



Mackenzie

DISTRICT COUNCIL

REPORT ON AN APPLICATION FOR LAND USE CONSENT PURSUANT TO SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991 – RM220074

Applicant:	BL & SJ Rae Family Trust
Application Description:	To Vary Consent Notice and Land Use Consent to Exceed 50% Of Site Coverage.
Application Status:	Discretionary
Property Address:	14a Allan Street Lake Tekapo
Legal Description:	Lot 1 Deposited Plan 489462
Valuation Reference:	2531116801
District Plan Zone:	Residential 1
Author:	Kirstyn Lindsay, Consultant Planner
Date of Report:	12 August 2022

1.0 INTRODUCTION

This report has been prepared under section 42A of the Resource Management Act 1991 (the Act) to document the assessment of the subject consent application.

2.0 PROPOSAL, SITE & HISTORY DESCRIPTION

2.1 PROPOSAL DESCRIPTION

The applicant has applied to amend a consent notice condition to allow a two storied dwelling on the subject site and for land use consent to exceed the 50% site coverage requirement. The dwelling will comprise a garage and workshop on the ground level and a three bedroom dwelling on the first floor level. The dwelling will be occupied by the applicant as a permanent residence. The developed site will comprise a site coverage area of residential dwelling area of 136m² and driveway/parking area of 58.37m², giving a total coverage area of 194.37m² or 55%. All other District Plan performance standards will be complied with.

For completeness, I note that the ground floor workshop area will be fitted out with bathroom and toilet. The applicant has not applied to establish residential activity within the workshop space and this is not a consideration of this report.

2.2 BACKGROUND

Subdivision consent was granted subject to conditions under resource consent number RM140051 on 10 April 2014 to subdivide Section 18 Tekapo Village into two residential allotments at 14 Allan Street,

Tekapo. The proposal consisted of the subdivision of Section 18 Tekapo Village into two fee simple allotments to create:

- Lot 1 comprising an area of 352m².
- Lot 2 comprising an area of 548 m², of which 467m² is net area. Lot 2 contains an existing dwelling.

The site is located in the Residential 1 Zone under the Operative Mackenzie District Plan 2004. The proposal did not comply with the primary subdivision standard for allotment size. Under the District Plan the minimum lot sizes are 400m² for front lots and 500m² for rear lots. The proposal did not comply with Secondary Standard 7.a – Allotment Dimensions, where the site is required to accommodate a rectangle of 15m x 15m. The northern boundary of Lot 1 was 12 metres wide, not 15 metres. The proposal was assessed as a non-complying activity.

The application was publicly notified. Nineteen submissions were received in support of the application and five affected party approvals were also submitted with the application. No hearing was required and the decision on the proposal was made by an independent hearings commissioner. The consent was granted subject to conditions. The conditions included the imposition of a consent notice under Section 221 of the Resource Management Act 1991 intended to control the scale of the development. The consent notice on Lot 1 Deposited Plan 489462 is as follows:

“Any residential unit constructed on the allotment shall be limited to a single storey dwelling with a maximum height of 5m and shall comply with the Lake Tekapo Design Guidelines (Appendix P- Mackenzie District Plan).”

Section 223 and 224(C) Certificates were issued on 17 August 2016 including the consent notice prescribed under Condition 15 of RM140051. The Record of Title for the site was issued 6 October 2016. The site is legally described as Lot 1 Deposited Plan 483462 as contained within Record of Title 704335.

The applicant seeks to amend the above condition. A similar resource consent application was made in 2019 (RM190119) but this was subsequently withdrawn.

2.3 SITE DESCRIPTION

The subject site is located at 14 Allan Street, Lake Tekapo and is zoned Residential 1 in the Operative Mackenzie District Plan 2004. The land has an area of approximately 350m² and is legally described as Lot 1 DP 489462 as contained within Record of Title 704335. The site is subject to the Outdoor Lighting Restriction Area overlay on the planning maps. No other overlays or notations are applicable to the site.

The site is currently vacant. An area of land has been excavated in preparation for the construction of a dwelling at the site. Vehicle access to the site is obtained from Allan Street. The surrounding environment comprises of residential dwellings, the majority of which have landscaping along the road boundary.

The location of the site is illustrated in Figure 1, an aerial photograph of the site is provided as Figure 2.



Figure 1 - Site location map. The subject land is outlined in red.



Figure 2 - Aerial photograph. The subject land is outlined in red.

3.0 MACKENZIE DISTRICT PLAN

3.1 ZONING AND COMPLIANCE ASSESSMENT

The subject site is zoned Residential 1 within the Operative Mackenzie District Plan 2004 (the District Plan). The proposal complies with all performance standards except for:

- Rule 3.1.1.b.i which requires that the maximum building and hard surface coverage of the net area of any Residential 1 site shall be 50%. In this instance, site coverage will be 55.21% and the proposal is assessed as a discretionary (restricted) activity pursuant to Rule 3.1.1.b.

4.0 CANCELLATION OF A CONSENT NOTICE

Sections 221(3) and 221(3A) of the Resource Management Act 1991 read:

- (3) *At any time after the deposit of the survey plan,—*
- (a) *the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice:*
 - (b) *the territorial authority may review any condition specified in a consent notice and vary or cancel the condition.*
- (3A) *Sections 88 to 121 and 127(4) to 132 apply, with all necessary modifications, in relation to an application made or review conducted under subsection (3).*

The applicant seeks to vary Consent Notice 10569802.5 as it relates to Lot 1 Deposited Plan 483462 held in Computer Freehold Register 704335 as follows (deletions shown as strikethrough):

“Any residential unit constructed on the allotment shall be limited to a ~~single-storey~~ dwelling with a maximum height of 5m and shall comply with the Lake Tekapo Design Guidelines (Appendix P- Mackenzie District Plan). “

Applications under S221(3) are assessed as a discretionary activity.

5.0 NATIONAL ENVIRONMENTAL STANDARDS (NES)

A total of six National Environmental Standards are currently in effect, as follows:

- The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
- The National Environmental Standard for Sources of Drinking Water;
- The National Environmental Standards for Telecommunication Facilities;
- The National Environmental Standards for Electricity Transmission Activities;
- The National Environmental Standards for Plantation Forestry; and
- The National Environmental Standards for Air Quality.

The NES are not considered relevant to this application. The site is not listed as a HAIL site on the Environment Canterbury Listed Land Use Register. The site has an acceptable source of drinking water. The activity will not affect the National Telecommunication Network or Electricity Transmission. Nor will it involve plantation forestry or discharge to air.

6.0 OVERALL ACTIVITY STATUS

Where an activity requires resource consent under more than one activity status, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.

In this case, there is more than one activity involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is considered to be a discretionary activity pursuant to sections 104 and 104B of the Resource Management Act 1991 ('the Act').

7.0 STATUTORY CONSIDERATION

7.1 Section 104 & 104B

In accordance with section 104B of the Act, a consent authority may grant or decline a resource consent for a Discretionary Activity and may impose conditions under section 108 of the Act.

7.2 PART 2

Part 2 of the RMA sets out the purpose and principles of the RMA, being “to promote the sustainable management of natural and physical resources” which is defined to mean:

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 wellbeing 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.*

Section 6 sets out matters of national importance. There are no matters of national importance which are relevant to this application.

Section 7 requires particular regard to be had to ‘other matters.’ Of relevance to this application are:

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

Section 8 requires the principles of the Treaty of Waitangi to be taken into account.

8.0 NOTIFICATION AND SUBMISSIONS

8.1 Written Approvals

No written approvals have been submitted with the application.

8.2 Notification decision

A separate notification assessment was made on 6 July 2022. The application was limited notified to the following parties (shown in Figure 3 below):

- 7 Allan Street
- 9 Allan Street
- 11 Allan Street
- 12 Allan Street
- 16 Allan Street

14 Allan Street was not included in the limited notification as the applicant is also the owner of this property.



Figure 3 – Notified Neighbours

8.3 Submissions

The submission period closed on 5 August 2022. The following submissions summarised in Table 1 were received by the close of the submission period. The full submissions are attached at Appendix 3 of this report.

Table 1-Summary of submissions

SUBMITTER	STATUS	SUMMARY OF SUBMISSION & RELIEF SOUGHT	WISHES TO BE HEARD
Mark and Clare Byers	Support	Considers the proposal will result in an overdue development which will result in street improvements	No
George Scott Family Trust	Opposes	<ul style="list-style-type: none"> Owns the adjacent property at 12 Allan Street. Concerned with the subdivision which created the subject site to which they gave written approval. Concerned with activities on Lot 2 of that subdivision. Seeks to maintain the integrity and amenity of the Residential 1 zone by adhering to the zone rules. Concerned that the proposal will set a precedent. 	Yes

		<ul style="list-style-type: none"> • Objects to the amendment of the consent notice • Objects to the site coverage breach • Concerned with cumulative effects • Concerned that commercial activity is proposed on the site ¹ 	
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90 ASSESSMENT OF EFFECTS

9.1 Permitted Baseline/Receiving Environment

In this instance, the permitted baseline provides for one residential unit but is curtailed by the imposition of the consent notice condition which prevents any residential unit being two storied and greater than 5.0 metres in height. All other performance standards for the Residential 1 zone apply.

The consent notice does not prohibit minor residential units on the site and, therefore, a minor dwelling in accordance with Rule 3.1.1.a.ii could be permitted, subject to any relevant performance standards. I also note that there are no restrictions which would prevent a separate garage/workshop being erected on the site, providing any relevant performance standards were complied with.

The above options, in any configuration, are considered to be non-fanciful and form the permitted baseline.

Receiving Environment

The receiving environment is the reasonably foreseeable environment within which the adverse effects of the proposal are considered. The receiving environment is made up of:

- the existing environment as modified by any resource consents granted and likely to be implemented; and
- the environment as likely to be modified by activities permitted in the plan; and
- the effects from any consents on the subject site (not impacted by the proposal) that are likely to be implemented.

In terms of the existing environment for the subject site, I note the subject site was recently created by way of subdivision in 2016 and is a vacant site. Some earthworks have occurred on the site resulting in an unretained cut face along the side and rear boundaries.

One defining factor for the receiving environment, is the development expectations for the subject site. The consent notice requires that any dwelling is restricted to a single storied, 5.0m high.

In terms of the surrounding sites, the dwellings on the southside of Allan Street are generally set well back and above the road. The dwellings on the northside of Allan Street are set down below the road but also have good separation from the road.

¹ The applicant has not applied to establish commercial activity on the site. In the plans I have reviewed, I have not observed an area labelled "Commercial Area". There is a workshop identified on the plans but there is no application to use this space commercially.

9.2 Assessment of Effects

9.2.1 Landscape and Residential Amenity and Character Effects

The applicant was notified to all adjacent neighbours and two submissions were received, one in full support and one in opposition.

In terms of the opposing submission, I note that the submitter raises a number of concerns regarding the subdivision which created the site and the development which has subsequently occurred within Lot 2 of that subdivision. The opposing submitter gave written approval to that subdivision, and Council has no choice but to disregard the effects of the previous subdivision on the submitter (except as it relates to the consent notice subject to this application). Similarly, the activities on Lot 2 of that subdivision, identified as matters of concern by the submitter, are separate to this application. I note that a minor dwelling has been established on Lot 2 but, in reviewing the PIM note associated with the building consent for this dwelling, it appears to have been undertaken in compliance with the District Plan.

I note that the opposing submitter raises concerns that commercial activity is proposed for the site. The applicant has not applied for commercial activity as part of this application, nor do the plans show a commercial area. In this regard, the submitter can take some comfort that commercial activity within a residential zone will not be approved as part of this process.

The submitter directly opposes the increase from a single storey dwelling to two stories as proposed. The submitter also seeks for the development to be undertaken in accordance with the Residential 1 zone rules and considers that the proposal is a gross breach of these rules. For clarity, I note that the only District Plan rule proposed to be breached is the site coverage rule (Rule 3.1.1.b.i). While the submitter identifies this breach as a non-complying activity, I confirm that it is a discretionary (restricted) activity under the District Plan in accordance with Rule 3.3.1.

The applicant notes that the scale of the activity will be controlled by the 5.0m height limit, which is not sought to be changed. The dwelling will be mostly one-storied but introduces a garage and workshop beneath the dwelling. In my opinion, the design provides for a relatively efficient use of the site by utilising the site's topography and establishing the garage and workshop underneath the dwelling instead of separately on the site (see Figure 4). I note that that if the garage was to be removed and the dwelling supported by pole piles (similar to the dwelling on the adjacent site) at 16 Allan Street), the dwelling would meet the requirement of the consent notice. There are also no restrictions which would prevent a separate garage/workshop being erected on the site, providing any relevant performance standards were complied with.

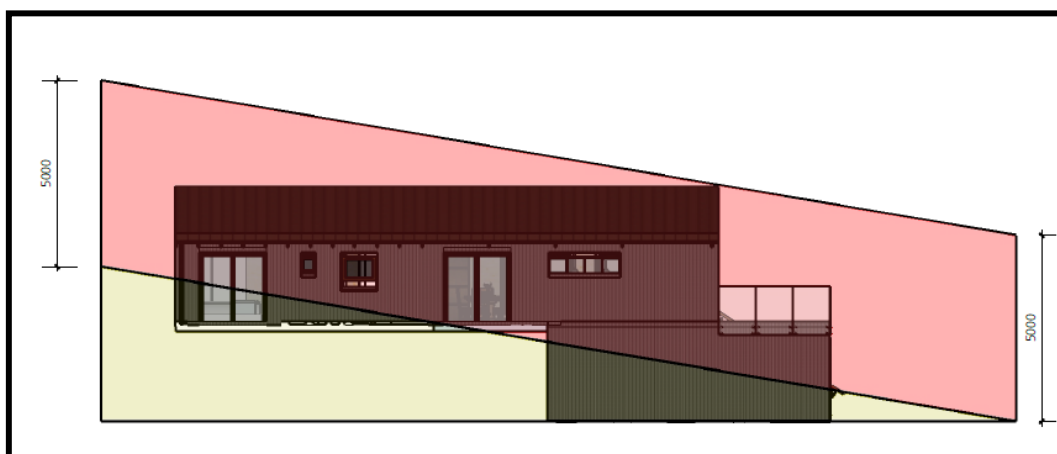


Figure 4 – dwelling profile (eastern elevation)

The dwellings located at 6, 8, 10, 12 and 14 Allan Street sit at a higher elevation than the proposed dwelling. The submitter's dwelling at 12 Allan Street sits behind and above the subject site. When viewed from the dwellings on those sites, the proposed dwelling is expected to present as one-storied (See Figure 5). Views, privacy and shading effects to 12 Allan Street will remain unchanged under this proposal as the applicant does not seek to go over the 5.0m height restriction intended to mitigate the reduced size of the lot.

The submitter requests that that any development on this lot be undertaken in compliance with the Residential 1 zone rules. In respect of height, I note that the permitted activity height limit for the Residential 1 zone is 8 metres, subject to compliance with recession planes (Rules 3.1.1.c.i and 3.1.1.c.iii). By virtue of the consent notice, the proposed dwelling is significantly reduced in height compared to that of a permitted dwelling.

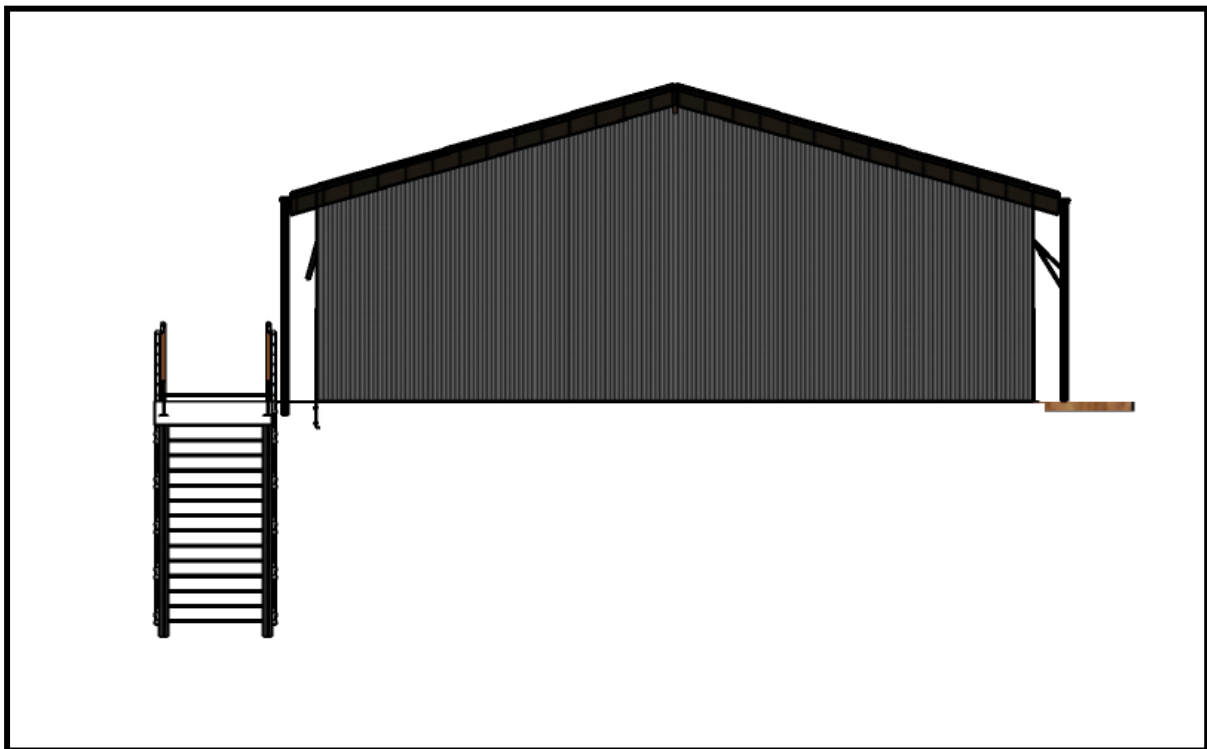


Figure 5 – Southern Elevation

In terms of establishing ground level, this is defined in the Mackenzie District Plan as:

“the finished ground level when all works associated with any prior subdivision of the land were completed, prior to excavation of a building platform.”

Earthworks have been undertaken on the site with a unretained cut face along the shared boundary with 14 Allan Street. The site prior to the earthworks is shown in Figure 6 below and post earthworks in Figure 7. The applicant confirmed that the house platform was excavated in 2018 (post subdivision). There are no rules in the District Plan relating to earthworks for this zone and the earthworks did not result in a breach of any District Plan rules². In this instance, the earthworks have resulted in a cut

² It is unclear if the earthworks required a building consent due to the proximity to the boundary and neighbour's driveway surcharge. It is also unknown if consent was required from the Regional Council.

which enables the dwelling to be set down into the site. The applicant has calculated the building height from ground level as per the pre-earthworks levels as shown in Figure 4 above. A condition is recommended to manage any adverse effects of the site development works.

The subject site sits above Allan Street, although below the dwellings located along the ridgeline. Any dwelling on the site has the potential to be dominant to the street frontage. I have assumed that it is this potential dominance that the consent notice seeks to manage in part by restricting the scale of the dwelling through height and stories. In this instance, the existing earthwork cuts assist in reducing the dominance of the dwelling as shown in the elevations shown in Figure 7 as the dwelling will be setback and down into the site. The applicant confirms that the dwelling design will meet the Lake Tekapo Design Guidelines (Appendix P – Mackenzie District Plan).



Figure 6 – The subject site in 2017 at the time of subdivision and prior to site development



Figure 7 – The subject site after 2018 earthworks in its current state. Opposing submitter’s dwelling is shown in the far ground

The elevations show that there is a sliding door along with a solid garage door along the ground floor frontage. I am not an Urban Designer, but I expect that the sliding door will help to soften the presentation to the street as opposed to two solid garage doors at street level which could further increase the solid built form dominance. Landscaping with an approximate depth of 2.5 metres is proposed along the road frontage, with the only break for the vehicle access. Landscaping will also occur along the side boundaries.

The dwelling will have a 3.0 wide deck located along the entire dwelling frontage accessed from the first floor living area. I note that the deck at this elevation takes advantage of the two-storied form of the dwelling. All outdoor living will be to the front of the property and away from 12 and 14 Allan Street.

The elevated deck has the potential to increase the dominance of the dwelling to Allan Street when occupied. However, any adverse visual effects arising from the deck is mitigated by an increased set back of the deck to the road boundary and the use of a glass balustrade, as shown in Figure 8. I note the submitter at 12 Allan Street is only likely to observe the deck when they are entering and exiting their property or from the tussock rockery located at the front of their property, as it will be largely screened by the dwelling.

For the above reasons, I assess that the effects of the proposed two-storied dwelling on residential amenity and character is acceptable.

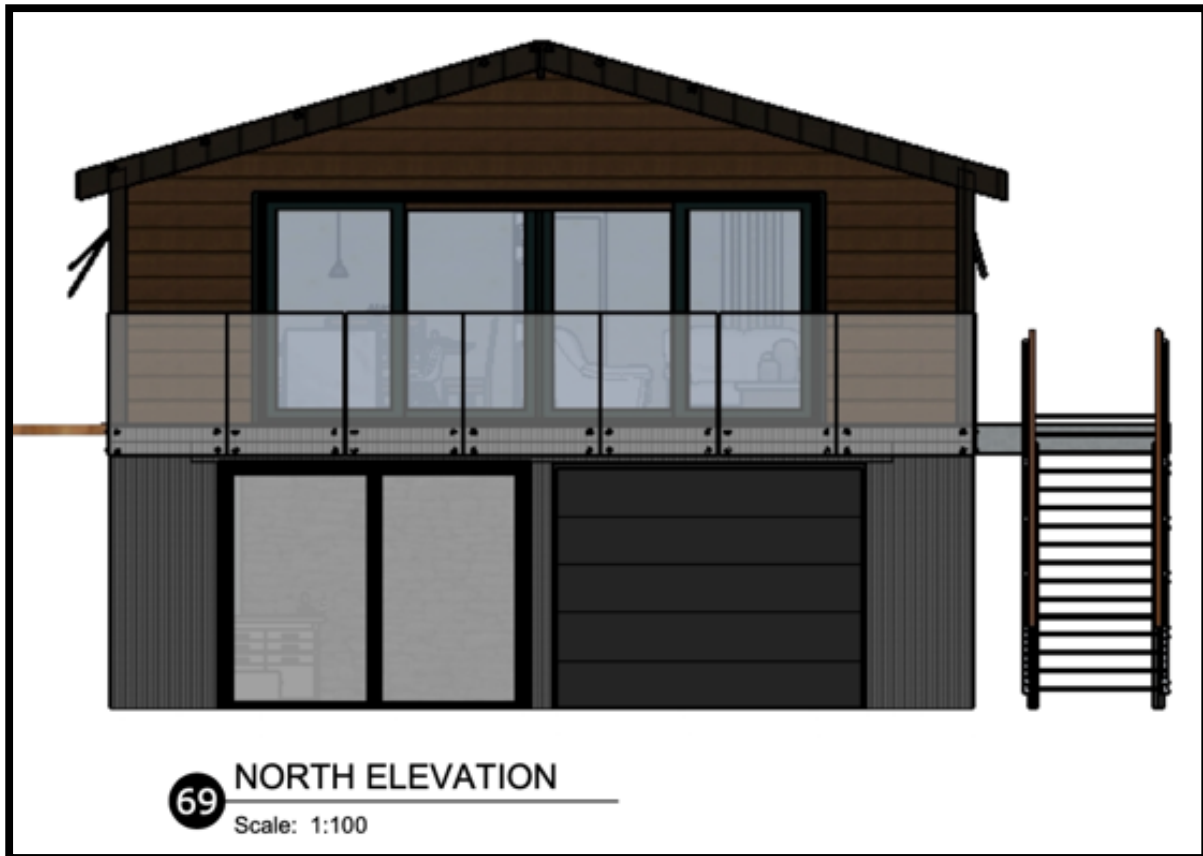


Figure 8 – Front Elevation

9.2.2 Effects of Site coverage

The applicant advises that the proposed driveway/carpark area will be constructed of reinforced concrete, charcoal in colour to match the driveways to 12 and 14 Allan Street Lake Tekapo. Substantial landscaping (over 40% of the site area) comprising plantings and lawn is proposed to screen the carparking area from the road frontage and to mitigate the effects of the hard surfacing. The planting areas will be planted out with native plantings. The landscaping is shown in a landscaping plan provided in support of the application. Drystone walls will be used to terrace the land at the rear of the site. The landscaping, as proposed, exceeds the minimum landscaping of 10% required by the District Plan and I consider this to be a positive design approach.

With regard to the site coverage breach of 5%, Assessment Matter 9.2.a of the District Plan gives clear direction when assessing any such breach as follows:

- i. *The extent to which the character of the site will remain dominated by open space and garden plantings, rather than buildings.*
- ii. *The ability to provide adequate opportunity for garden and tree planting around buildings.*
- iii. *The extent to which there is a need for increased building coverage in order to undertake the proposed activities on the site.*
- iv. *The extent to which any proposed buildings will be compatible with the scale of other buildings in the surrounding area and will not result in visual domination as a result of building coverage which is out of character with the local environment.*
- v. *The ability to provide adequate vehicle parking and manoeuvring space on site.*

- vi. *The extent to which increased building coverage would have any adverse effects on adjoining properties in terms of dominance by buildings, loss of privacy, access to sunlight and day light and loss of opportunities for views.*
- vii. *The ability to provide adequate outdoor space on the site for all outdoor activities associated with residential and other activities permitted on the site.*
- viii. *Whether the residential units are to be used for elderly persons housing and the extent to which increased building coverage will adequately provide for the outdoor needs of the activities on the site, and retain a dominance of open space over buildings.*
- ix. *The ability to mitigate any adverse effects of increased coverage.*

I consider that the development of the site will still enable the applicant to provide adequate open space and garden plantings and landscaping. I consider that the site coverage breach arises as a direct result of establishing a standard dwelling with paved driveway on an undersized (for the zone) site. I consider that, while the site has less land area than other sites in the immediate area (88% of the 400m² Residential 1 zone site size), the dwelling size is compatible with other dwellings in the immediate vicinity and will not present as out of scale with surrounding development.

When the proposed landscaping, use of topography and setback from the road are taken into consideration, it is my assessment that the dwelling will not present as an overdevelopment of the site and will maintain the character of the area. Adequate car parking and manoeuvring space will be provided on site. The dwelling respects all external boundaries to neighbours and will not result in a loss of views privacy or sunlight. Adequate on-site outdoor amenity space will also be provided. The dwelling will not be used for elderly persons. Furthermore, I consider that the substantial landscaping, as proposed, will go some way towards mitigating the effects of the proposed site coverage.

Overall, I consider that any adverse effects of the 5% breach of site coverage, as mitigated by the hard surfacing treatments and landscaping and front yard setback, will not have an adverse effect on residential amenity or introduce adverse landscape effects.

9.2.3 Effects of amending the consent notice

I note that recent case law *Ballantyne Barker Holdings v Queenstown Lakes District Council [2019] NZHC 2844* determined that:

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

The subdivision decision (RM140051) imposed the consent notice subject to this application. The intent of the consent notice appears to be to control the scale of development on the subject site to enable the construction of a small dwelling without compromising the amenity of Lot 2 and adjoining allotments. The controls are intended to ensure that effects of the increased density arising from the approved subdivision are mitigated and that scale of the development was limited to a smaller scale building commensurate with permitted development which could have occurred on the parent site prior to subdivision. The consent notice restrictions did not apply building footprint restrictions, reduced site coverage or capped habitable rooms to address scale.

While the planning framework has not changed at this time, I consider that, with the provision of the development plans for the site, there is now a significant degree of certainty regarding the effects on residential amenity and character for this site which was not present at the time of subdivision.

While the applicant does not seek to create a dwelling with a height greater than 5 metres above ground level, the dwelling will be two storied as the garaging will be located beneath the dwelling. The proposed development of the site has the potential to result in greater visual and built form dominance beyond what might have been expected if the development was undertaken in accordance with the Consent Notice registered on the Record of Title. However, I consider that, while the dwelling will be two-storied, the effects of the proposed change will be limited to effects residential amenity and character values. The opposing submitter presents a principled opposition to the proposal but has not identified any particular adverse effect (except for cumulative effects which are discussed below) which they would experience from the garage being located under the dwelling on the subject site.

Overall, I consider that the consent notice condition is site specific and seeks to manage the effects of the site development on the neighbouring properties. Given that the overall 5.0m height limit will be respected, I consider the proposed change to the consent notice to be acceptable in this instance and enables an efficient and practical use of the subject site.

9.2.4 Cumulative effects

The opposing submitter raises concerns regarding cumulative effects in that the proposal would result in three dwellings on two undersized sites (being lots 1 and 2 of the preceding subdivision). I note that one dwelling was established on Lot 2 at the time of the preceding subdivision and the consent notice signalled a dwelling would be established on the subject site. The minor dwelling on Lot 2 is permitted under the District Plan and was assessed for compliance at the time of building consent. The minor dwelling cannot be easily viewed from the roadway, but I accept it can be viewed from 12 Allan Street. I also note that the District Plan Rules permit a minor dwelling on the subject site providing this is ancillary to the principle dwelling and subject to compliance with the relevant performance standards. In this regard, I consider that the establishment of a dwelling on the subject site will not result in cumulative effects alone.

In terms of cumulative effects arising from the two storied configuration of the dwelling, I note that there are a number of two storied dwellings in this location. However, given that this site is set down below the properties located on the ridgeline, I consider that a two storied dwelling at this location will not give rise to adverse cumulative effects. The single storied restriction, imposed at the time of subdivision, was intended to ensure that the scale of the dwelling was similar to a minor dwelling (albeit that there were no restrictions placed on footprint, habitable rooms or garaging etc). A single storied, 5.0 metre high, dwelling with separate garage on the site is not fanciful and could result in same of similar effects. In this regard, I do not consider that there are any cumulative effects arising from the two storied nature of the dwelling.

In terms of the site coverage breach, the subject site and the adjacent sites remain relatively open and, as such, no cumulative effects arising from the site coverage breach is anticipated.

9.2.5 Positive effects

The earthworked site has been vacant for a significant period of time. The supporting submitter notes that development of the vacant site will be a benefit to the immediate neighbourhood, and I agree with this observation. The development will also ensure that the integrity of any earthworks will be

maintained or improved. Overall, development of the site will result in amenity improvements when assessed in context of the existing site in its current form.

9.3 Conclusion

Based on the above assessment, the proposal is not likely to have adverse actual and potential effects on the environment that are more than minor.

10.0 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.

10.1 Operative Mackenzie District Plan 2004

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

- **Residential - Objective 1**
Amenity Maintenance of the pleasantness, amenity and safety of residential areas and maintenance and protection of the surrounding natural and physical environment.
- **Residential Policy 1A - Bulk and Location of Buildings**
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.
- **Residential Policy 1B - Density and Scale: Residential 1 Zones**
To enable land in Residential 1 Zones to be used efficiently while maintaining ample open space and the existing scale and medium density of these areas.
- **Residential Policy 1E - Activities**
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.

The District Plan recognises that there is a community expectation that areas in which people live will be pleasant and possess a reasonable standard of amenity. The plan anticipates that, while there will be a range of building types which result in an efficient use of land within the residential zones, adequate open space and residential environment with a high level of amenity will be maintained. Activities on residential zoned site are to be compatible with the residential zoning.

In this instance, the proposal is for residential activity on an existing residential zoned site. In this regard, the proposal is considered compatible with the receiving environment and is compliant with the density anticipated at the time of the previous subdivision. No bulk and location breaches beyond the 5% site coverage breach are proposed and I consider that this breach is adequately mitigated by landscaping. While the applicant seeks to establish a high set dwelling with garaging and workshop below, the proposal does demonstrate flexibility in design while still ensuring the 5.0m height is compliant with the consent notice condition. Furthermore, this design approach will not result in a loss of privacy, views or shading to any other party. By setting the garaging and workshop beneath the dwelling, this is assessed as an efficient use of the site. No commercial activity is proposed.

Overall, I have assessed that the proposal is consistent with the above objective and policies.

11.0 ANY OTHER MATTERS

I consider that there are no other matters that are relevant or reasonably necessary to determine the application.

For completeness, the opposing submitter has raised plan integrity and precedent as matters of concern to them. Plan integrity and precedent matters are generally reserved for non-complying activities, however, I consider it is appropriate to address these concerns here. The submitter notes that there are at least four residential properties along the ridgeline of Allan Street which are capable of the development in accord with the applicant's proposal. It is unclear if the submitter is referring to the previous subdivision (either entirely or in part). If so, plan integrity and precedent would have been addressed at the time that the subdivision was approved and cannot be revisited as part of this process.

In terms of the proposed development, I note that Residential 1 zoned sites provide for a dwelling on a single lot with a height of 8 metres and two-storied as a permitted activity. It is only the consent notice which restricts these standards for this dwelling. Any variation to the consent notice is treated as a discretionary activity and will not pose a threat to the District Plan integrity.

In terms of the site coverage breach, this is a restricted discretionary activity and, therefore, an activity anticipated by the District Plan. Approval of a restricted discretionary activity will not pose a threat to the District Plan integrity.

Overall, I consider that the proposal will not threaten the District Plan integrity or set an undesirable precedent.

12.0 PART II MATTERS

Part II of the Resource Management Act stipulates the purpose and principles of the Act. The purpose of the Act is to promote the sustainable management of natural and physical resources. The various principals provided under Part II support this purpose. It is considered that the proposed activity accords with Part II of the Act.

13.0 CONCLUSION

With the above matters in mind and subject to the recommended conditions being imposed on the consent, it is considered the proposal is acceptable in terms of the matters listed under section 104B of the Act.

14.0 RECOMMENDATION

Pursuant to sections 104, 104B, 108 and 221(3) of the Resource Management Act 1991, it is recommended that consent be GRANTED subject to the recommended conditions and certificate outlined below.



Reported on and Recommended by: _____
Kirstyn Lindsay– Resource Management Planner

Date: 9 August 2021

13.0 RECOMMENDED CONDITIONS

1. The proposed activity must be undertaken in general accordance with the approved plans:

- Title page – Drawing 01
- Floor House Plan – Drawing 02
- Floor House Plan – Drawing 03
- North and West Elevations - Drawing 39
- South and East Elevations - Drawing 40
- Landscape plan

attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on 14 June 2021, and further information received on 1 July 2022, except where modified by the following conditions.

2. The building colours and reflectivity values must be consistent with the Lake Tekapo Colour Palette Guide.
3. The balustrade for the front facing deck must be glass or a similar visually open material.
4. Within the first growing season after the dwelling is constructed, landscaping and planting must be undertaken in accordance with the approved Landscape Plan attached as part of Appendix 1.
5. All landscaping works must be maintained in perpetuity.
6. Effective management of erosion, dust and sedimentation must be implemented on the site during site development and construction works. Management measures include (where necessary):
 - a) diverting clean runoff away from disturbed ground;
 - b) controlling and containing stormwater run-off;
 - c) dust suppressant application;
 - d) avoiding sediment laden run-off from the site'; and
 - e) protecting existing drainage infrastructure sumps and drains from sediment run-off.
7. All actual and reasonable costs incurred by the Council in monitoring, enforcement and administration of this resource consent shall be met by the consent holder.

Advice notes:

Use of dwelling

This consent does not authorise the use of the ground floor garaging and workshop for independent accommodation (minor dwelling), visitor accommodation or commercial activity.

Light Spill

The consent holder is reminded that all outdoor lighting must comply with the night sky provisions of the Operative Mackenzie District Plan 2004 and is to be 100 percent downward facing and fully shielded to prevent light spill.

Noise

All construction noise on the site is required to comply with the provisions of New Zealand Standard NZS 6803P:1991 in accordance with Section 14, Rule 2.3.1 of the Operative Mackenzie District Plan 2004.

Site development

Site development is required to be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the site.

Commencement

This resource consent commences on the date the decision was notified , or on such late date as stated in the consent unless an appeal of an objection has been lodged, at which time the consent commences when this have been decided of withdrawn, or in the case of an appeal to the Environment Court on such later date as the Court may state in its decision.

Right of Objection

If you do agree with any of the conditions of this consent you have the right to object to the condition under section 357A of the Act. Notice of any objection must be in writing, set out the reasons for the objection and be lodged with Mackenzie District Council within 15 working days of receipt of this decision.

Lapsing of Consents

A resource consent lapses on the date specified in the consent or, if no date is specified, 5 years after the date of commencement of the consent unless, before the consent lapses; the consent is given effect to; or and application is made to the consent authority to extend the period after which the consent lapses and the consent authority decides to grant an extension.

Review of Consent

A consent authority may, in accordance with Section 129 of the Act, serve notice on a consent holder of its intention to review the conditions of a resource consent.

Monitoring of Consent

Pursuant to section 35 of the Act, the local authority shall monitor the exercise of this resource consent. This includes monitoring of the provision of any plans or documentation required by a condition of consent. Additional charges may apply for this monitoring.

Other Consents May Be Required

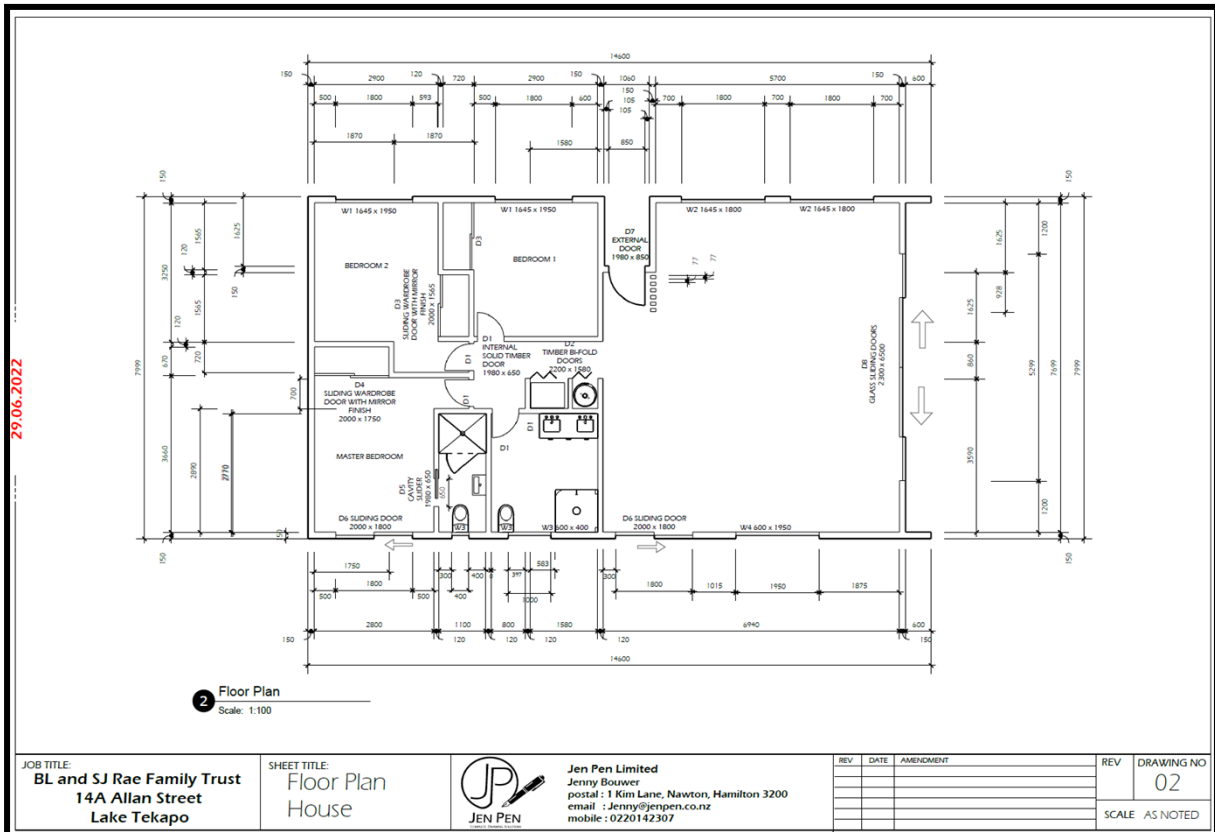
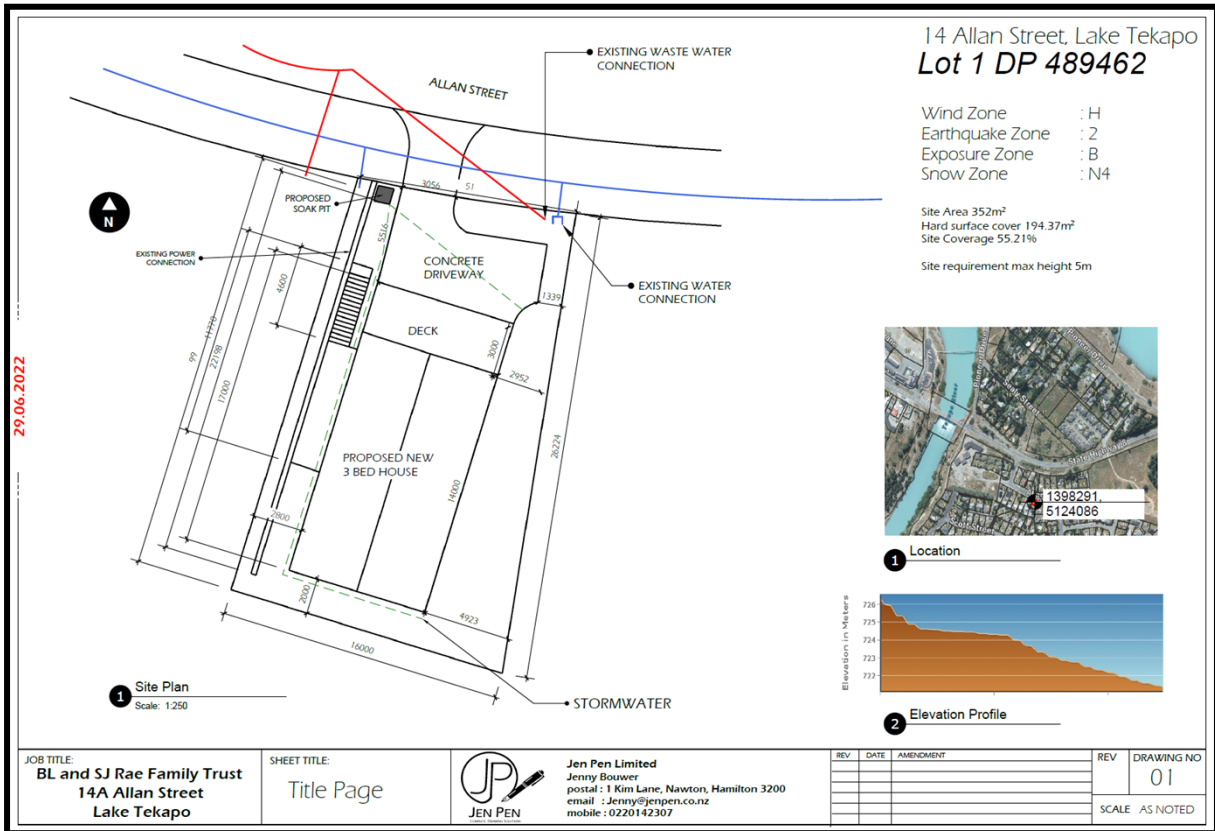
This resource consent authorises the Land Use applied for only. The consent does not give the consent holder the right to:

- Use, subdivide or develop land that contravenes a rule in the District Plan other than that which has been consented to by way of the subject application or that which has already been legally established.
- Conduct any activity that requires resource consent from Environment Canterbury (ECAN). Consent holders must contact ECAN to ascertain if consent is required for the proposed development.
- Authorise building or utility services construction work that requires separate consent/ approval.

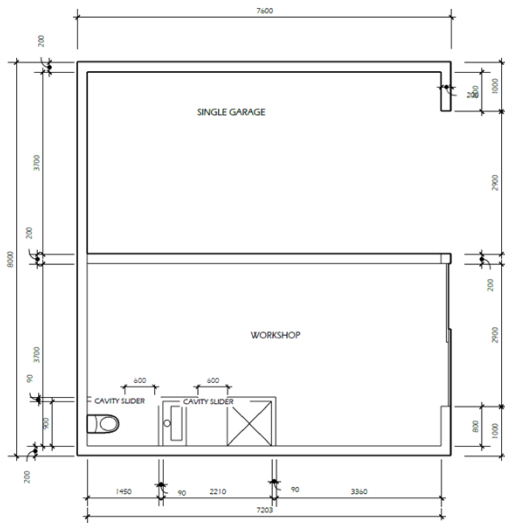
Charges

Charges, set in accordance with section 36 of the Act shall be paid to Mackenzie District Council for the carrying out of its functions in relation to the administration and monitoring of resource consent and for carrying out its functions under section 35 of the Act.

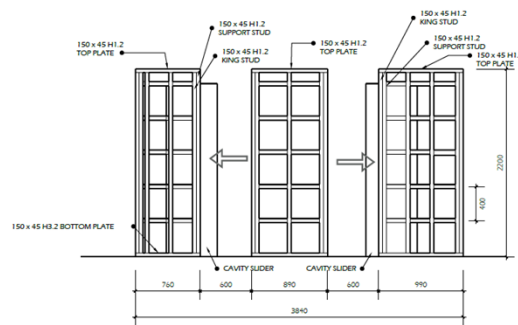
APPENDIX 1 –PLANS FOR RM20074



29.06.2022



3 Floor Plan - Garage and Workshop
Scale: 1:80



4 FRAMING LINE 3 WORKSHOP
Scale: 1:50

JOB TITLE:
BL and SJ Rae Family Trust
14A Allan Street
Lake Tekapo

SHEET TITLE:
Floor Plan
Garage and
Workshop



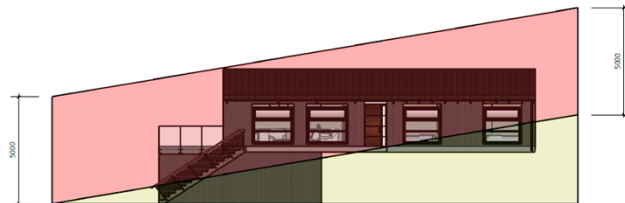
Jen Pen Limited
Jenny Bouwer
postal : 1 Kim Lane, Nawton, Hamilton 3200
email : Jenny@jenpen.co.nz
mobile : 0220142307

REV	DATE	AMENDMENT	REV	DRAWING NO
				03
				SCALE AS NOTED

29.06.2022



69 NORTH ELEVATION
Scale: 1:100



70 WEST ELEVATION
Scale: 1:100

JOB TITLE:
BL and SJ Rae Family Trust
14A Allan Street
Lake Tekapo

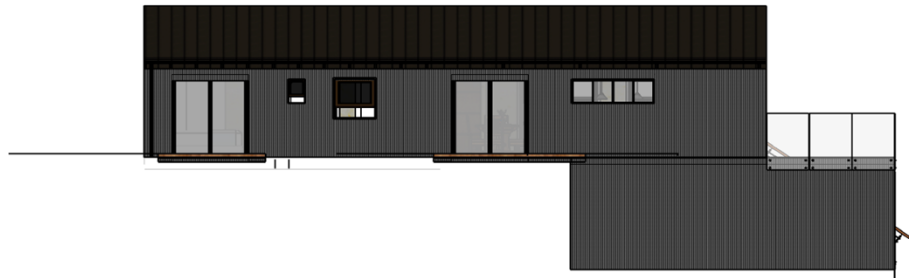
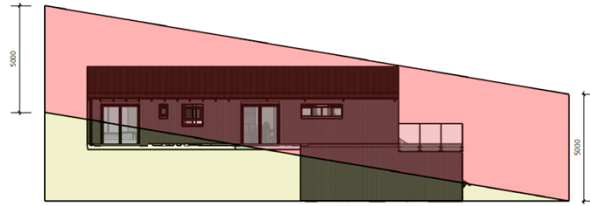
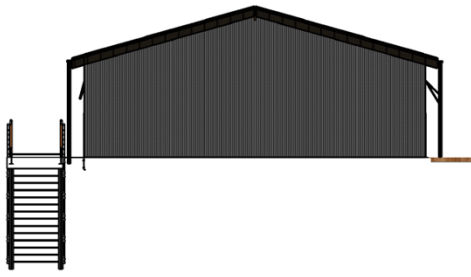
SHEET TITLE:
NORTH AND WEST
ELEVATIONS



Jen Pen Limited
Jenny Bouwer
postal : 1 Kim Lane, Nawton, Hamilton 3200
email : Jenny@jenpen.co.nz
mobile : 0220142307

REV	DATE	AMENDMENT	REV	DRAWING NO
				39
				SCALE AS NOTED

29.06.2022



72 EAST ELEVATION
Scale: 1:100

JOB TITLE:
BL and SJ Rae Family Trust
14A Allan Street
Lake Tekapo

SHEET TITLE:
SOUTH AND EAST
ELEVATIONS



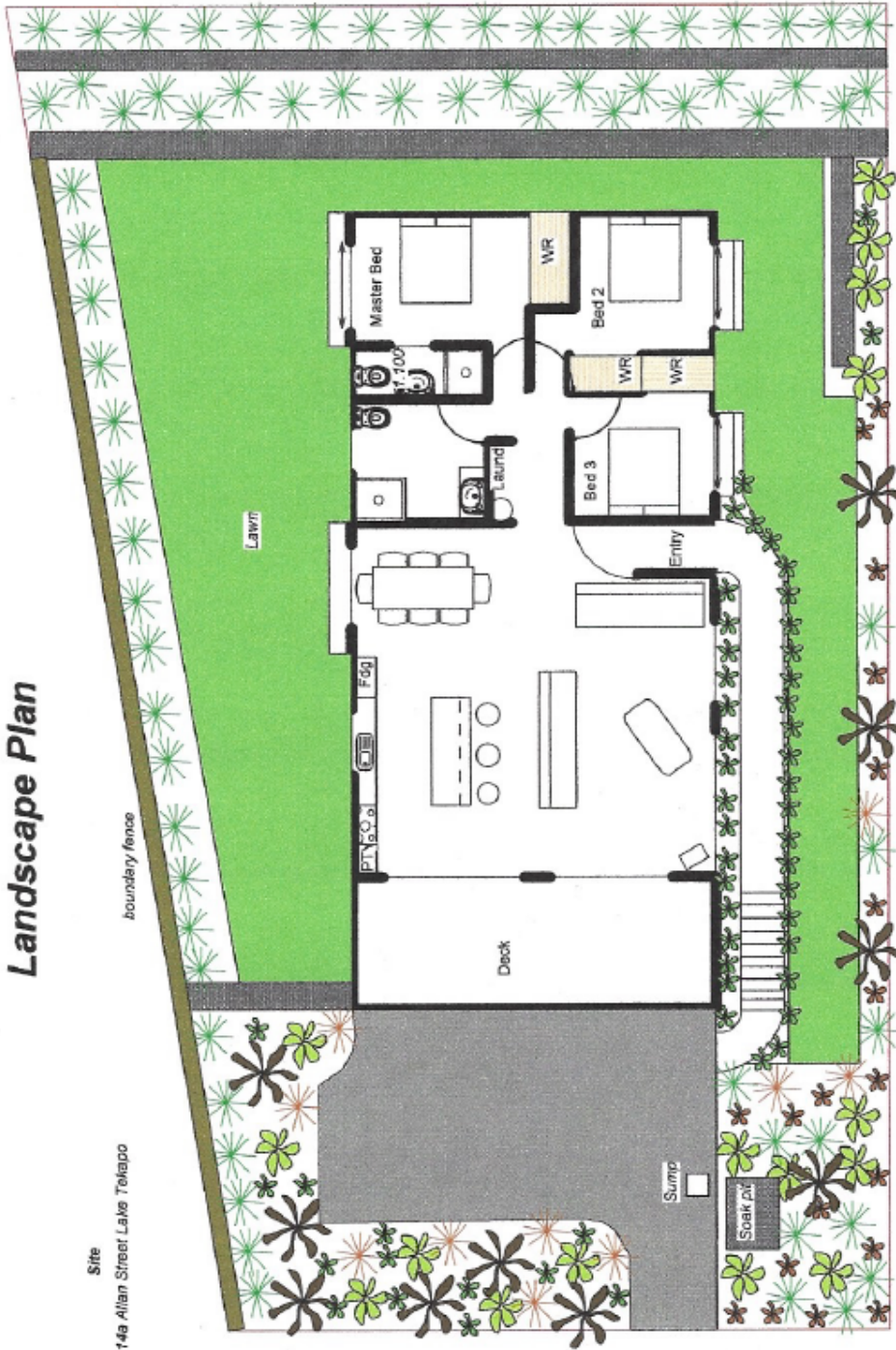
Jen Pen Limited
Jenny Boucher
postal : 1 Kim Lane, Newton, Hamilton 3200
email : Jenny@jenpen.co.nz
mobile : 0220142307

REV	DATE	AMENDMENT	REV	DRAWING NO
				40








SCALE AS NOTED

Landscape Plan

Site
14a Allan Street Lake Tekapo



KEY

-  Asterella Silver Spear
-  Plagiathus regius Ribbon Wood
-  Apoecanthus Stream Line
-  Dry stone walls
-  Fitosporium Tenusfolium Screen Master
-  Grisebina littoralis Kapuka
-  Dodonaea Purple Ake Ake

APPENDIX 2: DRAFT S221 CERTIFICATE

**The Registrar General of Land
Land Information New Zealand**

**AMENDMENT OF CONSENT NOTICE CONO10569802.5 AS IT RELATES TO LOT 1 DEPOSITED PLAN
483462**

RESOLVED that pursuant to Section 221 (3) of the Resource Management Act 1991, Consent Notice CONO10569802.5 as it relates to Lot 1 Deposited Plan 483462 held in Computer Freehold Register 704335 is to be varied as follows:

“Any residential unit constructed on the allotment shall be limited to a ~~single-storey~~ dwelling with a maximum height of 5m and shall comply with the Lake Tekapo Design Guidelines (Appendix P- Mackenzie District Plan).”

Dated at [Insert Location] this day of..... 2022.

.....
Signed for and on behalf of the
Mackenzie District Council by
NAME
POSITION
(pursuant to delegated authority)



Mackenzie
DISTRICT COUNCIL

SUBMISSION FORM

Under the Resource Management Act 1991

SUBMITTERS DETAILS

Submitters Full Name/Company/Trust: MARK + Clove Byers	
Contact Name: MARK Byers	
Email address*: markbyers@xta.co.nz	
Postal Address*: 255 Major Hornbrook Road CHCH 8081	Tick if postal address is preferred method of correspondence*: <input type="checkbox"/>
Phone numbers: Day 3843783	Mobile 027 2413825

* Our default method of corresponding with you is by email and phone. Alternatively, if you wish to receive correspondence by post (including any decision) please provide a postal address and tick the relevant box above.

ADDRESS FOR SERVICE (if different from the submitter's details)

Company:	
Contact Name:	
Email address*:	
Postal Address*:	Tick if postal address is preferred method of correspondence*: <input type="checkbox"/>
Phone numbers: Day	Mobile

* Our default method of corresponding with you is by email and phone. Alternatively, if you wish to receive correspondence by post (including any decision) please provide a postal address and tick the relevant box above.

DETAILS OF APPLICATION BEING SUBMITTED ON

APPLICANT'S NAME: BL & SJ RAE FAMILY TRUST	✓
RM REFERENCE: 220074	✓

MY SUBMISSION

Please indicate whether you support, oppose or are neutral to the application or specific parts of it (Tick):

SUPPORT OPPOSE NEUTRAL

My submission is (the particular parts of the application I support or are opposed to are):

a great opportunity to
improve the Street
long overdue.

(Attach separate sheet as required)

The reasons for my submission (the reasons I support or oppose the particular parts of the application above):

Street improvement ✓✓
hopefully will counter
the deafening development
at adjoining property (How did
this get consent? (16 Allan)

(Attach separate sheet as required)

My submission would be met by the Council making the following decision (give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought):

N/A.

DECLARATIONS

Please indicate whether or not you are a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (tick):

I **am a trade competitor** I **am not** a trade competitor

If you are a trade competitor, please indicate whether or not are directly affected by an effect of the subject matter of the submission that

- (a) Adversely affects the environment; and
- (b) Does not relate to trade competition or the effects of trade competition (tick):


I **am directly affected** I **am not** directly affected

Please indicate whether or not you wish to be heard at the hearing in support of your submission (note you will only be notified of a hearing if you have indicated you wish to be heard) (tick):

I **wish** to be heard I **do not** wish to be heard

If others make a similar submission, I will consider presenting a joint case with them at a hearing (tick):

Yes No



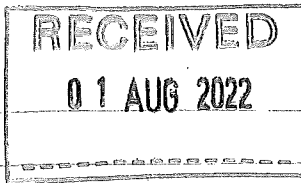
Signature of Submitter (or person authorised to sign on behalf of the submitter)*

18/7/22

Date

*If signing on behalf of a trust or company, please provide additional written evidence that you have signing authority.

*A signature is not required if you make your submission electronically.



Planning

29 Murray Street
Rangiora 7400
28 July 2022

attention Rachel Hickling.

Rae Family Trust Rm 2200 74

Planning Team

Mackenzie District Council

Box 52

Fairlie 7949.

Dear Rachel

Herewith submission
in opposition to the Rae
Family Trust application
in respect of 14A Allan
Street Lake Tekapo. Kate
and I wish to be
heard in support of our
objection.

yours faithfully
George Scott.

SUBMISSION FORM

Under the Resource Management Act 1991



Mackenzie
DISTRICT COUNCIL

SUBMITTERS DETAILS

Submitters Full Name/Company/Trust: George Scott Family Trust	
Contact Name: George Scott	
Email address*: geo.joy.72@gmail.com	
Postal Address*: 29 Murray Street Rangiotia 7400	Tick if postal address is preferred method of correspondence*: <input type="checkbox"/>
Phone numbers: Day 03 313 7849	Mobile —

* Our default method of corresponding with you is by email and phone. Alternatively, if you wish to receive correspondence by post (including any decision) please provide a postal address and tick the relevant box above.

ADDRESS FOR SERVICE (if different from the submitter's details)

Company:	
Contact Name:	
Email address*:	
Postal Address*:	Tick if postal address is preferred method of correspondence*: <input type="checkbox"/>
Phone numbers: Day	Mobile

* Our default method of corresponding with you is by email and phone. Alternatively, if you wish to receive correspondence by post (including any decision) please provide a postal address and tick the relevant box above.

DETAILS OF APPLICATION BEING SUBMITTED ON

APPLICANT'S NAME: BL & SJ RAE FAMILY TRUST
RM REFERENCE: 220074

DESCRIPTION OF PROPOSED ACTIVITY:

The applicant has applied to amend a consent notice condition to allow a two storied dwelling on the subject site and for land use consent to exceed the 50% site coverage requirement. The dwelling will comprise a garage and workshop on the ground level and a three bedroom dwelling on the first floor level. The dwelling will be occupied by the applicant as a permanent residence. The developed site will comprise a site coverage area of residential dwelling area of 136m² and driveway/parking area of 58.37m², giving a total coverage area of 194.37m² or 55%. All other District Plan performance standards will be complied with.

MY SUBMISSION

Please indicate whether you support, oppose or are neutral to the application or specific parts of it (Tick):

SUPPORT OPPOSE NEUTRAL

My submission is (the particular parts of the application I support or are opposed to are):

see attached submission

(Attach separate sheet as required)

The reasons for my submission (the reasons I support or oppose the particular parts of the application above):

see attached

(Attach separate sheet as required)

My submission would be met by the Council making the following decision (give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought):

- Declining the application
- (a) confirming the consent notice
 - (b) Requiring the applicant to comply with site coverage rules of District scheme
 - (c) That no commercial activity be permitted on the lot

(Attach separate sheet as required)

DECLARATIONS

Please indicate whether or not you are a trade competitor for the purposes of section 308B of the Resource Management Act 1991 (tick):

I **am** a trade competitor I **am not** a trade competitor

If you are a trade competitor, please indicate whether or not are directly affected by an effect of the subject matter of the submission that

- (a) Adversely affects the environment; and
(b) Does not relate to trade competition or the effects of trade competition (tick):

I **am directly affected** I **am not** directly affected

Please indicate whether or not you wish to be heard at the hearing in support of your submission (note you will only be notified of a hearing if you have indicated you wish to be heard) (tick):

I **wish** to be heard I **do not** wish to be heard

If others make a similar submission, I will consider presenting a joint case with them at a hearing (tick):

Yes No

George Scott Family Trust
McCatt B J Scott

**Signature of Submitter (or person authorised to sign
on behalf of the submitter)***

25 July 2022

Date

*If signing on behalf of a trust or company, please provide additional written evidence that you have signing authority.

*A signature is not required if you make your submission electronically.

NOTE TO SUBMITTER

If you are making a submission to the Environment Protection Authority, you should use form 16B.

The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given. If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.

You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.

Applicant: BL & SJ RAE FAMILY TRUST
Address for Service: c/o Brian and Sarah Rae
57 Waipai Road RD25
Temuka 7985

If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

~~George Scott - george.scott@gmail.com~~

Objection re Rae Family Trust

George Scott - george.scott@gmail.com > Fri, 22 Jul, 7:54 AM

To: ~~George Scott - george.scott@gmail.com, James Scott - james.scott@gmail.com, P. Scott - paul.scott@icloud.com~~

Submission in opposition to an application by B.L. & S.J. Rae Family Trust RM220074 -
A Allan Street Lake Tekapo.

BACK GROUND.

The George Scott Family Trust owns 12 Allan Street Lake Tekapo which is contiguous to 14A Allan Street on our Eastern boundary. We purchased 12 Allan street about 15 years ago. Situated on the property was a cottage which we demolished and erected on the site an architect designed dwelling in keeping with the aesthetics and the environment of the Mackenzie country and the rules of the District scheme. The project involved our trust in a considerable capital expense. The Rae Family Trust forthwith on its purchase of 14 Allan street approached us for our consent to subdivide 14 Allan street into two lots both of which are below the minimum lot size for subdivision. In particular 14A Allan street being Lot 1 DP 489462 the subject of the Rae Trust application is in area considerably below the minimum lot size. Our consent was sought on the representation to us by the applicants they intended demolishing the existing cottage on Lot 2 DP 489462 and erecting a new dwelling on lot 2 in harmony with the environment as a permanent residence for themselves and their family. It was intended to sell Lot 1 as stated in their subdivision submission application. We gave our consent on the basis of those representations which we subsequently found were untrue. Immediately on obtaining subdivision consent the applicant proceeded to erect an ancillary dwelling on lot 2 and refurbishing the existing cottage on that lot creating an aesthetically displeasing and jumbled environment on the land. The applicants did not sell Lot 1 DP489462 as represented and are now applying to vary the consent notice on Lot 1 DP 480462 to enable them to erect a two storey dwelling on that lot instead of a single storey dwelling as provided in the notice and to also erect a non complying dwelling on that non complying lot.

DISCUSSION

Both lots 1 and 2 DP 48446 do not comply with the District Scheme in minimum lot size. Lot 1 is 352 square meters 48 square meters below the the minimum and lot 2 has a net land area of 467 square meters excluding the right of way and is 33 square meters less than the primary standard. In the aggregate that is 81 square meters less in respect of two contiguous lots which is significant. On the basis of the applicants representations to us as to their proposals for both lots 1 and 2 we were happy to consent to the non complying subdivision. Had we known the applicants had no intention of complying with

~~(no subject)~~

~~George Scott - geo.joy.nz@gmail.com~~

~~Wed, 27 Jul, 5:02~~

~~To: George Scott - geo.joy.nz@gmail.com~~

their representations we would not have consented to the subdivision because of the adverse environmental effects it would have on our property and the area in general which the rules of the residential zone1 are designed to protect. If the application is granted it will set a precedent and encourage applications for non complying allotments and for consents from the owners of contiguous properties to erect oversized non complying dwellings on those allotments. Furthermore ,if granted there will be three dwellings on two undersized allotments including the dwelling the subject of the applicants proposal which will occupy more than 50 per cent of the land area of Lot 1. There are at least four residential properties along this modest ridge which are capable c development in accord with the applicants proposal. Some months prior to the applicant submitting its application for resource consent to vary the consent notice affecting Lot 1 the applicants approached our Trust to consent to their proposal to erect a two storey dwelling on Lot 1. We refused consent for the reason it was a gross breach of the residential 1 zoning rules. The outline configuration of that two storey dwelling is the same outline as is proposed in the present application. Their is a significant difference in that in the first application in the indicative plan the lower storey is described as a " sleep out" with a kitchen , dining room , living room with a toilet and shower. The present indicative plan in the application before your Council is significantly different to the extent the dining room area is now euphemistically described as a " commercial area".

CONCLUSION

There is a community expectation that areas in which people live in terms of the residential 1 zoning will be be pleasant and more importantly the integrity of the zoning rules will be adhered to. Our trust and no doubt others have made a significant capital investment in that zone in reliance on the expectation the integrity of the zoning rules w be maintained. That fact was recognised by the terms of the consent notice which reads " ANY RESIDENTIAL UNIT CONSTRUCTED ON THE ALLOTMENT SHALL BE LIMITED TO A SINGLE STOREY DWELLING WITH A MAXIMUM HEIGHT OF FIVE METERS AND SHALL COMPLY WITH LAKE TEKAPO GUIDELINES "

The applicants state the dwelling is to be the permanent residence of the applicants . That assertion has no town planning relevance. What is permanent residence -" is it six months ,six or sixty years. There is a presumption on the indicative plan the applicants intend undertaking a commercial activity on Lot 1.

We firmly object to the applicants proposals. Our objection will be me by:

1. There be no amendment to the terms of the consent notice.
2. The area of the proposed dwelling does not exceed the area specified in terms of the residential 1 zoning in relation to the area of land.
3. That no commercial activity be permitted on the Lot.

Dated this 25th day of July, 2022.

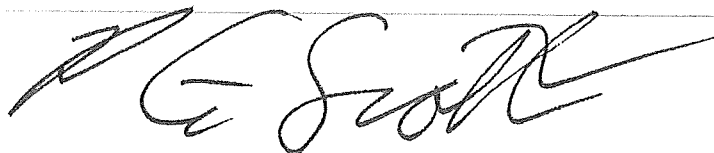
Trustees and authorised agents.

G Scott.
By Scott

Authorisation

I Paul George Scott as a trustee of the George Scott Family Trust authorise George Thomas Scott to represent the Trust in respect of its opposition to the B>L> & S>J> Rae Family Trusts planning opposition to the Mackenzie District Council RM 220074

Dated this 28th day of July 2022

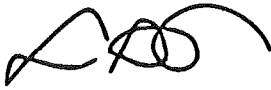
A handwritten signature in black ink, appearing to read 'P G Scott', written over a horizontal line.

Paul G Scott

AUTHORISATION

I **Lance Newman Scott** as a trustee of the George Scott Family Trust authorise George Thomas Scott to represent the Trust in respect of its opposition to B.L. & S.J. Rae Family Trusts planning application to the Mackenzie District Council RM 220074.

Dated this 20th day of July 2022.



Lance N. Scott