



**REPORT ON AN APPLICATION FOR SUBDIVISION AND LAND USE CONSENT
PURSUANT TO SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991 – RM190181**

Applicant:	PAYNE DEVELOPMENTS LIMITED
Application Description:	SUBDIVISION CONSENT TO SUBDIVIDE LOTS 1 TO 4 OF RM160209 INTO 14 RESIDENTIAL ALLOTMENTS; AND LAND USE CONSENT TO REDUCE THE ROAD AND INTERNAL BOUNDARY SETBACKS AND TO INCREASE THE BUILDING AND HARDSURFACE COVERAGE IN THE RESIDENTIAL 4 ZONE
Application Status:	NON-COMPLYING
Property Address:	NORTHWEST ARCH, TWIZEL
Legal Description:	LOT 500 DEPOSITED PLAN 537032
Valuation Reference:	25313 60419
District Plan Zone:	RESIDENTIAL 4
Author:	RACHAEL WILLOX – RESOURCE MANAGEMENT PLANNER
Date of Report:	03 JUNE 2020

1 INTRODUCTION

1.1 GENERAL

This report has been prepared under section 42A of the Resource Management Act 1991 (the Act) to document the assessment of the application to subdivide Stage 3E (Lots 1 to 4) of Subdivision Consent RM160209 into 14 residential allotments. This report does not represent the views or options of the Commissioner or the Council.

1.2 REPORTING OFFICER

My name is Rachael Willox. I hold a Master's Degree in Planning from the University of Otago. I am an Intermediate Member of the New Zealand Planning Institute and have been a Planner at the Mackenzie District Council since October 2017.

2 SITE HISTORY, PROPOSAL AND SITE DESCRIPTION

2.1 SITE HISTORY

The site is located in the Residential 4 Zone of the Operative Mackenzie District Plan 2004. Subdivision within this zone requires a minimum allotment size of 4000m². Subdivision consent RM160209 was

granted to Payne Development Limited on 22 September 2017 to create sixty seven residential allotments in the Residential 4 Zone in Twizel, by Independent Commissioner Daryl Miller. The original subdivision scheme plan is shown below in Figure 1. Of the sixty seven allotments proposed, sixty three did not comply with the minimum allotment size, and four allotments were located partially within the Recreation P Zone. Land use consent was also granted under RM160209 to allow the establishment of residential buildings on Lots 5 to 67 in accordance with the setback and coverage requirements of the Residential 1 Zone and to allow the establishment of residential buildings within the Recreation P Zone (Lots 8, 12, 13 and 16). A copy of the Decision for RM160209 is attached to this report in Appendix 1.

The application for consent under RM160209 was processed on a publically notified basis. Six submissions were received. Three submissions were in support, two were opposed and one submission was neutral. No written approvals were supplied.

An Appeal was lodged with the Environment Court on 16 October 2017, by Mr F E Hocken. Under section 297(1)(b) of the Act the Environment Court ordered, by consent, that the appeals be allowed to the extent RM160209 is granted subject to an amended set of conditions and associated plans. In particular RM160209 was decreased from 67 allotments to 57 allotments. This was achieved by increasing the size of the 57 allotments. Lots 1 to 4 remained at 4000m².

A change of conditions consent (RM190021) was granted on 27 March 2019 to change Condition 1, 3, 13 and 14 of RM160209 to allow for an alteration to the staging of the subdivision. The staging consented by this change is as follows:

Stage 3A - Lots 5-19, Lots 36-37 and Lots 42-45 (21 lots)

Stage 3B - Lots 26-29, Lots 40-41, Lot 46, Lots 51-54 and Lot 57 (12 lots)

Stage 3C - Lots 20-25, Lots 30-35 and Lots 38 and 39 (14 lots)

Stage 3D – Lots 47-50, and Lots 55-56 (6 lots)

Stage 3E - Lots 1-4 (4 lots).

Stage 3A to 3C are complete. The subdivision scheme plan approved under RM190021 is displayed in Figure 2.

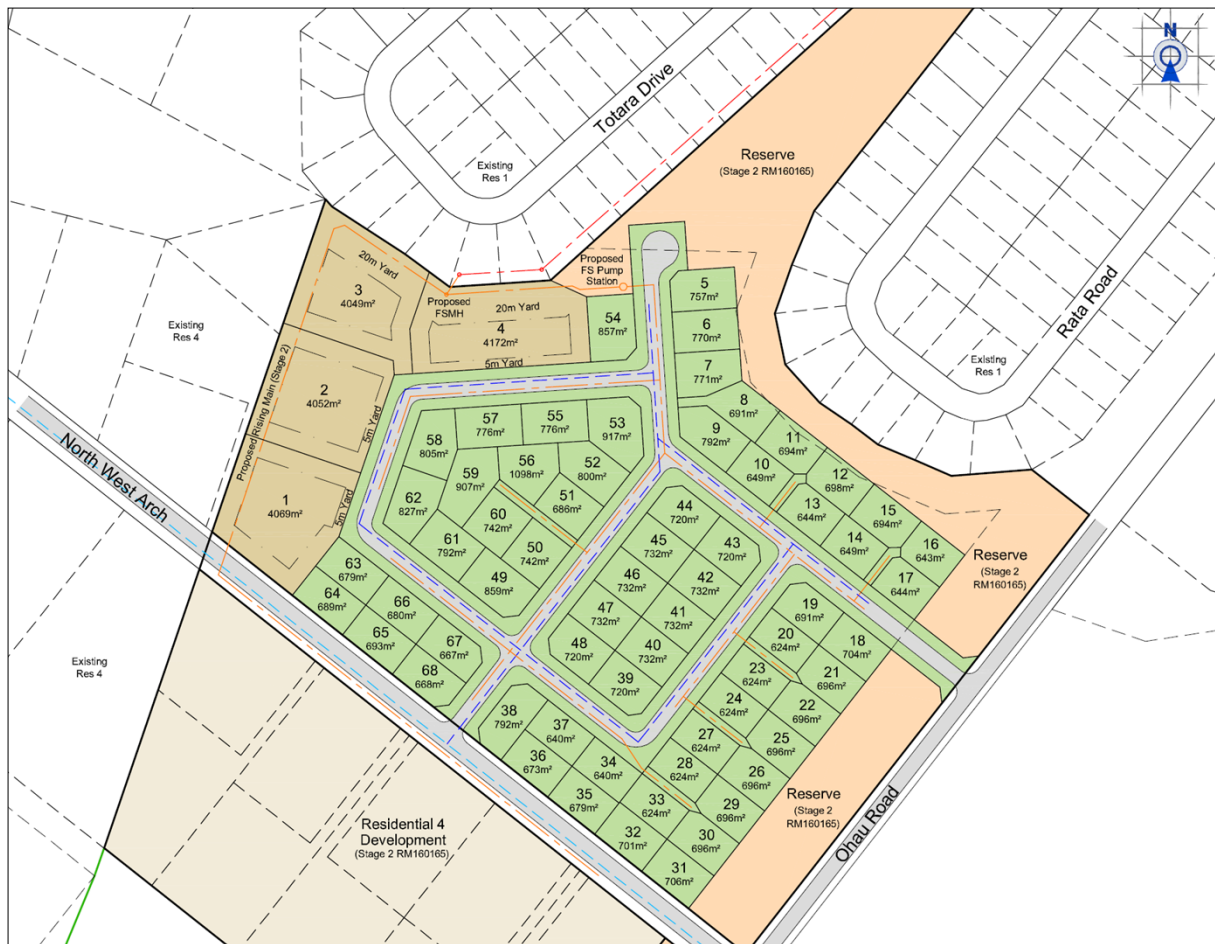


Figure 1 - Subdivision Scheme Plan Submitted with RM160290. Lots 1 to 4 are the lots now proposed for further subdivision under RM190181.

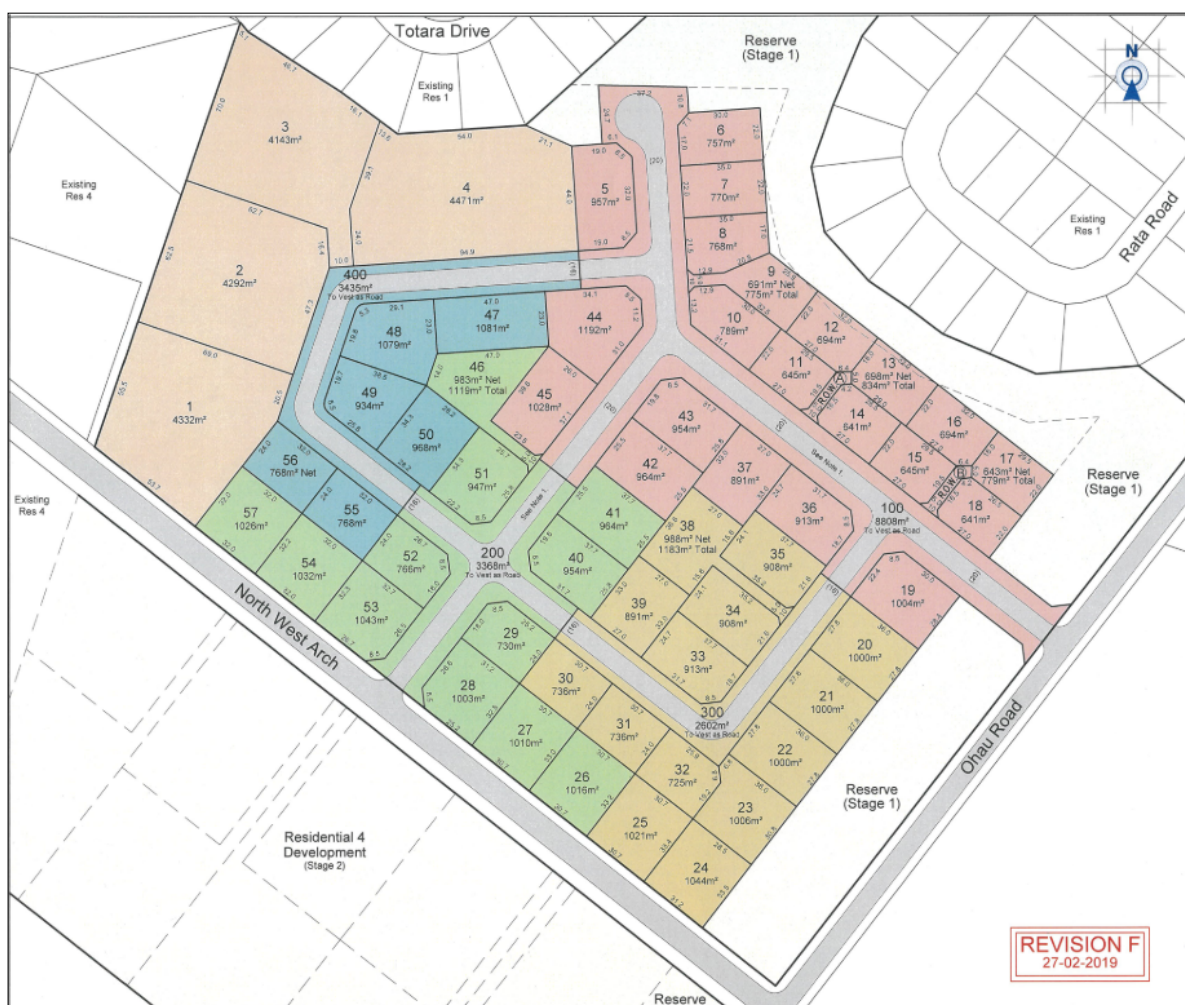


Figure 2 –Subdivision Scheme Plan Approved under RM160290 indicating the staging approved by RM190021. Stage 1 is highlighted in Pink. Stage 3B is highlighted in Green. Stage 3C is highlighted in Yellow. Stage 3D is highlighted in Blue and Stage 3E is highlighted in Beige.

2.2 PROPOSAL

The applicant has applied for resource consent to subdivide Stage 3E (Lots 1 to 4) of Subdivision Consent RM160209 into 14 residential allotments. The resultant lots of the subdivision are displayed in Table 1:

Table 1 – Proposed Allotments

Lot Number	Lot Size	Vehicle Access
Lot 1	1,065m ²	Access will be obtained via a new crossing off McHutcheson Way
Lot 2	1,180m ²	Access will be obtained via a new right of way off McHutcheson Way
Lot 3	1,314m ²	Access will be obtained via a new right of way off McHutcheson Way
Lot 4	1,070m ²	Access will be obtained via a new crossing off McHutcheson Way
Lot 58	1,003m ²	Access will be obtained via a new crossing off North West Arch
Lot 59	1,072m ²	Access will be obtained via a new crossing off McHutcheson Way
Lot 60	1,009m ²	Access will be obtained via a new crossing off North West Arch
Lot 61	1,072m ²	Access will be obtained via a new right of way off McHutcheson Way
Lot 62	1,178m ²	Access will be obtained via a new right of way off McHutcheson Way
Lot 63	1,016m ²	Access will be obtained via a new crossing off McHutcheson Way
Lot 64	1,041m ²	Access will be obtained via a new crossing off McHutcheson Way
Lot 65	1,456m ²	Access will be obtained via a new right of way off McHutcheson Way

Lot 66	1,877m ²	Access will be obtained via a new right of way off McHutcheson Way
Lot 67	1,421m ²	Access will be obtained via a new right of way off McHutcheson Way

The subdivision will result in ten additional Records of Title. The subdivision scheme plan is displayed in Figure 3.

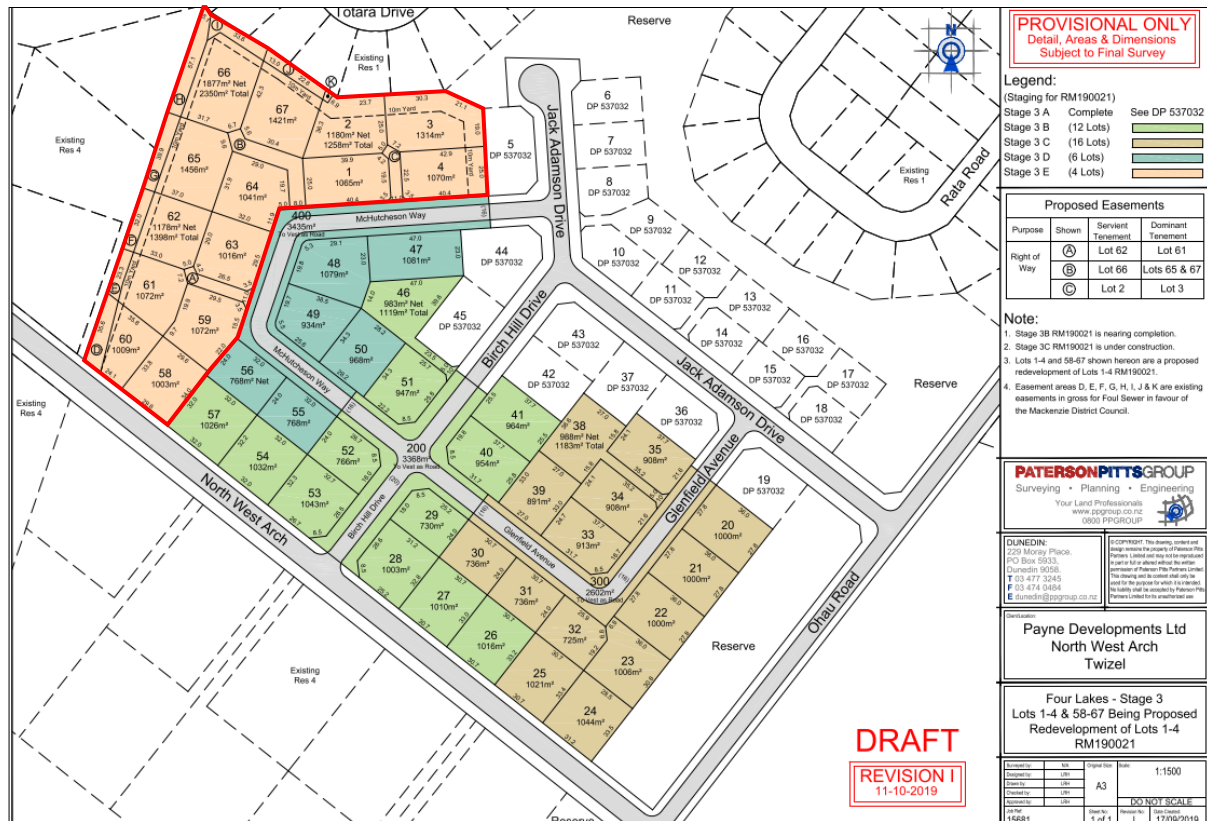


Figure 3 – Subdivision Scheme Plan. Stage 3E is outlined in red.

The applicant has applied for land use consent to reduce the road and internal boundary setbacks on proposed Lots 1 to 4 and Lots 58 to 67. The Residential 4 Zone provides for a minimum road and internal boundary setbacks of 10m to 20m. The application requests all internal and road boundary setbacks be reduced to 2m. A 10m setback will be maintained between neighbouring properties to the north and west, of the application site. The applicant has also applied to increase the total building and hard surface coverage on proposed Lots 1 to 4 and Lots 58 to 67 from the 15% permitted under the Residential 4 Zone to 50% which is consistent with the Residential 1 Performance Standards.

2.3 SITE DESCRIPTION

The subject site is located on the corner of North West Arch and Ohau Road, Twizel within a developing subdivision. The land has an area of approximately 17,238m² and forms Lots 1 to 4 of RM160209. The allotments do not have Record of Title or 223/224(c) certification.

The land is subject to the Outdoor Lighting Restriction Area and Pukaki Flight Protection Area planning notations. No other planning notations or overlays are applicable to the site. The site is not subject to any known natural hazards and is not listed on the Environment Canterbury Listed Land Use Register.

The site is currently vacant. The topography of the site is generally flat. Vehicle access to the site is by a new road McHutcheson Way, which is currently under construction as part of Stage 3D of RM160209, or via North West Arch. The surrounding environment is largely Residential 4 with a small

amount of Residential 1 zoned land to the north of proposed Lots 2, 3, 66 & 67. The location of the site is illustrated in Figure 4 and an aerial photograph of the site is provided as Figure 5.

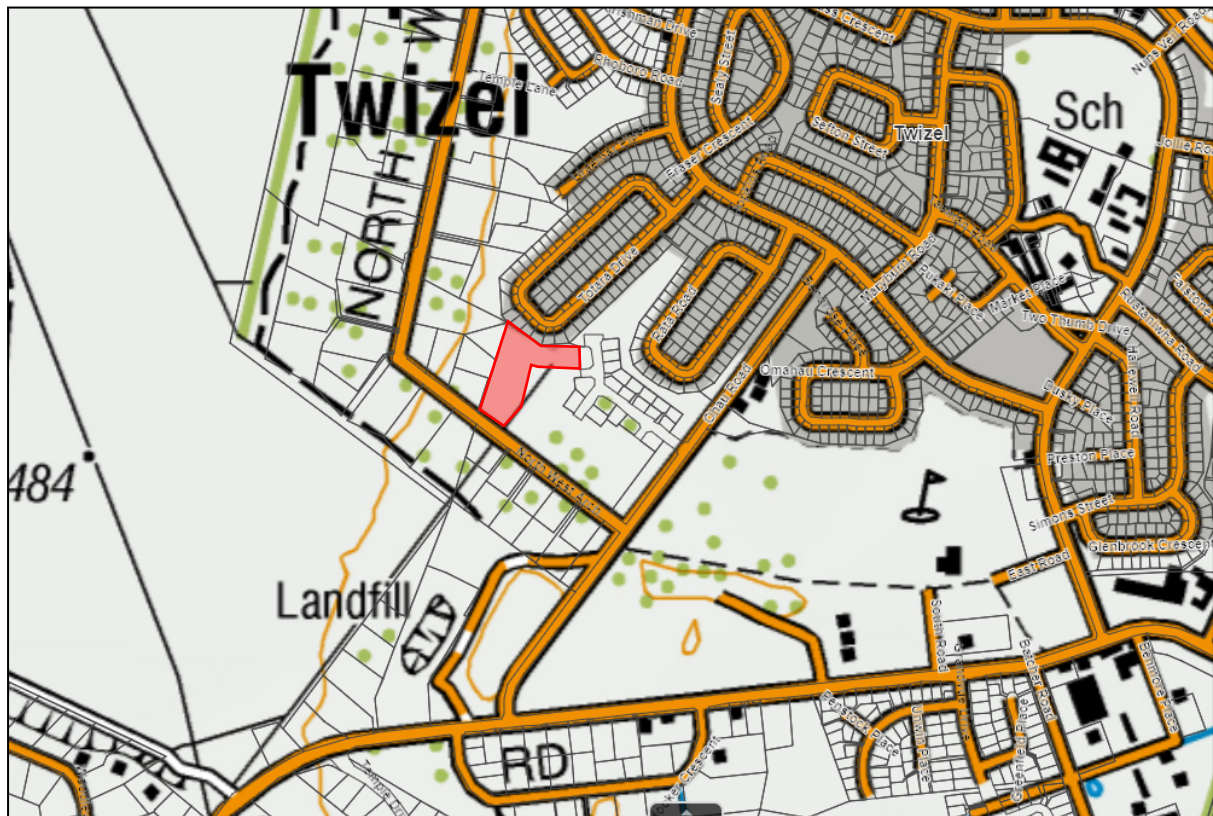


Figure 4 - Site location map. The indicative site location is highlighted in red.



Figure 5 - Aerial photograph. The indicative site location is highlighted in red.

3 PLANNING FRAMEWORK

3.1 ZONING

The subject site is zoned Residential 4 within the Operative Mackenzie District Plan 2004 (the District Plan). The purpose of the Residential 4 Zone, as set out in the zone statement, is to provide areas of low density development which adjoin the higher density Residential 1 and 2 Zones around Twizel's town centre.

3.2 COMPLIANCE ASSESSMENT

3.2.1 Subdivision Consent

Section 13, Rule 3 of the District Plan provides for any subdivision outside the Mackenzie Basin Subzone which complies with the Primary and Secondary Subdivision Standards to be considered as a Controlled Activity. An assessment of the applicable Primary and Secondary Subdivision Standards is provided in Table 2:

Table 2 – Assessment of the Primary and Secondary Subdivision Standards

Primary Subdivision Standards	Proposal
6.a Allotment Size In the Residential 4 Zone no allotments created by subdivision shall have a net area less than 4000m ² .	Cannot Comply – The net area of the resultant lots will vary in size from 1,003m ² to 1,877m ² .
6.b Water Supply All new allotments in the Residential Zones other than allotments for access, roads, utilities and reserves shall be provided with a connection to Councils reticulated water supply laid to the boundary of the net area of the allotment.	Complies – Lots 1 to 4 and Lots 58 to 67 will each be provided with an independent connection to Councils reticulated water supply.
6.c Sanitary Sewage Disposal All new allotments in the Residential Zones other than allotments for access, roads, utilities and reserves, shall be provided with a piped sewage outfall for disposing of sanitary sewage laid at least 600mm into the net area of the allotment.	Complies – Lots 1 to 4 and Lots 58 to 67 will each be provided with an independent connection to Councils reticulated sanitary sewage disposal.
6.d Energy Supply and Telephone Systems All new allotments in the Residential Zones other than allotments for access, roads, utilities and reserves, shall be provided with connections to electric supply and telephone systems to the boundary of the net area of the allotment.	Complies – Lots 1 to 4 and Lots 58 to 67 will each be provided with an independent electricity and telephone connections.
6.f Concept Plan For subdivision and development in the Residential 4 Zone a plan shall be provided which shows the overall concept for the development.	Complies – A subdivision scheme plan of showing the subdivision within RM160209 has been provided.
Secondary Subdivision Standards	Proposal
7.a Allotment Dimensions The dimensions of allotments created by subdivision in Residential Zones shall be such that they can accommodate a rectangle of the minimum dimensions of 15m x 15m.	Complies – All 10 allotments are square or rectangular in shape and can accommodate a rectangle of 15m by 15m.
7.b Property Access 7.b.viii All subdivisions shall comply with the relevant rules for access in Section 15.	Complies – An assessment of the applicable Transportation Performance Standards is provided In Table 2 below.

7.c Esplanade Provision The Council may require an esplanade strip or esplanade reserve of up to 20 metres to be created or vested when an allotment is created along the bank of any river or the margin of any lake.	Not Applicable – The site does not adjoin the bank of a river or the margin of a lake.
7.d Provision of Land for Open Space and Recreation Where a subdivision creates separately saleable additional allotments for residential or visitor accommodation purposes in the Rural Zone a cash contribution shall be made to Council towards the provision of land for open space.	Complies – A condition of consent can be imposed to ensure the applicant pays a cash contribution towards the provision for open space.

Table 1 identifies that the proposal cannot comply with Primary Subdivision Standard 7.a of the District Plan. The subdivision is therefore a Non-Complying Activity pursuant to Section 13, Rule 5.a of which requires any subdivision outside the Mackenzie Basin Subzone that does not comply with one or more of the Primary Subdivision Standards to be considered as a Non-Complying Activity.

3.2.2 Transportation

Section 15, Rule 1 of the District Plan specifies that any activity which does not provide for parking, access and loading in accordance with the Performance Standards shall be a Discretionary Activity. An assessment of the applicable Transportation Performance Standards is provided in Table 3.

Table 3 - Assessment of Transportation Performance Standards

Performance Standard		Proposal												
2.i Standards of Vehicle Crossing Vehicle access to any site shall be by way of a vehicle crossing constructed pursuant to Council standards, from the roadway to the road or serve land boundary of the site, and shall be at the owner’s expense. Vehicle crossings shall be constructed to the following standards: <ul style="list-style-type: none">For 10 or less residential units or activities which generate fewer than 100 normal car traffic movements per day: standard vehicle culverts and crossings to carry car traffic i.e. 225mmDrive-in accesses and other activities: heavy duty vehicle culverts and crossings shall be constructed and maintained so that they remain in a good state of repair and are fit for their purpose of carrying all types of normal traffic road traffic.		Complies – All 14 residential allotments will be provided with a vehicle access constructed to Council Standards pursuant to Standard 2.i.												
2.m Length of vehicle Crossings The following crossing lengths shall apply: <table border="1"><thead><tr><th>Land Use</th><th colspan="2">Length of Crossing (m)</th></tr><tr><th></th><th>Minimum</th><th>Maximum</th></tr></thead><tbody><tr><td>Residential</td><td>3.0</td><td>6.0</td></tr><tr><td>Other</td><td>4.0</td><td>9.0</td></tr></tbody></table> The length of culverts and crossing shall be actual length of channel covers or the length of the fully dropped curb.		Land Use	Length of Crossing (m)			Minimum	Maximum	Residential	3.0	6.0	Other	4.0	9.0	Complies – All 14 allotments will be provided with a vehicle crossing of a minimum width of 3m.
Land Use	Length of Crossing (m)													
	Minimum	Maximum												
Residential	3.0	6.0												
Other	4.0	9.0												

<p>2.n Distance of Vehicle Crossings from Intersections No part of any vehicle crossing shall be located within 10m of an intersection or any roads in accordance with Table 4 of the District Plan.</p>	<p>Complies – A condition of consent is recommended to ensure no vehicle crossings are constructed within 10m of an intersection.</p>						
<p>2.p Visibility from Accesses All private accesses shall be located to ensure continuous visibility up to the minimum sight distances: Speed 50km/hr – 85m.</p>	<p>Complies – A minimum site distance of 85m can be achieved.</p>						
<p>2.q Private Vehicle Access All private vehicular access to fee simple title allotments shall be in accordance with the standards set out below:</p> <table border="1" data-bbox="209 629 778 987"> <tr> <td data-bbox="209 629 344 689">0-2 Lots</td><td data-bbox="344 629 778 689">Legal Width: 3.5m Carriageway Width: 3.0m</td></tr> <tr> <td data-bbox="209 696 344 824">3-6 Lots 0-50m</td><td data-bbox="344 696 778 824">Legal Width: 4.0m Carriageway Width: 3.5m Truing Area Required Passing Bay Required</td></tr> <tr> <td data-bbox="209 831 344 987">3-6 Lots Over 50m</td><td data-bbox="344 831 778 987">Legal Width: 4.5m Carriageway Width: 4.0m Truing Area Required Passing Bay Required Footpaths Required</td></tr> </table>	0-2 Lots	Legal Width: 3.5m Carriageway Width: 3.0m	3-6 Lots 0-50m	Legal Width: 4.0m Carriageway Width: 3.5m Truing Area Required Passing Bay Required	3-6 Lots Over 50m	Legal Width: 4.5m Carriageway Width: 4.0m Truing Area Required Passing Bay Required Footpaths Required	<p>Complies – The development will include three rights of way. The rights of way have been designed to comply with the District Plan requirements.</p>
0-2 Lots	Legal Width: 3.5m Carriageway Width: 3.0m						
3-6 Lots 0-50m	Legal Width: 4.0m Carriageway Width: 3.5m Truing Area Required Passing Bay Required						
3-6 Lots Over 50m	Legal Width: 4.5m Carriageway Width: 4.0m Truing Area Required Passing Bay Required Footpaths Required						
<p>2.r Standard of Vehicle Access Access ways in Residential Zones shall be to an all-weather standard for the full berm width of the adjoining road. Where the access way serves more than one allotment the access way shall be formed and sealed for the full length.</p>	<p>Complies – A condition of consent is recommended to ensure the three rights of way are constructed to an all-weather standard and are formed and sealed for the full length in accordance with Transportation Standard 2.r.</p>						

3.2.3 Land Use Consent

Section 6, Rule 3.1.1.1 of the District Plan provides for any residential activity that complies with the Performance Standards as a Permitted Activity.

Section 6, Standard 3.1.1.b of the District Plan provides for a maximum building coverage of the net area of any Residential 4 Zone shall of 15%.

The applicant has applied to increase the total building and hard surface coverage on Lots 1 to 4 and Lots 58 to 67 from 15% to 50% which is the performance standard for hard surface coverage in Residential 1 Zone.

Section 6, Standard 3.1.1.d of the District Plan requires a minimum building setback from all boundaries in the Residential 4 Zone of 10m except that where an allotment is adjacent to the Residential 1 Zone. Any residential unit within allotments adjacent to the Residential 1 Zone require a minimum setback of 20m from those boundaries.

The applicant has applied to reduce the road and internal boundary setbacks on Lots 1 to 4 and Lots 58 to 67 to 2m. The required 10m setback will be maintained between existing neighbouring allotments adjoining Lot 1, Lot 4 and Lots 58 to 65. The application proposed to reduce setbacks required for Lots 2, 3, 66 & 67 (adjacent to the Residential 1 Zone), from 20m to 10m.

The land use component of the proposed development cannot comply with Performance Standards 3.1.1.b and 3.1.1.d and is therefore to be considered a Discretionary Activity pursuant to Section 6, Rule 3.3.2 of the District Plan which stipulates in the Residential 4 Zone any residential activity which does not comply with any one or more of the permitted Performance Standards shall be a Discretionary Activity.

3.3 ACTIVITY STATUS

Overall, the application is assessed as a **Non-Complying Activity**.

5 STATUTORY CONSIDERATIONS

5.1 SECTION 104 & 104D

In accordance with section 104D of the Act, a consent authority may grant a resource consent for a Non-Complying activity only if it is satisfied that either the adverse effects of the activity on the environment will be minor, or the application will not be contrary to the objectives and policies of the District Plan. Conditions may be imposed under section 108 of the Act

5.2 SECTION 106

Section 106 of the Act allows a consent authority to refuse subdivision consent if there is a significant risk from natural hazards or sufficient provision has not been made for legal and physical access.

5.2.1 Natural Hazards

Section 106 of the Act stipulates that a consent authority when considering a subdivision consent has to consider whether the land is suitable for subdivision and take into account any measures proposed by the applicant to protect the land from the effects of natural hazards. An assessment of the risk from natural hazards requires a combined assessment of the following matters:

- The likelihood of natural hazards occurring (whether individually or in combination);
- The material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
- Any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).

The site is not subject to any known natural hazards. The likelihood of natural hazards occurring is therefore considered to be low. The subdivision is not expected to accelerate, worsen or result in material damage in terms of natural hazards.

5.2.2 Legal and Physical Access

All 14 residential allotments will be provided with a vehicle access constructed to Council Standards pursuant to Section 15, Standard 2.i of the District Plan.

5.2.3 Conclusion

Having regard to the above Section 106 matters, I do not consider that there are any grounds for the subdivision consent to be refused.

6 PROCESSING OF CONSENT

The application for consent was formally received on the 27 November 2019. A site visit was undertaken and a notification report and recommendation was prepared. The application was publically notified on 08 February 2020. The following parties were considered to be adversely affected by the proposal and were served notice of the application:

Table 4 – Table of Identified Potentially Adversely Affected Persons. The location of the parties are identified on Figure 6.

Name	Address
Darryl and Carol Marshall	55 Totara Drive, Twizel
William Armstrong and Maureen Litte	53 Totara Drive, Twizel
Peter Wilemse	51 Totara Drive, Twizel
Raymond Waite	49 Totara Drive, Twizel
John Cockburn	47 Totara Drive, Twizel
Jonathan and Pipa Pavey	45 Totara Drive, Twizel
Catherone Collins	43 Totara Drive, Twizel
Stephen Rabbidge and Kara Maaka	39B North WestArch, Twizel
Kylie Rabbidge-Maaka	39A North WestArch, Twizel
Allan and Patricia	39 North WestArch, Twizel
Michael Oleary Jenny Washington	52 North WestArch, Twizel
Angus and Lucy Mclean	56 North WestArch, Twizel
John and Colleen Leith	58 North WestArch, Twizel
Angela and Leonard Wakefield	60 North WestArch, Twizel

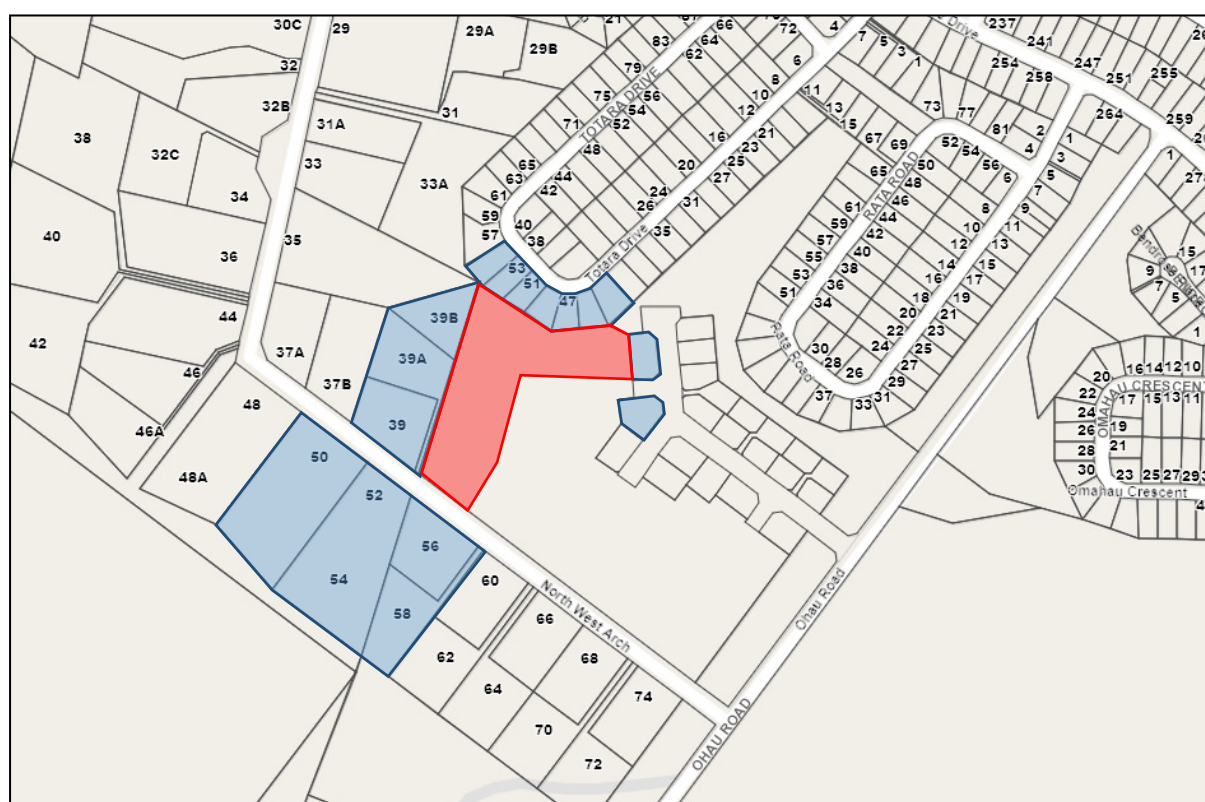


Figure 6 – The indicative site area is highlighted in red and the identified affected persons are highlighted in blue.

The submission period closed on Friday 06 March 2020. Eleven submissions were received.

7 SUBMISSIONS

The application received eleven submissions. All eleven submissions were opposed to the application. Two were received late requiring a decision to be made by the Commissioner regarding their admissibility. The submissions are summarised in Table 5 and discussed in the Assessment of Effects in Section 8. Copies of the submissions are attached in Appendix 2.

Table 5 – Summary of Submissions

#	Name	Summary of Submission	Wish to be Heard
1	Sandy and Dean Nelson	Opposes the application as the subdivision will result in increased noise during construction and going forward. Submitters believe it is important to retain some larger sections in an intensive area for visual amenity. People who purchased sections are also entitled to have their neighbours sections kept at the same level of development expected when they brought the property. Submitters want the four sections to remain Residential 4 in size.	No
2	Andrew Hocken	Opposes the application as the subdivision should be treated as a private plan change. Submitter details that it was agreed at Environment Court that these four allotments would remain larger in size to provide neighbouring properties with an appropriate buffer zone. The submitter believes that the subdivision will have increased pressure on existing services and traffic flows. Submitter wants the sections to remain Residential 4.	Yes
3	Allan George Geddes Thorn	Initially supported the application but now withdraws support (Opposes). Submitter believes that his property will be adversely affected as the increase in sections will reduce appeal given the high density, result in more noise, people, dogs, vehicles, congestion and pressure on infrastructure. The submitter also believes that the proposal will decrease the peace and quiet and quality of life and increase likelihood of Air bnbs. Submitter wants the sections to remain Residential 4 in scale.	No
4	Ursula Paul	Opposes the application as people should not be allowed to subdivide below 4000m ² in the Residential 4 Zone. More small sections removes the green space from the area and unduly affects the water and sewerage facilities of this part of Twizel. Submitter wants the sections to be maintained at 4000m ² .	No
5	Stephen Rabbidge	Opposes the application to change the sites from Residential 4 to Residential 1. Submitter brought their section for the size, peace and	Yes

		quiet and having no close neighbours. The submitter has concerns with extra noise, close neighbours, strain on infrastructure and increased traffic on a once quiet road. The application has already been to the Environment Court. The submitter wants the sections to remain Residential 4 in size.	
6	Kylie Rabbidge Maaka	Opposes the subdivision. Submitter brought their property on North West Arch for the lifestyle, privacy and quietness having no close neighbours and no traffic. Submitter's property backs onto the new subdivision and the submitter has already noticed loud and heavy traffic. The submitter wants the sections to remain Residential 4 in size.	Yes
7	Gillian Marie Olsen	Opposes the subdivision as it was initially agreed that the sections would remain at 4000m2 as per the Residential 4 Zoning. Submitter is concerned with Twizel's infrastructure as more holiday homes will increase pressure on the current supply. Submitter also believes that by reducing the setbacks there will be more opportunities for air bnbs. The subdivision may also set a precedent. The submitter wants the allotments sizes to remain Residential 4.	No
8	Ray Waite	Opposes the subdivision as it contradicts the original application which sought to maintain the four properties as Residential 4 to maintain a buffer for the adjoining properties. The submitter has concerns with the additional strain on infrastructure especially water restrictions and Airbnbs. The submitter also raises that the subdivision contravenes the District Plan and should be a plan change not a resource consent. The submitter is concerned with development construction, noise and dust from heavy machinery.	Yes
9	Jacqui De Buyzer	Opposes the subdivision as it is unfair on all the boarding neighbours and neighbours in the subdivision. "It's unfair to change the rules after people have made investments." The submitter also opposes more housing in the area and believes keeping four large sections will maintain some integrity of the area.	No
10	Glenys Gibson and Scott Maxwell *	Oppose the application to change the size of the four sections. The submitter believes that the subdivision will result in increased noise and dust levels during construction and going forward. The submitter also has concerns with the longer term impacts of intensive housing, no greenways and the impact on infrastructure, light and noise pollution. "North West Arch's appeal has always been less streetlights and better night skies and	No

		housing with larger sections.” It is important to retain larger sections for visual amenity. The submitter wants the sections to remain Residential 4.	
11	Peter Willemse *	Opposes the subdivision. Submitter suggests the subdivision is reduced to 10 to 12 allotments to allow for a greenway which continues from the existing reserve from Ohau Road behind Rate Place and Totara Drive and connects through to North West Arch.	Yes

Submissions 10 & 11, marked with an asterisk in the above table, were received after 5pm on Friday 06 March 2020. The decision regarding their acceptance will be made by the commissioner at the hearing.

Section 104(3) of the Act stipulates that a consent authority when considering an application for resource consent, must not have regard to trade competition or the effects of trade competition. Submission 02 was received from Andrew Hocken who is a developer in Twizel involved in large scale residential subdivisions. Mr Hocken could therefore potentially be considered a trade competitor. Mr Hockens submission however makes no reference to any matter that could be considered to be associated with trade competition, and I am inclined to recommend that the submission be accepted. In addition, Mr Hocken submission on RM160209 was accepted for processing with the original consent and he was a party to the appeal proceedings, no reference to any potential effects of trade competition were made. The admissibility of the submission in terms of potential trade competition is a matter for the commissioner to determine at the hearing.

8 ASSESSMENT OF EFFECTS

8.1 Permitted Baseline

A consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or plan permits an activity with that effect. This is termed the ‘permitted baseline’. It is at the consent authority’s discretion as to whether the permitted baseline is taken into account when considering an application. The permitted baseline has not been considered in this instance as subdivision consent is not provided for as a permitted activity in District Plan. In addition, the minimum building setback in the Residential 4 Zone is 10-20m and the application is seeking a reduction to 2m.

8.2 Receiving Environment

The site forms part of subdivision consent RM160209 creating fifty seven residential allotments in the Residential 4 Zone in Twizel. Fifty three of the existing allotments do not comply with the minimum allotment size in the Residential 4 Zone. Consent notices have also been issued on the Records of Title to allow the sites to comply with the Performance Standards in the Residential 1 Zone.

8.3 Written Approvals

Section 104(3) of the Act provides that a consent authority must not have regard to any effect on a person who has given written approval to the application. Written approval from the following persons has been submitted with the application for consent:

Table 6 – Table of land owners who have provided affected party approval to the application. The location of those parties are identified in Figure 7.

Name	Address
Jonathan and Pippa Pavey	45 Totara Drive, Twizel
John Cockburn	47 Totara Drive, Twizel
Darryl and Carol Marshall	55 Totara Drive, Twizel
Angus and Lucy McLean	56, North West Arch, Twizel
Glenys and Peter Blain	26 Jack Adamson Drive, Twizel
Christopher and Alison Toase	44 Birch Hill Drive, Twizel

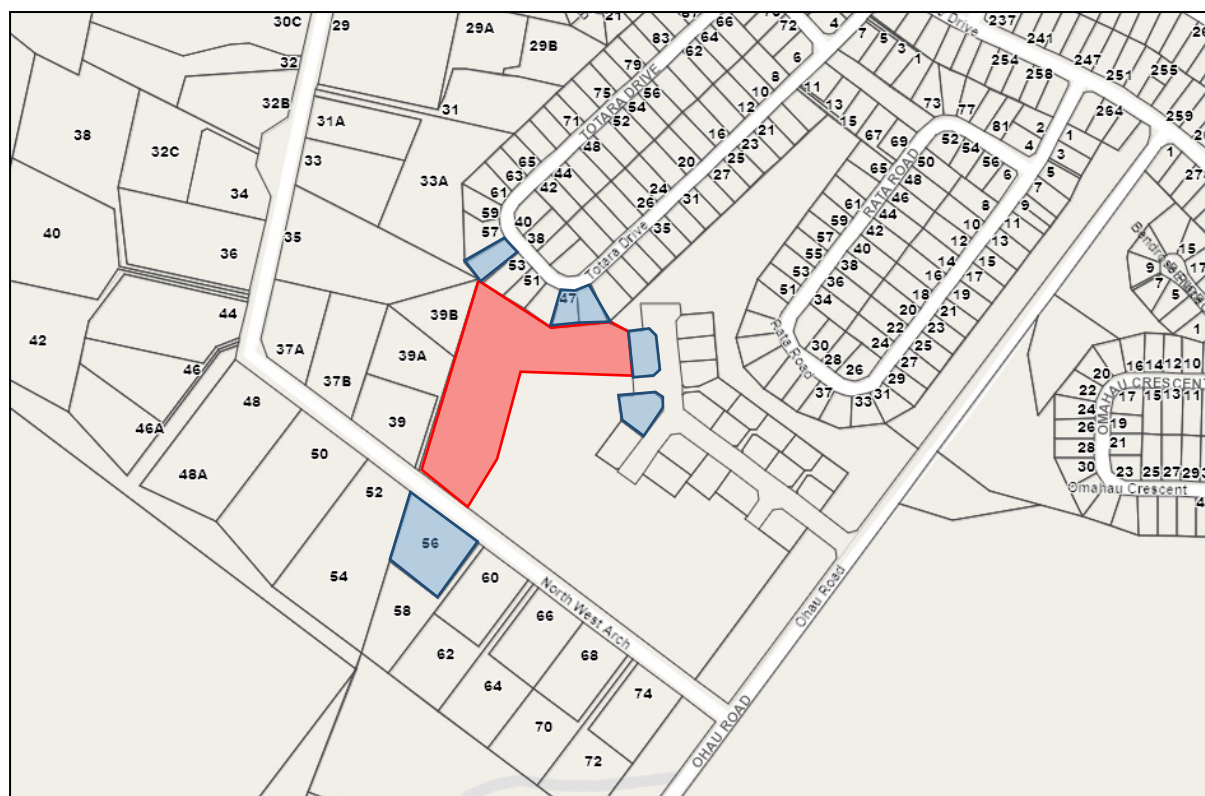


Figure 7 – The site is highlighted in red. Adjoining properties that have provided written approval are highlighted in blue.

8.4 Assessment of Effects

In assessing this application it is considered that the key environmental effects of the proposal are as follows:

- Character and Amenity Effects;
- Servicing Effects;
- Access Effects;
- Transportation Effects;
- Earthworks and Construction Effects;
- Precedent Effects;
- Lighting;
- Provision of visitor accommodation; and
- Positive effects

These matters are assessed as follows:

Character and Amenity Effects

The applicant has applied for resource consent to subdivide Stage 3E (Lots 1 to 4) of Subdivision Consent RM160209 into 14 residential allotments. The resultant lots range in size from 1003m² to 1877m² and do not meet the minimum allotment size in the Residential 4 Zone. The District Plan minimum allotment standards however are a key determinant in establishing character and amenity outcomes. The minimum allotment size in the Residential 4 Zone is 4000m². The purpose of the zone is to provide for low-density residential development which acts as a buffer between the higher densities Residential 1 Zone and the Rural-Residential and Rural Zones.

Lots 1 to 4 of RM160209 were originally designed to meet the minimum allotment size. The reason for this was acknowledged by the application documents for RM160209 that state *"it is important for special consideration to be given to the owners and occupiers of Totara Drive that back onto the development."* Development potential was therefore surrendered to avoid creating effects beyond what could have been reasonably anticipated under the underlying zoning where the development adjoined established properties. At the interface with existing properties Lots 1 to 4 of RM160209 maintained the amenity and character outcomes sought by the District Plan.

The proposed subdivision will now create a more intensive subdivision with a greater number of allotments and significantly reduced open space compared to the form of development provided for by the Residential 4 Zone at the interface with existing properties. Fourteen allotments are proposed, compared to the four allotments that may be developed to meet the minimum standards of the Residential 4 Zone. The total building coverage will also increase which leads to a greater extent of built form and less opportunity for planting/open space. The setbacks will also be reduced to 2m between the allotments creating a greater intensity of development, albeit not along the boundary with the existing Residential 1 zoned properties.

All of the submitters opposed the application and expressed concerns with the effect of the subdivision on the character and amenity of the area. Submitters believed it was import to maintain larger sections for amenity purposes, to allow greenways and to create a buffer zone between the subdivision and adjoining properties. Submitters also commented that land owners who purchased properties in the area and/or subdivision were entitled to have the sections remain at the same level of development anticipated when they purchased the property and it was unfair to change the level of density through a subdivision and land use consent. Some submitters also mentioned the lower density of housing permitted in the Residential 4 Zone as being an incentive for buying a property in the area.

While the lots to be subdivided are located within a subdivision that has been developed outside the requirements of the District Plan the proposal is a significant departure from the outcomes anticipated in the District Plan. The subdivision will result in a significant change in effects for the neighbouring properties than that anticipated by the decision on RM60209 and the subsequent Environment Court decision that resulted from the mediation. Lots 1 to 4 currently retain the minimum lot size of 4000m² anticipated in the Residential 4 Zone and act as a buffer between the smaller lots approved by RM160209 and the adjoining Residential 4 properties that are not part of the development. The proposal will result in this separation being lost and a significant difference in terms of density of development than was anticipated by the District Plan and the decision on RM160209.

The density of development proposed is not consistent with the character anticipated in the Residential 4 Zone, and reflects the character of the higher density Residential 1 Zone at the interface of properties adjoining the subdivision (the adjoining Residential 4 Zone). I am of the opinion that the adverse effects of the development in terms of character and amenity, in particular in relation to the adjoining Residential 4 Zone are more than minor.

Servicing Effects

- **Water Supply**

A new water main will be constructed beneath the carriageway of McHutchenson Way. Individual water connections will then be established to each of the allotments. Lots 58 and 60 will connect to Councils existing water main in North West Arch. Councils Engineering Manager has reviewed the application and raised no concerns with the intended method of water supply.

- **Sanitary Sewage Disposal**

A new gravity foul sewer will be constructed to service the allotments. Individual sewer connections will then be established to each of the allotments. Councils Engineering Manager has reviewed the application and raised no concerns with the intended method of sanitary sewage disposal.

- **Stormwater Disposal**

Stormwater will be either directed to soak pits within the allotments or the kerb and channel within the subdivision. All stormwater design will be assessed at the time of building consent for any future buildings. Councils Engineering Manager has reviewed the application and raised no concerns with the intended method of stormwater disposal.

- **Energy Supply and Telecommunications**

The applicant has received confirmation from Alpine Energy that the 14 allotments can be serviced via the existing internal infrastructure installed as part of Stage 3A and 3B of RM160209. All 14 allotments will also be supplied with a telecommunication connection in accordance with Section 13, Standard 6.d.

Access Effects

All 14 allotments will have legal and physical access to McHutchenson Way or North West Arch via a new vehicle crossing or Rights Of Way. Conditions of consent can be imposed to ensure all vehicle crossings comply with the District Plan requirements and New Zealand Standard 4404.

Having regard to the above the adverse effects in regards to servicing and access are considered to be less than minor. It is noted that while the majority of submitters expressed concerns with the effect of the development on Councils infrastructure Councils Engineering Manager has confirmed that there is no issues with Councils reticulated services. The Council can easily service the additional allotments given their location and the proximity of existing services installed under RM160209.

Transportation Effects

Mr Scott Mackenzie, Councils Roading Manager has reviewed the application and anticipates each residential section to generate 8 to 10 vehicle movements per day. Based on Mr Mackenzie's

calculations the traffic generated by four allotments would equate to approximately 32 to 40 movements per day and, the traffic generated by 14 allotments would equate to approximately 112 to 140 movements. The traffic generated by the proposed subdivision is therefore significantly more than the movements anticipated in the Residential 4 Zone for four allotments of 4,000m².

The residents within the Subdivision and surrounding neighbours will therefore experience a noticeable increase in vehicle movements during the day and night especially off North West Arch and Ohau Road. Four submitters raised concerns with the increase in traffic on the existing road network. The adverse transportation effects are therefore considered to be more than minor.

Earthworks and Construction Effects

Nuisance effects will arise during the earthworks and construction phase of the development. The construction effects while temporary will occur for a long period of time, and at a greater intensity than provided for in the zone, given the underlying subdivision and increase in buildable area/development. A number of submitters raised concerns with the level of noise during existing construction and the increase in heavy traffic movements. It is noted that conditions of consent can be imposed to help mitigate the effects of earthworks and construction. The adverse nuisance effects however are considered to be more than minor, particularly on adjoining properties, as the scale of construction exceeds the level provided for in the District Plan. Neighbouring properties will be exposed to a greater level of noise for an extended period of time. While this may create a nuisance it will be temporary and any effects associated with the construction of the will also be temporary.

Precedent Effects

The issue of precedent and consistent Plan administration is a matter that must be considered. While no two applications for consent are ever the same, there may of course be similarities. Should that situation arise, there is the prospect that the manner in which one application has been processed may well influence the processing of another and ultimately the outcome. If such precedent arguments were to be successful, then it raises questions of Plan integrity.

In RM160209 it was concluded that the opportunities for similarly zoned Residential 4 land in Twizel to exhibit the same development characteristics and potential, in close proximity to the town centre, were non-existent. The granting of the underlying subdivision was therefore considered to have no impact on Council's ability to achieve the outcomes sought by the Plan in the future. As noted above the decision RM160209 that resulted from the mediated Environment Court appeal, included the retention of the four lot buffer between the smaller allotments that were increased in size and reduced in number through mediation, and the remaining Residential 4 Zoned land to the west.

The proposed subdivision seeks to remove that buffer and allow the creation of smaller allotments at the interface of the Subdivision with the adjoining Residential 4 Zone land. Granting of the proposed consent will set a precedent for the creation of smaller lots spreading further into the Residential 4 Zone in North West Arch. While each application is assessed on its merits I consider that the subdivision will set a precedent that will make it difficult to decline future consents to subdivide Residential 4, challenging the integrity of the District Plan provisions. Such changes are more appropriately dealt with through a plan change process.

Lighting Effects

It is acknowledged that outdoor lighting has the potential to have adverse environmental effects. Outdoor lighting can spill onto neighbouring properties and roads causing nuisance effects and

potential traffic safety issues. In addition, an abundance of outdoor lighting can adversely affect people's ability to view the night sky and affect the ability for effective research to be undertaken at the Mount John University Observatory.

The site is subject to the Outdoor Lighting Restriction Area planning notations. All street lighting is therefore required to comply with the District Plan and be fully shielded to prevent light spill. The street lighting permitted by Council are Aoraki Bollards, GL520 from Betacom or Lincoln Fitting from Widsor Heritage all in 2200k LED. If consent was granted a condition of consent could be imposed to ensure all street lighting is in accordance with the lighting approved by Council.

In regards to building development all future land owners will be required to comply with the District Plan outdoor lighting provisions. All outdoor lighting is also required to be downward facing and fully shielded to prevent light spill. Provided all future buildings comply with the District Plan requirements the adverse effects in terms of outdoor lighting are considered to be less than minor.

Provision for Visitor Accommodation

Concerns regarding possible visitor accommodation developments were raised by submitters. Subdivision consent RM160209 allowed for the creation of fifty seven residential allotments in the Residential 4 Zone and land use consent to establish residential buildings on Lots 5 to 57 in accordance with the setback and coverage requirements of the Residential 1 Zone. The exemption to the Residential 4 Zone rules did not apply to visitor accommodation activities.

Section 6, Rule 5.1.1 of the District Plan stipulates visitor accommodation for a maximum of six people is permitted activity in the Residential 4 Zone provided the Performance Standards are complied with. The standard Performance Standards for visitor accommodation activities in the Residential 4 Zone are listed in Table 7.

Table 7 – Standard Performance Standards for Visitor Accommodation Activities in the Residential 4 Zone

Performance Standard
5.1.2.a Building Height and Flood Heights All visitor accommodation buildings shall comply with the following standards for residential buildings: 3.1.1.c Height of Buildings 3.1.1.e Flood Mitigation – Floor Heights/location
5.1.2.b Building Coverage The maximum building coverage of the net area of any Residential 4 site shall be 10%.
5.1.2.c Setbacks from Boundaries In the Residential 3 and 4 Zones the minimum building setback from all site boundaries shall be 20m.
5.1.2.d Landscaping The minimum percentage of the site to be landscaped shall be 10%. On sites other than rear sites all required landscaped areas shall be located along the road frontage of the site. Such landscaping shall include a landscaping strip with a minimum average width of 1.5m and a minimum width of 0.6m along the road frontage except across vehicle crossings.

The above standards would restrict any future allotments from being used for visitor accommodation. In most instances, given the reduction to the minimum allotment size, land owners will require resource consent to provide visitor accommodation within the area. Any future applications for resource consent will be assessed on their merits on a case by case basis.

Having regard to the above I am of the opinion that the subdivision and land use consents sought will not allow for a greater intensity of visitor accommodation activity as the land use consent related to a reduction in the setbacks and building coverage being only in regards to residential activities. The

applicant has not sought to provide for visitor accommodation activities in terms of a land use therefore underlying zone rules will apply to all visitor accommodation activity.

Positive Effects

There are a number of benefits that will accrue from this proposal should consent be granted, including:

- The proposal will increase land development and housing options within Twizel; and
- The subdivision is located in close proximity to Twizel's town centre and will encourage walking and cycling

Summary

While there are some positive effects. This proposal represents a significant departure from the density of development anticipated under the existing Residential 4 zoning provisions, challenging the integrity of the District Plan. The proposal will have adverse actual and potential effects on the environment that are more than minor especially at the interface of adjoining properties and in relation to the to the setting of a precedent for future development of the Residential 4 Zone. Accordingly, it is considered that the proposal does not pass the first test provided by section 104D of the Act.

9 ASSESSMENT OF APPLICABLE STATUTORY DOCUMENTS AND REGULATIONS

The Operative Mackenzie District Plan 2004 is the only statutory planning document or regulation that is pertinent to the consideration of the subject application. Accordingly, and in the interests of conciseness, no other statutory planning documents or regulations are considered in this assessment.

Operative Mackenzie District Plan 2004

The Objectives and Policies most relevant to the subject application are set out and assessed below:

Section 6 - Residential

<p><i>Residential - Objective 1 Amenity</i> <i>Maintenance of the pleasantness, amenity and safety of residential areas and maintenance and protection of the surrounding natural and physical environment.</i></p>
<p><i>Residential Policy 1A - Bulk And Location Of Buildings</i> <i>To permit flexibility in building design while ensuring that buildings on sites in residential areas do not adversely affect the pleasantness and amenity enjoyed on neighbouring sites.</i></p>
<p><i>Residential Policy 1D - Residential 3 and 4 Zones</i> <i>To provide for low-density residential areas in the Twizel township that:</i></p> <ul style="list-style-type: none"> <i>a) offer a spacious urban character and high quality living environment;</i> <i>b) reflect the character of Twizel and the surrounding area;</i> <i>c) ensure an essentially low density, low scale suburban living environment, with plantings where appropriate;</i> <i>d) protect areas of amenity and linkages with adjacent zones;</i> <i>e) are healthy, environmentally sustainable, and functionally efficient.</i>
<p><i>Residential Policy 1E - Activities</i> <i>To ensure that activities in residential areas do not adversely affect the natural and physical environment, the safety of residents and the pleasantness and amenity enjoyed in these areas.</i></p>

Objective 1 and Policies 1A, 1D and 1E generally focus on amenity outcomes and thus are strongly effects focussed. Policy 1D in particular relates to expected outcomes in terms of density within the

Residential 4 Zone, providing for a spacious, low-density, low scale environment. Policy 1D specifically provides for the protection of linkages with adjacent zones.

The subdivision proposes to create a more intensive subdivision, with a greater number of allotments and significantly reduced open space compared to the form of development provided for by the Residential 4 Zone. The land use consent sought seeks to maximise development on each of the new allotments at a level consistent with the Residential 1 Zone. The effect of this is the potential hard surface development of between approximately 500m² and 700m² per allotment as close as 2m to the internal and road boundaries. There will be less opportunity for planting/open space and a greater intensity of housing all of which will impact on the pleasantness and amenity of an area. The subdivision and associated land use consent are therefore considered to be contrary to Objective 1 and Policies 1A ,1D and 1E of the Residential Zone Objectives and Policies in the District Plan.

Section 13 - Subdivision

<p>Objective 1 – Subdivision Servicing</p> <p><i>The provision of necessary services including safe and efficient access to subdivided allotments in anticipated of the likely effects of land use on those allotments</i></p>
<p>Policies</p>
<p>1) <i>To integrate subdivision roading with the existing roading network in an efficient manner which reflects expected traffic levels and the safe management of vehicles and pedestrians.</i></p>
<p>2) <i>To achieve safe and effective vehicular access to properties in subdivisional developments.</i></p>
<p>3) <i>To achieve provision of pedestrian and amenity linkages where useful linkages can be further developed.</i></p>
<p>4) <i>To minimise the adverse visual and physical effects of subdivision roading.</i></p>
<p>5) <i>To require that water supplies to subdivide allotments are of a sufficient capacity and of a drinkable standard.</i></p>
<p>6) <i>To require upon subdivision, that all new lots be provided with a means of connection to a reticulated water supply system, where water from such as system us available.</i></p>
<p>7) <i>To require that the provision of any necessary additional water supply, stormwater control or sewage disposal infrastructure and the upgrading of existing infrastructure is undertaken or contributed to by subdividers where appropriate, in recognition of the scale and nature of the anticipated land users.</i></p>
<p>8) <i>To encourage the retention of natural open waterways for stormwater to ensure disposal in a manner which maintains or enhances the quality of surface and ground water</i></p>
<p>9) <i>To require that stormwater is disposed of in a manner that avoids inundation of land within or adjoining the subdivision.</i></p>
<p>10) <i>Land modification, development and subdivision in the Residential Zones and Rural-Residential 1 and 2 Zones in Twizel should occur in a way that:</i></p> <ul style="list-style-type: none"> a. <i>protects the performance of natural overland flowpaths and open watercourses;</i> b. <i>protects water quality by the use of filtering mechanisms where necessary such as stormwater treatment ponds; and</i> c. <i>Provides stormwater management in an integrated and cost effective manner.</i>
<p>11) <i>For subdivision and development in Twizel, to require where appropriate/necessary a comprehensive stormwater management plan which addresses stormwater runoff and management of its effects.</i></p>
<p>12) <i>To encourage the harvesting and/or re-use of stormwater for non-potable uses where appropriate.</i></p>
<p>13) <i>To require upon subdivision, that anticipated development is provide with a means of disposing of sanitary sewage in a manner which is consistent with maintaining public health and minimises adverse effects on the environment.</i></p>
<p>14) <i>To require upon subdivision that all new lots to be provided with a means of a connection to a reticulated sanitary system, where such as system is available. Where a reticulated system is not available on site or standalone communal treatment systems may be installed, subject to any discharge consents required.</i></p>
<p>15) <i>To require that provision be made for trade waste disposal upon subdivision of land for anticipated industrial use.</i></p>
<p>16) <i>To require that adequate provision is made for the supply of reticulated energy and communication facilities and that the method of reticulation s appropriate to the amenities of the area.</i></p>

Objective 1 and Policies 1 to 16 relate to servicing, roading and access. As discussed above the adverse effects in regards to servicing and access are considered to be less than minor. Councils Engineering Manager has confirmed that there is no issues with Councils reticulated services. The Council can easily service the additional allotments given their location and the existing services installed under RM160209. The proposal is therefore considered to be consistent with the subdivision objectives and policies and any effects could be managed through the imposition of appropriate conditions of consent

Section 15 - Transportation

Objective 1 – Parking, Loading and Access

Vehicle parking, loading and access which does not detract from the efficiency, safety and amenity of the various areas, particularly the state highway network within the District.

Policy 1 A

To protect the efficiency, safety and amenity of various areas, the state highway network and the road hierarchy in the District by ensuring adequate on-site parking, loading and access provisions exist.

Transportation Objective 1 and Policy 1 A relate specifically to vehicle parking, loading and access and do not expand to vehicle movements and traffic effects. If consent were granted conditions of consent could be imposed to ensure all vehicle crossings comply with the District Plan requirements and New Zealand Standard 4404. This would ensure the vehicle parking, loading and access on each allotment did not detract from the efficiency, safety or amenity of the area. The proposal is therefore considered to be consistent with the transportation objectives and policies. It is noted that the increased vehicle movements however will potentially detract from the efficiency, safety and amenity of the area given the substantial increase in traffic.

Conclusion

Based on the above assessment, it is concluded that the proposal will be consistent with the subdivision and transportation objectives and policies but will be contrary to the residential Objectives and Policies of the District Plan. Accordingly, it is considered that the proposal does not pass the second test provided by section 104D of the Act.

10 OTHER MATTERS

It is considered that there are no other matters reasonably necessary to determine the application. It is noted that if subdivision consent was granted capital works contributions and reserve contributions would apply. Easements would be necessary to secure access to services.

11 PART II MATTERS

RJ Davidson family Trust v Marlborough District Council (2018) confirms that Part 2 of the Act, in most cases, remains highly relevant to the determination of a resource consent application.

Part II of the Resource Management Act stipulates the purpose and principles of the Act. The purpose of the Act, as set out in section 5, to promote the sustainable management of natural and physical resources. In the 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 healthy and safety while...avoiding, remedying or mitigating any adverse effects of activities on the environment."

Having regard to the assessment of effects above the proposal will not avoid, remedy or mitigate effects on the character/amenity, noise or nuisance effects, transportation effects in particular in relation to nearby residential properties. The subdivision will create a more intensive subdivision with a greater number of allotments than that anticipated and significantly reduced open space compared to the form of development provided for by the Residential 4 Zone. Neighbouring properties will be exposed to a greater level of noise/nuisance effects for an extended period of time and the traffic generated by the subdivision is significantly more than the movements anticipated in the Residential 4 Zone for allotments of 4,000m². This will detract from people and communities social well-being and health and safety, especially at the interface of adjoining Residential 1 and 4 properties.

Section 6 of the Act relates to matters of national importance. This section does not contain any provisions relevant to this application.

Section 7 of the Act relates to managing the use, development and protection of natural and physical resources. The following provisions are considered relevant to the application:

- b. The efficient use and development of natural and physical resources;*
- c. The maintenance and enhancement of amenity values; and*
- f. The maintenance and enhancement of the quality of the environment.*

The proposal provides for the efficient use of land, as it allows the expansion of residential development and will increase the land and housing supply in Twizel. This in turn allows for people and communities economic well-being. The proposal however will create a more intensive subdivision with a greater number of allotments and significantly reduced open space compared to the form of development provided for by the Residential 4 Zone which detracts from the amenity values of the area. All of the submitters expressed concerns with the effect of the subdivision on the amenity of the area. Submitters believed it was important to maintain larger sections for amenity purposes, to allow greenways and to create a buffer zone between the subdivision and adjoining properties.

Section 8 of the Act requires the Treaty of Waitangi to be taken into account when considering the use, development and protection of natural and physical resources. The proposal does not raise any concerns regarding the Treaty of Waitangi.

Overall, it is considered that the proposal does not accord with Part II.

12 CONCLUSION

With the above matters in mind, I am of the opinion that the proposal fails both tests of Section 104(D) as it is likely to have adverse actual and potential effects on the area that are more than minor and it will be contrary to the residential Objectives and Policies of the Operative Mackenzie District Plan 2004. On this basis, it is recommended that the application is declined.

13 RECOMMENDATION

Pursuant to sections 104, 104D and 108 of the Resource Management Act 1991, I recommend that the subdivision and land use sought by Payne Developments Limited (RM190181) be DECLINED.

A handwritten signature in blue ink, appearing to read 'R. Willox', is positioned above a horizontal line.

Reported on and Recommended by: _____
Rachael Willox – Resource Management Planner

Date: 4 June 2020