted however that such private agreements have not undergone the scrutiny of the RMA process, and do not represent the most appropriate zoning outcome.

¹⁶ At paragraph 9.1

[35] Mr Langman, commenting on the evidence of Jeff Brown for Donaldson¹⁷, discussed Mr Brown's proposed rule 27.7.X¹⁸, and observes such a rule, proposing no more than 15 lots with a minimum lot size of 2500m², is not supported by evidence, nor a section 32AA evaluation. Ms Taylor shares the same concerns.

Further submitters

[36] Mr Blakely comments on the evidence of Ms Hadley, generally agreeing with some of her comment/observations. Where their opinions depart is the extent of residential development along the Speargrass Flat LCU.

[37] Mr Blakely maintains his opinion that there is the merit in a landscape solution that allows limited development on the meadows, noting that development is carefully planned and confined to nodes of development so that it will not appear as a continuation of the existing style of rural residential development on the south side of Speargrass Flat Road.

[38] While Ms Hadley (Lucas) is a qualified landscape architect, and her evidence lodged in advance, as if it were expert evidence, it does not contain the standard expert witness Code of Conduct clause. It is assumed that the evidence does not therefore purport to be objective expert evidence. Counsel also notes that Ms Hadley lives in one of the properties described in paragraph 1 of her evidence. Accordingly, her evidence is from a neighbouring owner potentially affected by the rezoning sought. Her evidence cannot therefore be afforded the weight normally afforded to objective expert landscape evidence.

Witnesses

[39] The Submitter will call the following expert evidence:

[1] Philip Blakely – Landscape

¹⁷ Submitter 2229

¹⁸ Langman paragraph 8.1

- [2] Anthony Steel – Servicing
- [3] G Salt – Geotech and Hazards
- [4] Louise Taylor - Planning

Jayne Elizabeth Macdonald
Counsel for X-Ray Trust Limited and Avenue Trust

APPENDIX K

Consent Order: RM100375 (ENV-2010-CHCH-272)

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under section 120 of the Act

BETWEEN R L DONALDSON

(ENV-2011-CHC-1)

AYRBURN FARM ESTATES LIMITED

(ENV-2010-CHC-272)

Appellants

AND

QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Environment Judge J R Jackson sitting alone pursuant to section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

[A] Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) appeal ENV-2010-CHC-272 is allowed subject to the conditions of consent attached as Appendix A and forming part of this order;
- (2) the appeals are otherwise dismissed.



[B] The Court records that appeal ENV-2011-CHC-1 is withdrawn.

[C] Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] On 17 December 2010 Ayrburn Estates Limited, the applicant, lodged an appeal against various conditions attached to a decision of the Queenstown Lakes District Council regarding subdivision consent RM100375 to subdivide land into three residential lots. On 24 December R L Donaldson lodged an appeal against the whole decision.

[2] Court assisted mediation and ongoing private talks between the parties to both appeals resulted in consent being reached and the withdrawal of Mr Donaldson's appeal (ENV-2011-CHC-1).

[3] The court has now read and considered the consent memorandum of the parties dated 8 May 2012 which proposes to resolve the appeal.

Other relevant matters

[4] Jan Andersson, Millbrook Country Club Limited and R L Donaldson, in addition to having his own appeal, had given notice of an intention to become a party under section 274 of the Resource Management Act 1991 ("the RMA" or "the Act"). They have subsequently withdrawn their notices.

Orders

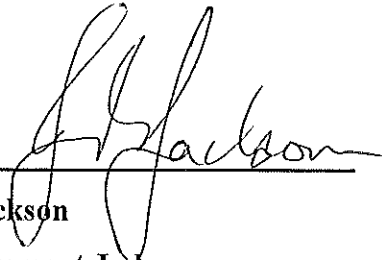
[5] The court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;



(b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Christchurch 12 June 2012



J R Jackson
Environment Judge



Issued: 12 JUN 2012

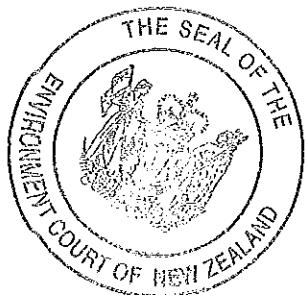
"A"

Subdivision Consent

CONSENT IS HEREBY GRANTED pursuant to Sections 104 and 104B of the Resource Management Act 1991 to subdivide Lots 3-4 Deposited Plan 343305, held in Computer Freehold Register 177645, Lot 5 Deposited Plan 343305, held in Computer Freehold Register 177646, and Lot 4 Deposited Plan 319854 and Part Lot 3 Deposited Plan 5737 held in Computer Freehold Register 78212 and to locate residential building platforms on proposed new lots 1, 2 and 3 **SUBJECT TO** the following conditions of consent imposed pursuant to Sections 108 and 220 of the Act.

General Subdivision Conditions

1. That the activity be undertaken in accordance with the Subdivision Plan Sheets 1-2 (prepared by Bonisch Consultants dated 26 August 2011), the Baxter Design Group Landscape Management Plans 8569-102 (Rev I 11 November 2011) and 8569-101 Lot Layout ("Landscape Management Plans") and the application as submitted with the exception of the amendments required by the following conditions of consent.
2. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the certificates of title for each of Lots 1, 2, 3 and 101 for the performance of the following conditions on a continuing basis.
 - (a) Any development on Lots 1, 2 or 3 shall be undertaken in accordance with the Landscape Management Plan stamped as approved in accordance with condition 1 of this consent, provided that the bund to be established on Lot 3, to the north of the Lot 3 building platform need not be completed until such time as the construction of a dwelling on Lot 3 is completed.
 - (b) That any residential dwelling or accessory building erected on Lots 1, 2 or 3 shall be located within the approved building platforms identified on each title in accordance with Condition 4(b).
 - (c) No further subdivision of Lots 1, 2, 3 or 101 shall occur and no buildings or structures other than farm buildings or farm structures as currently defined in the District Plan shall be located on any of Lots 1, 2, 3 or 101 elsewhere than within the curtilage area of Lots 1 and 2 shown as "Area



for farm utility buildings on lot 1 and 2 only" on the Landscape Management Plans.

3. In accordance with section 221 of the Resource Management Act 1991, a consent notice and covenant shall be prepared by Council's solicitor at the consent holder's expense and shall be registered on the certificates of title for each of Lot 1, 2, 3 and 101 to ensure fulfilment of Condition 2. The covenant parties shall be the Queenstown Lakes District Council and each lot owner.
4. Prior to the Council certifying the survey plan pursuant to section 223 of the Resource Management Act 1991 the consent holder shall ensure that:
 - (a) All necessary easements for provision of services shall be duly granted and reserved by inclusion of those easements in a Memorandum of Easements.
 - (b) The approved building platforms within Lots 1, 2 and 3 shall be surveyed and shown on the Survey Plan.
 - (c) The following amalgamation condition (or similar alternative wording to the satisfaction of LINZ) shall be shown on the face of the Survey Plan:
 - i. That Lots 1 and Lot 101 hereon be held in the same title as recorded on the District Land Registry computer register.

Landscape Management Plans

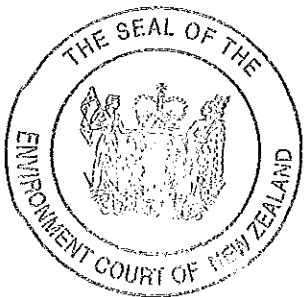
5. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the Certificates of Title for Lots 1, 2, 3 and 101 for the performance of the following conditions on a continuing basis:
 - (a) The site shall be managed in accordance with the Baxter Design Group Landscape Management Plans (8569-102 (Rev 1 11 Nov 2011) and 8569-101 Lot Layout) , and in particular the "use areas" shown on the Landscape Management Plans shall be managed as follows:
 - i. The **Meadow Area** shall be a pastoral protection zone to be maintained by grazing or grass production for baleage, mowing or



cropping. No further planting shall be undertaken within these areas except for agricultural crops and grass sowing as part of pasture management. On Lots 1 and 2 no buildings or other structures shall be erected in these areas, other than farm buildings or farm structures. On Lot 3 no buildings shall be erected in this area.

- ii The **Hillside Area** and **Plateau Area** shall be managed and maintained by way of grazing and weed control only. No further planting except for grass sowing as part of pasture management is permitted in these areas. No buildings or other structures shall be erected in these areas
- iii The **Homestead Areas** - Planting within the Homestead Areas shall be undertaken only in accordance with the following approved species list:
 1. *Alnus sp.* (Alder – deciduous and evergreen)
 2. *Betula utilis 'Jacquemontii'* (Sweet Birch / Himalyan Birch - deciduous)
 3. *Fagus (Deciduous Beech)*
 4. *Fraxinus sp.* (Ash - deciduous)
 5. *Juglans sp.* (Walnut - deciduous)
 6. *Nothofagus* (NZ Beech – evergreen)
 7. *Quercus sp.* (Oak – deciduous)
 8. *Ulmus* (Elm – deciduous)
 9. Fruit and nut trees.

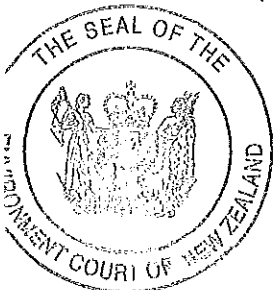
No buildings or other structures shall be erected in these areas.
- iv **Curtilage Areas**. These allow for garden development including tree and amenity planting, small structures and sculptures that do not require resource consent. Farm buildings may be erected on "Area for farm utility buildings on Lot 1 & 2 only" shown on the Landscape Plan 8569-101 in these areas.
- v **Pond Areas** are provided for each Lot and stock access shall be excluded. No building or other structures shall be erected in these areas.
- vi **Utility Area**. This area contains existing farm buildings and structures. No building or structure shall be erected in this area, other than farm buildings.
- vii **Planting Areas** shall be fenced and maintained with weed control.



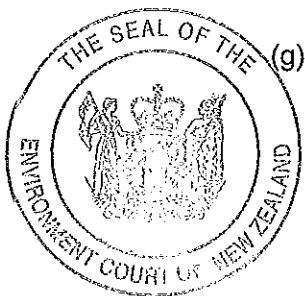
- (a) Existing tree planting shown on the Landscape Management Plan shall be retained. Trees shall be physically protected from grazing animals if required. Trees are defined as being woody plants with one main trunk and a mature height of 5 metres or more. Areas of indigenous vegetation shall be retained.
 - (b) As a minimum, the Planting Areas (both existing and proposed) are to be maintained, and if any plant or tree should die or become diseased it shall be replaced with either the same species or a similar species with similar size and form.
 - (c) The planting shall thereafter be maintained by the owner/(s) of that lot to the satisfaction of the consent authority for as long as a dwelling remains on the Lot in question.
 - (d) No building or other structure shall be erected in these areas.
6. In accordance with section 221 of the Resource Management Act 1991, a consent notice and covenant shall be prepared by the Council's solicitor at the consent holder's expense and shall be registered on the certificates of title for each of Lots 1, 2, 3 and 101 to ensure fulfilment of Condition 5. The covenant parties shall be Queenstown Lakes District Council and each lot owner.

Design Controls

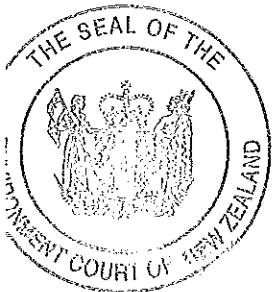
7. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the certificates of title for each of Lots 1, 2, and 3 for the performance of the following conditions on a continuing basis:
- (a) All residential dwellings and accessory buildings on Lots 1, 2 and 3 shall be contained within the identified residential building platforms on each Lot.
 - (b) All residential dwellings and accessory buildings shall be designed such that the following design controls shall be achieved:
 - i On Lot 1, no part of any residential dwelling or accessory building shall be higher than 6.5 metres above natural ground level. A



- building with a mono-pitched roof shall be limited to a maximum height of 5.5m in height above natural ground level.
- ii On Lot 2, no part of any residential dwelling or accessory building shall be higher than 6.5 metres above natural ground level. No building shall be located within a recession plane along the southern boundary of the Lot 2 Building Platform, beginning from 4m above 444.8 metres above sea level on the southern boundary and receding to the north at a maximum of 35 degrees from horizontal.
 - iii On Lot 3, no part of any residential dwelling or accessory building shall be higher than 5.5m above a datum of 428.5 metres above sea level. The finished floor level shall be no lower than the 428 m.a.s.l. datum except that a cellar or other basement room may be constructed where it is entirely hidden below the ground.
 - iv The exterior and roofs of buildings within the Building Platforms on Lot 1, 2 and 3 shall be finished in recessive colours, and have a reflectance value of no greater than 36%
- (c) All domestic activities associated with residential use (such as garden planting, paving, clothes lines, outdoor furniture and play equipment) shall be confined to the marked curtilage areas.
 - (d) All fencing shall be restricted to post and wire fencing only (including deer fencing). Alternative fencing (such as for courtyards) may be located within the curtilage area, and be no further than 25m from the building platform.
 - (e) The entry gates from Speargrass Flat Road to each lot may be constructed in stone and / or timber, or post and wire fencing. Entry gates and structures shall be designed to fit in with the rural setting, and shall not be over 1.2m in height, and shall not exceed 2m in length either side of the entranceway.
 - (f) All pipelines, cables and water tanks shall be located underground.
 - (g) There shall be no fixed driveway or road lighting; landscape lighting is permitted within 10 metres of the dwelling only and shall be directed downwards towards the dwelling.



- (h) One driveway shall be formed and or upgraded (where required) and maintained for residential use from Speargrass Flat Road to each building platform, as depicted on the Landscape Management Plan.
- (i) The driveways shall generally be constructed in gravel without a kerb or channel, except that the steep lengths of the Lot 2 and Lot 3 driveways where the gradient exceeds 1 in 6, as shown in the engineering plans (Appendix 1 of Hadley Consultants Ltd Report "Feasibility of Utility Services and Infrastructure", July 2010 filed with the application and amended at Attachment A of the Statement of Evidence of JWP Hadley to the resource consent hearing) may be constructed in chip seal. Driveways may be sealed in asphalt or chip seal within the Homestead Areas.
- (j) No additional access points shall be created onto Speargrass Flat Road other than the two existing and one proposed to service Lots 1, 2 and 3.
- (k) All residential traffic shall use the driveways shown on the Landscape Management Plan only. Any other existing tracks on the site shall be used for farming purposes only.
- (l) The area around the building platform on Lot 3 shall be reshaped where shown on Landscape Management Plan 8569-102 Revision 1 (dated 11 November 2011) as shown on the detail plan Hadley Consultants Ltd Drawing No. 102021-21 Issue G, titled "Lot 3 Earthworks including roading re-alignment", including the construction of an earth bund to the north of the Lot 3 building platform as shown. Any trees within the earthworks area shall be replanted or replaced after the completion of earthworks. For the avoidance of doubt, these earthworks need not be completed until such time as a dwelling on Lot 3 is constructed, and is not required to be completed prior to the issued of a certificate in terms of section 224 of the Resource Management Act 1991.
- (m) The knoll located immediately to the west of the curtilage area on Lot 2 shall not be lowered below the existing datum being 448.9 metres above sea level.

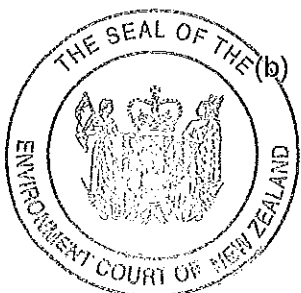


8. In accordance with section 221 of the Resource Management Act 1991, a consent notice and covenant shall be prepared by Council's solicitor at the consent holder's expense and shall be registered on the Certificates of Title for each of Lots 1, 2 and 3 for the performance of Condition 7.

Engineering Conditions

9. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.
10. The subdividing owner of the land shall provide a letter to the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS 4404:2004 "Land Development and Subdivision Engineering" in relation to this development.
11. Prior to the commencement of any works on Lot 1, 2, 3 or 101 the consent holder shall provide to the Queenstown Lakes District Council for review and approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition 9, to detail the following engineering works required:
- (a) The provision of separate potable and irrigation water supply to the building platforms on Lots 1-3 in accordance with Council's standards referred to in Condition 9 above and the Hadley Consultants Ltd *Feasibility of Utility Services & Infrastructure* report, dated July 2010. Each lot shall be supplied with a minimum of 2,100 litres per day of potable water that complies with the requirements of the Drinking Water Standard for New Zealand 2005. Flow meters shall be installed on each building platform lateral (potable and irrigation) to provide water management control.

(b) The provision of a sealed vehicle crossings to Lots 1-3 from Speargrass Flat Road to be in terms of Diagram 2, Appendix 7 of the District Plan. These shall be trafficable in all weathers and be capable of withstanding



an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Provision shall be made to continue any roadside drainage.

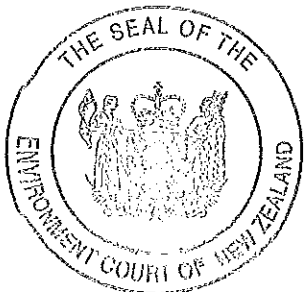
(c) The formation of Driveways 1-3, in accordance with the guidelines provided for in Council's development standard, NZS 4404:2004, with amendments as adopted by the Council in October 2005. The driveways shall meet the following requirements:

- (i) The driveways shall have a formed metal carriageway width of no less than 3.5 metres, unless otherwise approved by Council. Provision shall be made for curve widening on bends to allow safe manoeuvring for anticipated vehicle types including fire appliances. The design speed and horizontal curve radius shall be used to determine the amount of curve widening (if any) required.
- (ii) The minimum standard for carriageway formation shall be a single granular layer consisting of a minimum compacted depth of 150mm AP40 metal.
- (iii) The carriageway shall have a minimum cross-fall of 4% to prevent stormwater ponding on the carriageway surface.
- (iv) Drainage swales shall be provided for stormwater disposal from the carriageway. The invert of the water channel shall be at least 100mm below the lowest portion of the sub-grade.
- (v) A stormwater collection system as designed by a suitably qualified professional will be required at the road reserve boundary to avoid stormwater run-off and debris migration onto Speargrass Flat Road in accordance with Clause 3.3.17 of NZS 4404:2004.
- (vi) Driveway widening by way of a trafficable water table detail and a pinned wheel stop, or similar where required, on the outer edge of the road formation shall be installed to achieve a minimum safe trafficable width of 4.0m on the steep and/or curved sections of the accesses.
- (vii) The gradient of the driveways shall not exceed 1 in 5. Where the gradient exceeds 1 in 6, the carriageway shall be sealed with non-slip surfacing such as chipseal.

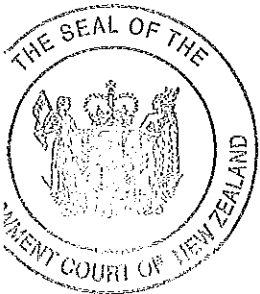


Note: Driveway alignments shall be generally as indicated on the Baxter Design Group Landscape Management Plan 8569-102 Revision I (dated 11 November 2011).

- (d) The provision of secondary flow paths to contain overland flows in a 1 in 100 year event so that there is no inundation of any buildable areas on Lots 1-3, and no increase in runoff onto land beyond the site from the pre-development situation.
12. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- (a) The submission of "as-built" plans in accordance with Council's as-built standard and information required to detail all engineering works completed in relation to or in association with this subdivision.
 - (b) The completion and implementation of all works detailed in Condition 11 above.
 - (c) Any earthworks required for the provision of access, servicing and landscaping for the lots/building platforms within this subdivision shall be carried out in accordance with the conditions of the *Land Use Consent: Earthworks*, as outlined above.
 - (d) The consent holder shall submit to Council chemical and bacterial tests of the water supply, together with details of any treatment required to achieve potability, in accordance with the Drinking Water Standards for New Zealand 2005. The chemical test results shall be no more than five years old, and the bacterial test results no more than three months old, at the time of submitting the test results.
 - (e) The consent holder shall provide evidence to the satisfaction of Council as to how the water supply will be monitored and maintained on an ongoing basis.



- (f) The consent holder shall obtain any necessary consents from the Otago Regional Council for the water supply. A copy of any such consent shall be forwarded to Council.
- (g) Each of Lots 1, 2 and 3 shall be provided with a minimum electricity supply of single phase 15kVA capacity. This supply shall be made available to the building platform and shall be underground from any existing reticulation.
- (h) The consent holder shall provide a suitable and usable telecommunications connection to each lot. These connections shall be underground from any existing reticulation and in accordance with any requirements/standards of Telecom.
- (i) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- (j) A suitably qualified geotechnical professional shall provide a completed Schedule 2A as found on page 40 in NZS 4404:2004 that shall provide the Council assurance that the proposed building platforms are suitable for residential building development. In the event that the site conditions within the building platforms are found only to be suitable for residential building development subject to certain mitigation measures and/or remedial works being carried out, then a suitably qualified and experienced professional shall submit to the Council for review and approval full details of such works. The consent holder shall be responsible for implementing all necessary mitigation measures and/or remedial works required to prepare the building platform for residential development, unless otherwise approved by Council.
- (k) Where specific foundation design or other specific engineering works are required prior to residential building construction taking place within the approved building platforms and where these works cannot be carried out until the building design/construction stage then, subject to the approval of Council, a consent notice shall be registered on the relevant Computer Freehold Registers for the lots advising future lot owners of these requirements.



13. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the Certificate of Title for each of Lots 1, 2 and 3 for the performance of the following conditions on a continuing basis:

- (a) At the time a dwelling is erected, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.4 of NZS 4404:2004 to design an effluent disposal system in terms of AS/NZS 1547:2000 that will provide sufficient treatment/renovation to effluent from on-site disposal, prior to discharge to land. To maintain high effluent quality such a system will require the following:
- Specific design by a suitably qualified professional engineer.
 - Secondary treatment of effluent.
 - Regular maintenance in accordance with the recommendations of the system designer and a commitment by the owner of each system to undertake this maintenance.
 - Intermittent effluent quality checks to ensure compliance with the system designer's specification.
 - Disposal areas shall be located such that maximum separation (in all instances greater than 50 metres) is obtained from any watercourse, water supply bore or irrigation race.
 - The lot owner shall obtain any necessary consents from the Otago Regional Council for disposal of wastewater within the Lake Hayes catchment.
- (b) Any dwelling constructed on the lot shall be fitted with an approved domestic sprinkler system prior to occupation in accordance with NZS 4517:2010.
- (c) At the time a dwelling is erected on the lot, domestic water and fire fighting storage is to be provided. The system shall be set up to ensure that a minimum of 7,000 litres shall be maintained at all times as a static fire fighting reserve within a 20,000 litre tank. A fire fighting connection in accordance with Appendix B - SNZ PAS 4509:2008 is to be located not more than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is

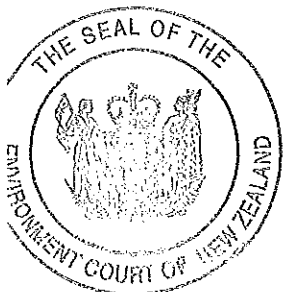


less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

The Fire Service connection point/coupling must be located so that it is not compromised in the event of a fire. The connection point/coupling shall also be located and/or clearly marked so that it is readily visible from the vehicle access.

The connection point/coupling for the water storage tank shall have a hardstand area adjacent to it that is suitable for parking a fire service appliance. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres. With the exception of the culvert bridge located on Lot 2, pavements or roadways providing access to the hardstand area must have a minimum formed width as required by QLDC's standards for rural roads (as per NZS 4404:2004 with amendments adopted by QLDC in 2005). The roadway shall be trafficable in all weathers and be capable of withstanding an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Access shall be maintained at all times to the hardstand area.

Underground tanks or tanks that are partially buried (provided the top of the tank is no more than 1 metre above ground) may be accessed by an opening in the top of the tank whereby couplings are not required. A hardstand area adjacent to the tank is required in order to allow a fire service appliance to park on it and access to the hardstand area must be provided as above.



Fire fighting water supply may be provided by means other than the above if the written approval of the New Zealand Fire Service is obtained for the proposed method.

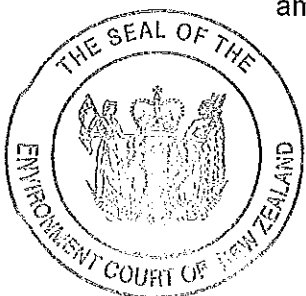
The fire fighting water supply tank and/or the sprinkler system shall be installed prior to the occupation of the building.

Note: The fire fighting static storage shall be contained within the water storage tank that is part of the potable water supply system. The irrigation supply will be reticulated separately for irrigation use only and will be supplied to the building platform at operating pressure so no irrigation storage tank at the building platform locations will be required.

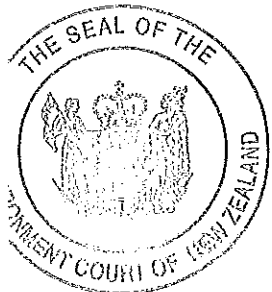
- (d) The owners for the time being of Lots 1 – 3 shall be jointly responsible for the ongoing management and maintenance of the communal water supply. The drinking water supply is to be monitored in compliance with the Drinking Water Standard for New Zealand 2005, by the management group for the lots, and the results forwarded to the Queenstown Lakes District Council. The Ministry of Health shall approve the laboratory carrying out the analysis. Should the water not meet the requirements of the Standard then the management group for the lots shall be responsible for the provision of water treatment to ensure that the Drinking Water Standards for New Zealand 2005 are met or exceeded.
- (e) At the time a dwelling is erected on the lot, a suitably qualified professional as defined in Section 1.4 of NZS4404:2004 shall design the foundations, drainage, and any required earthworks and retaining structures associated with the dwelling.

Advice Note:

1. Development contributions may be required for this subdivision. Council's Development Contribution Officer will advise of any required contribution amounts in due course.



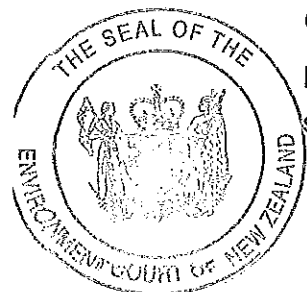
2. Notwithstanding the references to farm buildings in various areas referred to in the Landscape Management Plans, this consent is not a resource consent for such buildings.



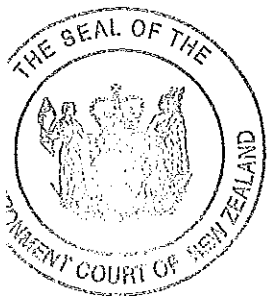
Land Use Consent – Earthworks

CONSENT IS HEREBY GRANTED pursuant to Sections 104 and 104B of the Resource Management Act 1991 for approximately 17,980m³ of earthworks over an area of 22,780m² to allow for the formation of accessways, the provision of services, and earthworks in and around the building platform on Lot 3 **SUBJECT TO** the following conditions imposed pursuant to Section 108 of the Act.

1. The activity be undertaken in accordance with the application as submitted except that the drawing; *Lot 3 Earthworks Including Roading Re-Alignment* drawn by Hadley Consultants Ltd issue G revised 24.08.11 is to be given effect to as opposed to earlier versions of this drawing.
2. Prior to commencing any work on the site the consent holder shall install a vehicle crossing, which all construction traffic shall use to enter and exit the site. The minimum standard for this crossing shall be a minimum compacted depth of 150mm AP40 metal that extends 10m into the site. This crossing shall be upgraded in accordance with Council's standards at the time the dwelling is constructed on the site.
3. The consent holder shall submit to Council for review and approval a site management plan for the works. The site management plan shall detail measures to be implemented to control and/or mitigate any dust, silt run-off and sedimentation that may occur to ensure that neighbouring land, the Arrow Irrigation Race and any other adjacent water bodies are not affected. These measures shall be implemented prior to the commencement of any earthworks on site and shall remain in place for the duration of the project until all earthworked/exposed areas have been permanently stabilised.
4. The consent holder shall provide Council with the name of a suitably qualified professional as defined in Section 1.4 of NZS 4404:2004 who shall supervise the excavation and filling procedure for construction of Driveways 1-3. Should the site conditions be found unsuitable for the proposed excavation/construction methods, then a suitably qualified and experienced engineer shall submit to the Council new designs/work methodologies for construction of the access roads prior to further work being undertaken with the exception of work to stabilise the site in the interim.



5. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads. The loading and stockpiling of earth and other materials shall be confined to the subject site.
6. Accidental Discovery Protocol - If the consent holder:
- (a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
- (i) notify Council, Tangata whenua and New Zealand Historic Places Trust and in the case of skeletal remains, the New Zealand Police;
- (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by the New Zealand Historic Places Trust and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required. Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, the New Zealand Historic Places Trust, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.
- (b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
- (i) stop work within the immediate vicinity of the discovery or disturbance and;
- (ii) advise Council, the New Zealand Historic Places Trust and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the Historic Places Act 1993 and;
- (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.



Site work may only recommence following consultation with Council.

7. On the completion of the earthworks a suitably qualified and experienced engineer shall provide certification for the following:
 - (a) Where Accessways 1-3 have been constructed on fill, certification shall be provided to confirm long-term stability of these driveway fill areas under the anticipated vehicle loadings.
 - (b) Certification shall be provided in relation to the long-term stability of any self-supporting cut batter slopes exceeding 1 in 1.5 or fill batter slopes exceeding 1 in 2.
 - (c) Any areas of fill within the building platforms shall be certified in accordance with NZS 4431:1989.

8. On completion of the earthworks, the consent holder shall complete the following:
 - (a) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
 - (b) All earthworked/exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised within 6 weeks.
 - (c) Where the earthworks for Accessways 1-3 have resulted in batter slopes which drop away to a height exceeding 1m at an angle of greater than 45° within 2m of the edge of the carriageway, edge demarcation and/or protection shall be provided to ensure vehicular safety. The level of protection shall be assessed and designed by a suitably qualified engineer as part of the overall access design and approved by Council prior to installation. A PS4 producer statement shall be provided to Council following construction.

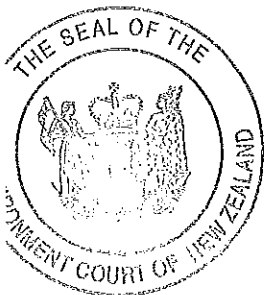


Land Use Consent – Bridge

CONSENT IS HEREBY GRANTED to replace an existing culvert within Lot 2 over the Arrow Irrigation Race with a bridge **SUBJECT TO** the following conditions imposed pursuant to Section 108 of the Act.

1. That the activity be undertaken in accordance with the application.

2. A Producer Statement shall be provided for the design and construction of the culvert bridge providing access over the Arrow Irrigation Race for Lot 2, confirming that it is suitable and useable for residential traffic use. Any necessary works (such as trimming of bollards) to ensure that a fire appliance is able to safely traverse the culvert shall be completed.





Telephone 03 218 2546 Facsimile 03 214 2285
 Freephone 0800 802 646
 19 The Crucible, P.O. Box 1262
 Invercargill 9910, New Zealand
 Email admin@bonischconsultants.co.nz
 Web www.bonischconsultants.co.nz

LAND DISTRICT: SOUTHLAND
 Comprised in: CFRs: 78212, 177645 & 177646

Total CFR Area: 131,224.9ha (more or less)
 Local Authority: Queenstown Lakes District Council

NOTES:

- All areas and dimensions are subject to final survey.
- New Electricity, Telecommunication & Water Supply Esserments to be created as necessary, based on the asbuilt positions of the services.

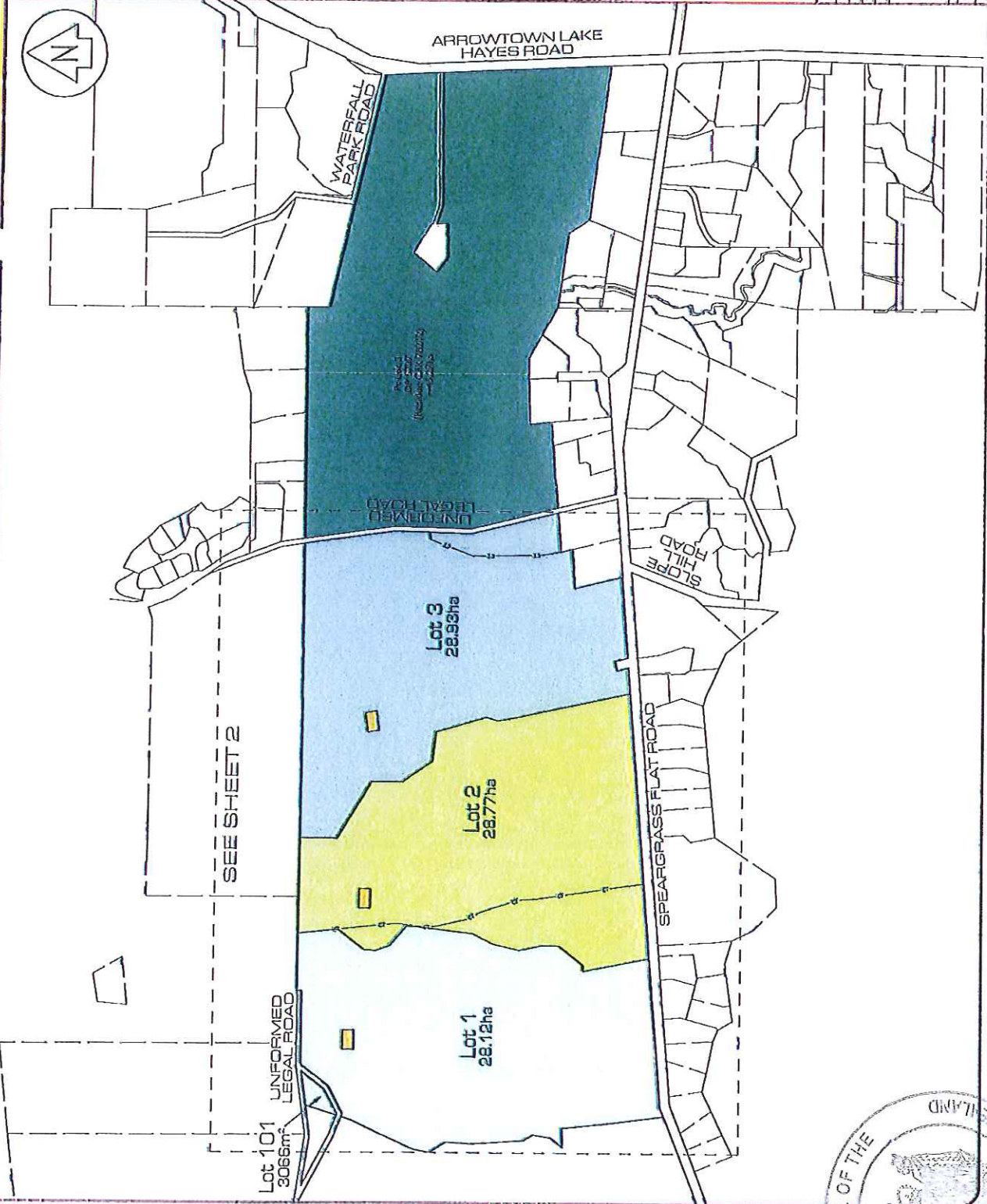
AMALGAMATION CONDITION:

That Lot 1 & Lot 101 hereon be held in the same Computer Freehold Register.

SHEET 1 OF 2

LOTS 1 - 3 & 101 BEING A
 PROPOSED SUBDIVISION OF
 LOTS 3 - 5 DP 848305
 & LOT 4 DP 819854

CLIENT:	Ayrburn Farm Estate Ltd
DATE:	20 August 2011
SURVEYED:	B. Shaw
DEPART:	52263PT2
JOB NUMBER:	52263PT2
REVISION NUMBER:	
c: Survey Platform of Lot 2 moved 4m North	
DATE:	20 August 2011
SCALE:	1:7.5 XREF @ A3





LAND DISTRICT: SOUTHLAND
 Comprised in: CFR's 78212, 177645 & 177646
 Total CFR Area: 131,2249ha (more or less)
 Local Authority: Queenstown Lakes District Council

NOTES:
 • All areas and dimensions are subject to final survey.
 • New Electricity, Telecommunication & Water Supply Easements to be created as necessary, based on the asbuilt positions of the services.

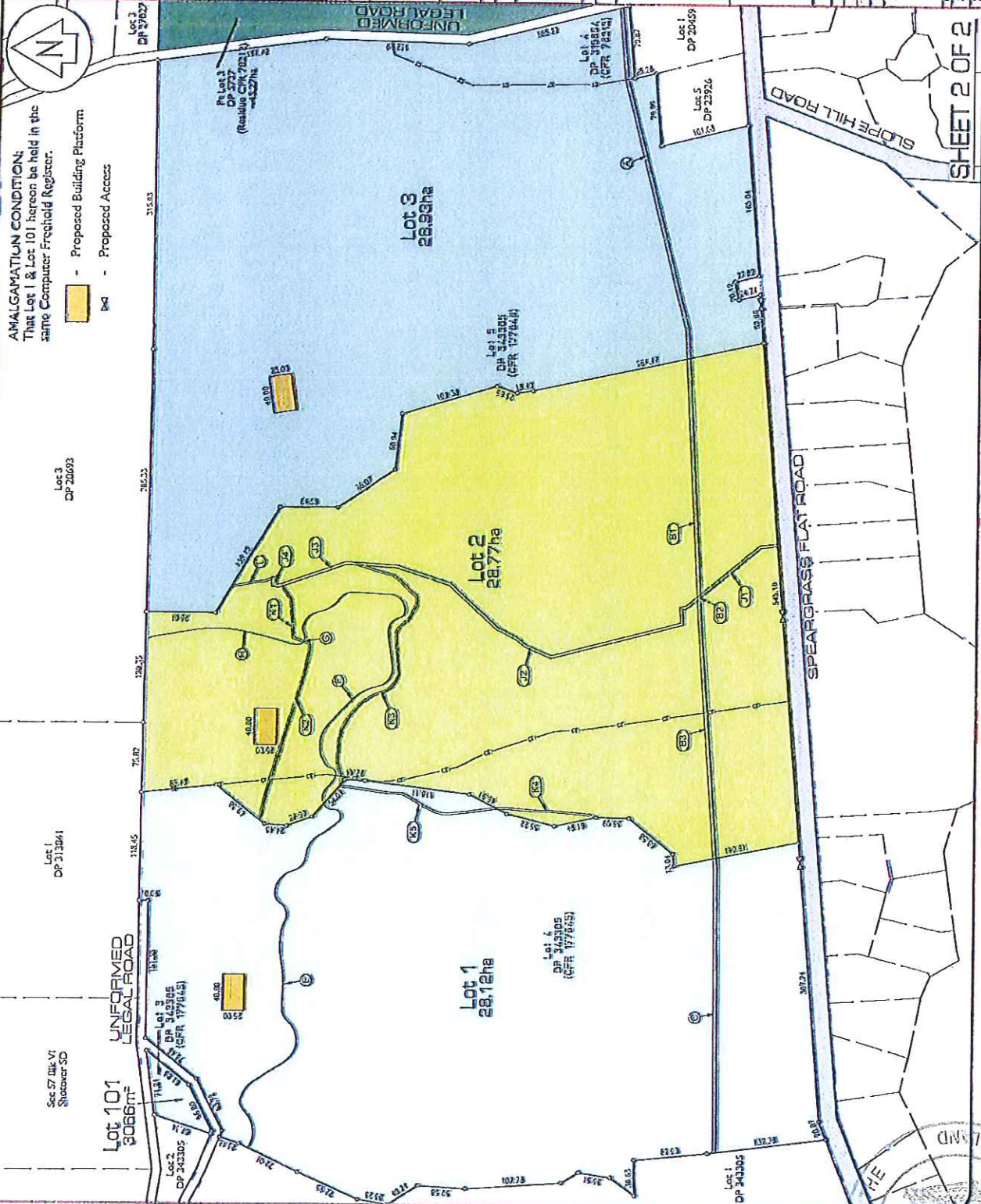
EXISTING EASEMENTS		Shown	Servient Tenement	Created By
Purpose	Right to draw & convey Water	(E1)	Lot 3	756039884
Purpose	Right to convey Water	(E2)	Lot 1	7565749

EXISTING EASEMENTS IN GROSS		Shown	Servient Tenement	Grantee
Purpose	Right to convey Electricity	(E3)	Lot 2	Aurora Energy Ltd
Purpose	Right to convey Water	(E4)	Lot 2	Aurora Energy Ltd

MEMORANDUM OF EASEMENTS		Shown	Servient Tenement	Dominant Tenement
Purpose	Right to convey Water	(E5)	Lot 2	Lot 1 & 3
Purpose	Right to convey Water	(E6)	Lot 2	Lot 1
Purpose	Right to convey Water	(E7)	Lot 2	Lot 3
Purpose	Right to convey Water	(E8)	Lot 2	Lot 1

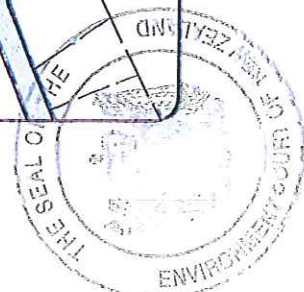
CLIENT: Ayrault Farm Estate Ltd
 DATE: 20 August 2011
 SURVEYED: B. Sayer
 DRAWN: B. Sayer
 JOB NUMBER: 52014316
 REVISION NUMBER: 1
 (Building Platform on Lot 2 moved 4m North)

SCALE: 1:4000 @ A3
 SHEET 2 OF 2



AMALGAMATION CONDITIONS:
 That Lot 1 & Lot 101 hereon be held in the same Computer Freehold Register.

Proposed Building Platform
 Proposed Access

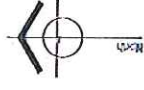


REVISIONS

No.	Date	Description
1	11 Feb 2011	Final Design
2	11 Feb 2011	Final Design
3	11 Feb 2011	Final Design
4	11 Feb 2011	Final Design
5	11 Feb 2011	Final Design
6	11 Feb 2011	Final Design
7	11 Feb 2011	Final Design
8	11 Feb 2011	Final Design
9	11 Feb 2011	Final Design
10	11 Feb 2011	Final Design

DO NOT SCALE DRAWING
CONTACT US FOR ALL QUOTATIONS
WWW.DOXTERDESIGN.CO.NZ

Drawn By	Checked By	Date
[Redacted]	[Redacted]	11 Feb 2011
[Redacted]	[Redacted]	11 Feb 2011



Proposed Lots

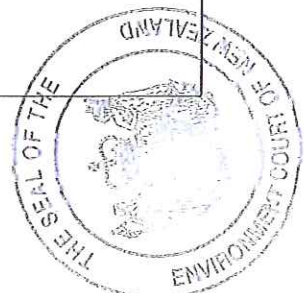
Area	Lot 1+ 101	Lot 2	Lot 3
Area	28.12ha	28.77ha	28.93ha
Lot	+3006m ²		
Homestead	1.87ha	1.14ha	1.72ha
Platform	1.44ha	1.14ha	0.78ha
Platform	1000m ²	1000m ²	1000m ²

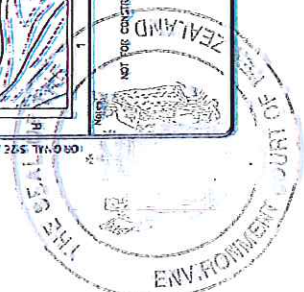
Key

- Existing boundary
- Proposed boundaries
- Fence line
- Existing mature trees
- New 2010 tree planting within planting areas
- Pend. Areas to exclude stock
- Building platform
- Cartilage area
- As built driveways
- Proposed driveways
- Existing water race
- Existing buildings

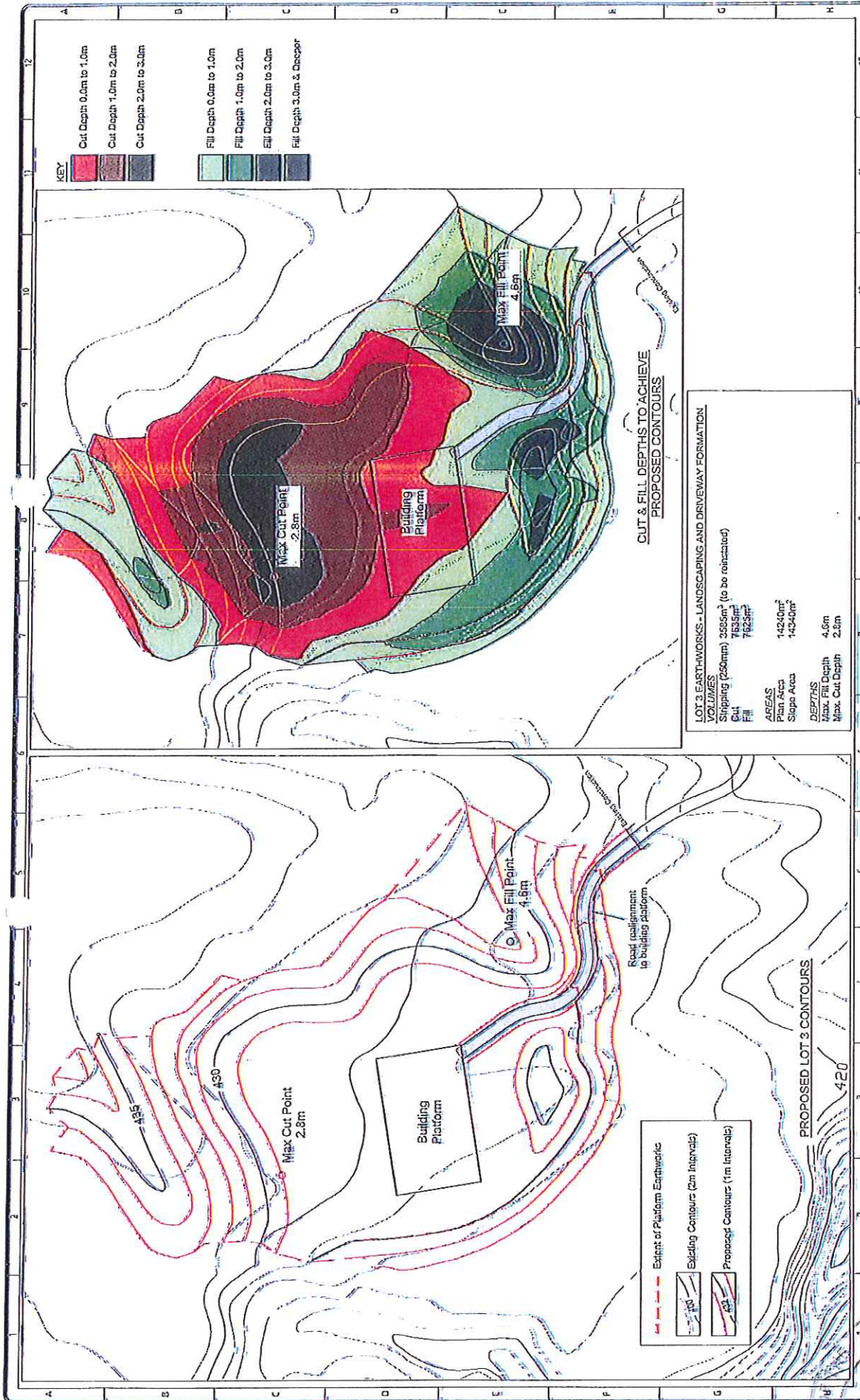
Management Zones

- A MCDOM AREA**: Produce Protection Zone to be maintained by grazing, grass production, mowing and cropping.
- B HELDER AREA**: Maintenance of existing grassland and water for use by grazing and wild faunal.
- C PLANTING AREA**: Produce Protection Zone to be maintained by grazing and fencing only.
- D HOMESTEAD AREAS**: Allowance for stock standing from the agreement etc.
- E ROUND AREAS**: Areas to exclude stock.
- UTILITY AREA**: Area including existing buildings.
- PLANTING AREAS**: Fenced areas established with water control. Fencing completed 2010.





DO NOT SCALE, REFER ALL DIMENSIONS TO THE ENGINEER



AYRURN FARM ESTATE		AYRURN FARM 100 ACRE SITES SUBDIVISION		LOT 3 EARTHWORKS INCLUDING ROADING RE-ALIGNMENT	
Client:	AYRURN FARM ESTATE	Project:	AYRURN FARM 100 ACRE SITES SUBDIVISION	Drawn:	JGR
Drawn:	JGR	Checked:	WO	Scale:	1:1000
Senior:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1
Rev:	02.015.10	Job:	100221	Priority:	0 A1



Project:	AYRURN FARM 100 ACRE SITES SUBDIVISION
Drawn:	JGR
Checked:	WO
Scale:	1:1000
Priority:	0 A1
Rev:	02.015.10
Job:	100221
Priority:	0 A1
Rev:	02.015.10
Job:	100221
Priority:	0 A1
Rev:	02.015.10
Job:	100221
Priority:	0 A1

NOT FOR CONSTRUCTION

