

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under section 120 of the Act
BETWEEN MACKENZIE PROPERTIES LIMITED
(ENV-2017-CHC-81)
AND HOCKEN
(ENV-2017-CHC-82)
Appellants
AND MACKENZIE DISTRICT COUNCIL
Respondent
AND GRANT PAYNE
Applicant

Environment Judge J J M Hassan – sitting alone pursuant to section 279 of the Act
In Chambers at Christchurch
Date of Consent Order: 20 March 2018

CONSENT ORDER

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

(1) the appeals are allowed to the extent that resource consent RM160206 is granted subject to the amended conditions and associated plans entitled "Four Lakes – Stage 3 Residential Development" 29 January 2018, as follows:

- (a) Sheet 1 Proposed Staging Plan;
- (b) Sheet 2 (x2) Proposed Servicing;



(c) Sheet 3 Proposed Foul Sewer Extension;

(d) Sheet 4 Aerial Overlay

- set out in Appendices 1 and 2 respectively, attached to and forming part of this order;

(2) the appeals are otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns two appeals, the first is by Mackenzie Properties Limited and the second is by Mr F E Hocken, against a decision of the Mackenzie District Council granting consent¹ to Grant Payne for a 67 lot residential subdivision and buildings on a 8.35ha site at the corner of Ohau Road and North West Arch, Twizel.

[2] The court has now read and considered the consent memorandum of the parties dated 23 February 2018 which proposes to resolve these appeals.

Other relevant matters

[3] No person has given notice of an intention to become a party under section 274 of the Resource Management Act ("the RMA" or "the Act").

Orders

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

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



¹ RM160206.

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



J J M Hassan
Environment Judge



APPENDIX 1

The following amendments are to be made to Resource Consent RM160206

1. The subdivision plan annexed as Appendix 2 to this Order will replace the subdivision plan labelled Paterson Pitts Group Plans "Grant Payne, North West Arch, Four Lakes, Stage 3, Residential Development, Sheets 1, 2, 3 & 4 dated 10/7/2017 in conditions 1 of the Subdivision and Land Use Consents.
2. The conditions of consent are to be amended as follows (additions and deletions shown in underline and ~~strikeout~~ respectively):

SUBDIVISION

General

1. All activities authorised by this consent shall be in general accordance with the Paterson Pitts Group Plans "Grant Payne, North West Arch, Four Lakes– Stage 3, Residential Development, Sheets 1,2,3 & 4 dated ~~10/7/2017~~ 29/01/2018, unless inconsistent with any of the conditions below. This subdivision scheme plans is attached as Appendix 'A'
2. Where there is any conflict between the information provided with the application and any condition of consent, the conditions shall prevail.
3. The subdivision shall be undertaken in the following stages as shown on Sheet 1 of 4 –Proposed Staging Plan with a balance lot for each stage other than the last:

Stage 3A – Lots 5-19, ~~38, 39, 48 & 49~~ 36, 37, 43 & 44 (19 lots)

Stage 3B – Lot ~~30, Lots 44 to 47, Lots 50-52, Lot 56-59 & Lots 64-65~~ 28, 29, 40 to 42, 45, 46, and Lots 51-53 (~~14~~ 10 lots)

Stage 3C – Lots 20-~~27-29~~, Lots ~~31-37~~ 30-35 and Lots ~~40-43~~ 38 & 39 (~~21~~ 16 lots)

Stage 3D – Lots ~~53-55~~ 47-50 and Lots 54-57, ~~Lots 60-63 & Lots 66-67~~ (~~9~~ 8 lots)

Stage 3E – Lots 1-4 (4 lots)

These stages may be undertaken in any order and/or concurrently in accordance with the approved stage plans

4. New roads being lots 100, 200, 300 and 400 are to be vested in the Council.

Engineering

5. All engineering works shall be carried out in accordance with the Mackenzie District Council's policies and standards. The Council's engineering department shall review and approve the engineering drawings, specifications and calculations prior to any physical work commencing.



6. Prior to the commencement of any works for the servicing of the land being developed, the consent holder shall provide to the Mackenzie District Council for approval, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition (1), to detail the following engineering works required:

Water Supply

- a) A full water model of the site is to be undertaken by the applicant, to prove the proposed pipe sizing. The model is to include for the development of further stages to the south-west along Ohau Road. The water supply is to perform to the Council Standards. The engineering designs shall provide for sufficient capacity to meet the possible future demand generated by the lots created by this subdivision and, in addition, the irrigation requirements of the proposed landscaping. Fire hydrants are to be designed and installed in accordance with the Fire Service Code of Practice (NZS PAS 4509:2008) for Fire Fighting Water Supplies to the satisfaction of the Asset Manager.

PE pipework may be able to be used on the development but all welding is to be undertaken in terms of the Christchurch City Council standard's including for all pre construction weld testing.

Water to be connected to the existing main in North West Arch at a minimum of two locations.

Sewer

- b) The development is to connect to the Council's reticulated system in accordance with Council's standards. The cost of the connection shall be borne by the consent holder.

The development site is to connect to the existing sewer manhole on the golf course at the rear of 54 Omahau Cres, Twizel or to an alternative outfall as approved in writing by the Asset Manager, Mackenzie District Council. All new pipework within the golf-course is permitted to be laid at a grade of 1:250. The system is to be manually flushed once a month until Stages 3A, 3B and 3C are complete with title. This will allow for an adequate cover to the pipe across Ohau Road.

The main sewer pipe is to be a 150mm dia uPVC SN16.

The sanitary sewer connections are to be laid to at least 600mm inside the development lots. The laterals are to be installed at a sufficient depth to ensure fall is available to serve the furthest part of the development or whatever pumping system may be provided within the development. The engineering designs shall provide for sufficient capacity to meet the likely future demand generated by the development. The connections shall meet the durability requirements of the building code (i.e. have a minimum life of 50 years). The consent holder shall contribute towards any upgrading of the Council's networks needed to allow the networks to manage the additional demand placed upon it by this development. The maximum contribution shall be the



actual cost of upgrading the network to the extent that the upgrading is undertaken to allow servicing of the application site.

Stormwater

- c) The consent holder shall forward with the engineering plans and specifications, copies of any consents required or granted in respect of this subdivision, including certificates of compliance or consent required by Environment Canterbury.

Stormwater from within the development shall be discharged in accordance with the resource consent requirements of the Discharge Permits authorised by Environment Canterbury. The design of stormwater and infiltration areas shall be carried out by a competent person who shall provide to the Mackenzie District Council a design report for approval. A certification will also be required following construction, confirming that the system and infiltration areas were constructed in accordance with the design report and consent.

The road network is to act as a secondary flow path. All building platforms are to be a minimum of 200mm above the critical 1% AEP flood event less the soakage provided on site. Consideration is to be taken into the existing zoning of the upstream catchment in the design of the road cross sections.

All proposed new lots are to be protected from upstream overland flood flows. In particular there is a natural flow pattern across Lot 2. Any building on Lot 2 is to be constructed clear of the natural flow channel. A consent notice to that effect is to be placed on the new title of Lot 2.

Roading and Access

- d) Plans and specification of all roading construction and all accesses to the development in accordance with Council's standards, including the following additional requirements:
- (i) The intersections with North West Arch and Ohau Road require a full traffic assessment and specific design prior to Engineering Approval.
 - (ii) Road to be designed to Cul De Sac Standards.
 - (iii) Footpaths to be provided to Council standards including the existing frontage of North West Arch.
 - (iv) All other internal roads to be designed and built to Local Road Standards.

Earthworks

- e) Details and plans of any earthworks. All earthworks undertaken on the site shall be in accordance with NZS 4431:1989 and the Environment Canterbury Erosion and Sediment Control Guidelines.

All new lots must fall towards the street.



Lighting

- f) Details of any street and outdoor lighting are to be included with the engineering plans submitted to Council for approval. Certification by an appropriately qualified person that any proposed outdoor lighting complies with the requirements of the Mackenzie District Plan is required prior to the illumination of the outdoor lighting, other than for the purposes of testing the effectiveness of the lighting.

Landscaping

- g) The consent holder shall liaise with the Council's Community Facilities Manager prior to preparation of the site for subdivision to ascertain which trees are to be retained within the areas to vest as reserves or roads and the works required by the consent holder in relation to these trees. The consent holder shall then provide the Council with a landscaping plan detailing which trees are to be retained within Lot 1 RM160165 and any new trees or plants that are to be established within the subdivision for certification. In particular the landscaping plan shall include a planting plan in the vicinity of the cul de sac to provide some visual mitigation of this area when viewed from the reserve. The consent holder shall undertake planting as required by the certified landscape plan.

Telecommunication and Electricity

- h) That each new lot within the development be provided with a connection to a telecommunications and electrical supply network at the boundary of the net area of the allotment that meets the demands of the proposed development.
- i) All electricity and telephone lines servicing the subdivision shall be underground and in terms of the standards of the applicable Utility Company.

Other Matters

- j) The submission of 'as-built' plans in accordance with Council's 'as-built' standards, and information required to detail all engineering works completed in relation to or in association with this development.
 - k) Noise from excavation and traffic (on site machineries / trucks) must be limited to comply with requirements of NZS 6803 "Acoustic – Construction Noise" (See Table 3, page 11 from NZS 6803).
7. The consent holder shall give the network utility operator five working days' notice of intention to connect to existing services. New services shall be tested in the presence of an authorised Council officer.
8. Upon completion of the development the consent holder shall provide the Council with As Built plans of all infrastructure and earthworks in both paper form and electronic form compatible with Council GIS. Evidence that all testing has been carried out and complies with the requirements shall also be provided.



Easements

9. Service easements required to protect services crossing other lots shall be duly granted or reserved, including an easement to protect the proposed new sewer line adjacent to the western boundary of Lot 1 which connects to the existing foul sewer manhole on land fronting Totara Drive.
10. Any unused utility or services connections across boundaries are to be fully abandoned, unless protected by easement.
11. Any other easements deemed necessary for the purposes of the subdivision shall be duly reserved or granted.

Access

12. All lots shall have an access with a minimum width of 3.5m and shall be provided with vehicle crossings onto North West Arch or the roads to vest.

Financial Contributions

13. The consent holder shall pay the Council a water supply capital works contribution for the additional allotments specified below for each stage prior to approval under section 224 of the Resource Management Act. The amount of the capital works contribution payable is the amount specified for water in the Council's schedule of fees and charges for the financial year that section 224 approval is sought and granted.

Stage 3A: 18 additional allotments (note credit of one allotment given for underlying allotment)

Stage 3B: ~~44~~ 10 additional allotments

Stage 3C: ~~24~~ 16 Additional allotments

Stage 3D: ~~9~~ 8 additional allotments

Stage 3E: 4 additional allotments

14. The consent holder shall pay the Council a sanitary sewage capital works contribution for the additional allotments specified below for each stage prior to approval under section 224 of the Resource Management Act. The amount of the capital works contribution payable is the amount specified for water in the Council's schedule of fees and charges for the financial year that section 224 approval is sought and granted.

Stage 3A: 18 additional allotments (note credit of one allotment given for underlying allotment)

Stage 3B: ~~44~~ 10 additional allotments

Stage 3C: ~~24~~ 16 additional allotments

Stage 3D: ~~9~~ 8 additional allotments

Stage 3E: 4 additional allotments



15. The consent holder shall pay the Council a contribution towards the provision of land for open space and recreational facilities for the additional allotments specified below for each stage prior to approval under section 224 of the Resource Management Act. This contribution shall be payable at the rate of 5% each of the average cash land value of the lots. The value of the lots shall be determined by a valuation from a registered valuer. This valuation can either be provided by the consent holder or the Council can obtain this on the consent holder's behalf. Where the Council does obtain the valuation upon request, the cost of the valuation will be met by the consent holder. The valuation used to determine the reserves contribution must be no older than six months from when the Council receives and decides the section 224 application.

16. Any boundary fences on lots 5 to 9, lots 12, 13, and 16 to ~~26~~ 24 which adjoin Council reserve areas shall have a maximum height of 1.2metres.

This condition shall be registered as a consent notice pursuant to section 121 of the Resource Management Act 1991 as a condition that requires ongoing compliance by future landowners.

17. Notwithstanding the Residential 4 zone standards, the maximum building and hardsurface coverage within Lots 5 to ~~67~~ 57 shall be 50%.

This condition shall be registered as a consent notice pursuant to section 121 of the Resource Management Act 1991 as a condition that requires ongoing compliance by future landowners.

18. Notwithstanding the Residential 4 zone standards, the minimum building setback from all internal and road boundaries on lots 5 – ~~67~~ 57 shall be 2m except that:

- a. accessory buildings for residential activities, other than used for the housing of animals, may be located within the setback from internal boundaries where the total length of walls with the setback do not exceed 7.5m and do not contain windows.
- b. where an internal boundary of a site immediately adjoins an access or part of an access which is owned or partly owned with that site or has a registered right-of-way over it in favour of that site, the minimum building setback from that internal boundary shall be reduced to 1m.

This condition shall be registered as a consent notice pursuant to section 121 of the Resource Management Act 1991 as a condition that requires ongoing compliance by future landowners.

19. Notwithstanding condition 18, accessory buildings on lots 7 and 8, 9, 12 and 13 shall be setback the minimum distances as follows:

1. 2m from the eastern boundaries of lots 7 and 8
2. 2m from the north eastern boundary of lots 9, 12 and 13

This condition shall be registered as a consent notice pursuant to section 121 of the Resource Management Act 1991 as a condition that requires ongoing compliance by future landowners.



Soil Contamination

20. In the event that soils are found that have visible staining, odours and/or other conditions that indicate soil contamination that are otherwise not stated in the findings of the report titled "North West Arch, Twizel: Combined Preliminary and Detailed Site Investigation Report for Payne Developments", Opus International Consultants Ltd, dated August 2017, then work must cease until a Suitably Qualified and Experienced Practitioner (SQEP) has assessed the matter and advised of the appropriate remediation and/or disposal options for these soils. The applicant shall immediately notify the Mackenzie District Council Manager of Planning and Regulations of this matter. Any measures to manage the risk from potential soil contamination must be approved by the Environment Canterbury.

Costs

21. 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 NOTE

The applicant is advised that a variation of the consents for Stage 1 and 2 of this subdivision may be required to provide notice of the need to have soil contamination assessments undertaken in specified circumstances and/or the actions to be taken should soils be found which indicate contamination of soil.

LAND USE CONSENT

1. All activities authorised by this consent shall be in general accordance with the Paterson Pitts Group Plans "Grant Payne, North West Arch, Four Lakes— Stage 3, Residential Development, Sheets 1,2,3 & 4 dated ~~10/7/2017~~ [29/01/2018](#), unless inconsistent with any of the conditions below. This subdivision scheme plans is attached as Appendix 'A'. In particular consent is granted for the use of Residential P zoned land for residential activity and fencing associated with residential lots created by the subdivision and use of Recreation P zoned land for access to the subdivision from Ohau Road as shown on the scheme plans.
2. Where there is any conflict between the information provided with the application and any condition of consent, the conditions shall prevail.
3. Any boundary fences on lots 5 to 9, 12, 13, and 16 to ~~26~~24 which adjoin Council reserve areas shall have a maximum height of 1.2metres.
4. Notwithstanding the Residential 4 zone standards, the maximum building and hardsurface coverage within Lots 5 to ~~67~~ [57](#) shall be 50%.
5. Notwithstanding the Residential 4 zone standards, the minimum building setback from all internal and road boundaries on Lots 5 – ~~67~~ [57](#) shall be 2m except that:



- a. accessory buildings for residential activities, other than used for the housing of animals, may be located within the setback from internal boundaries where the total length of walls with the setback do not exceed 7.5m and do not contain windows.
 - b. where an internal boundary of a site immediately adjoins an access or part of an access which is owned or partly owned with that site or has a registered right-of-way over it in favour of that site, the minimum building setback from that internal boundary shall be reduced to 1m.
6. Notwithstanding condition 5, accessory buildings on lots 7 and 8, 9, 12 and 13 shall be setback the minimum distances as follows:
- a. 2m from the eastern boundaries of lots 7 and 8;
 - b. 2m from the north eastern boundary of lots 9, 12 and 13
7. This consent shall be considered to have been given effect to in relation to section 125(1A)(a) of the Resource Management Act 1991 when the first dwelling is erected on a lot within the subdivision.



APPENDIX 2



PROVISIONAL ONLY
Detail, Areas & Dimensions
Subject to Final Survey



- Legend:**
- Stage 3 A (19 Lots)
 - Stage 3 B (10 Lots)
 - Stage 3 C (16 Lots)
 - Stage 3 D (8 Lots)
 - Stage 3 E (4 Lots)
 - Lot Boundaries
 - Stage 2 Allotments
 - Stage 1 Reserves

Note:
1. Proposed reading corridors to contain 7.5m cartway with kerb & channel, drainage swales and 2m footpath either side. Specific design to be determined in conjunction with stormwater treatment/disposal.

Proposed Easements			
Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way	(A)	Lot 17	Lot 16
	(B)	Lot 13	Lot 12

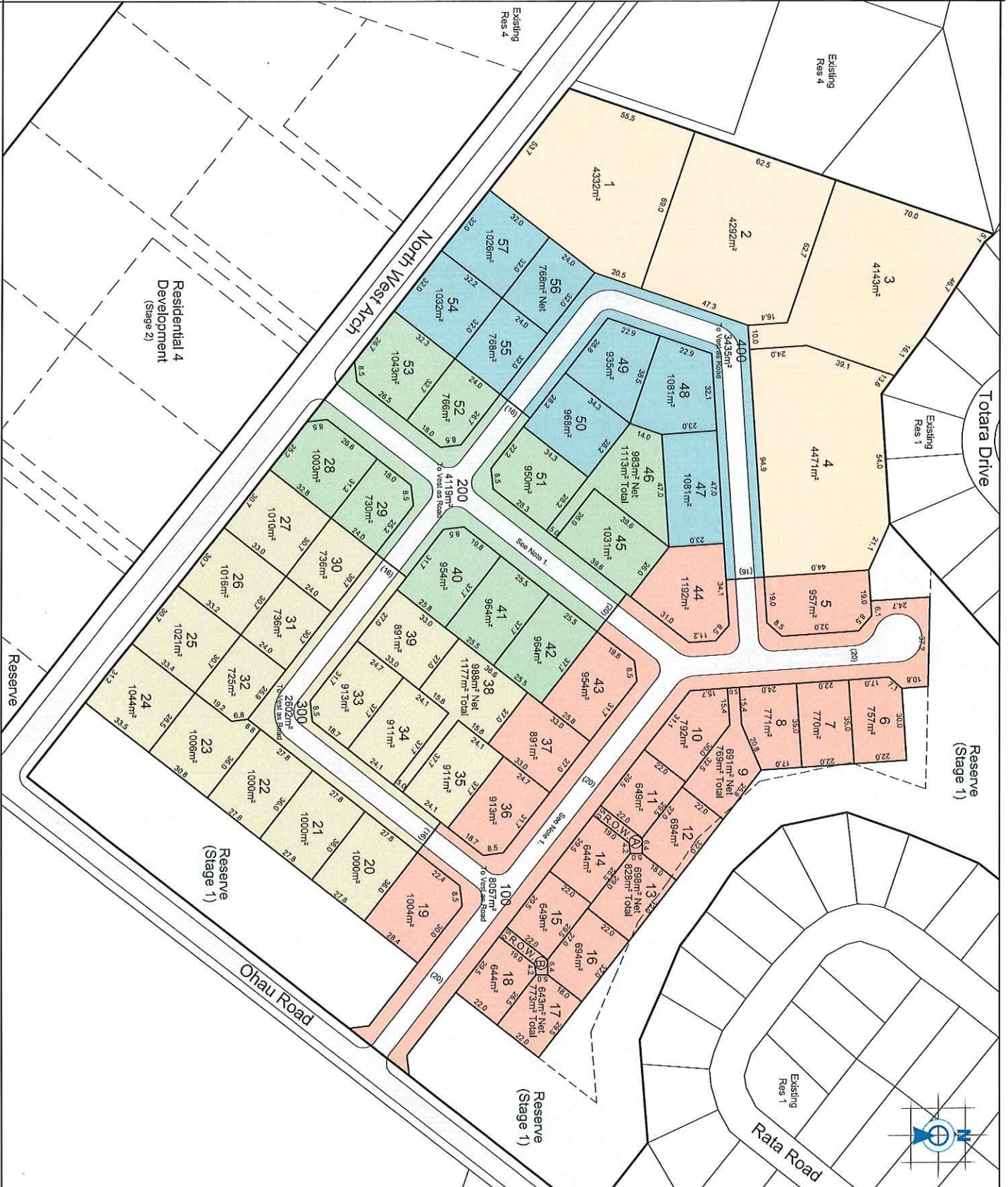
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Grant Payne
North West Arch
Twizel

**Four Lakes Stage 3
Residential Development
Proposed Staging Plan**

Surveyor:	N/A	Original Scale:	1:500
Drawn by:	LJH/LL	Checked by:	LJH
Designed by:	LJH/LL	Approved by:	LJH
Client:	A3	Version:	DO NOT SCALE
Project No:	1304	Date:	29/10/2014
Job No:	15681		



PROVISIONAL ONLY
 Detail, Areas & Dimensions
 Subject to Final Survey



- Legend:**
- Stage 3 A (19 Lots)
 - Stage 3 B (10 Lots)
 - Stage 3 C (16 Lots)
 - Stage 3 D (8 Lots)
 - Stage 3 E (4 Lots)
 - Lot Boundaries
 - Stage 2 Allotments
 - Stage 1 Reserves

Note:
 1. Proposed roading corridors to contain 7.6m carriageway with kerb & channel, drainage swales and 2m footpath either side. Specific design to be determined in conjunction with stormwater treatment/disposal.

Proposed Easements		
Purpose	Shown	Servient / Dominant
Right of Way	(A)	Lot 17 / Lot 16
	(B)	Lot 13 / Lot 12

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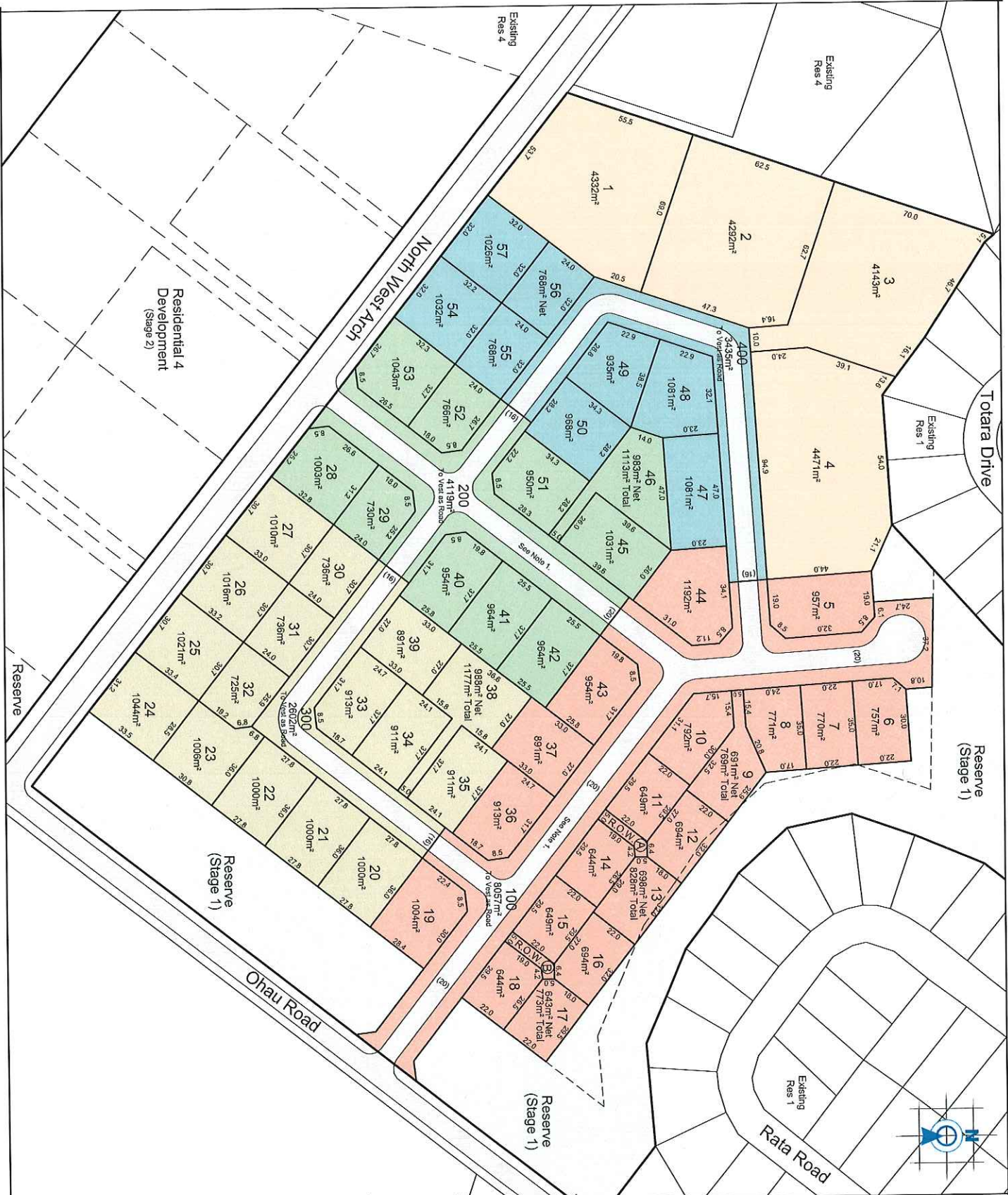
Grant Payne
 North West Arch
 Twizel

Four Lakes - Stages 3
 Residential Development
 Proposed Staging Plan

Scale: 1:1500
 Date: 29/04/2025

Author: Grant Payne
 Checked: [Signature]
 Approved: [Signature]

Site Ref: 15681



PROVISIONAL ONLY
 Detail, Areas & Dimensions
 Subject to Final Survey

Legend:

- Existing FS
- Proposed FS
- Existing Water
- Proposed Water
- Proposed SW
- Secondary Flow Paths
- Zone Bdy
- Major Contours
- Minor Contours

Note:

1. Reading network to be serviced for stormwater via kerb and channel, draining to mudtrunks which connect to a series of ground soakage systems. The number and location of soakage devises is subject to specific design and approval.
2. Secondary flow from the reading network and sites is overland to the proposed swale and drainage area within the reserve as shown.
3. Foul Sewer may gravity drain into existing system to the east as shown on Sheet 3. Existing ground topography within the subject site slopes up at approximately 1 in 100 from east to west enabling the proposed development to drain all sites towards Ohau Road as shown. Final levels subject to specific design and approval.

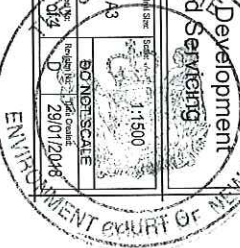
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Client name:
Grant Payne
North West Arch
TWIZEL

Four Lakes - Stage 3
Residential Development
Proposed Servicing

Site No.	15681
Scale:	1:1500
Drawn by:	AK
Checked by:	AK
Approved by:	AK
Date:	29/01/2016



PROVISIONAL ONLY
 Detail, Areas & Dimensions
 Subject to Final Survey

Legend:

- Existing FS
- Proposed FS
- Existing Water
- Proposed Water
- Proposed SW
- Secondary Flow Paths
- Zone Body
- Major Contours
- Minor Contours

Note:

1. Roading network to be serviced for stormwater via kerb and channel, draining to manabanks which connect to a series of ground soakage systems. The number and location of soakage devices is subject to specific design and approval.
2. Secondary flow from the roading network and sites is overlaid to the proposed swale and drainage area within the reserve as shown.
3. Foul sewer may gravity drain into existing system to the east as shown on Sheet 3. Existing ground topography within the subject site slopes up at approximately 1 in 100 from east to west enabling the proposed development to drain all sites towards Onau Road as shown. Final levels subject to specific design and approval.

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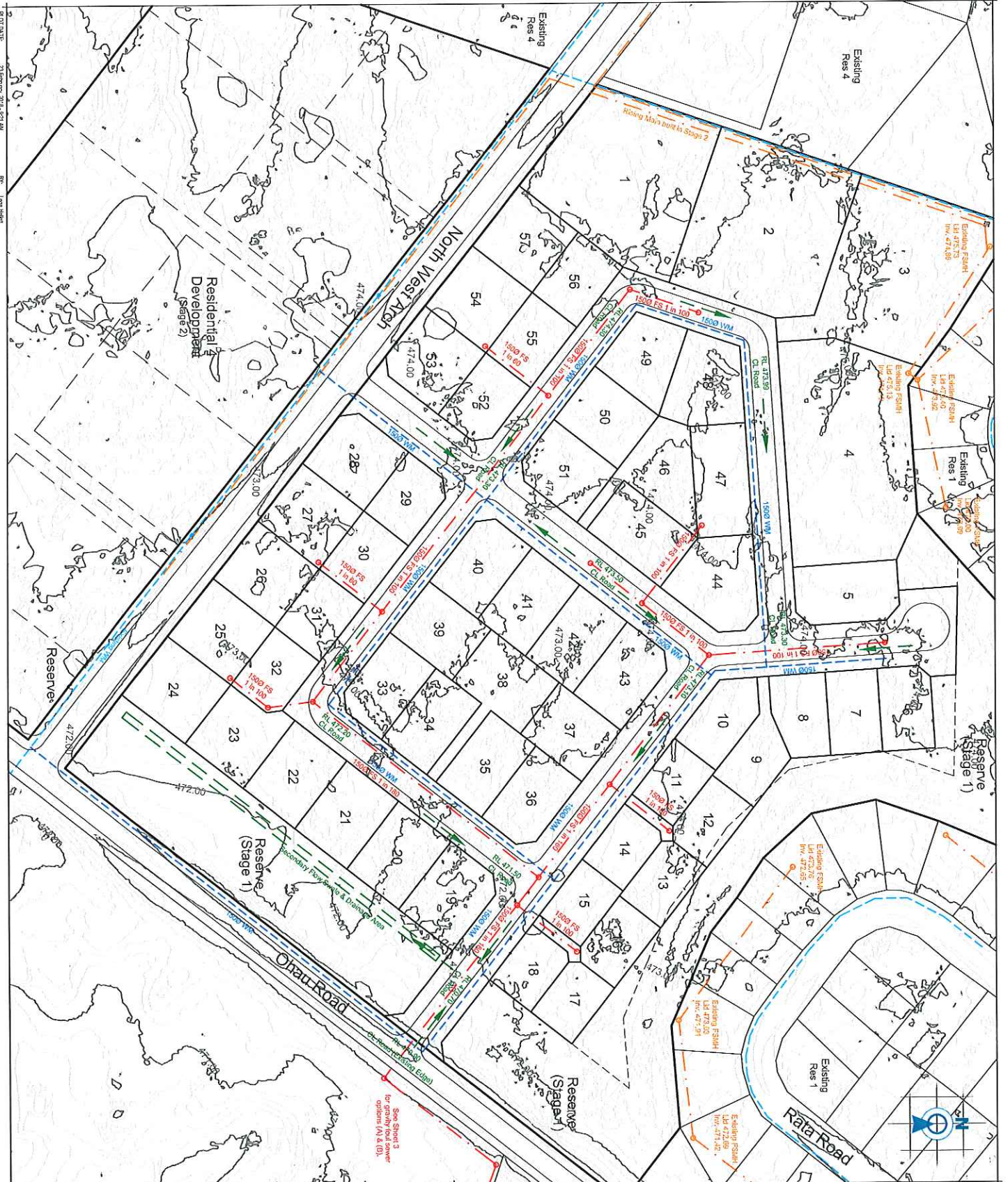


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Four Lakes - Stage-3
Residential Development
Proposed Servicing

Author:	MA	Scale:	1:1500
Drawn by:	SH	Client:	Grant Payne
Checked by:	SH	Project:	Four Lakes - Stage 3
Approved by:	SH	Drawn:	SH
Date:	20/04/2017	Scale:	1:1500
Job No:	15661	Client:	Grant Payne





PROVISIONAL ONLY
 Detail, Areas & Dimensions
 Subject to Final Survey

Legend:
 Existing FS
 Proposed FS

Note:

1. Foul Sewer may gravely drain into the existing system via one of the options (A) for (B) shown. Option (A) results in invert levels approximately 0.11m higher than option (B).
2. Minimum cover for the proposed system is where it crosses Ohau Road. This is approximately 0.60m for option (A) and 0.70m for option (B).
3. Once into the subject site, the system achieves more cover due to the site topography. The remainder of the system shown on Street 2 can service the proposed allotments by gravity. Final levels subject to specific design and approval.
4. Approximate invert levels shown are based on minimum grade of 1 in 180 from existing manholes until within the subject site.
5. Invert and Lid levels for existing manholes obtained from MDC GIS. Levels will need to be verified by survey prior to final design.

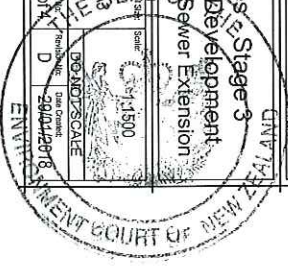
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Grant Payne
 North West Arch
 Twizel

Four Lakes @ Stage 3
 Residential Development
 Proposed Foul Sewer Extension

Proposed by:	NA	Checked by:	LD
Drawn by:	LSH	Reviewed by:	LD
Checked by:	LSH	Approved by:	LD
Drawn by:	LSH	Scale:	30m X 15m
File No:	15681	Date:	29/04/2018



PROVISIONAL ONLY
 Detail, Areas & Dimensions
 Subject to Final Survey

Note:
 1. See Sheets 1 - 3 for proposed staging and servicing.



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Grant Payne
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 Twizel

Four Lakes - Stage 3
 Residential Development
 Aerial Overlay

Drawn by:	LNH	Scale:	1:1500
Checked by:	LNH	Sheet:	4 of 4
Approved by:	LNH	Revision:	D
Job Ref:	15681	Drawn:	29/04/2019