



## Report

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**TO:** Hearings Panel

**FROM:** Craig Barr, Consultant Planner

**DATE:** 22 January 2024

**SUBJECT:** **RESOURCE CONSENT APPLICATION RM2893**  
**TOKO DEVELOPMENT LIMITED**  
**COOMBE HAY LANE, TOKO MOUTH**

<b>Application:</b>	<p>Application under Section 88 of the Resource Management Act 1991 (RMA) for a subdivision and residential activity within the Coastal Resource Area of the Clutha District Plan.</p> <p>The subdivision will create 18 lots for residential activity ranging in size between 1600m<sup>2</sup> and 1.1ha within the Coastal Resource Area, while the balance lot (Lot 19) will be 21.8ha and located partially within the Coastal Resource Area and Rural Resource Area. Lot 19 will retain an existing dwelling and farming activity.</p> <p>The subdivision will create a new road to vest, including the redevelopment of the existing Coombe Hay Lane right of way and vesting as road.</p>
<b>Legal Description:</b>	Lot 9 DP 516455 and Lot 3 DP 512557
<b>Zoning:</b>	Coastal Resource Area
<b>Activity Status:</b>	Discretionary

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### INTRODUCTION

- [1] This report has been prepared in accordance with section 42A of the Resource Management Act 1991 (RMA) to provide a framework and recommendations for the Hearings Panel's consideration of the application. The Hearings Panel are not bound by any comments or the recommendations made within the report.
- [2] My name is Craig Alan Barr. I am a planning consultant contracted to the Clutha District Council. I hold the qualifications of Master of Planning and a Bachelor of Science from the University of Otago, and I have been a full member of the New Zealand Planning Institute since 2014.
- [3] I have been employed in planning and development roles since 2006 for both local authorities as well as in private practice. I am based in the Central Otago area, but I am familiar with the South Otago area, and local and regional planning in the Central Otago, Queenstown Lakes, Clutha districts and the Otago region. I have presented evidence on rural resource issues including landscape, productive land, urban development and infrastructure issues on resource consents, district plan and regional policy statement

reviews and plan changes at both Council level hearings and the Environment Court.

[4] Although the application was lodged in October 2022, I was not assigned the application until August 2023, up to this point the application was processed by another consultant. I prepared the notification determination report, but was not involved with processing the application when information requests were made in 2022 and early 2023.

[5] I undertook a site visit on 24 August 2023.

#### **CODE OF CONDUCT FOR EXPERT WITNESSES**

[6] I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise.

#### **SUMMARY OF RECOMMENDATIONS**

[7] Pursuant to section 37 of the RMA, the time limit for the (late) submission by Heather and Graeme Wallace is waived.

[8] Pursuant to sections 104, 104B and 108 of the RMA resource consent is declined.

[9] The primary reason for recommending the application be declined is in relation to the proposed stormwater treatment system. The activity seeks to utilise a method whereby stormwater detention tanks will be installed on each of the residential lots 1-18 and the release of stormwater moderated to achieve desired runoff into the stormwater network. The Council's engineering officer does not support this technique and prefers an alternative system is deployed.

[10] The other key outstanding matter is roading, the proposal is for a gravel surface to the proposed road which will be vested to the Council. The Council's engineering officer supports sealing of the road. I consider this matter can be addressed through conditions of consent requiring the road to be sealed.

[11] Other relevant matters relate to the adverse effects of the activity on natural character, landscape visual amenity and rural character, wastewater, contaminated land, productive soils and the imposition of financial contributions. I recommend that subject to appropriate conditions of consent, the adverse effects on the environment of the activity will be minor and consent be granted. If the stormwater design aspect can be overcome and/or agreement on the design reached between the Applicant and the Council's engineering officer, I would otherwise recommend the activity be granted consent.

#### **DESCRIPTION OF THE PROPOSAL**

[12] Subdivision and land use resource consents are sought to create 19 Lots comprising 18 allotments for residential activity and a balance lot, a right of way (ROW) access and to develop a new access road and vest it in the Council. The new access road would connect the proposed subdivision sites with Coast Road and Toko Mouth Domain Road. The southeastern boundary of the subdivision site adjoins Coombe Hay Lane, a right of way which currently provides access to nine residential properties.

[13] It is proposed that lots 1-18 will be able to be developed for residential activity (1 dwelling per site) and that the residential sites will be self-sufficient in relation to the supply of potable water and the disposal of wastewater. Water tanks will be used for the supply of potable water and firefighting purposes. Stormwater from each residential lot will be collected and discharged to drainage swales via on-site detention systems. Electricity will

be provided to the boundary of the proposed lots and telecommunications will be via wireless technology.

[14] The proposed plan of subdivision is shown in Figure 1 below:

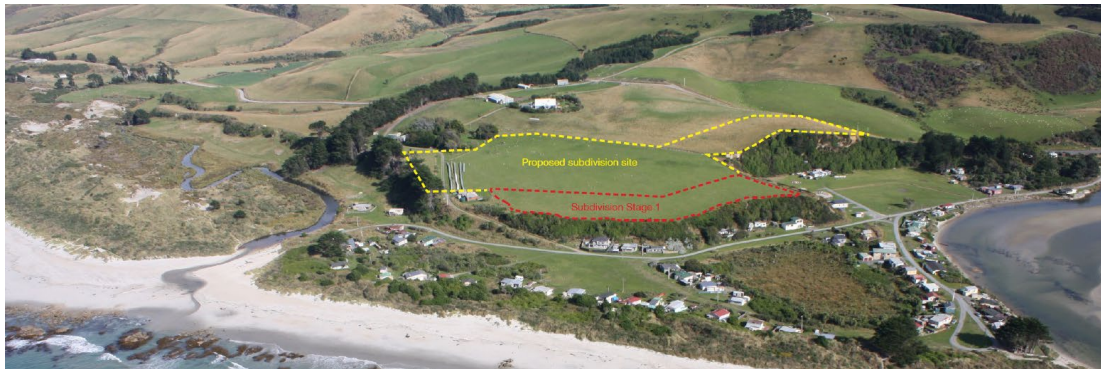


**Figure 1:** Excerpt of the proposed subdivision plan.

- [15] Proposed Lots 1 to 18 range in size from 1600m<sup>2</sup> to 1.1ha. Lots 1, 2, 16, 17 and 18 will have access to a new road via a ROW located in the southern position of the subdivision area. Lots 4 to 15 will have frontage and access to the proposed new road. Lot 3 has frontage to both a ROW access and the proposed road.
- [16] The 21.8ha balance lot contains an existing dwelling and farm buildings and yards, will be retained for farming, and will have access to Coast Road, the new road and the ROW access adjacent to proposed Lots 1 and 18.
- [17] The subdivision plan does not identify a connection with the Coombe Hay Road ROW, but rather identifies that Coombe Hay Road will be upgraded and vested as road. This will require the redevelopment of the existing Coombe Hay Lane ROW and vesting of this ROW to the Council.

**DESCRIPTION OF THE SITE AND ENVIRONMENT**

- [18] The subject site where the subdivision is proposed is located to the immediate west of the existing Toko Mouth settlement, upon an elevated terrace landform which has a gentle to moderate southeast slope toward the coast. While immediately adjoining the existing Toko Mouth settlement, the site is separated by a steep escarpment which is in the order of 10m height. The site is located adjacent to recently developed properties along Coombe Hay Lane.
- [19] Figure 2 below is an excerpt of an annotated photograph from the Application document which accurately illustrates the site and its context to the Toko Mouth Settlement.



**Figure 2.** Excerpt of the Application's Landscape Assessment identifying the proposed subdivision area (yellow dotted lines) and the 2017 (RM2299) subdivision located east of Coombe Hay Lane (red dotted lines). Since this photograph was taken the Coombe Hay Lane ROW has been developed along with several of the eight approved allotments (Source: Mike Moore Landscape Assessment).

- [20] The site is vegetated in pastoral grasses and appears to be part of a long-established pastoral farm.
- [21] Land on the subdivision site where the balance lot 19 is proposed is steeper and more undulating terrain. Lot 19 contains an existing farmhouse and farming buildings and infrastructure.
- [22] Figure 3 below identifies the overall allotment shape and size of the two sites sought to be subdivided. The larger lot (Lot 3 DP 512557) hugs the coast along the eastern boundary and Coast Road along its northern boundary.



**Figure 3:** Yellow shading identifying the overall area and shape of the sites sought to be subdivided.

- [23] An esplanade identified as Area B DP 512557 is located along the southern boundary of Lot 3 DP 512557 where it adjoins Rocky Valley Creek. It appears that this esplanade was facilitated through the earlier 2017 RM2299 subdivision which created the 8 lots located on the eastern side of Coombe Hay Lane.



**Figure 4:** Yellow shading identifying the esplanade established in 2017.

### Relevant Site History



- [24] A previous subdivision of land on the eastern edge of the landform (RM2229) was approved in 2017. Lot 9 DP 516455 comprising one of the subject sites is a balance lot associated with that subdivision. This subdivision created 8 residential allotments now legally described as Lots 1 to 8 DP 516455 and the Coombe Hay Lane ROW. Figure 5 below illustrates these lots and the Coombe Hay Lane ROW.



**Figure 5:** Aerial photograph illustrating the previous subdivision which created eight residential allotments (red outline) and the Coombe Hay Lane ROW, identified by the two areas with yellow shading (Source: Gripp Survey App). The eastern original portion of Coombe Hay Lane is located on Road.

### Application and Supporting Information

- [25] The Application is supported by the following information:
- Planning report and Assessment of Effects on the Environment prepared by Sweep Consultancy.
  - Natural Character & Landscape Effects Assessment Report prepared by Mike Moore.
  - Site Remedial Action Plan and a Contaminated Soil Management Plan prepared by Environmental Consultants Otago Ltd.
  - Onsite Wastewater Feasibility Assessment and Stormwater Management Plan prepared by Wai360 Engineering Ltd.
  - Geotechnical Assessment prepared by Geosolve Ltd, dated 28 July 2023. This report was provided as part of the Applicant's information response on 29 August 2023.
  - Stormwater memorandum prepared by Wai360 Engineering Ltd dated 17 August 2023. This report was provided as part of the Applicant's information response on 29 August 2023.
  - Transportation Assessment prepared by Modal Consulting Ltd dated April 2023.

This report was provided following a request for information.

### **Application Processing**

- [26] The application was lodged in October 2022. The Council requested further information on at least two occasions which have resulted in the above-mentioned geotechnical assessment, transport assessment and additional stormwater memorandum.
- [27] The Council's land development engineering officer, Mr Bevan Mullions has reviewed the application and the responses, and his comments on the application are in Appendix 1 to this report.
- [28] To date, the Council has not requested any reports pursuant to section 92(2) of the RMA.

### **DISTRICT PLAN ZONING AND FRAMEWORK**

- [29] The Site is zoned Coastal Resource Area and Rural Resource Area. All the proposed Lots 1-18 to be used for residential activity are located within the Coastal Resource Area, with the southeastern portion of Lot 3 DP512557 zoned Rural Resource Area. In accordance with the District Plan's definition of 'site', where any land held in one record of title is crossed by any Resource Area boundary that Resource Area boundary shall be deemed to be a site boundary and there shall be deemed to be more than one site. Therefore, the portion of Lot 3 DP512557 within the Coastal Resource Area is to be treated as its own site and the Rural Resource Area zoning does not apply to the activity. It is noted that in this context that matter is a moot point because Rule COA.1 requires that the rules of the Rural Resource Area apply except where stated otherwise.
- [30] As shown in Figure 6 below, the northeast boundary of the site adjoins the Toko Domain, identified in the District Plan map as a green outline and annotation 'R231', and a node of existing residential allotments zoned Rural Settlement Area (brown shading).
- [31] The waterbody located along the southern boundary of the site is Rockey Valley Creek, shown with a cyan colour is identified in Schedule 6.6 of the District Plan as a waterbody with a public access deficiency.
- [32] The Tokomariro River main branch is located approximately 500m to the north and is identified as a coastal protection area, and subject to flooding. These features do not apply to the application site.
- [33] The majority of the existing dwellings at Toko Mouth are located either on Council reserve land or road, however the parcels themselves are zoned Rural Settlement.



**Figure 6:** Excerpt of the District Plan web map illustrating the site and zoning and annotations in the area. Dark blue shading is the Coastal Resource Area and light green is the Rural Resource Area.

## RESOURCE CONSENTS REQUIRED AND ACTIVITY STATUS

### Clutha District Plan

#### Subdivision (General - Section 3.7)

- [34] Rule SUB.2 states that subdivision in the Coastal Resource Area is a **discretionary** activity.
- [35] Rule SUB.4 states that all subdivisions, excluding minor boundary adjustments and amendments to flats plans, shall be designed to comply with several standards. The Application has included an analysis of the activity against these standards in its Appendix 5b which identified that the activity complies with these standards. The assessment is accepted and adopted.

#### Coastal Resource Area (Resource Areas – Section 4.2)

- [36] Rule COA.1 ‘Other Applicable Rules’ states that any activity undertaken within the Coastal Resource Area shall take place in accordance with the Rules of both Section 3 General Section and the [sic] Section 4.1 Rural Resource Area of this Plan unless this section provides otherwise. The Application has not identified these rules as applicable to the proposal or as requiring resource consent.
- [37] The following identifies the relevant RRA rules and General Rules of the District Plan.
- a) Section 3.3 Transportation Rule TRAN.1 Access and Legal Frontage for Developments.



Roads and Access Lots for the purpose of providing access and legal frontage to developments and subdivision are controlled activities provided:

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

The activity can achieve standard 1-3 and is a **controlled** activity. The matters of control are listed in matters a-e of Rule TRAN.1.

b) Section 4.1 Rural Resource Area

Rule RRA.3(I)(a).2 Residential Activities are permitted providing a dwelling is not closer than 200m to any existing or proposed dwelling, or the Urban, Transitional or Rural Settlement Resource Area. The proposed dwellings on Lots 1-18 will be within 200m of the existing farmhouse on site, within 200m of each other, and within 200m of established dwellings on the eastern side of Coombe Hay Lane and within 200m of the Toko Mouth Rural Settlement Zone. Rule RRA.3(IV) states that any residential activity which does not comply shall be a **discretionary** activity.

c) Section 3.8 Financial and Reserve Requirements – Esplanade Reserve

Although not identified in the Application, the District Plan maps and Schedule 6.6 of the District Plan identifies the waterbody adjoining the southern boundary of the site (identified as a branch of the Toko River) comprising Lot 19 (balance lot) is a water body with a deficiency in terms of public access provisions. Section 2.4.5 of the District Plan (Access to Waterbodies) states that the Planning Maps also indicate the waterbodies over which Council is likely to exercise the Esplanade reserve requirements of the Act. Related to this, Rule FIN.8.1(iv) (Esplanade Reserves, Esplanade Strips and Access Strips) states that where an allotment greater than 4 hectares is created, Council may require an esplanade strip 10 metres in width on the coast and on those rivers, streams and lakes identified on the Planning Maps and Schedule 6.6 of the District Plan as being rivers, streams and lakes to which esplanade mechanisms may be required, and in those water catchment areas identified on the Planning Maps.

Rule FIN.8(iv) states that where an allotment greater than 4 hectares is created, Council may require an esplanade strip 10 metres in width on the coast and on those rivers, streams and lakes identified on the Planning Maps and Schedule 6.6 of this District Plan as being rivers, streams and lakes to which esplanade mechanisms may be required, and in those water catchment areas identified on the Planning Maps.

Rule FIN.8(vi) states that Council may totally waive the requirements of (a) to (d) – meaning the financial requirements of Rule FIN.7, providing it is satisfied that the matters set out in 3. Assessment Criteria are met.

The matters in 3. Assessment Criteria enable the requirement for an esplanade strip or reserve to be waived if one of several criteria are met, these include:

*(a) Waiver of Requirement*

*In considering whether to waiver to these requirements Council must be satisfied that:*

- (i) Notwithstanding Section 229 of the Act, it would not be appropriate in the circumstances including (but not limited to) reasons of security, public safety, or minor boundary adjustments, for an esplanade reserve or esplanade strip to be required; or*
- (ii) The land has little or no value in terms of the purposes specified in Section 229; or*
- (iii) The purposes specified in Section 229 can be adequately provided by other means*

In this case, a relevant matter is (iii) which specifies that Section 229 can be dealt with by other means. In this case an esplanade is provided for as identified on the RT for Lot 3 DP 512557 and as identified in Figure 4 above. It is understood this esplanade was created as part of the resource consent RM2299.

For these reasons it would not be appropriate to require an esplanade strip or esplanade reserve and as enabled by Rule FIN.8 the requirement for an esplanade reserve is waived. The activity complies with the rules in Section 3.9 of the District Plan.

d) Section 3.8 Financial and Reserve Requirements – Financial Contributions

Rules FIN.1 through to FIN. 7 set out the terms for the imposition of financial and reserve contributions associated with subdivision. Rule FIN.9 applies to connections of water and wastewater to existing public systems and is not applicable to the activity, and Rule FIN.10 applies to financial contributions for roading.

The Applicant has requested that financial contributions are waived for the activity. The AEE has identified and discussed this in Appendix 5a, but has not identified whether not paying financial contributions requires a resource consent for failure to comply with Rules Fin.1 to FIN.7 and FIN 10, rather the AEE statement identifies that the rule is not applicable.

District Plan Chapter 3.8 only provides for the waiving of the financial contribution rules for the following:

- Rule Fin.7 Financial Contributions for the Acquisition, Improvement, and Development of Reserves:
  - the provision shall not apply to an adjustment of boundaries where the land ownership does not alter;
  - the land value of the new allotment is less than \$5,000.
  - the nature of any previous reserve contributions made in land which at the time of subdivision were in excess of the maximum amounts specified in the District Plan.
  - the nature and use of existing buildings on the site and the extent to which the effects of the subdivision have been mitigated;
  - the extent to which any historic sites, wetlands and other natural features are to be protected by covenants or other similar means;
  - the extent to which any esplanade reserves or esplanade strips which are to be created in excess of the 10 metre standard width;
  - any access strips, service lanes or other forms of public access which are required to be created by the Council as part of the subdivision;

- the nature of any fencing, planting programmes, or other works proposed as part of the subdivision which will enhance any important historic sites, scenic features or wildlife habitats.
- Rule FIN.8 Esplanade Reserves. This is addressed above and is not to be applied to this activity.
- Rule FIN.9 Financial Contributions for Services. This is not applicable because the subdivision will not connect to an existing sewerage system or public water system.

Therefore, the waivers provided in Chapter 3.8 relevant to this application are able to be considered for reserve contributions and the merit of the waiver assessed below as part of the assessment of effects on the environment. However, there is no discretion to waive Rule FIN.10 Roding. A resource consent is required for not complying with Rule FIN.7 Reserves and FIN.10 Financial Contributions for Roding.

The District Plan does not identify the class of resource consent required for applications seeking to not comply with the financial contributions rules. A **discretionary** activity resource consent is required pursuant to section 87B of the RMA.

- [38] Rule COA.2 'Consultation' states any person making an application for a Resource Consent and Council, in considering any Resource Consent application, shall consult with the Runanga that has kaitiaki in that particular area, and where relevant, the Department of Conservation and the Regional Council.
- [39] The applicant has stated in a response to further information dated 1 March 2023 '*As noted in the further information request, there is no statutory obligation to consult and the application was lodged on a limited notification basis with the full expectation that the above listed parties would be included in that notification*'.
- [40] No consultation has been undertaken to date by the Applicant or the Council however, the application has been processed on a limited notified basis and iwi, DoC and residents of Toko Mouth able to make a submission.
- [41] This rule nor the Coastal Resource Area chapter of the District Plan does not provide any corresponding class of activity where the rule is not complied with. Section 87B of the RMA provides for the activity as a **discretionary** activity where no class of resource consent is specified. The Application did not identify these rules as requiring resource consent.
- [42] The activity seeks to establish residential activity on Lots 1-18, and that the future construction of dwellings on Lots 1-18 is permitted subject to conditions. Residential activity in the *Coastal Resource Area* is a **restricted discretionary** activity pursuant to Rule COA.4(b) with the discretion of Council restricted to the following matters:
- The ability of the site to dispose of wastes adequately;
  - The effects of sea level rise or coastal erosion;
  - The effect of the building and any associated signage on the natural character of the Coast particularly in terms of visual impact;
  - The effect of the proposal on the intensity of development in the area;
  - The effect of the building or structure on indigenous flora and fauna;
  - The effect on cultural values; and
  - Height, yard and open space requirements.
- [43] Rule COA.5 states that subdivision in the Coastal Resource Area is a **discretionary** activity.

While the rule refers to Rule SUB.2 and clearly duplicates that rule, it does not exempt Rule COA.5 and is considered applicable. The Application did not identify this rule as requiring resource consent.

- [44] To summarise, resource consents are required under the District Plan for the following:
- discretionary activity for subdivision in the Coastal Resource Area (Rule SUB.2);
  - controlled activity for roads and access to lots (Rule TRAN.1);
  - discretionary activity because the future dwellings on each lot will be closer than 200m to each other (Rule RRA.3(l)(a).2);
  - discretionary activity resource consent for seeking to not pay a financial contribution for reserves (Rule FIN.7) and roading (Rule FIN.10);
  - discretionary activity for not undertaking consultation (Rule COA.2);
  - restricted discretionary activity for dwellings in the Coastal Resource Area (Rule COA.4(b))
  - discretionary activity for subdivision in the Coastal Resource Area (Rule COA.5).

#### **Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“NES”)**

- [45] The NESCS is a relevant consideration where Regulation 5 includes the subdivision of land as an activity which is applicable to the NESCS.
- [46] A detailed site investigation (**DSI**) has been undertaken by EC Otago Ltd which identified hazardous activities have been undertaken on the part of the property subject to the subdivision that previously contained a shed, stockyards and a sheep dip and a rubbish burn pile which has resulted in soil contamination. The application does not include a DSI but does include a detailed remedial action plan and contaminated soil management plan which are derived from the DSI.
- [47] Arsenic concentrations exceeding applicable residential standards are contained within part of Proposed Lot 1 and into a nearby part of proposed Lot 19. The extent of contaminated material which required remediation is limited to Lot 1 and the area of Lot 19 adjacent. The affected area of land comprises an area of 3,600m<sup>2</sup>.
- [48] Concentrations of soil contaminants in the remainder of the site over proposed Lots 2-18 are at or below background levels and do not constitute a hazardous activity and industrial land use (**HAIL**) site.
- [49] The area impacted by soil contamination affects proposed Lots 1 and Lot 19 and is shown in Figure 7 below in purple.



**Figure 7:** Area impacted by soil contamination from application (Source Application EC



*Otago Ltd Report*).

- [50] The proposed subdivision to create Lots 1-18 will change the use of land from a productive rural land use to a residential land use and the remediation proposed to ensure Lot 1 is safe for a residential land use will disturb contaminated soil the proposal is therefore subject to the requirements of the NESCS.
- [51] Therefore, the subdivision and soil disturbance proposed requires consent as a **restricted discretionary** activity under Regulation 10 of the NESCS. The council's discretion is restricted to the following matters:
- (a) the adequacy of the detailed site investigation, including—*
    - (i) site sampling:*
    - (ii) laboratory analysis:*
    - (iii) risk assessment:*
  - (b) the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:*
  - (c) the approach to the remediation or ongoing management of the piece of land, including—*
    - (i) the remediation or management methods to address the risk posed by the contaminants to human health:*
    - (ii) the timing of the remediation:*
    - (iii) the standard of the remediation on completion:*
    - (iii) the mitigation methods to address the risk posed by the contaminants to human health:*
  - (d) the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:*
  - (e) the adequacy of the site management plan or the site validation report or both, as applicable:*
  - (f) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:*
  - (g) the requirement for and conditions of a financial bond:*
  - (h) the timing and nature of the review of the conditions in the resource consent:*
  - (i) the duration of the resource consent.*

### **Overall Activity Status**

- [52] Overall, the application is being considered and processed as a **discretionary** activity.

### **NOTIFICATION AND SUBMISSIONS**

- [53] The application has been processed on a limited notified basis, with notice of the application served on the following persons:
- Iwi (both Aukaha and Te Ao Marama); and
  - Department of Conservation; and
  - Otago Regional Council; and
  - Lots 1 to 8 DP 516455 (being the owners of residential lots created via RM2229 located on the eastern side of Coombe Hay Lane); and
  - All landowners and residents of the existing baches/dwellings within the Toko Mouth (except the owners of the site being Toko Farms Limited and Toko Development Ltd).
- [54] The notification decision was made on 19 October 2023, and the submission period closed on 5 December 2023.

[55] Eight submissions were received, and these have been summarised in the following table.

<b>Submitter</b>	<b>Date Submission Received</b>	<b>Address</b>	<b>Position</b>	<b>Wishes to be heard</b>
<b>Colin and Jayne Dickey</b>	10 November	18 Toko Mouth Road	Support	No
Summary	No Reasons provided.			
<b>Adrienne McManus</b>	6 November	Not stated	Support	No
Summary	The submitters have a fence that limits the dust and dirt that comes from the road caused by added traffic, trucks etc, while people are building homes.			
<b>Kathryn Ann Woodhead</b>	18 November	Not Stated	Support	No
Summary	No Reasons provided.			
<b>Cliff and Elizabeth Brensell</b>	19 November	1360A Toko Mouth Road	Supports but seeks condition	No
Summary	<p>Supports the subdivision, with the following concerns regarding dust.</p> <p>Dust from vehicles on the metal surface road to the north of the submitter's property causes a nuisance and health hazard. The dust is exacerbated by the prevailing northerly wind.</p> <p>The dust lands on the buildings including the roof which affects drinking water systems.</p> <p>With the increased use of the road now and the subdivision, the council should extend the tar seal 100 metres to the north. This would alleviate the problem, as the dust would drift up a different gully.</p>			
<b>Kent McElrea</b>	30 November	39 Domain Rd, Toko Mouth	Supports	No
Summary	<p>The Site is well suited to the proposed development.</p> <p>There is sufficient roading available and the development will help ease housing shortage problems in the District.</p>			
<b>Tanya and Ian Wilson</b>	4 December	Not Stated	Support seeks conditions	To be confirmed.
Summary	<p>Support for the activity, but have concern regarding lots 14, 15, 16, 17, and 18. Development on these lots could intensify the subdivision and potentially compromise its rural character.</p> <p>Seeks the following conditions.</p> <p>1. All constructed houses must adhere to the same minimum standards as the initial development. These standards encompass a minimum build size of 75 square meters, limited to new builds and construction only, and a maximum building height of 5 meters. Additionally, conformity to specified color schemes is required.</p>			

	2. Sections located behind the initial development (specifically sections 4, 5, 6, 7) should maintain a minimum setback from the road of 20 meters. This precaution is in place to prevent houses from being built too close to the road.			
<b>Heather &amp; Graeme Wallace</b>	6 December (Late)	38 Coombe Hay Lane	Oppose	Not Specified
Summary	<p>Concerned at the proposed 18 lots and the vesting of the road, including the introduction of through traffic.</p> <p>The submitters were of the understanding that there could be additional development of up to 6 lots and a continuation of a cul de sac road. They would have designed their house differently if they had known about the proposal at the time.</p>			
<b>Te Rūnanga o Ōtākou</b>	4 December	N/A	Oppose	Yes
Summary	<p>Concern with increasing number of subdivisions within their coastal takiwā.</p> <p>Concerns with onsite wastewater from 18 new individual systems. The submitter prefers that the developer installs a reticulated wastewater and stormwater network.</p> <p>There is insufficient information provided in the application to enable the submitter assessed the impacts of onsite wastewater on the coastal environment.</p> <p>Not possible to determine compliance with the ORC Regional Plan Water.</p> <p>Concerns with stormwater, in particular the pre and post development peak site runoff flow projections provided in Table 6.0 of the Onsite Wastewater Feasibility Assessment and Stormwater Management Plan.</p> <p>The Rūnanga would like more information regarding how these projections were calculated and whether those projections support the assertion that post-development flows will be no more than pre-development flows.</p>			

[56] The submission from Te Rūnanga o Ōtākou, made by Aukaha, identified that Te Rūnanga o Ōtākou will confirm whether it wishes to be heard at the hearing once further information relating to the concerns identified in this submission is received from the applicant. I enquired with the Applicant whether it intended to provide additional information to the submitter. The Applicant responded that it preferred that any issues raised in the s42 report and/or submissions will be dealt with in expert evidence at the hearing. On this basis it is understood that the concerns of the submitter have not been resolved and they may wish to attend any hearing.

[57] The submission from Heather and Graeme Wallace was received on 6 December 2023, two days following the close of submissions and outside of the specified time limits for making a submission.

[58] Section 37 of the RMA enables the Council to extend a time limit, while section 37A

requires that a waiver must not be granted unless specified matters are taken into account. Section 37A states:

*A consent authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account –*

- (a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
- (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
- (c) its duty under section 21 to avoid unreasonable delay.*

- [59] The key matter at issue is whether any person, including the Applicant is prejudiced by the lateness of the submission, but not by the substance of the relief sought in the submission.
- [60] The submitters identify that the notice of service was sent to their PO Box which they only happened to check the day the submission period closed. The submitters, in their opinion therefore, had little time to prepare a submission. Despite this, the submission was filed only two working days following the close of submissions.
- [61] The submission was filed well in advance of the preparation and filing of this report, and as noted above in relation to the submission from Te Rūnanga o Ōtākou, the Applicant is expecting the application proceed to a hearing.
- [62] Therefore, the timeframe extension does not disadvantage the Applicant in any way nor would accepting the late submission delay processing of this application.
- [63] The late submission does not affect the timing in relation to the circulation of hearing documents or the hearing, and there is not considered to be an unreasonable delay in terms of section 21 of the RMA.
- [64] For these reasons, I recommend a waiver to the submission is granted.

## **ASSESSMENT OF EFFECTS ON THE ENVIRONMENT**

- [65] As a discretionary activity the Council's discretion is not restricted and all relevant matters are able to be considered. The assessment is grouped by the following matters:
- Permitted Baseline
  - Mitigation Strategy
  - Natural Character Effects and Landscape Effects
  - Contaminated land
  - Traffic and roading
  - Stormwater
  - Wastewater
  - Soil and productive land
  - Indigenous biodiversity
  - Natural Hazards
  - Earthworks
  - Utilities



- Financial and Reserve Contributions

### **Permitted Baseline**

- [66] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity.
- [67] Under section 104(2) of the RMA, the Council may disregard an adverse effect of a proposed activity on the environment if a plan permits an activity with that effect. Such activities form part of the permitted baseline.
- [68] In this instance, I do not consider there to be a relevant permitted baseline because all subdivision in the Coastal Resource Area requires a discretionary activity resource consent, and all dwellings also require a restricted discretionary activity resource consent.

### **Mitigation Strategy**

- [69] Paragraph 8 of the AEE prepared by Sweep Consultancy identifies a suite of mitigation measures which are volunteered as part of the activity to avoid or mitigate adverse effects on the environment. Most of the mitigation measures are related to landscape and amenity and are:
- a) All buildings shall be single story and a maximum of 5m height above existing ground level.
  - b) For Lots 1 – 3 and 8 – 13, a minimum setback of 15m shall apply to all buildings from the top edge of the escarpment. Building siting shall otherwise be controlled as follows:
    - i) On Lot 12, buildings shall not be located above the 96m contour.
    - ii) On Lot 13, the dwelling is to be located within the building platform identified on the subdivision scheme plan.
  - c) All buildings are to be finished in either naturally weathered timber or locally appropriate stone, or in colours that have low levels of contrast with the colours of its rural landscape setting. Painted surfaces will have light reflectivity ratings of no more than 25%.
  - d) All services are to be located below ground.
  - e) The road is to be designed to reflect the existing Toko Mouth settlement character with gravel surface and soft edges (i.e. no kerb and channel). Any footpaths shall also have gravel surfaces, and there shall be no street lighting.
  - f) Driveways are to retain an informal rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting are not permitted.
  - g) Water tanks will be sited, and / or buried and / or screened (by planting), and coloured to match the building colours, to have minimal visual impact from beyond the property.
  - h) Fencing is to be confined to standard rural post and wire construction. Where boundary definition is required, planting rather than fencing is promoted.
  - i) Except for the area required for driveway access (maximum 6m) a 3m strip along the road boundaries of the lots are to be established in locally appropriate indigenous species to provide a natural setting to the buildings.
  - j) For Lots 1 – 3 and 8 – 13, a 5m wide strip along the escarpment boundaries is to be established in locally appropriate indigenous species to provide some screening of the houses as viewed from the township below, and to assist in maintaining bank stability.

- [70] These mitigation measures have been taken into consideration in the following assessment. They have also been generally adopted as recommended conditions of consent.

## **Natural Character Effects and Landscape Effects**

### **Applicant's Assessment**

- [71] The application is supported by a natural character and landscape effects assessment prepared by Mike Moore Landscape Architect.
- [72] Mr Moore's report describes the landscape character and natural character values of the site, the coastal area of Toko Mouth and the Toko Mouth Settlement itself.
- [73] Mr Moore describes the site as a mainly flat gently rising coastal terrace located behind the settlement itself. The northern area contains Proposed Lots 11-13 demarcates a steeper part of the site where buildings on Lots 11-13 have a higher potential for visibility.
- [74] The Toko Mouth Settlement is identified as forming an existing modification to the natural character of the Toko Mouth dune country and has a distinct crib settlement character. Mr Moore describes the Toko Settlement as closely spaced lineal pattern of homes located along the roads or nestled against the back of the dunes or coastal escarpment that are single storey, modest in scale but variable in terms of age, style, materials and colour.
- [75] Mr Moore describes the Toko Mouth coastal area as having a medium (moderate) rating for natural character based on:
- The modification of the sand dune landforms by the settlement and the presence of marram grass;
  - Mixed indigenous / exotic character of the vegetation;
  - Moderate health and modification of the intertidal and aquatic habitats;
  - Infaunal communities typical of disturbed sandy beaches in New Zealand;
  - The presence of dwellings and other buildings associated with the settlement; and
  - Medium-high wild and scenic qualities.
- [76] The visual character of the roading environment and its influence on landscape character is that the roads are informal and rural in character, metalled with no footpath. While there are some fences, often boundaries between properties are undefined and the vegetation is a mix of hardy coastal natives and exotics. There are two large areas of mowed reserve and a wetland.
- [77] Mr Moore's landscape assessment discusses the landscape mitigation strategy, in that the focus is to screen and contain the development as viewed from surrounding roads, particularly Toko Mouth Road and ensuring buildings do not appear visually conspicuous as viewed from below the escarpment from the existing Toko Mouth Settlement, the coastal environment and upon arrival at Toko Mouth via Toko Mouth Domain Road. Mr Moore's mitigation strategy is identified in the preceding section. Figure 1 of Mr Moore's report contains an annotated subdivision plan illustrating the planting buffer and the building setback from the crest of the escarpment for Lots 1-3 and 8-13, and the 96m contour line which applies to Lot 12. This plan is superseded in part by the revised subdivision plan dated 27 February 2023.

- [78] Mr Moore identifies that in the context of the environment and despite the site being zoned Coastal Resource Area, the top of the coastal escarpment (ie. the escarpment to the east of the site) provides the appropriate definition of the inland extent of the coastal environment. Mr Moore considers that areas seaward of the escarpment, including the existing Toko Mouth Settlement are within the coastal environment, and the site itself is on the boundary or just beyond the coastal environment.
- [79] The subdivision will involve an extension to the existing Toko Mouth settlement, and comprise an extension of a recently developed subdivision located on the upper extent of the coastal environment. In terms of adverse effects on natural character, Mr Moore identifies that the natural character of the area affected is already significantly modified through agricultural use and is vegetated in exotic pasture. The development will change the character from a rural character to a township character and reduce naturalness further by the introduction of housing and roads, however the natural landform will remain largely unchanged at the larger scale except that the access via Coast Road will require earthworks.
- [80] Mr Moore concludes that the adverse effects on natural character will be low, there will be no significant change to any natural processes and the development is located at edge of the coastal environment and at the existing extent of the existing Toko Mouth Settlement.
- [81] Turning to landscape effects, Mr Moore describes that the area has scenic qualities based upon the rural settlement character of Toko Mouth, the way it nestles recessively into the coastal and rural setting. For these reasons, Mr Moore considers that Toko Mouth has a strong sense of place based on its coastal rural character having a modest scale, limited boundary definition by fencing and the lack of urban infrastructure such as sealed roads, footpaths, kerb and channel and street lighting, which are important elements to respect.
- [82] Mr Moore identifies that the key public viewpoints impacted by the proposed subdivision are the Toko Mouth settlement and beach to the east and the west.
- [83] Views from the Toko Mouth beach will be in the order of 600m, and closer from viewpoints such as Riverview Road turn-off, Rocky Valley Creek, visibility of the development will be seen in the context of the existing dwelling recently built, or able to be built on the eastern side of Coombe Hay Lane. Buildings will appear as a continuation of these lots, except the building on Lot 13 would be an outlier, but the highest part of the escarpment will remain free of buildings by virtue of the location of the building platform on Lot 13. Mr Moore considers that while naturalness will be reduced to a minor extent, the mitigation controls will ensure the extent of built form integrates with the character of the existing township. Closer viewpoints will also mean that the buildings are more difficult to see in foreground views due to the escarpment.
- [84] More medium-term views such as from Toko Mouth Road to the north of the settlement will mean that the subdivision and road is visible because the site forms part of the backdrop to the existing Toko Mouth settlement. The building on Lot 13 would be potentially most prominent and seen as a rural lifestyle building rather than connected to, or forming an extension of the existing settlement.
- [85] Mr Moore identifies that the proposed lots will have a more spacious feel than the existing pattern of development at Toko Mouth, driven in large part by the requirement for land area associated with modern on site wastewater requirements. In Mr Moore's view, despite this the proposed subdivision is sensitive to the existing character of Toko Mouth

in that it will include controls to reflect the existing streetscape character, has controls to minimise the impact of individual buildings, encourages planting of indigenous vegetation and responds to the existing landform by not significantly encroaching on the landforms behind the terrace.

- [86] Overall, Mr Moore considers that the adverse effects on landscape character and values will be low.

### **Submissions**

- [87] Submitters Tanya and Ian Wilson, while supporting the proposal state in their submission their concern that buildings on proposed lots 14, 15, 16, 17 and 18 could intensify the subdivision and potentially compromise rural character. The Wilson submission seeks conditions requiring a minimum build area on each lot, that development is limited to new builds (which I infer to correlate to prohibiting existing relocated buildings), building height is limited to 5m, specified colour schemes are required, and that buildings on the allotments located behind the existing Coombe Hay Lane development are separated from the road by 20m.
- [88] Submitters Heather and Graeme Wallace raise concern with the scale of the proposal. Te Rūnanga o Ōtākou state concern with the increasing number of subdivisions within their coastal takiwā.

### **Assessment**

- [89] The assessment of Mr Moore is generally accepted in so far that the site is on the edge of the coastal environment, there is existing residential activity between the site and the coast located within the coastal environment, while the pattern of development is relatively spacious, it is not considered to be sprawl and the footprint of development is reasonable well contained to the foreground elements of the wider landform it is located upon. It is also accepted that the proposed mitigation strategy will contribute toward mitigating effects and while these will help soften and integrate the development, it will not fully screen the development from public places. The development will result in an expansion of the Toko Mouth Settlement and modify the site from a working rural character to a rural living character.
- [90] As also identified by Mr Moore, Lots 11-13 have the potential to be more visually prominent and would appear as outlier buildings rather than as a continuation of the Coombe Hay Lane settlement. The building platform on Lot 13, while located toward the escarpment crest (but outside a 15m setback from the crest) is located off the higher points on Lot 13, as viewed from the north of the Toko Mouth settlement along Toko Mouth Road and Toko Mouth Domain Road (as illustrated in Figure 7 of Mr Moore's Assessment). The location of the building platform on Lot 13, while north through to east facing is more visually recessive than further upslope or closer to the access road which would raise visibility from the Coast Road. The limitation of avoiding buildings above the 96m contour on Lot 12 will also avoid what could otherwise result in highly visible buildings as viewed from both Toko Mouth Road and coast environs and from the Coast Road.
- [91] The 5m building height limitation, setback of buildings from the escarpment edge, use of visually recessive building materials and colours, and planting buffers will also provide effective visual mitigation of future buildings on all lots where new residential activity is proposed. These mitigation measures also address in part the submission of the Wilson's who seek controls on the colour of buildings and the building height is restricted to 5m.



The exception to this is a requirement for a minimum build area of 75m<sup>2</sup>, in my opinion a minimum build area requirement is not related to avoiding or mitigating adverse effects on the environment. I do not support the requirement for a minimum build area.

- [92] The Wallace submission also seeks that those buildings on the lots adjacent to the existing Coombe Hay Lane development (specifically Lots 4-7) are setback a minimum of 20m from the road boundary. Coombe Hay Lane is proposed to be widened so that it has a legal width of 20m from the current legal ROW width of 15m, I also refer to Mr Moore's assessment and Figure 1 in the landscape and natural character report which recommends a 3m wide planted berm on the road frontage of all lots. In the absence of any specific conditions the bulk and location of buildings where the site in question adjoins a residential activity are required to comply with the District Plan's Urban Resource Area rules. Rule URB.4 requires a front yard of 3m and side and rear yards of 1.5m. I consider that in this context a greater setback of buildings from boundaries than that prescribed in District Plan Rule URB.4 is appropriate for this activity.
- [93] Aside from that, the other relevant building location controls are those in the District Plan which require a set back from a road of 4.5m (Rule RRA.12(iii)). I also note that the reason for the 4.5m front yard setback rule is to avoid adverse effects on the safe and efficient operation of public roads. There are not any side or rear yard setbacks proposed as part of the mitigation strategy.
- [94] Although the proposed 3m road boundary planting will help soften and integrate buildings, I agree with the Wallace submission that a reasonable road boundary setback of buildings will help create a development with a sense of open space and contribute toward maintaining amenity, maintain a sense of rural character experienced at a finer grained scale directly adjacent to the development, and will also enable for vegetation planted on Lots 3-8 to not impede the outlook from buildings. The dimensions of Lots 3-8 are in the order of 30m road frontage by a depth of approximately 50m. I consider that a 20m road setback is feasible on these lots and would help alleviate adverse effects on the existing Coombe Hay Lane properties and help maintain rural character. For the same reasons I recommend there is a 10m setback of buildings from ROWs, and I also recommend there is a 5m building setback from other side and rear yards.
- [95] It is also considered that in addition to the 5m height limit volunteered by the applicant, there may need to be a limit on the building coverage to ensure the mitigation strategy offered by the Applicant is effective and the subdivision would be successful at integrating with the existing Toko Mouth settlement, which is identified in Mr Moore's assessment as an important element of the landscape character of the area. I also note that the Wai360 Stormwater design recommendations include limiting the impervious surface area on each site to 250m<sup>2</sup><sup>1</sup>. The RRA and COA rule framework does not identify any building coverage rules, however, the imposition of the abovementioned boundary setbacks will also limit the overall building coverage from a landscape effects perspective.
- [96] I note that following Mr Moore's assessment, the applicant obtained a hazards report from Geosolve which has recommended setbacks from the escarpment for geotechnical reasons. While this is generally consistent with Mr Moore's recommendation for a 15m building setback from the escarpment, Geosolve recommend a 20m setback for Lot 13, which is currently shown as a 15m setback in Mr Moore's assessment, and Geosolve identify a more precise setback of 15m from the invert of a small gully. I recommend the Applicant provide a plan which shows all relevant setbacks recommended to address the various setbacks, in the meantime I recommend conditions of consent which consolidates the various setback recommendations forming the application.

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<sup>1</sup> Application document: Wai360 Stormwater Assessment at page 14.

- [97] A consequence of the above is that the building platform on Lot 13 will need to be moved 5m from its location shown in Mr Moore’s assessment and his Figure 1 shown below. I am mindful of Mr Moore’s recommendation that buildings are located below the 96m contour line. The building platform on Lot 13 may need to observe this and may require to be reduced in size, and/or have its shape amended.

**Appendix 4b: Landscape Figures.**



**Figure 8:** Excerpt of Figure 1 from the Landscape and Natural Character Assessment. The plan shows the 15m setback from the escarpment (red dashed line) and the 96m contour (purple line).

- [98] I also note that as part of the mitigation strategy, and recommended by Mr Moore, is that the roading is to be designed to reflect the existing Toko Mouth settlement with gravel surface and soft edges (i.e. no kerb and channel), and that any footpaths shall also have gravel surface and there shall be no street lighting. Additionally, driveways are to retain an informal gravel surface with soft edges. As identified in the assessment on the roading, the Council’s engineer Mr Mullions recommends a sealed road to those portions of the road that will be vested. This matter is discussed in further detail below.
- [99] The Wilson’s submission identifies concern with development on Lots 14 to 18, stating that development on these lots could intensify the subdivision and compromise its rural character. I note that Lots 14-18 are relatively central within the site, albeit located at a higher elevation than Lots 1-8, and also located away from the escarpment than Lots 11-13. I consider that Lots 14-18 while being at the outer edge of the subdivision area can be well absorbed and these lots considered both individually and collectively would not result in a scale or intensity of the subdivision which is inappropriate.
- [100] While future buildings arising from the development will be visible from public places including the coastal environment and will result in a change in the environment from a rural pastoral character to a rural residential form, the subdivision would constitute an expansion of the existing Toko Mouth settlement without encroaching upon the coastal area. The adverse effects on natural character and landscape can be avoided or mitigated to the extent that they are minor.

- [101] EC Otago Ltd have undertaken a site remedial action plan (RAP) and a contaminated soil management plan (CSMP). The purpose of the RAP is to outline the land remediation strategy. The purpose of the CSMP is to provide a methodology and best practice process for undertaking those remediation works.
- [102] The RAP and CSMP is derived from a detailed site investigation (DSI) which was not attached to and does not form part of the application. The DSI identified that the extent of contaminated material which required remediation is limited to the Lot 1 and the area of Lot 19 adjacent. The affected area of land comprises an area of 3,600m<sup>2</sup>.
- [103] The RAP identifies that further investigation and sampling will be required to determine the full extent of contamination and to ensure that the RAP is implemented. Remedial options identified by EC Otago include excavating the soil with disposal off-site, excavation of soils with disposal on site within an encapsulation cell, dilution through mixing with clean material, and capping/containment to prevent direct contact, run-off and leaching.
- [104] The RAP recommends as a preference, the removal of all contaminated soil within Lot 1 and the contaminated soil disposed of within a purpose designed encapsulation cell located on Lot 19, and therefore, outside of the land intended for residential use. The RAP also states that if removal of deeper contamination is not feasible a proportion of Lot 1 could be capped to prevent direct exposure to contaminated soils. Testing as part of the DSI was to 0.6m depth. Contaminated material could be greater than 1m depth owing to the presence of the arsenic being associated with a former sheep dip.
- [105] EC Otago Ltd recommend that if all contaminated soil is removed from Lot 1 the site will be suitable for residential use with no ongoing monitoring and maintenance. If capping is deployed on Lot 1, those areas will need to be defined by survey and recorded by way of instrument on the record of title and an ongoing management plan used to provide site owners with information relating to ongoing maintenance requirements. If the encapsulation cell is constructed it will be in the order of at least 50m long and 2m high.
- [106] These requirements, if necessary, are able to be imposed by way of consent notice conditions and registered on the record of title for Lots 1 and Lot 19.
- [107] The application has demonstrated that there is a sufficient understanding of the extent of contaminated material on the site and has identified a range of viable management solutions in order for residential use to be appropriate on Lot 1. Providing the recommendations and of the EC Otago report and the RAP are effectively deployed as part of the subdivision development works, I consider that the adverse effects on the environment will be minor.

### **Traffic and Rooding**

- [108] Traffic to the site will be via Toko Mouth Domian Road and the existing part of Coombe Hay Lane which is formed and located within road reserve, and over a portion of Coombe Hay Lane which is a ROW. Coombe Hay Lane has a formed width of 3-4m wide and gravel surface.
- [109] The new road through the subdivision will also connect with Coast Road, located along the northern boundary of the site. Coast Road has a formed width of 6m generally and has a gravel surface.

- [110] The Application's AEE identifies that Coombe Hay Lane will be formed to an appropriate width and standard as will entrances to the resulting allotments. The AEE states that the extension to Coombe Hay Lane will have a formed width of 6m and a metalled surface, noting that the Modal Report identifies a width of 5.5m. The entrances to allotments will have a formed width of 3.5m and will be formed in accordance with the Council's approved access.
- [111] A transport assessment has been provided by the Applicant, prepared by Modal Consulting Limited (Modal Report) as part of a response to a request by the Council for further information. The Modal Report describes the characteristics of the roading network, estimated average traffic generation of 19.8 vehicles at a peak hour, the existing roading character and the proposed roading including upgrades to Coombe Hay Lane.
- [112] The new road within the subdivision site area will be formed to a width of 5.5m with 1.5m on each side for stormwater swales, subject to final stormwater design. While the section of Coombe Hay Lane adjacent to the escarpment will have a 1.5m swale on the inside only. The road will have a gravel (metalled) surface, except where the gradient of the new road exceeds 8% where that section(s) will have a sealed finish.
- [113] The Modal Report identifies that this roading design complies with the ARRB Unsealed Roads Best Practice Guide (ARRB) and also compliant with the road widths contained in NZS 4404:2010 under the "Rural – Live and Play" classification, which require a minimum 5.5m formed width. Modal support the shared use of the carriageway which would be likely to result in pedestrians or cyclists to also use the movement lane.
- [114] The Modal Report also provides an assessment of the vertical alignment of the proposed roads. The maximum grade will be 12% at the steeper northern section near the Coast Road intersection, whereas the ARRB guidance recommends a maximum gradient of 8%. The Modal Report identifies that while the steeper section of the road would need to be sealed, the Applicant wishes to retain the option to lower the road alignment to potentially remove the need for sealing. Modal support either of these options from a transport effects perspective.
- [115] The new intersection at Coast Road would be located where there is sufficient distance in both directions (east and west) along Coast Road, noting that the Modal Report has applied bespoke stopping site distances based on the uphill/downhill grades on the approach to the intersection. Modal recommend that the sight distances may benefit from minor benching at the horizontal curve of Coast Road to the northeast of the intersection. Modal consider that the requirement for any benching can be designed and confirmed as part of the subdivision development works. Overall, Modal consider the sight distances on Coast Road from the proposed intersection are acceptable.
- [116] Modal consider the subdivision and the vehicle movements generated by the development can be safely and efficiently accommodated.

### **Submissions**

- [117] The Wallace submission identifies an increase in traffic and the use of Coombe Hay Lane as a through road as adverse effects associated with the subdivision. The Brensell submission has raised the issue of dust from metalled roads but only in relation to increased traffic along Toko Mouth Road near their property at 1360A Toko Mouth Road and seek that the road is sealed for a distance of 100m to the north of the existing edge of seal to alleviate dust.

- [118] Mr Mullions, the Council's land development engineering officer, has identified that the proposed upgrade to Coombe Hay Lane and proposed road does not meet the minimum NZS4404 standards for the number of properties served by the road.
- [119] Mr Mullions recommends the roads are formed as set out in NZS4404 table 3.2 and the appropriate standard is set out in Access to lifestyle or clustered housing 1 to 20 dwelling units, with a width of 5.5 to 5.7 meters plus ("soft") shoulders of 0.5m each or alternatively a "hard" shoulder of flush kerbing. The surfacing can be either a 2 coat bitumen seal or asphaltic concrete as set out in NZS4404 section 3.4.3.1.
- [120] I note that from a landscape perspective, Mr Moore's landscape assessment recommends a gravel road formation to help maintain rural character, and a gravel formation is also supported by Modal Consulting. While a gravel road would undoubtedly help maintain rural character, I note that there are chip seal roads located in rural areas, including areas which are likely to be more remote and have a higher level of sensitivity to landscape change than this site and environment. I do not consider a gravel road essential to avoid or mitigate adverse effects from a landscape perspective. I agree with the landscape assessment that it is important that associated roading and infrastructure elements such as concrete kerb and channel and street lights are important aspects to manage to ensure the site does not appear urban, and rural character is maintained. With regard to this, my understanding of NZS4404 and Mr Mullions' recommendations are that a swale and roadside treatment options are acceptable, such as a flush kerb, and there need not be concrete kerb and channel and streetlighting.
- [121] I also acknowledge that the wider roading environment of Coast Road and Toko Mouth Road comprise a metalled surface, and the Application's transport report by Modal Consulting support a roading formation based on NZS 4404:2010 under the "Rural – Live and Play"<sup>2</sup>. However, for the reasons set out in his report, Mr Mullion's recommends the road is sealed.
- [122] I support Mr Mullions' advice that the road should be sealed. From a landscape perspective, I do not consider sealing the existing portion of Coombe Hay Lane and the proposed road would result in unacceptable landscape and natural character effects, and sealing the road is a more appropriate and preferred roading surface, particularly where the road will be vested to the Council.
- [123] With regard to the Brensell submission seeking Toko Mouth Road is sealed for a further 100m to the north of their property at 1360A Toko Mouth Road, while the subdivision will increase traffic to the area generally, it is a relatively small increase in the context of any vehicles which may travel on Toko Mouth Road, being located approximately 700m north of the site and Toko Mouth settlement. I do not consider the level of traffic and associated adverse effects created by the subdivision to justify additional sealing of the road at the location. I also note that it is not within the scope of this application to require the Council to seal the road, and while it is available to require the additional sealing be undertaken by the applicant, as I have stated above, I do not consider the adverse effects to be large enough to justify this upgrade to Toko Mouth Road at the location sought.
- [124] Based on the above, and referring to and relying on Mr Mullions advice I recommend that the roading effects will be minor, subject to conditions which require the road is sealed with a width of 5.5m-5.7m with a flush kerb and swale treatment (i.e the use of concrete kerb and channel is avoided if practicable).

## **Stormwater**

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<sup>2</sup> Application Document: Modal Consulting Report at paragraph 15.

- [125] The application is supported by a stormwater management report from Wai360 Ltd, and an additional memorandum dated 17 August 2023 which addressed questions from the Council's land development engineering officers which focused on the rationale for using onsite stormwater detention tanks, a stormwater management plan and operation and maintenance plans.
- [126] The stormwater report identifies and discusses measures to mitigate the increase in impervious area resulting from the subdivision, provide a stormwater management plan showing proposed mitigation works for the site relating to collection, storage and disposal of stormwater. The report identifies that the low-lying areas outside the site to the east and south are prone to flooding and inundation from storm surges associated with the Tokomairaro River and Rocky Valley Creek.
- [127] The stormwater flows are based on the 10 and 100 year ARI storm events. It is noted that the stormwater post development runoff is based on an impervious area of 250m<sup>2</sup> per lot (buildings 60% or 150m<sup>2</sup> and driveway 40% or 100m<sup>2</sup>), which accounted for the roofed area and the driveway runoff areas. The Wai360 report identified that if the impervious area exceeds this then additional detention storage would be required. This impervious area limitation or requirement for additional storage does not appear to be carried through by way of conditions of consent. The AEE refers to the requirement for future buildings to comply with Rule URB.4 which refers to an open space requirement on each lot of 100m<sup>2</sup> with not less than 60% of that open area to be in permeable surface. Therefore, I consider that greater controls on building coverage and/or the area of impervious surfaces on each lot may be required to achieve consistency with the stormwater design parameters.
- [128] By way of summary the stormwater management regime proposed consists of the following:
- Each of Lots 1-18 would contain an onsite stormwater detention tank which will collect stormwater from roofs.
  - The detention tanks will moderate the release of stormwater from each lot so that the local stormwater network beyond each lot can accommodate the stormwater flows. This will require the installation of a 16,000l tank on each property for the purpose of stormwater detention, fitted with a flow control system that restricts the post development flow rate to be not greater than the pre-development flow rate from each lot based on a 10 year ARI.
  - The on-site design would likely comprise the water from roofed areas entering the re-use domestic water tank and then once this is full, flowing into the stormwater detention tank. The relative level of the reuse water tank will need to be the same or higher than inlet of the stormwater detention tank system.
  - The stormwater detention tank will have a 15mm outlet for typical stormwater events and a secondary discharge control for extreme events exceeding 100 ARI events, located at 1.8m above the invert level.
  - Cut off drains installed at the southern boundary of Lot 19 and Lots 10, 14, 17 and 18 as identified on the Sheet 200 in Appendix A of the Wai360 Report.
  - Roadside swales on Coombe Hay Lane will collect stormwater runoff from pervious areas and impervious areas on each lot (driveways), and discharges from the detention tanks on each lot.
  - The existing 450mm diameter culvert located at the junction of Coombe Hay Lane would continue to receive predevelopment flow rates, then discharge from the escarpment and into the existing stormwater flow path and drainage system at Toko Domain.
  - An upgrade of an existing 225mm diameter culvert located under Coast Road for

stormwater flows from the farm catchment and Lot 13.

- 100 ARI stormwater flows would flow over secondary flow paths. The Wai360 report does not identify any of these being where buildings are likely to be located on the lots.

[129] The Wai360 report identifies secondary overland flow path utilising a 450mm diameter culvert, cut off drains and the Coombe Hay Lane side drain when stormwater flows exceed the infrastructure on each lot.

[130] The Wai360 Report identifies that the stormwater management plan is consistent with the Council's District Plan requirements and are appropriate in mitigating adverse effects on downstream properties, and the existing stormwater flow paths through the site would continue to be used following the development.

[131] An excerpt of the Wai360 Ltd stormwater management regime plan is provided in Figure 9 below.



**Figure 9:** Excerpt of the Wai360 Ltd 'Overall Stormwater Management Plan' report Sheet 200.

### Submissions

[132] Te Rūnanga o Ōtākou have concerns regarding the pre and post development peak site runoff flow projections provided in Table 6.0 of the Wai360 Onsite Wastewater Feasibility Assessment and Stormwater Management Plan. The Rūnanga seeks greater information regarding how these projections were calculated and whether those projections support the assertion that post-development flows will be no more than pre-development flows.

### Assessment

[133] Mr Mullions accepts that the design works in terms of the treatment of each individual system and its managed release into the stormwater network to achieve pre development stormwater flows. However, Mr Mullion's has concerns with the life of the system and the risks associated with a lack of maintenance and the overall operating life of the proposed system. Mr Mullion's would prefer a conventional stormwater management regime, for



instance the installation of a stormwater treatment basin which collectively manages all stormwater from the submissions before it is discharged into the network. Mr Mullion's considers an alternative stormwater treatment system is more robust, including that it would be vested in Council and therefore maintained by the Council.

[134] The Wai360 response to the Council's request for further information, dated 17 August 2023 responded to this matter and identified the following as justification for the proposed stormwater design in favour of a communal stormwater detention system:

- *The terrain does not allow for efficient conveyance of stormwater from lots into the communal detention pond proposed to be constructed in Lot 3 and part of Lot 2.*
- *The location of the communal detention pond was critical to ground stability due to its proximity to the cliff terrace.*
- *The stormwater reticulation network would have been uneconomical.*
- *Poor routine maintenance by the council due to the proximity of the site.*
- *High Maintenance cost to the council due to the proximity of the site.*
- *Will require frequent operation and maintenance, where individual lot owners are not responsible for any issues that may arise.*

[135] Relying on Mr Mullions advice, the stormwater design in its current form is not considered to be appropriate, and an alternative option such as a conventional retention/soakage basin is preferred. An issue with this in terms of the application, is that imposing a condition of consent to this effect might result in substantial changes to the layout and location of the subdivision, including the location of where dwellings would be located. Substantial changes to the subdivision design to accommodate an alternative stormwater regime may also raise issues of scope. Unlike the roading issue and disagreement over the seal and final formation of the road, the nature of the stormwater and matters disagreed are such that it does not appear practicable to recommend a condition of consent that an alternative stormwater design is submitted for approval as part of the subdivision development engineering review and acceptance process.

[136] I consider that subject to scope constraints, the applicant has the opportunity to amend the design of the stormwater if they choose to do so, and if any amendments comprise changes to the design of the subdivision any associated or new adverse effects can be assessed as part of the process. However, I do not consider it appropriate to require an alternative design through conditions of consent. The reasons for this are because alternative stormwater designs may result in amendments to the subdivision design, result in new or greater adverse effects and it is not appropriate to assess these matters on a first principles basis through the post resource consent approval engineering approval process.

[137] For the above reasons, the adverse effects on the environment from stormwater are not appropriate and are considered to be more than minor.

[138] If the Hearings Panel accepts the proposed stormwater design and grants the activity, I have included recommended conditions of consent that the activity be undertaken in general accordance with the Wai360 information.

### **Wastewater**

[139] Wai360 have undertaken an assessment of the suitability of the site to accommodate on site wastewater treatment and disposal, applying S/NZ 1547:2012 and using several test pits to determine soil character. The Wai360 report identifies that each lot is capable of

an onsite wastewater treatment and disposal system, noting that a site specific design will be required for each lot at the time of construction and based on the nature and scale of each residential development.

### Submissions

[140] The submission from Te Rūnanga o Ōtākou states:

*Mana whenua are concerned at the potential for adverse effects on the coastal environment which can arise from the installation of 18 individual onsite wastewater systems. It is the preference of Te Rūnanga o Ōtākou that the developer installs a reticulated wastewater and stormwater network. There is insufficient information provided in the application to enable Te Rūnanga o Ōtākou to fully assess the potential impacts of onsite wastewater management for each lot and the subdivision on the coastal environment. It is not acceptable to defer the details of wastewater management to the building consent stage. The Rūnanga does not believe that it is possible to say whether the discharge of wastewater to land complies with all the conditions for a permitted activity under the Regional Plan Water, as details relating to the design and location of the wastewater systems are not provided at this stage.*

### Assessment

[141] Mr Mullions does not identify any issues with waste water. With regard to the submission from Te Rūnanga o Ōtākou, I note the permitted standards of the relevant Otago Regional Council, Water for Otago (**RPW**) rules in relation to on site wastewater systems:

*Rule 12.A.1.4*

*The discharge of human sewage through any on-site waste water treatment system, installed after 28 February 1998, onto or into land is a permitted activity, providing:*

- (a) The discharge does not exceed 2000 litres per day (calculated as a weekly average); and*
- (b) The discharge does not occur within the A zone of any Groundwater Protection Zone, as identified on the C-series maps, nor in the area of the Lake Hayes catchment, as identified on Map B6; and*
- (c) The system's disposal field is sited more than 50 metres from any surface water body or mean high water springs; and*
- (d) The system's disposal field is sited more than 50 metres from any bore which:
  - (i) Existed before the commencement of the discharge activity; and*
  - (ii) Is used to supply water for domestic needs or drinking water for livestock; and**
- (e) There is no direct discharge of human sewage, or effluent derived from it, to water in any drain or water race, or to groundwater; and*
- (f) Effluent from the system does not run off to any other person's property; and*
- (g) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.*

[142] I consider future residential activity and associated on site wastewater systems on lots 1-18 can be undertaken as a permitted activity. The site is not located in any of the groundwater aquifer areas identified in limb (b) and the lots are set back 50m from any

bore or the coast. The RPW rule framework is also addressed in section 2 of the Wai360 on site wastewater feasibility assessment.

- [143] I consider that each lot can dispose of wastewater appropriately and the adverse effects on the environment will be minor.

### **Soil and productive land**

- [144] Despite the site being located within the Coastal Resource Area, the site is currently used for farming and as a discretionary activity the loss of productive land and the soil resource is able to be considered as a relevant consideration. In addition, the National Policy Statement Highly Productive Land (NPSHPL) was introduced in October 2022 and can also provide guidance on this issue. Paragraph 6 of the AEE states that the NPSHPL does not apply to the activity because the site is not zoned Rural. This statement is not agreed.

- [145] Highly Productive Land is deemed to be land which is zoned general rural (or rural production), identified as LUC 1, 2 or 3 land, and not identified for future urban development or subject to a council initiated or adopted plan change to rezone it from general rural to urban.

- [146] The Coastal Resource Area has been assessed in this activity as a general rural zoning because the Coastal Resource Area functions as a sub-zone/overlay framework of the Rural Resource Area. The reasons for this are because:

- Section 2.8 'Coast' of the District Plan states 'Issues and provisions relating to the management of the Coast can be found in section 3-5 Heritage, 4.1 Rural Resource Area and 4.2 Coastal Resource Area'.
- The text in Section 4.2.3 Coastal Resource Area - Objectives and Policies state The majority of issues in the Coastal Resource Area are similar to those issues in the Rural Resource Area (e.g. effects on water quality) and differ only on a number of areas unique to the coast. Consequently, the objectives and policies of the Rural Resource Area also apply to the Coastal Resource Area except as otherwise provided in this section. The following objectives and policies are specific to the coast.
- Rule COA.1 requires that the rules in Section 4.1 Rural Resource Area apply unless provided otherwise. The only identified occurrence is in relation to Rule COA.6 and RRA.13 indigenous vegetation and habitats of indigenous fauna.

- [147] Therefore, for the purposes of the NPSHPL the Coastal Resource Area is considered to be a general rural zone.

- [148] As correctly identified in the AEE, the site is mapped as Land Use Capability (LCU) 4 under the Manaaki Whenua Landcare Research mapping, which is to be used during the transitional period of the NPSHPL, until such time as (for this District) the Otago Regional Council has completed highly productive land mapping and that mapping is operative in its Regional Policy Statement / PORPS.

- [149] The site is not deemed under the NPSHPL to be highly productive land. In a general context, the loss of productive land from pastoral farming is low relative to the extent of the Toko Farms landholding and availability of farm land in the area, including areas of highly productive land in the Clutha District.

- [150] For these reasons, the adverse effects on the soil resource and productive values are considered to be minor.

## Indigenous biodiversity

- [151] The site is vegetated in exotic pasture grasses and has been farmed. There was no indigenous vegetation observed as present on site. It is not known whether the site provides habitat to any indigenous fauna including nesting for birds. There are no reasons to suggest that the site is important in terms of habitat for fauna.
- [152] I note that the proposed landscape planting includes indigenous vegetation which will enhance indigenous biodiversity over the area and encourage localised habitat for birds and other invertebrates.
- [153] Overall, any adverse effects on indigenous biodiversity will be minor.

## Natural Hazards

- [154] A geotechnical assessment has been provided by Geosolve Ltd, following a request for information by the Council which raised the suitability of building in proximity to the escarpment and potential for erosion or landslip hazard, and potential implications of an increase in stormwater discharge affecting the escarpment due to a cut off drain discharging to the escarpment.
- [155] The Geosolve report identified that as stormwater is being discharged directly onto the slopes, some further regression and erosion is expected to continue along these flow paths in line with previous relatively minor rates.
- [156] Geosolve's findings are that during one-off heavy rainfall events (including due to climate change), some additional localised instability is possible, but aside from some erosion and surficial instability near the crests of where waste is discharged, there is no evidence of recent landslide activity on the escarpment.
- [157] The areas where stormwater will be discharged over the escarpment will have a low to moderate risk of instability and areas where stormwater is not being discharged will have a low risk of instability.
- [158] Geosolve recommend a building setback of 20m from the crest of the slope at Lot 13, and 15m for the remainder of the subdivision (where a lot adjoins the escarpment crest), and that the setbacks for Lots 10 and 11 should be taken from the crest of the V shaped water channel.
- [159] Geosolve also recommend that residential development including wastewater disposal fields should be setback as identified in the above setback recommendations, confirming that the 450mm diameter culvert outlet (adjacent to Lot 3) is suitable for discharge and if there is erosion at the outlet placing rick riprap, a stormwater management plan for all lots and restricting any further stormwater discharge points onto the escarpments.
- [160] It is noted that for landscape reasons all lots are proposed to be setback at least 15m from the crest of the escarpment for landscape management purposes. A condition of consent can be imposed to require a 20m setback for Lot 13, and the setback reference for Lots 10 and 11.
- [161] I note that the building platform on Lot 13 is shown in Mr Moore's landscape assessment as being located 15m from the crest of the escarpment. I am not certain if the updated

subdivision plan dated 27 February 2023 takes into account Geosolves recommendations and I have recommended a condition to this effect. I have discussed the location of the building platform with the 96m contour and landscape effects above.

- [162] On the basis of the above the natural hazard and stability issues will have minor adverse effects on the environment.

### **Earthworks and Erosion and Sediment Management**

- [163] The Application is not supported by an earthworks plan or erosion and sediment control plan. Earthworks will be required to form the access road and install servicing. The activity will require a resource consent under the Otago Regional Plan Water for Otago Rule 14.5.2.1 because it involves earthworks for residential activity associated with contaminated land and it is more likely than not the earthworks will exceed 2,500m<sup>2</sup>.
- [164] Earthworks management for the purposes of erosion and sediment management will be managed through the resource consent required under the Regional Plan. For this reason, adverse effects can be managed and so that they are minor.

### **Utilities**

- [165] The applicant has volunteered that all services shall be underground. Stormwater is discussed above. The matter of water being sourced from rainwater collected to tanks, provisions of electricity and the telecommunications being available through remote wireless technology are accepted and will have adverse effects on the environment will be minor.

### **Financial and Reserve Contributions**

- [166] As identified in the reasons for consent above, the Applicant seeks that financial and reserve contributions are not applied to the proposed subdivision. The District Plan provides discretion for a waiver of a reserve contribution if the matters under assessment matter (3) of Rule FIN.7 are considered to be achieved. But does not offer discretion to waive a roading financial contribution required under Rule FIN.10.
- [167] The AEE states that a financial contribution is not required because:
- There is an existing reserve of approximately 1.8 hectares within Toko Mouth Settlement which contains a tennis court, community hall and public toilets.
  - The domain is of sufficient size to meet the needs of existing residents and future residents within the proposed subdivision site. The additional rate take resulting from the proposed activity will help pay for maintenance of the Toko Mouth Domain and facilities therein.
  - The only extension to public infrastructure will be roading which will be paid for by the developer.
  - The proposed activity provides for a secondary access out of the lower part of Toko Mouth Settlement which is important during times of emergency. The proposed activity includes the planting of indigenous vegetation.
  - The proposed activity includes mitigation measures which mean the landscape architect engaged by the applicant has determined that the effects are adverse low.
  - There is no requirement for any other public services or facilities at Toko Mouth Settlement and there are no other costs which will be imposed on either Council or the community.

[168] With regard to waiving the requirement for a financial or reserve contribution in relation to FIN.7 and financial contribution for the acquisition, improvement and development of reserves, the matters afforded discretion to waive the requirement are in assessment matter (3) and are:

- *the provision shall not apply to an adjustment of boundaries where the land ownership does not alter;*
- *the land value of the new allotment is less than \$5,000.*
- *the nature of any previous reserve contributions made in land which at the time of subdivision were in excess of the maximum amounts specified in the District Plan.*
- *the nature and use of existing buildings on the site and the extent to which the effects of the subdivision have been mitigated;*
- *the extent to which any historic sites, wetlands and other natural features are to be protected by covenants or other similar means;*
- *the extent to which any esplanade reserves or esplanade strips which are to be created in excess of the 10 metre standard width;*
- *any access strips, service lanes or other forms of public access which are required to be created by the Council as part of the subdivision;*
- *the nature of any fencing, planting programmes, or other works proposed as part of the subdivision which will enhance any important historic sites, scenic features or wildlife habitats*

[169] None of the above matters directly relate to the reasons raised in the AEE for waiving a reserve financial contribution, the mitigation planting proposed is to primarily achieve mitigation associated with landscape adverse effects, rather than indigenous biodiversity restoration for the intrinsic values of an area.

[170] The land values of the new allotments are likely to exceed \$5,000 and the AEE has not identified any direct connection with matters identified above. The AEE identifies that the existing domain is 1.8ha and the community has sufficient area. The proposed subdivision would add to the population of the Toko Mouth community and likely lead to an increase in the community's expectations for amenities, improvements and maintenance of reserves. It is also noted that no land for a reserve or any public access is offered as part of the activity.

[171] With regard to Rule FIN.10 and roading financial contributions, the AEE states that the Applicant will cover the cost of installing the new road and connection onto Coast Road. While this is the case, the statement overlooks the fact that the subdivision and new dwellings will increase use and maintenance costs of the wider roading network.

[172] Providing an exception for a roading contribution does not appear to be justified, although note that no specific roading contribution has been raised by the Council. For these reasons the waiving of a requirement for a financial contribution does not appear to be justified. I also note that the Council set a reserve contribution of \$560 for each lot which I do not consider onerous.

[173] The Applicant's request for the financial contributions is not supported, and as is generally the case for subdivisions creating new residential sites, a financial contribution should be imposed under s108(2)(a).

- [174] Based on the above assessment and my recommended conditions of consent applied in conjunction with the Application's mitigation strategy, I consider that that the proposed activity will have minor adverse effects on the environment, the exception being the matter relating to stormwater. In relying on the advice of Mr Mullions I consider that the subdivision is not appropriate in its current form and greater certainty of the adequacy of the stormwater system is required, or an alternative design.
- [175] If an alternative stormwater design is proposed by the Applicant which results in changes to the lot layout, assessment will be required to ensure effects on other matters such as roading and landscape are appropriate.



## SECTION 104(1)(B) ASSESSMENT OF RELEVANT STATUTORY PLANS

[176] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Clutha District Plan, Otago Regional Policy Statement and any relevant National Policy Statements were taken into account in assessing the application. These documents are:

- District Plan
- Partially Operative Regional Policy Statement for Otago
- National Policy Statement: New Zealand Coastal Policy Statement 2010
- Kai Tahu Ki Otago Natural Resource Management Plan 2005

## OBJECTIVES AND POLICIES ASSESSMENT

### Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

#### Clutha District Plan

[177] The District Plan is considered to be the primary planning document of relevance to the activity.

#### Coastal Resource Section

<p>Section 4.2.1 of the District Plan identifies that the Coastal Resource Area has generally been identified on the District Plan Maps as the area of approximately 500 metres from the mean high water springs mark. The Coastal Resource Area adjoins the coastal marine area which is administered by the Otago Regional Council in conjunction with the Department of Conservation.</p> <p>The site is not located within the coastal marine area, and as identified by Mr Moore in his landscape assessment the site is located at the inland extent of what can be considered the coastal environment.</p>	
Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
<p><b>Objective COA.1</b> To preserve the natural character of the coastal environment and protect it from inappropriate subdivision, use and development.</p>	<p>The assessment from Mr Moore concludes that the proposal will not be inappropriate because the natural character of the site is already modified, and the expansion of the settlement is undertaken in a controlled manner.</p> <p>Based on Mr Moore's assessment and my own consideration of the effects of the proposal, this is agreed. The proposal is not considered to constitute inappropriate subdivision or use in the coastal environment.</p> <p>I consider that the activity is consistent with this policy.</p>
<p><b>Objective COA.2</b> To recognise the importance of coastal resources to Maori.</p>	<p>The activity has not been identified as directly affecting coastal resources, in terms of the location of the site. However, the submission from Te Rūnanga o Ōtākou have identified concerns in relation to stormwater and wastewater management. On the basis of the information available I consider the activity is generally consistent with this policy, noting that stormwater is an unresolved matter and Te Rūnanga o Ōtākou may attend a hearing and elaborate on this matter further.</p>

<p><b>Objective COA.3</b></p> <p>To avoid or mitigate the adverse effects that natural hazards and in particular sea level rise may have on the natural and physical resources of the District.</p> <p><b>Policy COA.4</b></p> <p>To ensure that the subdivision, use and development of the Coastal Resource Area avoids, as far as practicable, the adverse effects of sea level rise by adopting the best available international estimate of sea level rise.</p>	<p>The site is located on a terraced area above the coast and sea level rise and natural hazards have not been identified as an issue. The activity is considered to be consistent with this policy.</p>
<p><b>Objective COA.4</b></p> <p>To protect the outstanding natural features and landscapes of the Districts coastline from inappropriate subdivision, use and development.</p>	<p>As noted by Mr Moore, the Toko Mouth area is not identified as an ONF or ONL. The activity does not engage this policy.</p>
<p><b>Policy COA.1</b></p> <p>To ensure the subdivision, use and development of the coast and in particular, buildings and structures avoids, remedies, or mitigates any adverse effects on:</p> <ul style="list-style-type: none"> <li>• natural character values</li> <li>• outstanding natural features and landscapes</li> <li>• amenity values of the coast</li> <li>• the safety of the public</li> <li>• the enjoyment of the coast by the public</li> </ul> <p><b>Policy COA.2</b></p> <p>To manage the subdivision, use and development of the Coastal Resource Area to ensure adverse effects are avoided as far as practicable and that where complete avoidance is not practicable, that adverse effects are mitigated or provision is made for remedying those effects.</p>	<p>The adverse effects of the subdivision and future buildings on lots 1-18 have been carefully considered in the Application, and the activity will appropriately manage amenity values and rural character, and will not impinge on the safety of the public or the enjoyment of the coast.</p> <p>Future buildings will be visible from the coast and surrounding area, residential properties and the road network. The visual effects have been carefully considered and any potentially significant effects would be avoided, and other effects able to be appropriately mitigated.</p> <p>I consider the activity to be consistent with Policies COA.1 and COA.2.</p>
<p><b>Policy COA.3</b></p> <p>To ensure that the adverse effects that activities can have on:</p> <ul style="list-style-type: none"> <li>• areas of indigenous vegetation and</li> <li>• areas of indigenous fauna habitat and</li> <li>• estuaries, wetlands, waterbodies and their margins and sand dunes</li> </ul> <p>within the coastal resource area are avoided, remedied or mitigated.</p>	<p>The activity is not identified to affect indigenous vegetation, fauna habitat and waterbodies. I consider the activity is consistent with this policy.</p>
<p><b>Policy COA.5</b></p> <p>To consult and work with</p> <ul style="list-style-type: none"> <li>• the Department of Conservation</li> <li>• the Otago Regional Council</li> <li>• manawhenua</li> <li>• affected landowners</li> </ul> <p>in resource management issues of the Coastal Resource Area.</p>	<p>Notice of the application was served on those persons identified in the policy.</p>
<p><b>Policy COA.8</b></p> <p>To provide for intensive residential development in existing coastal settlements only, while recognising and providing for the adverse effects of dynamic coastal processes.</p>	<p>The District Plan's explanation to this policy states this policy and the related policies in the Coastal Resource Area accommodate Policy 3.2.1 of the New Zealand Coastal Policy Statement, which requires that Plans define what form of subdivision, use, and development would be appropriate in the coastal environment, and where it would be appropriate.</p> <p>Policy COA.8 restricts intensive residential development</p>

	<p>to existing coastal settlements. These settlements have been specifically provided for, being identified as either Urban or Rural Settlement areas.</p> <p>The activity is located adjacent to an existing rural settlement resource area identified in the District Plan. The activity comprises an expansion of this area and in the context of Toko Mouth is of a large scale, although I do not consider the activity to be intensive in the context of it constituting urban development.</p>
<p><b>Policy COA.9</b></p> <p>To provide for recreational use of the coastal area while ensuring adverse effects on ecosystems, natural character and cultural values are avoided, remedied or mitigated.</p>	<p>The activity does not affect the recreation of the coastal area. The activity is consistent with this policy.</p>
<p><b>POLICY COA.10</b></p> <p>To control the erection of buildings in the coastal area to ensure adverse effects on natural character are avoided, remedied or mitigated.</p>	<p>The buildings on Lots 1-18 are proposed to be subject to a suite of relatively stringent design criteria, including that buildings are located so that they will not impinge upon the views from Toko Mouth settlement and surrounding roads, particularly in terms of the visibility of buildings against the escarpment and ridgelines.</p> <p>I consider the activity is consistent with this policy.</p>

#### Subdivision Section

Objective/Policy	Assessment
<p><b>Objective SUB.1</b></p> <p>To provide a flexible approach to both urban and rural subdivision that allows, in the majority of circumstances, the market to dictate allotment size, while ensuring adverse effects are avoided, remedied or mitigated.</p>	<p>The District Plan provides for a flexible and permissive approach to development provided that effects on natural and physical resources are sustainably managed.</p> <p>The allotment shapes and sizes and future buildings within them have are appropriate from a landscape management perspective, and will all achieve adequate road frontage and access.</p>
<p><b>Objective SUB.2</b></p> <p>To ensure that subdivision and development promotes sustainable management of the districts natural and physical resources.</p>	<p>The proposal is consistent with Objective SUB.1 and Objective SUB.2 with the exception that stormwater is not resolved.</p>
<p><b>Objective SUB.4 Natural Hazards</b></p> <p>Subdivisions take into account the physical limitations of the land and are designed to ensure risk from any such limitations is appropriately avoided or mitigated.</p> <p><b>Policy SUB.9</b></p> <p>To ensure that allotments for residential purposes contain a hazard free building site.</p>	<p>The activity is supported from a hazards and land stability perspective, with the recommendations of the Geosolve report recommended to be imposed as conditions of consent. The activity is consistent with this policy.</p> <p>Stormwater management, in so far as it may be a natural hazard if not appropriately managed is discussed below.</p>
<p><b>Policy SUB.8</b></p> <p>To ensure that allotments created for residential purpose can safely and adequately dispose of domestic effluent without contaminating any waterbodies.</p>	<p>The activity is supported by an on site wastewater feasibility assessment which confirms that on site wastewater from future development is likely to comply with the relevant Otago Regional Council permitted standards.</p> <p>While this matter is disputed in the submission from Te Rūnanga o Ōtākou, that submission does not provide any substantive countervailing information.</p> <p>The activity is considered consistent with this policy.</p>

<p><b>Policy SUB.10</b> To ensure that subdivision does not facilitate development that may adversely affect:</p> <ul style="list-style-type: none"> <li>• the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers, and their margins</li> <li>• outstanding natural features and landscapes</li> <li>• areas of significant indigenous vegetation and significant habitats of indigenous fauna</li> </ul>	<p>The effects on the character of coastal environment are discussed below as part of the Coastal Resource policies.</p> <p>The site is not located within an ONF/L or a significant natural area.</p> <p>The activity is consistent with this policy.</p>
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**Rural Resource Section (grouped by theme)**

<b>Objective/Policy</b>	<b>Assessment</b>
<p><b>Objective RRA.1</b> To provide a management framework for the rural environment that promotes the sustainable management of the resources of the District.</p>	<p>The Plan provides for a flexible and relatively enabling approach to development provided that effects on natural and physical resources are sustainably managed.</p>
<p><b>Policy RRA.1</b> To avoid a restrictive development framework within the rural environment except where this will not be effective in achieving the purpose of the Resource Management Act.</p>	<p>The proposal is consistent with this objective to manage resources and the mitigation measures are effective in protecting natural resources, the exception to this is the unresolved stormwater management issue.</p>
<p><b>Objective RRA.2</b> To maintain and where necessary, enhance the quality of the District's water and soil resource to enable it to meet the needs of present and future generations.</p>	<p>The activity can be managed to maintain water quality. The outstanding matter relating to stormwater is related more to the efficacy of the design and equipment than the overall outputs.</p>
<p><b>Policy RRA.2</b> To ensure that the adverse effects that activities can have on the soil resource including the adverse effects of:</p> <ul style="list-style-type: none"> <li>• Erosion</li> <li>• Instability</li> <li>• Nutrient loss</li> <li>• Soil contamination</li> <li>• Soil compaction are avoided, remedied or mitigated.</li> </ul>	<p>The activity will change the soil use from pastoral farming to rural living. The loss of soil resource is small and as discussed above the soil is not identified as highly productive land in terms of the interim definition of the NPSHPL.</p> <p>The activity will remediate the existing contaminated areas on Lots 1 and 19.</p>
<p><b>Objective RRA.3</b> To ensure that water quality standards set by regional rules are not compromised by the effects of the use, development or protection of land.</p>	<p>The activity is consistent with these policies.</p>
<p><b>Policy RRA.4</b> To ensure that the adverse effects land use activities can have on the water quality within the Districts water bodies are avoided, remedied or mitigated by requiring the use of buffer zones or similar management methods.</p>	
<p><b>Policy RRA.5</b> To ensure that the use, development and/or protection of land within riparian margins is managed so as to avoid, remedy or mitigate adverse effects on water bodies including the effects of:</p> <ul style="list-style-type: none"> <li>• reducing bank stability</li> <li>• increasing nutrient and sediment loadings</li> </ul> <p>reduction in habitat quality</p>	
<p><b>Policy RRA.11</b> To avoid, remedy or mitigate the adverse effects of effluent disposal from residential and other activities.</p>	<p>The applicant has also confirmed that the discharge from the site will comply with the provisions of Rule 12.B.1.8 of the Regional Plan: Water for Otago (RPW).</p> <p>The proposal is considered to be consistent with this objective.</p>

<p><b>Objective RRA.4</b> To recognise the values of and where considered necessary provide protection for the District's outstanding natural features and landscapes, areas of significant indigenous vegetation and fauna, and valued non-indigenous wildlife habitats, within the management framework.</p>	<p>As discussed above, the site is not in an ONF/ONL.</p>
<p><b>Objective RRA.5</b> To maintain the amenity values of the rural environment.</p>	<p>The effects of the proposal on amenity and rural character, and the natural character values of the Toko Mouth Coastal Resource Area have been identified and discussed above in the AEE and the Coastal Resource Area objectives and policies assessment. The activity is considered to maintain amenity values, and will appropriately manage the effects of the subdivision on open space and the character of the rural environment, and is consistent with Policies RRA.5, RRA.6 and RRA.7</p>
<p><b>Policy RRA.6</b> To manage the effects of activities, buildings and structures to ensure that adverse effects on the natural character and values of the Districts coast, wetlands, lakes, rivers and their margins, are avoided, remedied or mitigated.</p>	<p>Policy RRA.8 is relevant where submitters have identified several concerns associated with dust from traffic and proximity of buildings. I consider the Applicant's mitigation strategy and the recommended conditions of consent managing the bulk and location of buildings, planting and colour of buildings will be effective at managing the amenity values on adjoining properties.</p>
<p><b>Policy RRA.7</b> To manage the effects of activities and buildings to ensure that any adverse effects on the open space and natural character amenity values of the rural environment are avoided, remedied or mitigated.</p>	<p>I also consider that the recommended conditions of consent that the road be sealed will also better implement the policy than a gravel road which is proposed currently.</p>
<p><b>Policy RRA.8</b> To ensure the adverse effects that buildings, structures and vegetation can have on: i. amenity values of adjoining properties, and ii. the safety and efficiency of the roading network are avoided, remedied or mitigated.</p>	<p>Overall, the activity is consistent with Policy RRA.8.</p>
<p><b>Objective RRA.7</b> That the ongoing operation of existing farming, rural based or industrial activities located within the Rural Resource Area or in other adjoining resource areas is not compromised by the establishment, upgrade or extension of sensitive activities within the Rural Resource Area.</p>	<p>The proposal will result in the conversion of agricultural land for non-rural purposes. The balance Lot 19 will be maintained for the ongoing existing farming activity.</p>
<p><b>Policy RRA.13</b> To ensure that the establishment, upgrade or extension of sensitive activities are located and/or designed so that they will not be significantly affected by existing activities that generate noise, dust, traffic and odour effects so that reverse sensitivity effects will not occur.</p>	<p>There is the potential for compatibility effects to arise associated with the continued farming activity and new residential activity. The existing farming is low intensity pastoral farming, new lot owners will be aware of the existence of farming on Lot 19 and wider area and there is no reason to consider the existing farming activity would lead to significant effects such as noise or odour associated with the status quo.</p> <p>I consider the proposal to be consistent with Objective RRA.7 and Policy RRA.13.</p>

**Hazards Section (also relevant is Objective SUB.4)**

Objective/Policy	Assessment
<p><b>Objective NHZ.1 Avoidance or Mitigation of Hazards</b> That the risks to people and their property, communities and infrastructure from the effects of natural hazards are understood as far as is practical, and are avoided or reduced to enable resilient communities.</p> <p><b>Policy NHZ.3 Subdivision And The Erection Of Buildings</b> To control subdivision and erection of buildings in areas where there is a reasonable probability that a natural hazard may cause material damage.</p>	<p>It is considered that potential hazards on the site are well understood, owing to the Geosolve hazard assessment. Identified potential hazards associated with stability and the proximity of buildings to the escarpment have been managed. I consider the activity is consistent with these policies</p>

<p><b>Policy NHZ.4 Intensification of Hazard Effects</b>  To ensure that the location, design and/or operation of subdivision and land use activities, including earthworks and infrastructure, does not:</p> <ul style="list-style-type: none"> <li>• Increase the intensity and frequency of existing natural hazards;</li> <li>• Create new natural hazards;</li> <li>• Compromise the efficiency of significant drainage systems</li> </ul> <p><b>POLICY NHZ.5 PROTECTION OF DRAINAGE SYSTEMS</b></p> <p>All earthworks and land disturbance activities to be undertaken within existing drainage systems, including overland flow paths, shall be designed, located and/or controlled to ensure that such systems are kept free of any significant obstruction, impediment or alteration that hinders or alters overland flow, to ensure the efficiency of the drainage system during heavy rainfall events is protected so that any existing flood hazard is not exacerbated and no new flood hazard is created by such works.</p>	<p>Natural hazards in form of geotechnical aspects and land stability have been addressed.</p> <p>The stormwater assessment from Wai360 has identified a stormwater management solution to accommodate post development flows. The proposed stormwater design can be undertaken so that post development flows achieve consistency with pre development flows, however, Mr Mullions' does not support the proposed technique of using onsite holding tanks to moderate the stormwater discharges. Based on Mr Mullions' advice, the activity may not be effective at implementing this policy compared to alternative stormwater management.</p> <p>For these reasons, the activity is not consistent with policies NH.4 and NH.5 as they relate to stormwater.</p>
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#### Transportation and Infrastructure Sections

Objective/Policy	Assessment
<p><b>Objective Inf.2 A Safe, Efficient and Integrated Infrastructure Framework</b> A safe and efficient infrastructure system that integrates with land use activities and minimises, as far as practicable, any adverse effects on the amenity values, ecological values, landscape values, cultural and historic heritage values of the District, and the health and safety of people and communities.</p>	<p>It is considered that the proposal can be supported from a transport perspective, subject to conditions which require sealing of the road as discussed in the assessment of effects, and recommended in the conditions.</p> <p>Overall, the roading can be developed to an appropriate standard and that the vehicle movements generated by the proposed development can be safely and efficiently accommodated within the transport network.</p> <p>Consistency with these objectives and policies can be achieved by managing the adverse effects on the transportation through conditions.</p> <p>There is an outstanding matter in relation to the formation of the road. Policies 9 and 11 require that new roads and access points be constructed to a standard appropriate for their intended use. Relying on Mr Mullions advice it is preferable that the road is sealed.</p>
<p><b>Policy INF.10 Undergrounding Infrastructure</b> To encourage, where practicable, the location of infrastructure underground.</p>	
<p><b>Policy INF.11 Managing The Development Of The Transportation Network</b> In addition to those matters identified in Policy 3 above, to ensure that the design, location and operation of the transportation network recognises and provides for the intended level and type of traffic usage and any foreseeable future demands.</p>	
<p><b>Policy TRAN.5 Sight Line Protection</b> To promote safety at road bends, accesses, intersections and road and rail intersections by mitigating the effects buildings and the planting of vegetation can have in such situations.</p>	
<p><b>Policy TRAN.9 Construction Standards</b> To require that new roads and access points be constructed to a standard appropriate to their intended use, and that the adverse effects of maintenance, upgrading and construction be avoided, remedied, or mitigated.</p>	

#### Manawhenua Section

Objective/Policy	Assessment
<p><b>Objective MAO.1 Kaitiakitanga</b> To have particular regard to the concept of Kaitiakitanga in relation to managing the use, development, and protection of natural and physical resources.</p>	<p>The application was notified to Aukaha and Te Ao Marama with a submission received by Aukaha on behalf of Te Rūnanga o Ōtākou.</p> <p>The Kai Tahu Ki Otago Resource Management Plan is discussed below.</p>
<p><b>Policy MAO.2</b> To recognise the Kai Tahu Ki Otago Iwi Natural Resource Management Plan as a Kai Tahu resource management reference planning document for the District.</p>	

#### Overall Objectives and Policies Assessment

- [178] The policy framework of the Clutha District Plan is largely an effects-based framework that provides flexibility for development if appropriate environmental protection is in place, and the activity is not located in an area where development may be required to be discouraged, such as the ONL/ONF areas of significant indigenous habitat or fauna, areas of cultural importance and areas within the coastal environment that have no capacity to accommodate subdivision and development.
- [179] I consider that this proposal has demonstrated that the subdivision and future residential activity on Lots 1-18, and the contaminated land remediation will be appropriate. Overall, the activity is consistent with the policies of the District Plan, the exception being the



unresolved matters of stormwater, which I consider a fundamental matter which requires resolution, and to a lesser degree, the matter of sealing and the width of the new road.

### **Assessment of National Policy Statements (Section 104(1)(b)(iii))**

[180] Under Section 104(1)(b)(iii) of the RMA, the consent authority shall have regard to the relevant provisions of a National Policy Statement.

[181] The relevant National Policy Statement is the Coastal Policy Statement 2010 (**NZCPS**). By virtue of being located within the Coastal Resource Area as mapped in the District Plan, the site is inferred to be located within the coastal environment and the NZCPS is applicable. I note that the site is located at the inland extent of the Coastal Resource Area.

[182] The relevant provisions are:

#### **Policy 6 Activities in Coastal Environment**

*(1) In relation to the coastal environment:*

- (a) recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities;*
- (b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;*
- (c) encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;*
- (d) recognise tangata whenua needs for papakāinga<sup>3</sup>, marae and associated developments and make appropriate provision for them;*
- (e) consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;*
- (f) consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;*
- (g) take into account the potential of renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;*
- (h) consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;*
- (i) set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and*
- (j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*

- [183] Limb (c) is to encourage consolidation of existing settlements, which is reflected in District Plan Policy COA.8. As discussed, the activity does not constitute an urban extension, and while lots 1-18 will have an obvious residential nature to them, they are considered to be sufficiently contained within the landform and designed to avoid significant adverse visual effects. I consider this correlates to ensuring a sense of containment of the development and it will not appear as sprawl or a sporadic pattern of development.
- [184] As discussed in Mr Moore's assessment, in terms of limb (f) the activity would not correlate to the existing character of Toko Mouth settlement, but the conditions and location of built form should be able to successfully integrate into the environment. To the extent that the type of development is a change in character, that change is considered acceptable.
- [185] With regard to limb (h), the activity has avoided buildings and roads on sensitive areas or prominent features of the site. Examples include the building setback from the escarpment, use of a building platform on Lot 13 and the restriction on buildings to be located below the 96m contour.
- [186] NZCPS Policies 13 and 15 refer to the preservation of natural and management of ONF/ONL areas. The site is not located within an area of outstanding natural character or an ONF/ONL area.
- [187] The activity is considered to be consistent with the NZCPS.

#### **Assessment of Regional Policy Statements (Section 104(1)(b)(v))**

- [188] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statement for Otago (RPS) 1998 is now revoked. The Partially Operative Regional Policy Statement for Otago (PORPS) was made partially operative on 14 January 2019.
- [189] Policy 5.3.1 of the PORPS seeks to manage activities in rural areas to support the region's economy and communities by:
- a) Enabling primary production and other rural activities that support that production;*
  - b) Providing for mineral exploration, extraction and processing;*
  - c) Minimising the loss of significant soils;*
  - d) Restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects;*
  - e) Minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency;*
  - f) Providing for other activities that have a functional need to locate in rural areas.*
- [190] The Clutha District Plan was prepared prior to the partially operative and the proposed RPS and its Coastal Resource Area and Rural Resource Area sections are not specifically focused on productivity, the District Plan takes an effects-based market led approach to resource use. Notwithstanding, the activity will not result in the loss of significant soils, using the interim definition of highly productive land as a guide, and the activity is unlikely to result

in incompatibility effects. Policy 5.3.1 discourages the subdivision of land where this may result in a loss of productivity. I consider that any inconsistency with the PORPS is outweighed by the application of the more specific and relevant District Plan objectives and policies.

[191] I consider that the proposal is overall consistent with relevant PORPS objectives and policies.

[192] The Proposed Regional Policy Statement (PRPS) has been notified and submissions period closed on 3 September 2021 and further submissions closed on 12 November 2021. The (PRPS) recognises that "*Poorly managed growth can compromise both access to and protection of natural and cultural environments, and as subdivision and development is effectively permanent and irreversible, it is important that it is done well with an eye to the longer term.*"

[193] A decision has not yet been made on submissions and it is considered that the provisions of the PORPS and the District Plan are more relevant to the activity given the stage the proposed RPS is at.

#### **Assessment of Other Plans and Matters (Section 104(1)(c))**

[194] The Kai Tahu ki Otago Natural Resource Management Plan 2005 contains objectives and policies relevant to the Tokomariro catchment and the coastal environment. In broad terms, the policies under subdivision are relevant to the activity:

##### Section 5.6.4 Cultural Landscapes General Policies

###### *Subdivisions*

25. *To discourage subdivisions and buildings in culturally significant and highly visible landscapes.*
26. *To encourage a holistic planning approach to subdivisions between the Local Government Agencies that takes into account the following:*
  - i. *All consents related to the subdivision to be sought at the same time.*
  - ii. *Protection of Kāi Tahu ki Otago cultural values.*
  - iii. *Visual amenity.*
  - iv. *Water requirements.*
  - v. *Wastewater and storm water treatment and disposal.*
  - vi. *Landscaping.*
  - vii. *Location of building platforms.*
27. *To require that where any earthworks are proposed as part of a subdivision activity, an accidental discovery protocol is to be signed between the affected papatipu Rūnaka and the Company.*
28. *To require applicants, prior to applying for subdivision consents, to contact Kāi Tahu ki Otago to determine the proximity of the proposed subdivision to sites of significance identified in the resource inventory.*
29. *To require public foot access along lakeshores and riverbanks within subdivisions.*

[195] Subject to any further information from submitter Te Rūnanga o Ōtākou, I consider the activity to not contrary to these policies. The proposal has addressed the identified site constraints and sensitive elements of the proposal and offered mitigation to appropriately manage adverse effects.

#### **Assessment of whether the application should have been notified (Section 104(3)(d))**

[196] The Consent authority must not grant a resource consent if the application should have been notified and was not. This application was not publicly notified but has been processed on a limited notified basis. There have not been any submissions received by persons who were not served notice of the application, and no information has come to

hand which indicates that the application should have been notified. I do not consider the application ought to have been notified.

## **DECISION MAKING FRAMEWORK**

### **Part 2 Matters**

[197] The relevant matters of Part 2 have been reproduced and assessed below:

#### **5. Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

[198] Section 5 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

[199] For the reasons outlined in the assessment above, it is considered that the proposal is consistent with Section 5 of the RMA and will give effect to Part 2 of the RMA, the exception is the matter relating to an appropriate stormwater management solution.

#### **6. Matters of national importance**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation*

to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights:
- (h) the management of significant risks from natural hazards.

[200] Section 6 sets out matters of National Importance and requires that these be recognised and provided for. These include the natural character of the coastal environment, natural, landscape and heritage areas, significant indigenous vegetation and fauna and the relationship of Maori with their culture and traditions.

[201] It is considered that there are no matters of national importance which should restrict granting of the application.

#### **7. Other matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –*

- (c) the maintenance and enhancement of amenity values:
- (f) maintenance and enhancement of the quality of the environment.

[202] Section 7 outlines the matters that must be considered when managing the use, development and protection of natural and physical resources, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

[203] The proposal is considered appropriate in this location and will maintain the amenity values of Toko Mouth, and will maintain the quality of the environment.

#### **8. Treaty of Waitangi**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

[204] Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. It is considered that there are no matters relating to the Treaty of Waitangi relevant to this application. The application does not engage any section 8 matters.

## Section 104

- [205] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report has assessed the environmental effects of the proposal and it concluded that the likely adverse effects of the proposed development are on balance acceptable, except for stormwater and subject to adherence to conditions of consent including the formation of the road to a sealed standard.
- [206] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. Offsetting or compensation measures have not been proposed or agreed to by the applicant. None are considered necessary in this circumstance.
- [207] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the key objectives and policies relating to the Rural Resource Area of the Clutha District Plan, except however, is inconsistent with subdivision and infrastructure policies relating to managing stormwater.
- [208] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it is concluded that the application is consistent with the relevant objectives and policies of the partially operative Regional Policy Statement for Otago, in particular Policy 5.3.1.

## Conclusion

- [209] Having regard to the above assessments, I recommend that the application be declined, owing to the proposed stormwater management.

## RECOMMENDATION

Pursuant to Part 2 and sections 34A(1), 104 and 104B of the Resource Management Act 1991 and the provisions of the Clutha District Plan, that the Clutha District Council **declines** consent to the proposed activity.

Report prepared by:

Report reviewed by:

Craig Barr  
Consultant Planner

Edita Babos  
Manager Planning and Regulatory

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22 January 2024  
Date

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22 January 2024  
Date

**APPENDIX 1:**  
**COUNCIL OFFICER ADVICE**



Reference RM2893. Proposed subdivision of Lot 9 DP516455 & Lot 3 DP512557.  
Hearing Report from Land Development Engineer.  
Date 16 January 2024

## INTRODUCTION

My name is Bevan Homer Mullions

I am a Registered Engineering Associate number 4325 in the Civil Engineering discipline.

I completed my engineering 5 year cadetship in roading, 3waters, construction, and structures, in 1967 with the Auckland City Council (now Auckland Council) and obtained parts 1A and 1B of AMICE.

My work experience covers 55years during which time I have been employed as a Civil Engineer for 7 Local Authorities, 4 Civil Engineering consultants, Constructor of bridges, roads, subdivisions, and my own Consultancy in the fields of assett management 3 Waters, Traffic engineering, and Resource Management act project management.

My experience with the 7 Local Authorities has enabled me to appreciate the importance of assett maintenance and the longevity of the assetts that will perform over the life expectancy of the towns we live in.

My experience in roading design and maintenance enables me to assess likely costs of carriageway maintenance and the asperations of residential home owners.

My experience in stormwater maintenance has shown me that the assetts must be robust and able to operate within the expectations of residential home owners and survive in overload conditions.

## CLUTHA DISTRICT PLAN ENGINEERING STANDARDS

The following District Plan policies and rules are relevant to engineering standards (bold my emphasis)

### 3.14 INFRASTRUCTURE

*Rule INF.6 Household Connections and Street Lighting.*

1. Household connections to gas, water, drainage, sewer pipes, and television, electricity, and telecommunication services are permitted activities provided that:
  - (a) The services are constructed to, and conform to, the standards specified in **NZS4404:2004** Code of Practice for Urban Land Subdivision (Correct title: Land Development and Subdivision Engineering) where relevant.
  - (b)
  - (c) Where conditions (a) and (b) cannot be met such activities shall be considered as restricted discretionary activities. Council shall restrict the exercise of its discretion to the matter that cannot be complied with.

*Rule INF.13 Standards For Infrastructure*

*The following standards shall apply to all infrastructure, including permitted activities, where relevant:*

...

*Public and **Private drains**, pumping stations and all connections thereto shall be constructed in accordance with the standards specified in New Zealand Standard **NZS4404:2004** Code Of Practice For Urban Land Subdivision (Correct title: Land Development and Subdivision Engineering) unless determined otherwise as part of a subdivision consent process.*

### 3.7 SUBDIVISION

#### 3.7.1 Overview

3. The construction standards required in the physical development and servicing of a subdivision will be those specified under NZS4404 which may be modified to suit Council's specific requirements.

*Objective SUB.4 Natural Hazards*

*Subdivisions take into account the physical limitations of the land and are designed to ensure risk from any such limitations is appropriately avoided or mitigated.*

*Policy SUB.5*

*To ensure the adverse effects of servicing both existing and proposed subdivisions of land and buildings are avoided, remedied or mitigated by providing engineering, design and other site performance standards.*

*Explanation:*

*In order to establish the basis of design criteria and to minimise the likelihood of dispute during the subdivisional process, Council has adopted NZS 4404 as the basis of engineering design within the District. Council believes that it is highly desirable that clear standards and requirements for engineering subdivisional design be established. **It is important to recognise that NZS4404 must be read as part of the subdivisional requirements for this District Plan.***

3.7.4 Rules.

*Rule SUB.1 Controlled and Restricted Discretionary Activities*

*d) Subdivision in the Rural Settlement Resource Area (other than in those settlements listed in Rule SUB.3 or affected by Rule SUB.2(b) below) that complies with the following standards:*

*(i) the site has a minimum area of not less than 1600m<sup>2</sup> PROVIDED that this does not apply to network and public utilities and*

*(ii) the site is capable of the adequate and safe disposal of effluent in terms of Rule RST.8.*

*(iii) the standards set out in Rule SUB.4 are met:*

*Is a restricted discretionary activity. Council shall restrict the exercise of its discretion to those matters set out in subsection (f) below. (f) not found*

*D. Provision of network utility services*

**1. General. Council shall exercise its discretion in respect of the provision and construction standards of network utility services, including roads to and within any subdivision.**

**2. Stormwater and Sewerage Disposal**

*(a) For any subdivision which results in additional allotments to be used for urban or industrial purposes, or for any development for two or more household units provision shall be made for a sewerage and stormwater system as follows:*

- the installation or upgrading of a public sewer or stormwater system extending from the main sewerage or stormwater system to an appropriate boundary of each proposed allotment or to each household unit.*

- a connection from the common public sewer to an appropriate boundary of each proposed allotment or to each household unit*

- a connection from each allotment or household unit to an acceptable point of discharge for stormwater.*

*(c)*

*(iv) Any proposed alternative sewerage or stormwater disposal system and its feasibility taking into account other resource consents which may be necessary to give effect to any such proposal.*

*Rule SUB.3 Non Complying Activities*

*Subdivision within the following Rural Settlements is a non-complying activity*

- Toko Mouth*

## COMMENT ON NEW ZEALAND STANDARD NZS4404.

The District plan has several references to this code as I have identified above. Versions referred to range from the 1981 code, 2004 code, and the latest 2010 code. It is generally accepted that the current code, New Zealand Standard 4404-2010 is the code in use.

## STORMWATER STANDARDS

NZS4404-2004. Land Development and Subdivision Engineering.

*Section 1.5.3.1 Alternative design basis: \_\_\_ An explanation of the design basis or construction method is to be submitted, for approval in principle, **provided that the design results in infrastructural development equivalent or superior in performance** to that complying with this standard.*

*Section 4.2.7 Alternative stormwater systems: Stormwater systems incorporating swales, soakage devices, waterways and wetlands and water quality control structures can provide an alternative means of stormwater conveyance and disposal Well designed and maintained alternative systems which replicate the pre-development hydrological regime can not only mitigate adverse environmental effects but also enhance local amenity and ecological values. Refer Auckland Regional Council (AC, ex ARC) Technical Publication No. 124 Low Impact design manual for the Auckland Region SNZ HB 44:2001 Subdivision for people and the environment and ARC Technical Publication No, 10 Design guideline manual Stormwater treatment devices, for guidance.*

NZS4404-2010. Land Development and Subdivision Infrastructure.

*Section 1.8.3.2 Alternative design basis: same as for the 2004 version \_\_\_ **provided that the design results in infrastructural development equivalent or superior in performance.***

*Section 1.8.3.3 Life style costing: \_\_\_ In undertaking a life-cycle costing, **consideration shall be given to the initial costs borne by the developer and the maintenance and replacement costs borne by the future owners or the L.A.** A reasonable balance shall be maintained between these short-term and long-term costs.*

*Section 4.1 Scope (Stormwater) \_\_\_ Low impact design is the preferred approach, particularly where there is a requirement to replicate the pre-development hydrological regime.*

*Section 4.2.1 Objectives: The primary objective of a stormwater system is to manage storm surface water run-off to minimise flood damage and adverse effects on the environment. Included is*

*a) A level of service to the TA's customers in accordance with the authorities policies*

*f) Long service life with consideration of maintenance and life cycle costs.*

*g) Application of low impact design solutions.*

*Section 4.3.1 Design life: **All stormwater systems shall be designed and constructed for an asset life of at least 100 years.** Some low impact design devices such as raingardens and other soakage systems may require earlier renovation or replacement.*

## ROADING STANDARDS

NZS4404-2010. Land Development and Subdivision Infrastructure

*Section 3.3.1 Design requirements (Roads) Table 3.2 should be used as the basis for road design.*

Table 3.2 in the "Rural Live and Play" section 1 to 20 dwelling units (note Coombe Hay Lane will serve 28 du) require a 5.5 to 5.7m wide sealed carriageway with additional 0.5m shoulders for lateral support (alternative flush kerbs is acceptable).

*Section 3.3.8 No exit roads. \_\_\_ No exit roads and lanes shall provide for road turning at the end of the road for an appropriate vehicle as described in RTS 18.*

*Section 3.4.3.1 Road surfacing. Acceptable surfacing materials. All movement lanes shall be provided with a permanent, hard wearing surfacing layer, which shall be either impermeable or formed over an impermeable base. The surfacing shall be capable of carrying all stresses expected during its lifetime. Option © Chip seals of various types providing the equivalent of two bound chip coatings*

## **ASSESSMENT OF THE APPLICATION**

I am familiar with the application, the Council's requests for information and the responses from the Applicant. In particular, the following components of the application are relevant from an engineering perspective.

- Onsite Wastewater Feasibility Assessment and Stormwater Management Plan prepared by Wai360 Engineering Ltd.
- Geotechnical Assessment prepared by Geosolve Ltd, dated 28 July 2023. This report was provided as part of the Applicant's information response on 29 August 2023.
- Stormwater memorandum prepared by Wai360 Engineering Ltd dated 17 August 2023. This report was provided as part of the Applicant's information response on 29 August 2023.
- Transportation Assessment prepared by Modal Consulting Ltd dated April 2023. This report was provided following a request for information.

### **Waste water:**

Wai360 have undertaken an assessment of the suitability of the site to accommodate on site wastewater treatment and disposal, applying S/NZ 1547:2012 and using several test pits to determine soil character. The Wai360 report identifies that each lot is capable of an onsite wastewater treatment and disposal system, noting that a site specific design will be required for each lot at the time of construction and based on the nature and scale of each residential development.

I agree that waste water can be accommodated on each residential site.

I have read through the Notification of Decision.

### **Stormwater:**

The stormwater design has not addressed the requirement for a 100year life. Failure of tank detention systems does happen (one example Waikato District Council Tamahere district flooding 2014 partly caused by residents shutting off tank slow release orifice to maintain a full tank of water during summer) and maintaining a private scheme that overflows and causes damage to public and other property cannot be easily and timely repaired.

The only tool I know of to require repairs to a private system is an abatement notice, this method is not timely in relation to rainfall, and has little consequence when compared with potential damage. The whole 18 Lot collection of gutters, pipes, storage tanks, and outlet orifices are made of plastic that gradually decays, most manufacturers advise a 20 year lifespan. In addition tanks fill up with sediment, and orifices's block. Wai360 have supplied a comprehensive management document but fails to determine how the actions required in the check lists will be implemented in the future when Wai360 have completed their part in the project.

Yes the system as designed does work but in terms of handing over each of 18 systems to individuals to maintain and carry out asset renewal to ensure continued performance over 100 years plus is a long bow.

The desire to reduce development costs by burdening 18 Lot owners with the responsibility of maintaining a fragile stormwater system, including costs involved, is not in my opinion what the above mentioned District Plan policies envisage.

A body corporate type set up with a qualified manager would require an asset management plan with regular inspections and HOA's charges including indemnity insurance. This would be established by a Consent Notice on all 18 lots.

Although Wai360 have allowed for climate change in their intensity calculations, the reality is the **frequency of storms will increase thus increasing the risk of failure**. The increase in frequency of storms has not been addressed by Wai360.

Missing from the Wai360 design and information is the installation of a suitable stormwater connection for each lot tank overflow pipe to comply with the Building Act section E1: Surface water. A connection will be required at the time of application for a Building Consent

No stormwater infrastructure has been proposed other than the lot site detention/soakage system and an open drain on one side of the road to vest.

There are other more robust stormwater management systems as set out in *Auckland Regional Council (AC, ex ARC) Technical Publication No. 124 Low Impact design manual for the Auckland Region SNZ HB 44:2001 Subdivision for people and the environment and ARC Technical Publication No. 10 Design guideline manual Stormwater treatment devices, (TP10)for guidance.*

The advantage of a TP10 solution is Council will carry out maintenance and asset replacement over the full life of the development.

The system proposed by Wai360 is not a sufficiently robust solution for stormwater infrastructure that will serve the community over a 100year plus life.

#### **Stormwater Conclusion:**

The alternative proposed does not conform to NZS4404 *section 1.5.3.1 Alternative design basis* in that the design does not represent an infrastructural development equivalent or superior performance.

While the Wai360 design does result in no change to the volume of discharge, there still needs to be a design to manage flows outside of the new lots and discharge off the development in a manner that does not cause erosion or increased flows. The ongoing maintenance and asset replacement of the Wai360 proposal must also be determined in a manner that is legally enforceable by Council.

Engineering plans are required for stormwater management construction outside of the new lots, to be approved by Council. The stormwater system shall be constructed to Council's standards.

#### **Roading Standard**

The proposed Coombe Hay Lane and ROW upgrade road reserve formation does not meet the minimum NZS4404 standard for the number of properties which will have access onto Coombe Hay Lane. The new road within the subdivision site area will be formed to a width of 5.5m with 1.5m on each side for stormwater swales. While the section of Coombe Hay Lane adjacent to the escarpment will have a 1.5m swale on the inside only. The metalled formation with "soft edges" which translates to a transition area between loose metal and grassed berm. Council receives regular requests for seal extension on existing metalled pavements because of dust nuisance.

In my 55 years of roading experience I have come across only one area that has opposed sealing an existing loose metal road. This was in Waiheke Island where lifestyle residents did not want to attract visitors. The roads were eventually sealed as they realised the benefit of increased property value. The theoretical traffic loading using data from WSP research is (18 lots plus existing 8 lots) times 10 vehicle trips per day or an approximate AADT of 260 vehicles plus farm traffic via ROW access.

Roading formation standards are set out in NZS4404 table 3.2 and the appropriate standard is set out in Access to lifestyle or clustered housing 1 to 20 du, with a width of 5.5 to 5.7 meters plus ("soft") shoulders of 0.5m each or alternatively a "hard" shoulder of flush kerbing. The surfacing can be either a 2 coat bitumen seal or asphaltic concrete as set out in NZS4404 section 3.4.3.1. A turn around area is to be provided towards the end of the new road near Lot 3.

**Roading Conclusion:**

The proposed roading comprising a metalled surface does not conform with anticipated standards , and nor does it conform to NZS4404 *section 1.5.3.1 Alternative design basis* in that the design does not represent an infrastructural development equivalent or superior performance.

Because of the residential nature and size of the development, the additional existing 8 lots and the farm access, all generating vehicular and foot traffic, a permanently surfaced 5.7m wide carriageway constructed in accordance with NZS4404 with hard shoulders usually is required and I recommend this formation. In addition a turn-around or cul de sac is required to be constructed at the end of Lot 20 near Lot 3.

Engineering plans are required, to be approved by Council. The road and associated stormwater control shall be constructed to Council's standards.

**Bevan Mullions REA**



**22 January 2024**

**APPENDIX 2:  
DRAFT CONDITION FRAMEWORK**

1. The activity must be undertaken in general accordance with the approved plans attached to this consent, and the information provided with the resource consent application and further information received by the Council and entered into its file as RM2893, except where modified by the following conditions.

- *Reference Plans [.....to be updated upon issue of consent]*

#### **General**

2. All electricity and telecommunications services shall be located below ground.

#### **Accidental Discovery**

3. During any earthworks associated with this resource consent. if any artefact and/or historical, cultural, or archaeological material of Māori origin or likely to have significance to Māori is found or uncovered during undertaking work authorised by this resource consent, the following must be complied with:
  - a) Work shall cease immediately; the area secured, and any uncovered material must remain untouched;
  - b) Advice of the discovery must be given within 24 hours of the discovery to the Group Manager Planning and Regulatory, Clutha District Council and Heritage New Zealand (Pouhere Taonga); and
  - c) No work shall recommence until:
    - i) Three working days have elapsed since the advice has been given or earlier if agreement has been reached with Iwi and Clutha District Council; and
    - ii) An Authority has been issued by Heritage New Zealand if the find involves an archaeological site.
4. While undertaking earthworks approved by this land use consent, the consent holder must ensure that:
  - a) All practicable measures are used to prevent erosion and to control and contain sediment-laden stormwater run-off from the site and the roading network during any stages of site disturbance associated with subdivision works. The consent holder shall supply the Council with a copy of any Regional Council resource consent required for the residential subdivision development.
  - b) Construction activity on the sites must not exceed the following hours typical duration construction noise limits below.

<b>Time of Week</b>	<b>Time Period</b>
Weekdays	0730-1800
Saturdays	0800-1800
Sundays and public holidays	No Works allowed



## **Staging**

5. This subdivision may be staged. For the purposes of issuing approvals under sections 223 and 224(c) of the Resource Management Act 1991, the conditions of this consent shall be applied only to the extent that they are relevant to each particular stage proposed. This consent may be progressed in any order and all stages may be combined, providing all necessary subdivision works (such as servicing, provision of formed legal access and other works required to satisfy conditions of this consent), are completed for each stage, prior to certification being issued as necessary under sections 223 and 224(c) of the Resource Management Act 1991. Any balance lots created shall either be serviced to Council's standards or held together in one title with a serviced lot.

### **Section 223 Certification**

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

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

### **Section 224(c) Certification**

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

## **Engineering Review and Acceptance**

8. Prior to any works, the consent holder shall obtain 'Engineering Review and Acceptance' from the Council for development works to be undertaken and information requirements specified in conditions [x to xx] below. The application shall include all development items listed below unless a 'partial' review approach has been approved by Council. The 'Engineering Review and Acceptance' application(s) shall include copies of all specifications, calculations, design plans and relevant design certificates as is considered by Council to be both necessary and adequate, to detail the following requirements:

[Note: At Council's discretion, specific designs may be subject to a Peer Review, organised by the Council at the applicant's cost.]

## **Roading and Accesses**

9. Roading design showing all proposed construction details for the new road to vest, new intersection to Coast Road, and upgrade of the existing road formation between Toko Mouth Domain Road and the development site, shall be submitted to and approved by the Council prior to construction. The roading design shall be in general accordance with the Modal Consulting Report, except as amended as follows:

### **Formation of Roads**

Roads to vest (including the upgrade of the existing Coombe Hay Lane ROW):

- a) Minimum formed width of 5.7m and sealed formation

- b) 1.5m swales
- c) Provision of minimum Safe Stopping Distances at the proposed intersection in accordance with the ARRB Unsealed Roads Best Practice Guide.
- d) The roads shall not have kerb and channel, but shall have edge support of either flush kerb or 0.5m wide metalled shoulder. Any footpaths shall also have gravel surfaces, and any street lighting shall be as recessive as practicable and the consent shoulder shall consider the use of bollard lighting or similar.

#### Formation of Rights of Way

- e) The ROW shall be constructed to an all weather metalled surface in accordance with NZS4404-2010 Clause 3.3.16 Private ways, private road, and other private accesses.

#### Consent Notice Condition

- f) Driveways shall have an informal rural character to the extent practicable, be sealed to the boundary with gravel, be constructed in accordance with a Vehicular Crossing permit and be sealed to the boundary in accordance with the district Plan. Monumental gates and driveway lighting are not permitted.

#### **Electricity**

- 10. The Consent holder shall provide confirmation of electricity supply to the boundary of Lots 1-18 inclusive.

#### **Stormwater**

Prior to S224C

- 11. Stormwater shall be designed and undertaken in general accordance with the Wai360 Report submitted with the application and the memorandum dated 17 August 2023 in response to the Council's request for information.
- 12. A Stormwater Management Plan shall be prepared and submitted for approval to Council. The objective of the Stormwater Management Plan is to provide a template and basis for the future owners of Lots 1-18 to achieve regular maintenance and the effective operation of the on-site stormwater infrastructure.

Consent Notice Condition on Lots 1-18:

- 13. Impervious surface runoff areas (including roofed areas and driveway and impervious parking areas) shall be no greater than 250m<sup>2</sup>. Any development which results in greater than 250m<sup>2</sup> impervious surface area shall require a stormwater design by a suitably qualified professional, to mitigate stormwater runoff effects.
- 14. At the time of development, the owner shall prepare and submit a Stormwater Management Plan for approval. The objectives of the Stormwater Management Plan shall be to achieve regular maintenance and effective operation of onsite stormwater infrastructure. The owner shall be responsible for the operation and maintenance of the onsite stormwater infrastructure and shall ensure it is maintained in good working order.

#### **Landscape Mitigation**

- 15. A landscaping plan with the species and density of plantings, and any irrigation or maintenance methods shall be submitted for approval. The planting plan shall be in general

accordance with the Mike Moore Natural Character and Landscape Assessment (date 17 June 2021) as identified in Appendix A: Road Boundary Planting Strip, and Appendix B: Escarpment Boundary Planting Strip to those lots as identified in Appendix 4b/Figure 1 of the Mike Moore Report.

Prior to section 224c

- a) Landscape plantings shall be installed in accordance with approved plan in Condition 15.

Consent Notice Condition:

- b) Landscaping shall be maintained at a density on each lot of 80%. As necessary, plantings shall be replaced with similar species to maintain a planting coverage of 80%.

### **Contaminated Land Remediation**

16. A remedial action plan and contaminated land management plan shall be submitted to Council for approval. Contaminated Land Remediation shall be undertaken in general accordance with the findings and recommendations of the EC Otago Ltd report titled

Prior to section 224c

- a) Contaminated Land Remediation shall be undertaken in accordance with the approved report in condition 16 and the findings and recommendations of the EC Otago Ltd report titled.

Consent Notice Condition

- b) In the event the land remediation includes the retention of contaminated material on any lot, including Lot 19, a consent notice shall be registered on the records of title for the affected lots identifying the presence of contaminated material and any land management practices including the observance of any contaminated land management plan.

The final wording of the consent notice instrument shall be checked and approved by the Council's solicitors at the consent holder's expense prior to registration to ensure that all of the Council's interests and liabilities are adequately protected.

### **Fire Fighting Water Supply**

Consent Notice Condition

17. The consent holder at the time of construction of the residential dwelling shall install Fire Fighting Tanks on site. The fire fighting requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (or subsequent amendments) including access to tanks must be complied with.

### **Wastewater**

Consent Notice Conditions Lots 1-18

The following condition shall be registered on the record of title for Lots 1-18 by way of consent notice pursuant to section 221 of the RMA:

18. At the time of development any wastewater design shall observe the findings of the Wai360 onsite wastewater feasibility assessment, dated 6 May 2022. Any on-site sewage and greywater treatment shall be designed, and the installation overseen, by a suitably qualified professional. It is also appropriate at this location that the design for any such system be submitted with building consent along with all relevant design and construction producer statements.

### **Building Design and Location**

#### Consent Notice Conditions Lots 1-18

19. The following condition shall be registered on the record of title for Lots 1-18 by way of consent notice pursuant to section 221 of the RMA:
  - a) On Lots 1-18 all buildings shall be single story and a maximum of 5m height above existing ground level.
  - b) All buildings shall be located as follows:
    - I. A minimum of 20m from any road boundary and a minimum of 10m from any ROW boundary
    - II. A minimum of 5m from any side or rear yard
    - III. Lots 1 – 3 and 8 – 12, a minimum set back of 15m from the top edge of the escarpment, and that Lots 10 and 11 shall observe a 15m set back from the crest of the V shaped water runoff channel.
    - IV. Lot 12, shall not be located above the 96m contour.
    - V. Lot 13, located within the building platform  

[Note the Applicant is asked to confirm that the building platform shown on the plan of subdivision is setback 20m from the crest of the escarpment and below the 96m contour]
    - VI. All buildings are to be finished in either naturally weathered timber or locally appropriate stone, or in colours that have low levels of contrast with the colours of its rural landscape setting. Painted surfaces will have light reflectivity ratings of no more than 25%.
    - VII. Water tanks will be sited, and / or buried and / or screened (by planting), and coloured to match the building colours, to have minimal visual impact from beyond the property.
    - VIII. Fencing is to be confined to standard rural post and wire construction. Where boundary definition is required, planting rather than fencing is promoted.

### **Financial Contributions**

20. The consent holder shall pay a financial contribution pursuant to the rule FIN.7(e) for Lots 1 to 18 inclusive of \$560.00 per Lot. The Reserves Contribution of \$10,080.00 shall be paid at the time the section 224(c) certificate is to be issued.

21. The consent holder shall make a written request to the Manager Regulatory and Planning requesting that an Invoice be created for the payment of the Reserves Contribution.
22. The consent holder shall email the Manager Planning and Regulatory [planning@cluthadc.govt.nz](mailto:planning@cluthadc.govt.nz) advising when the Reserves Contributions has been paid to Council using the resource consent number RM2893 as the reference and advising which condition the confirmation relates to.

### **Advice Notes**

- Pursuant to section 36 of the Resource Management Act 1991 and Clutha District Council's Fees and Charges Schedule, the consent holder shall be responsible for all costs associated with the monitoring of this consent in accordance with the schedule.
- This resource consent does not authorise any building work. The consent holder could be required to apply for a Building Consent under the Building Act 2004 to authorise some of the works that are required to be complied with under this resource consent. It is recommended that the consent holder seeks professional advice on what works will require Building Consent.
- As at time of building consent, the consent holder shall apply for a Rural Address Identification Numbers or RAPID Numbers with Council's ICT Team, GIS Officer. The consent holder is to provide written confirmation by emailing the Group Manager Regulatory and Planning by emailing [planning@cluthadc.govt.nz](mailto:planning@cluthadc.govt.nz) advising what the RAPID numbers are that has been allocated to the sites that the residential dwelling will be constructed on.
- The activity will require a resource consent under the Otago Regional Plan Water for Otago Rule 14.5.2.1 associated with earthworks for residential activity.