

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHU**

Decision No. [2023] NZEnvC 244

IN THE MATTER of the Resource Management Act 1991

AND an appeal under s120 of the Act

BETWEEN THE CANYON VINEYARD
LIMITED

(ENV-2019-CHC-137)

Appellant

AND CENTRAL OTAGO DISTRICT
COUNCIL

Respondent

AND BENDIGO STATION LIMITED

Applicant

Court: Environment Judge P A Steven
Environment Commissioner M C G Mabin

Hearing: On the papers in Chambers at Christchurch

Last case event: 18 October 2023

Date of Decision: 13 November 2023

Date of Corrigendum: 13 November 2023

CORRIGENDUM OF THE ENVIRONMENT COURT



Introduction

[1] This proceeding concerned an appeal by The Canyon Vineyard Limited (‘Canyon’) against a decision of the Central Otago District Council (‘the Council’) granting subdivision and land use consent for land at the south of the Bendigo Loop Road at Bendigo, owned by Bendigo Station Limited (‘Bendigo’). In the interim decision *The Canyon Vineyard Ltd v Central Otago District Council*¹ the court declined the appeal by Canyon and granted resource consent subject to the preparation of draft final conditions and the relevant plans referred to in those conditions.

[2] The final decision² was issued on 2 December 2021. Following the final decision, Canyon lodged an appeal to the High Court under s299 of the Resource Management Act 1991 (‘RMA’ or ‘the Act’) and applications for leave to the Court of Appeal and Supreme Court against the High Court decision. A question relevant to the High Court proceeding, and later the Court of Appeal application for leave, was in relation to the Environment Court’s alleged failure to identify a second mound on Lot 8. The High Court and Court of Appeal have determined that this is an error amenable to correction by the Environment Court, being empowered by the District Court Rules 2014 to correct an accidental slip or omission in a judgment or order.³

[3] The High Court directed that the parties confer and liaise with the Environment Court to replace the approved plans with a plan that correctly identifies a secondary mound, the purpose of which is to screen the accessway leading to the residential building platform on Lot 8 viewed from the Canyon property (‘second mound’).⁴

¹ *The Canyon Vineyard Ltd v Central Otago District Council* [2021] NZEnvC 136.

² *The Canyon Vineyard Ltd v Central Otago District Council* [2021] NZEnvC 164.

³ Joint memorandum, 18 October 2023 at [4].

⁴ *The Canyon Vineyard Limited v Central Otago District Council* [2022] NZHC 2458 at [239] and *The Canyon Vineyard Limited v Central Otago District Council* [2023] NZCA 74 at [38].

[4] The parties have since filed a notice of motion⁵ requesting a partial recall of that final decision to correct the approved plans confirmed by that decision and the conditions of consent that refer to those plans.

The court's power to correct errors

[5] Section 278 RMA provides that Environment Judges have the same powers that the District Court has in the exercise of its jurisdiction.

[6] Rule 11.10, District Court Rules 2014, specifies (relevantly) that a judgment may be corrected by the court if it contains a clerical mistake or an error arising from an accidental slip or omission.

Grounds for correction

[7] Relevant plans were required to be filed as a result of an omission in the plans submitted in evidence to the Environment Court. The interim decision notes:⁶

The amended plans did not depict the secondary mound originally shown on Lot 8, although we understand that removal of that was inadvertent. Bendigo intends that this be reinstated, and Mr Smith undertook his visual assessment on that basis.

[8] Accordingly, the court directed:⁷

The applicant and the respondent are directed to confer and then file and serve a set of draft final conditions by Wednesday 22 September 2021, together with the relevant plans referred to in those conditions.

[emphasis added]

⁵ Dated 18 October 2023.

⁶ *The Canyon Vineyard Ltd v Central Otago District Council* [2021] NZEnvC 136 at [60].

⁷ At Order B.

[9] In conjunction with the applicant's surveyor and landscape architect, amended plans were submitted on 22 September 2021. This omission was inadvertently missed by the court. The conditions and plans submitted to the Environment Court were subsequently approved and enclosed with the final decision. The approved plans did not however identify the second mound. The joint memorandum records Bendigo accepts that this was an omission on its part and all parties otherwise agreed that the second mound should be reinstated.⁸

[10] The second mound had previously only been identified in the evidence of Paul Andrew Smith,⁹ and was not drawn to scale. Because of this, the parties' filed an affidavit of Keith Wallace Sanford¹⁰ outlining the evidential basis for the location of the mound. Mr Sandford states that while particular attention was being paid to the preparation of sight line information in the preparation of plans following the interim decision's direction, there was an oversight in the transfer of all mounds originally identified in Mr Smith's evidence. He explains that the second mound will have the same design specifications as all other mounds to be installed and as described in the notes included with Drawing 1, which has not changed.¹¹ That note is as follows:¹²

Proposed mounding on lots 8, 9 and 10 to be up to 2m high, with maximum slope[e] of 1:2 on building platform side and 1:3 on west side.

Mounding to be constructed utilising surplus cut material from establishment of building platforms.

The corrections required

[11] The corrections required involve replacing the approved plans with replacement plans that identify the second mound on Lot 8. Consequential

⁸ Joint memorandum, 18 October 2023 at [11].

⁹ PA Smith EIC, 29 January 2021, Appendix 1.

¹⁰ Affidavit of K W Sandford sworn 14 September 2023.

¹¹ Affidavit of K W Sandford sworn 14 September 2023 at [9], [11].

¹² Joint memorandum, 18 October 2023 at [13].

amendments to condition 1 of both the land use and subdivision consents are also required to ensure the replacement plans are properly referred to.

[12] The correction to the consent conditions are tracked as follows:

Subdivision Condition 1

The subdivision shall be undertaken in accordance with the Proposed Subdivision of Lot 2 DP 523873, Drawing 01, Rev ~~BC~~, ~~dated 21.09.21~~ dated 20 May 2021 and Proposed Mitigation Plan Lot 2 DP 523873, ~~Rev B~~, Drawing 03, Rev C, ~~dated 21.9.21~~ dated 20 May 2021.

Land Use Condition 1

This land use consent authorises residential building platforms on Lot 2, Lots 4-6 and Lots 8-11 as shown on the Proposed Subdivision of Lot 2 DP 523873 Rev ~~BC~~ Drawing 01 ~~dated 21.09.21~~ and Proposed Mitigation Plan Lot 2 DP 523873 ~~Rev B~~ Drawing 03, Rev C ~~dated 21.09.21~~ dated 20 May 2021.

[13] The plans as confirmed by the final decision are set out in Appendix 1. These are to be replaced with the corrected versions set out in Appendix 2.

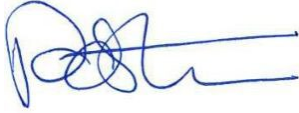
Outcome

[14] The failure to include plan maps depicting the second mound is an “accidental slip or omission” that is able to be corrected using the court’s powers under rule 11.10, District Court Rules 2014.

[15] Subdivision condition 1 and land use condition 1 are to be amended as set out above at [12] and as set out without tracking in Appendix 3. The plans referred to in those conditions are to be replaced with the replacement plans identifying the second mound on Lot 8 as set out in Appendix 3.

[16] *The Canyon Vineyard Ltd v Central Otago District Council* [2021] NZEnvC 164 otherwise remains unchanged.

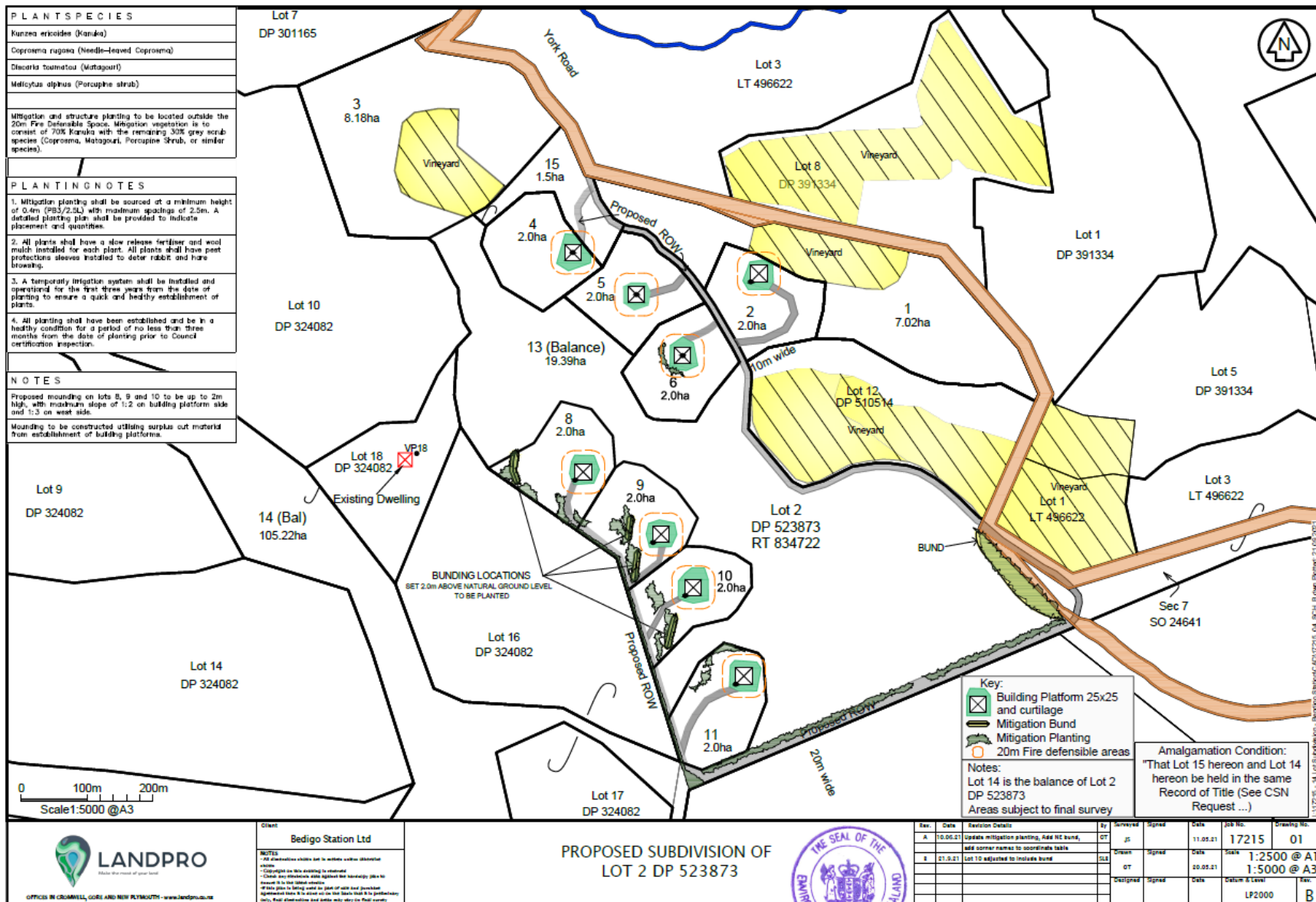
For the court



P A Steven
Environment Judge

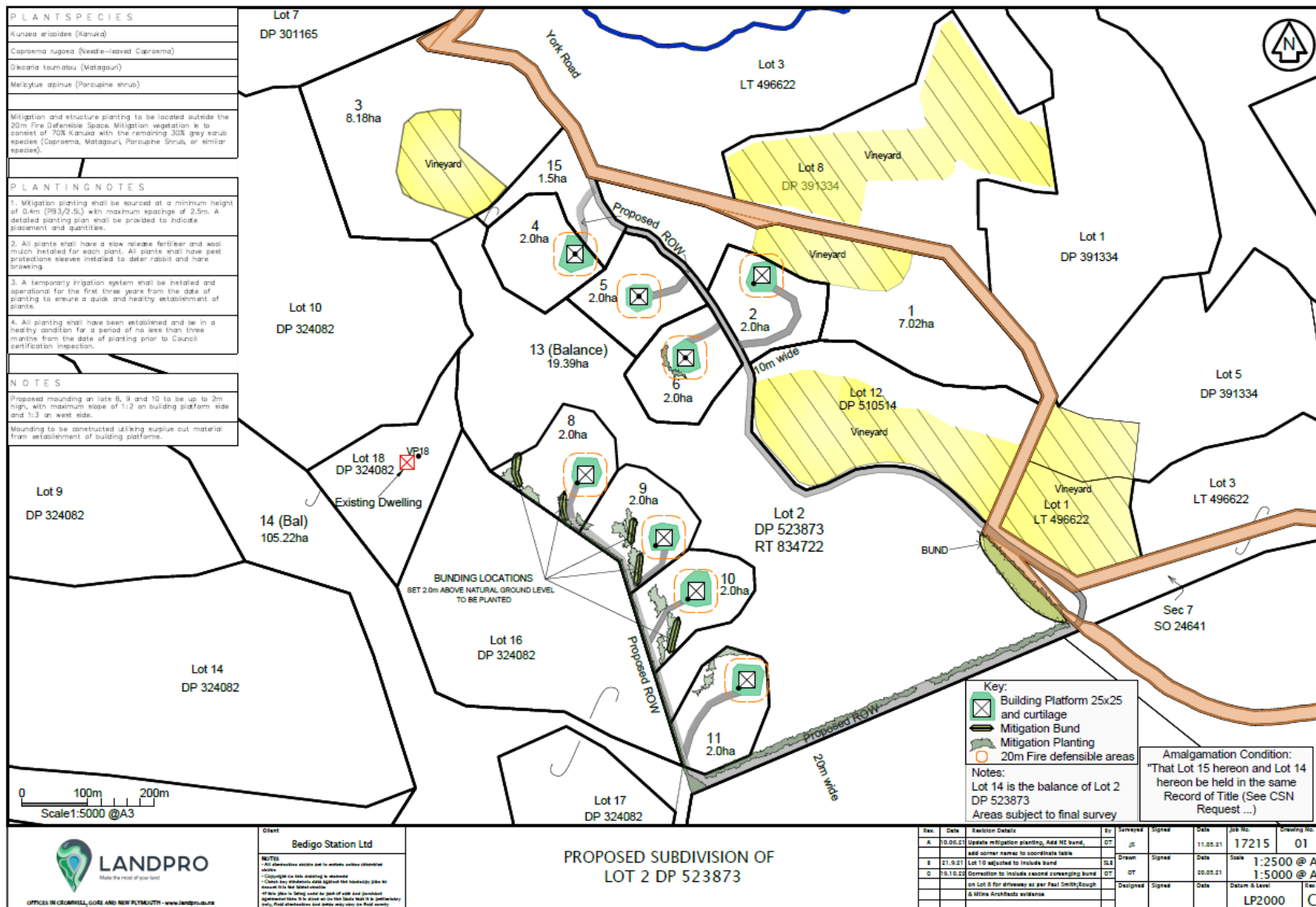


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Appendix 2

The relevant plans as corrected by this corrigendum.





Appendix 3

Conditions of Consent

Subdivision

1. The subdivision shall be undertaken in accordance with the Proposed Subdivision of Lot 2 DP 523873, Drawing 01, Rev C, dated 20 May 2021 and Proposed Mitigation Plan Lot 2 DP 523873, Drawing 03, Rev C, dated 20 May 2021.
 2. All subdivisional works shall comply with NZS 4404:2004 and the Council's July 2008 Addendum to NZS 4404:2004.
 3. The right of way easements shown on the plan of subdivision (as amended to delete access to Lot 7 in terms of Condition 1) and any other easements required to protect access and/or access to services shall be duly granted or reserved. For the avoidance of doubt no right of way easement shall be created to permit Lots 1-6 or 8-11 or Lot 13 to achieve access via Lot 14 to Bendigo Loop Road.
 4. Prior to section 224(c) certification the carriageways within the right of ways that are to serve Lot 2, Lots 4-6 and Lots 8-11 shall be upgraded or constructed in accordance with NZS 4404:2004 and the Council's July 2008 Addendum as follows:
 - a. Minimum 4.5 metre top width.
 - b. Shallow trafficable side drains are allowable along generally level sections of carriageway.
 - c. Rock armoured side water channels on steeper gradients (>10%).
 - d. Well bound durable running course that is resistant to unravelling and provides good all weather traction.
 - e. Suitably sized culverts located in watercourses as applicable.
 - f. Access to individual lots (Lot 2, Lots 4-6 and Lots 8-11) to comply with Part 29 of the Council's Roading Policies, January 2015.
 5. Prior to section 224(c) certification the consent holder shall provide entrances to Lots 1, 3 and 15 off Blue Mines Road to achieve compliance with Section 29 of the Council's Roading Policies January 2015.
 6. Prior to section 224(c) certification the consent holder shall install a farm gate within Lot 14 adjacent to Lot 16 DP 324082 and Lot 17 DP 324082 that shall be fitted with a lock. The function of this gate is to prevent the owners of Lots 1-6, 8-11 or Lot 13 achieving access to Bendigo Loop Road via Lot 14.
 7. The owner of Lot 14 shall ensure that the gate referred to in Condition 6 is kept locked at all times except when in use for farm access purposes to ensure that the owners of Lots 1-6, 8-11 and Lot 13 are not able to achieve access to Bendigo Loop Road via Lot 14.
- Note: Condition 7 shall be subject to a consent notice that shall be registered on the record for title for Lot 14 and Lot 15 pursuant to section 221 of the Resource Management Act 1991.*
8. At the time a residential activity (new dwelling) is constructed on Lot 2, Lots 4-6 and Lots 8-11 domestic water and fire fighting storage is to be provided by a standard 30,000 litre tank on Lot 2, Lots 4-6 and Lots 8-11. Of this total capacity, a minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve. Alternatively an 11,000 litre fire fighting reserve is to be made available

to the building in association with a domestic sprinkler system installed in the building to an approved standard. A fire fighting connection is to be located within 90 metres of any proposed building on the site

In order to ensure that connections are compatible with Fire and Emergency New Zealand equipment the fittings are to comply with the following standards:

- a. Either: 70 mm Instantaneous Couplings (Female) NZS 4505, or 100 mm Suction Coupling (Female) NZS 4505 (hose tail is to be the same diameter as the threaded coupling (e.g. 100 mm coupling has 100 mm hose tail) provided that the consent holder shall provide written confirmation from the Fire and Emergency New Zealand to the Chief Executive to confirm that the couplings are appropriate for fire fighting purposes.
- b. The connection shall have a hardstand area adjacent to it to allow a Fire and Emergency New Zealand appliance to park on it. The hardstand area shall be located at the centre of a clear working space with a minimum width of 4.5 metres. Access shall be maintained at all times to the hardstand area.

Note: For more information on how to comply with Condition 8 above or on how to provide for NZFS operational requirements refer to the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008. In particular, the following should be noted:

- For more information on suction sources see Appendix B, SNZ PAS 4509:2008, Section B2.
- For more information on flooded sources see Appendix B, SNZ PAS 4509:2008, Section B3.

9. Fire fighting water supply may be provided by means other than that provided for in Condition 8 above if the written approval of Fire and Emergency New Zealand is obtained for the proposed method.
10. The water tanks referred to in Condition 8 shall be buried or located such that they are not visible from outside the site and the water tanks shall be green, black or olive (green- brown) in colour.

Note: Conditions 8-10 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.

11. Prior to section 224(c) certification an adequate domestic water supply shall be provided to the boundary of Lot 2, Lots 4-6 and Lots 8-11 from the School House Services Company water scheme that is to comply with the following:
 - a. A bacteriological and chemical water test of the water supply sourced from a suitably qualified laboratory shall be provided prior to section 224(c) certification with an accompanying laboratory report highlighting any non-compliance with Maximum Allowable Values (MAV's) and Guideline Values (GV's) under the Drinking Water Standards for New Zealand 2005 (Revised 2008) and outlining appropriate means of remedial treatment.
 - b. The consent holder shall provide the formal ownership, management and operational document to demonstrate the extent of supply, on-going provision of appropriate water quality, security of supply and daily water

entitlement to each of Lot 2, Lots 4-6 and Lots 8-11; such entitlement to be a minimum daily allocation of 1,000 litres of potable supply per day to Lot 2, Lots 4-6 and Lots 8-11.

- c. A report from a suitably experienced person is to be provided by the consent holder to alert successors to available solutions and the likely impact of costs and operation of the water treatment process to reduce total hardness, iron and manganese to acceptable levels.
 - d. In the event that the consent holder chooses to treat the domestic water at the source of supply, such treatment shall provide domestic water in full compliance with the Drinking Water Standards for New Zealand 2005 (Revised 2008) including all maximum allowable values (MAV's) as detailed in the laboratory report. The installation of the treatment plant and satisfactory water quality testing is required prior to section 224(c) certification.
 - e. Documentation to be provided to the Chief Executive to confirm that the School House Services Company water scheme is registered with Public Health South (or that application has been made for such registration).
12. (a) At the time a dwelling is erected on Lot 2, Lots 4-6 and Lots 8-11 point of use treatment shall be provided if such action is necessary to achieve full compliance with the Drinking Water Standards for New Zealand 2005 (Revised 2008) by means outlined in the laboratory report (provided in terms of Condition 11(a) above) or other solution acceptable to the Chief Executive. The water shall as a minimum requirement, achieve full compliance with all Maximum Allowable Values (MAV's) as detailed in the laboratory report and the consent holder or successor shall be aware of any exceedence of the Guideline Values (GV's) for which additional treatment is strongly recommended. The point of use treatment shall also be installed to reduce total hardness, iron and manganese to acceptable levels.
- (b) The consent holder or successor shall ensure that:
- (i) The supplier of any treatment equipment shall provide a certificate from a suitably qualified person confirming that the system operated in accordance with the operating and maintenance procedures, will supply water suitable for human consumption in compliance with Drinking Water Standards for New Zealand 2005 (revised 2008).
 - (ii) A copy of the operating and maintenance instructions for any treatment equipment installed in terms of Condition 12(a) above and a copy of the suppliers certificate in terms of Condition 12(b)(i) above shall be lodged with the Chief Executive.
 - (iii) Any treatment equipment installed in terms of Condition 12(a) and Condition 12(b)(i) above shall be properly maintained and operated by the consent holder or successor.
 - (iv) The water test, laboratory report and total hardness, iron and manganese reduction report required in terms of Conditions 11(a) and (c) is drawn to the attention of the consent holder and successor.

Note: Condition 12 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.

13. Prior to section 224(c) certification a separate water supply connection including water restrictor or meter and approved Acuflo toby valve and box shall be installed from the School House Services Company water scheme to the boundary of Lot 2, Lots 4-6 and Lots 8-11 such that the flow is controlled to the predetermined water allocation.

Note: *As built records of the subdivision reticulation shall be provided to the Chief Executive.*

14. Prior to the presentation of the survey plan for section 223 approval the consent holder shall commission an On-Site Wastewater Disposal Report from a suitably experienced professional confirming the adequacy of Lot 2, Lots 4-6 and Lots 8-11 for on-site wastewater disposal consistent with Clause 5.5 of the Council's July 2008 Addendum to NZS 4404:2004.
15. At the time a dwelling is erected on Lot 2, Lots 4-6 and Lots 8-11 an on-site wastewater disposal system that complies with the requirements of AS/NZ 1547:2012 "On-site Domestic Wastewater Management" shall be designed by a suitably qualified professional and installed to serve the dwellings on Lot 2, Lots 4-6 and Lots 8-11.
16. A copy of the design and designer producer statement shall be supplied to the Chief Executive. The dwelling shall not be constructed until the design and producer statement have been supplied to the Chief Executive.
17. The designer shall supervise the installation and construction of the system and shall provide a construction producer statement to the Chief Executive.
18. An operation and maintenance manual shall be provided to the owner of the system by the designer and a copy supplied to the Chief Executive. This manual shall include a maintenance schedule and an as-built of the system dimensioned in relation to the legal property boundaries. A code of compliance certificate for the dwelling and/or disposal system shall not be issued until the construction producer statement and a copy of the owner's maintenance and operating manual have been supplied to the Chief Executive. The maintenance and operating manual shall be transferred to each subsequent owner of the disposal system.
19. Disposal areas shall be located such that the maximum separation (in all instances greater than 50 metres) is obtained from any water course or any water supply bore.

Note: *Conditions 15-19 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.*

20. It shall be the consent holder's responsibility to obtain the consent of the network utility provider as to the position of any new electricity services to serve Lot 2, Lots 4-6 and Lots 8-11. The consent holder shall be responsible for installing an operational connection to electricity services underground to the boundary of Lot 2, Lots 4-6 and Lots 8-11 prior to section 224(c) certification.
21. The consent holder shall supply evidence of the consent referred to in Condition 20 to the Chief Executive.
22. It shall be the responsibility of the consent holder to meet the costs associated

with the installation of any new electricity reticulation provided in accordance with Condition 20 to serve Lot 2, Lots 4-6 and Lots 8-11.

23. Either:
- a. Prior to section 224(c) certification the consent holder shall install operational underground connections to telecommunication services to serve Lot 2, Lots 4- 6 and Lots 8-11; or
 - b. Lot 2, Lots 4-6 and Lots 8-11 will be reliant on other means of telecommunication services such as cellular, satellite or wifi connection and it shall be the responsibility of the consent holder or successor to establish any landline telecommunication services to serve Lot 2, Lots 4-6 and Lots 8-11 in future.

Note: Condition 23(b) shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991 in the event that operational landline connections are not provided for telecommunication services to Lot 2, Lots 4-6 and Lots 8-11 prior to section 224(c) certification.

24. It shall be the responsibility of the consent holder or successor to provide adequate electricity and telecommunication services to the land held in Lot 1 and Lot 3 as these services have not been provided at the time of subdivision to this land which is to be used for viticultural purposes.

Note: Condition 24 shall be subject to a consent notice that shall be registered on the record of titles for Lot 1 and Lot 3 pursuant to section 221 of the Resource Management Act 1991.

25. Payment of a reserves contribution of \$9,550.00 (exclusive of goods and services tax) calculated in terms of Rule 15.6.1(1) of the Operative District Plan on the basis of ten new allotments (allowing a credit for the existing record of title).
26. The building platforms on Lot 2, Lots 4-6 and Lots 8-11 shown on the plan of subdivision shall be identified as residential building platforms on the survey plan presented for section 223 approval.
27. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall be located on the residential building platforms on Lot 2, Lots 4-6 and Lots 8-11 as identified on the survey plan.
28. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall have a maximum height of 6.0 metres above existing ground level as at 4 February 2019.
29. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall comply with Rule 4.7.6D(a)(i) – (iii) of the Operative Central Otago District Plan that relates to the materials to be used in building finishes and colours for exterior walls, accents and trim and roofs provided that:
- a) Exterior paint colours shall be recessive with a maximum reflectivity values of 30% and shall be a matt finish; and
 - b) Stain colours shall be of a natural hue or black, rather than other colours; and
 - c) Roof cladding shall have a maximum reflectivity value of 20% or less and shall be dark recessive colours in the range of browns, greys – not black/ebony; and
 - d) Roof cladding shall be either Cedar shakes or shingles, metal roofing with

standing seam profile, corrugate. Multi rib or trapezoidal roofing is not permitted.

- e) Dwellings and accessory buildings shall be designed to have simple gable roof forms, with roof pitches in the range of 25 to 45 degrees.

Note: Simple gable roof forms are to consist of uniform lengths and pitches on both sides of the roof peak. This rule allows for multiple gable formations within each building platform.

- 30. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall utilise low intensity indirect light sources for all exterior lighting applications. Flood lighting or accent lighting is not permitted.

Note: Conditions 27-30 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.

- 31. The curtilages on Lot 2, Lots 4-6 and Lots 8-11 shown on the plan of subdivision shall be identified as curtilages on the survey plan presented for section 223 approval with the areas of such curtilages to be specified on the survey plan.

- 32. All domestic landscaping and structures including but not limited to clotheslines, outdoor seating areas, external lighting, swimming pools, play structures, vehicle parking, pergolas and lawns shall be confined to the curtilages on Lot 2, Lots 4-6 and Lots 8-11 as identified on the survey plan.

Note: Condition 32 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.

- 33. Prior to section 224(c) certification the consent holder shall provide documentation to demonstrate that Lot 13 will be held in eight undivided one-eighth shares by the owners of Lot 2, Lots 4-6 and Lots 8-11 through an appropriate entity such as a limited liability company.

- 34. Pursuant to section 220(1)(b)(iii) of the Resource Management Act 1991:
"That Lot 14 hereon and Lot 15 hereon be held in the same record of title (see CSN Request)."

- 35. Provision shall be made via an easement over Lot 15 to permit public pedestrian and cycle access to the Bendigo School Site ruins and curtilage from Blue Mines Road.

- 36. Prior to section 224(c) certification the consent holder shall install a storey board, stone entranceway and such fencing as is necessary to protect Lot 15.

- 37. Prior to section 224(c) certification the consent holder shall lodge a Structural Landscape Plan that has been prepared by a suitably qualified ecologist in consultation with a suitably qualified landscape architect and the Director-General of Conservation; such Structural Landscape Plan shall provide for the regeneration of indigenous vegetation within Lot 13 as follows:

- a) Identify areas where native planting is to be planted on Lot 13; and
- b) Undertake an Ecological Survey to identify the areas of existing indigenous vegetation on Lots 1 to 15 hereon to be retained; and
- c) Describe the management regime required to achieve regeneration of indigenous vegetation on Lot 13; and

- d) Provide for the removal of exotic tree species with wilding propensity from Lots 1 to 15 hereon; and
 - e) Establish native plantings on Lot 13 to comprise a minimum of 5,000 plants; and
 - f) Any native planting for screening purposes at the periphery of Lot 13 to be in naturalistic clumps of kanuka; and
 - g) The naturalistic clumps of kanuka planted for screening purposes shall be irrigated for the first 5 years to assist establishment of those plants; and
 - h) All native plants planted on Lot 13 shall be provided with rabbit protection guards; and
 - i) Wool mulch/ wool matting shall be installed for each plant;
 - j) Particular consideration shall be given to the appropriate placement and arrangement of plantings for the purpose of maximising visual mitigation of the building platform on Lot 4, when viewed from Blue Mines Road and the historic schoolhouse; and
 - k) Particular consideration shall be given to providing a more naturalistic appearance of native vegetation as to integrate the lineal vegetation along the western boundary line within Lots 8 – 11 and 13, when viewed from Lot 18 DP 324082; and
 - l) As part of the Structural Landscape Plan, a management strategy shall be prepared to address the retention and/or staged removal of any exotic vegetation with low wilding potential that is proposed to be retained for landscape or amenity purposes.
 - m) The Structural Landscape Plan shall be accompanied by certification from the Council's Planning Manager that the Structural Landscape Plan complies with this condition.
38. Prior to section 224(c) certification the consent holder shall establish native plantings on Lot 13 in accordance with the Structural Landscape Plan including the provision of irrigation and rabbit protection guards; and the consent holder shall remove all exotic trees with wilding propensity from Lot 13.
39. Prior to section 224(c) certification the consent holder shall establish native plantings on Lot 2, Lots 4-6 and Lots 8-11 in accordance with a planting plan prepared by a suitably qualified ecologist, with input from a suitably qualified landscape architect as follows:
- a) Identify areas where native plantings are to be planted on Lot 2, Lots 4-6 and Lots 8-11; and
 - b) The native plantings shall consist of 500 native plants on each of Lot 2, Lots 4-6 and Lots 8-11; and
 - c) Any native planting for screening purposes at the periphery of Lots 8-11 to be in naturalistic clumps of kanuka; and
 - d) The naturalistic clumps of kanuka planted for screening purposes on Lots 8-11 shall be irrigated for the first 5 years to assist establishment of those plants; and
 - e) All native plants to be planted on Lot 2, Lots 4-6 and Lots 8-11 shall be provided with rabbit protection guards.
 - f) Wool mulch/ wool matting shall be installed for each plant.
 - g) Particular consideration shall be given to the appropriate placement and arrangement of plantings for the purpose of maximising visual mitigation of the building platform on Lot 4, when viewed from Blue Mines Road and the historic schoolhouse.
 - h) Particular consideration shall be given to providing a more naturalistic appearance of native vegetation as to integrate the lineal vegetation along

the western boundary line within Lots 8 – 11 and 13, when viewed from Lot 18 DP 324082.

40. The native plantings established in accordance with Condition 38 shall be maintained by the owner(s) of Lot 13 (being the owners of Lots 1-6 and Lots 8-11). Any such native plants that die or are lost to disease shall be replaced in the first available planting season following such loss.
41. No exotic tree species with wilding propensity shall be planted on Lots 1-6, Lots 8-11 and Lot 13.
42. Any native plants to be planted on Lots 1-6, Lots 8-11 and Lot 13 shall be selected from the species identified as the most ecologically appropriate native species for planting at Bendigo as listed in the correspondence from Cees Bevers, Ecologist, of Landpro Limited dated 23 September 2019 that was presented at the hearing; provided that such plantings shall exclude manuka and shall involve the planting of trees and shrubs comprising locally sourced genetic material (from within the Dunstan Ecological District).

Note: Conditions 40 - 42 shall be subject to a consent notice that shall be registered on the record of titles for Lots 1-6, Lots 8-11 and Lot 13 pursuant to section 221 of the Resource Management Act 1991.

43. The native plantings established in accordance with Condition 39 shall be maintained by the owners of Lot 2, Lots 4-6 and Lots 8-11. Any such native plants that die or are lost to disease shall be replanted in the first available planting season following such loss.

Note: Condition 43 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.

44. Prior to section 224(c) certification the consent holder shall undertake mounding at the south-east boundary of Lot 13 adjacent to Blue Mines Road as shown on the plan of subdivision; such mounding to build up the existing low lying ridge with any associated mounding to provide screening of the building platforms on Lots 8-11 as viewed from Blue Mines Road. The mounding required in terms of this condition shall be vegetated consistent with the vegetation in the immediate vicinity.
45. The vegetation established on the mounding provided in accordance with Condition 44 shall be maintained by the owner(s) of Lot 13 (being the owners of Lots 1-6 and Lots 8-11).

Note: Condition 45 shall be subject to a consent notice that shall be registered on the record of titles for Lots 1-6, Lots 8-11 and Lot 13 pursuant to section 221 of the Resource Management Act 1991.

46. Prior to section 224(c) certification the consent holder shall provide an Archaeological Assessment from a suitably qualified person relating to any archaeological features and values present on the site.
47. The consent holder shall ensure that any earthworks associated with the creation of residential building platforms and associated works (including access) do not adversely affect any archaeological features and values identified in the Archaeological Assessment, unless an archaeological authority has been granted by Heritage New Zealand Pouhere Taonga. The consent holder shall

adopt the Heritage New Zealand Pouhere Taonga Archaeological Discovery Protocol that is attached to the Heritage New Zealand Pouhere Taonga submission on RC 190040.

Note: *It is noted that the consent holder and Heritage New Zealand Pouhere Taonga have agreed that:*

- a. *As the residential building platforms on Lots 4, 5 and 6 will require an access driveway and services trench to cross an identified water race that the access and services trench will cross the water race at the same point. A culvert is to be placed within the water race where the access and services trench crosses; and each end of the culvert is to be finished with stacked schist, to make a feature of the water race; and*
- b. *All identified mine shafts are to be protected by way of grating permanently placed over the top of these features to stop persons from falling down into these features and to protect these features from further degradation; and*
- c. *Earthworks are to be restricted to the 25m x 25m residential building platforms and curtilage areas shown on the plan of subdivision; and*
- d. *The right of way that provides access to Lots 2, 4, 5 and 6 coincides with the location of an old dray road/track. An archaeological authority will need to be applied for with respect to upgrading of the carriageway and the excavation of a services trench within the right of way.*

48. The owner(s) of Lots 1-6 and Lots 8-11 is/are aware of and will take all reasonable and appropriate steps to advise all purchasers, lessees, licensees or tenants, or any other user coming to use having an interest in Lots 1-6 and Lots 8-11 or any part thereof of:
 - a. The proximity of adjoining pastoral farming, viticultural and horticultural properties.
 - b. The usual incidences of pastoral farming, viticulture and horticulture including (but without limitation), stock handling, haymaking (through the night), spraying (including spraying of pesticides), rabbit control (by use of helicopters, poisoning and night shooting), deer stag roaring, 24 hour overhead irrigation, harvesting, frost fighting (including wind machines, helicopters, heat pots and sprinklers), land cultivation and associated dust and noise, audible bird scaring, crop netting, use of machinery and traffic movement associated with crop harvesting, all of which may have consequences beyond the boundaries of the proximate rural pastoral farming, viticulture or horticulture properties.

49. All new boundary fences on Lot 1 and Lot 3 and any fences around or on the curtilage areas of Lot 2, Lots 4-6 and Lots 8-11 shall be post – and wire with rabbit fencing.

Note: *Conditions 48 and 49 shall be subject to a consent notice that shall be registered on the record of titles for Lots 1-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.*

50. There shall be no new boundary fences on Lot 2, Lots 4-6 and Lots 8-11.

Note: *Condition 50 shall be subject to a consent notice that shall be registered on the record of titles for Lot 2, Lots 4-6 and Lots 8-11 pursuant to section 221 of the Resource Management Act 1991.*

51. All land use activities including any new buildings/structures, earthworks, fences

and any operation of mobile plant and/or persons working near exposed line parts on Lot 3 shall comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

Note: Condition 51 shall be subject to a consent notice that shall be registered on the record of title for Lot 3 pursuant to section 221 of the Resource Management Act 1991.

52. There shall be no subdivision of Lot 14 and Lot 15.

Note: Condition 52 shall be subject to a consent notice that shall be registered on the record of title for Lot 14 and Lot 15 pursuant to section 221 of the Resource Management Act 1991.

53. Prior to section 224(c) certification the consent holder shall undertake mounding and mitigation plantings within Lots 6-11 in accordance with the Proposed Subdivision Master Plan, by Rough & Milne Landscape Architects, Drawing No. L1.1 Rev A, Dated 12/10/2020.

54. The vegetation established on the mounding provided in accordance with Condition 53 shall be maintained by the owner(s) of the respective lots in which it is located (being the owners of Lots 6-11).

Note: Condition 54 shall be subject to a consent notice that shall be registered on the record of title for Lot 6-11 pursuant to section 221 of the Resource Management Act 1991.

55. For the purpose of mitigating the potential severity of hazard caused by wildfire, the consent holder or successor shall ensure that a defendable space of no less than 20m from each side of the building platforms located on Lots 2, 4-6, and 8-11 is maintained at all times. Within the 20m defendable space any planted vegetation shall be low selected for its low flammability and shall be maintained in isolated clumps so as to provide opportunities to halt or slow the spread of fire.

Note: Condition 55 shall be subject to a consent notice that shall be registered on the record of title for Lot 6-11 pursuant to section 221 of the Resource Management Act 1991.

Notes: 1. All charges incurred by the Council relating to the administration, inspection and supervision of conditions of subdivision consent shall be paid prior to section 224(c) certification.

2. A development contribution of \$17,720.00 (exclusive of Goods and Services Tax) is payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Community Plan. Payment is due upon application under the Resource Management Act 1991 for certification pursuant to section 224(c). The Council may withhold a certificate under section 224(c) of the Resource Management Act 1991 if the required Development and Financial Contributions have not been paid, pursuant to section 208 of the Local Government Act 2002 and Section 15.5.1 of the Operative District Plan.

3. Any trees or vegetation planted shall comply with the Electricity (Hazards from Trees) Regulations 2003 or any subsequent revision of the regulations.

4. Please be advised that Transpower NZ Ltd has a right to access its existing assets under s23 of the Electricity Act 1992. Any development must not preclude or obstruct this right of access. It is an offence under s163(f) Electricity Act 1992

to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under s23 of the Electricity Act 1992.

Land Use

1. This land use consent authorises residential building platforms on Lot 2, Lots 4-6 and Lots 8-11 as shown on the Proposed Subdivision of Lot 2 DP 523873 Drawing 01, Rev C, dated 20 May 2021 and Proposed Mitigation Plan Lot 2 DP 523873, Drawing 03, Rev C, dated 20 May 2021.
2. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall be located on the residential building platforms on Lot 2, Lots 4-6 and Lots 8-11 as identified on the survey plan.
3. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall have a maximum height of 6.0 metres above existing ground level as at 4 February 2019.
4. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall comply with Rule 4.7.6D(a)(i) – (iii) of the Operative Central Otago District Plan that relates to the materials to be used in building finishes and colours for exterior walls, accents and trim and roofs provided that:
 - a) Exterior paint colours shall be recessive with a maximum reflectivity values of 30% and shall be a matt finish; and
 - b) Stain colours shall be of a natural hue or black, rather than other colours; and
 - c) Roof cladding shall have a maximum reflectivity value of 20% or less and shall be dark recessive colours in the range of browns, greys – not black/ebony; and
 - d) Roof cladding shall be either Cedar shakes or shingles, metal roofing with standing seam profile, corrugate. Multi rib or trapezoidal roofing is not permitted.
 - e) Dwellings and accessory buildings shall be designed to have simple gable roof forms, with roof pitches in the range of 25 to 45 degrees.

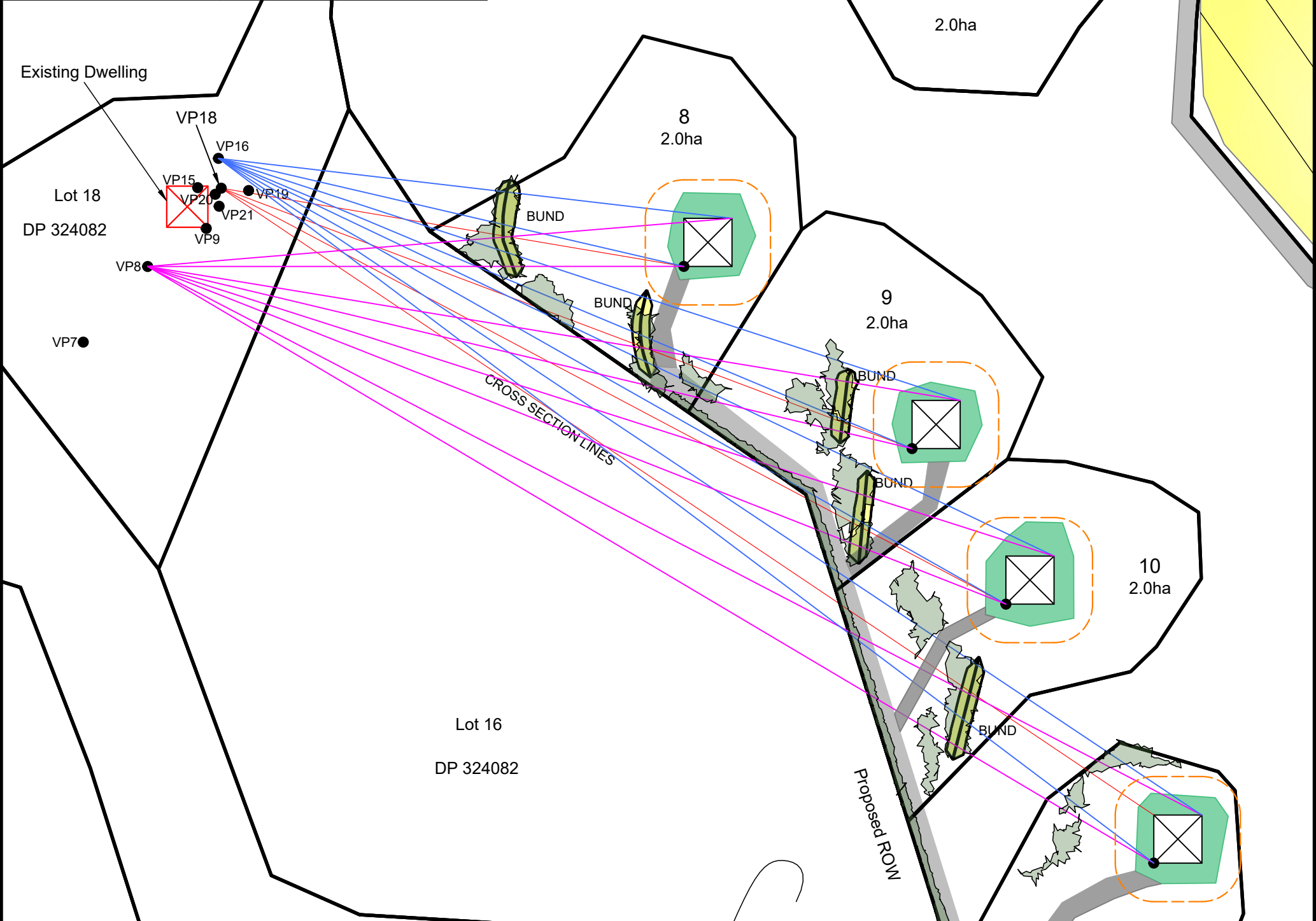
Note: *Simple gable roof forms are to consist of uniform lengths and pitches on both sides of the roof peak. This rule allows for multiple gable formations within each building platform.*

5. Any dwelling and accessory building on Lot 2, Lots 4-6 and Lots 8-11 shall utilise low intensity indirect light sources for all exterior lighting applications. Flood lighting or accent lighting is not permitted.
6. Pursuant to section 125(1) of the Resource Management Act 1991 this land use consent lapses 10 years after the date of commencement of this consent.
7. Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's expense.
8. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.

Note: Land use consent will be required to authorise residential activity on Lot 2, Lots 4-6 and Lots 8-11 pursuant to Rule 4.7.2(i) of the Operative District Plan.



View point coordinate information			
View point name	Easting	Northing	RL
			(of eye; @ 1.5m above gnd)
VP7	390172.51	777810.73	390.91
VP8	390205.95	777850.03	395.02
VP9	390236.4	777869.81	395.49
VP21	390243.07	777881.32	395.78
VP19	390258.39	777889.51	393.17
VP15	390231.94	777891.01	395.82
VP16	390242.71	777906.21	395.72
VP18	390244.17	777890.72	395.62
VP20	390241.04	777887.55	395.72



Building platform Envelope coordinates.						
Lot	corner	Easting	Northing	Ground RL	envelope top RL	height (m)
Lot 8	NW	390484.41	777875.07	390.69	396.69	6
	NE	390509.41	777875.07	390.25	396.25	6
	SE	390509.41	777850.07	396.75	402.75	6
	SW	390484.41	777850.07	396.89	402.89	6
Lot 9	NW	390602.92	777780.41	415.00	421.00	6
	NE	390627.92	777780.41	410.55	416.55	6
	SE	390627.92	777755.41	414.34	420.34	6
	SW	390602.92	777755.41	418.57	424.57	6
Lot 10	NW	390651.66	777699.58	422.41	428.41	6
	NE	390676.66	777699.58	418.41	424.41	6
	SE	390676.66	777674.58	419.22	425.22	6
	SW	390651.66	777674.58	426.34	432.34	6
Lot 11	NW	390728.45	777565.00	444.26	450.26	6
	NE	390753.45	777565.00	441.90	447.90	6
	SE	390753.45	777540.00	447.58	453.58	6
	SW	390728.45	777540.00	447.06	453.06	6

Rev.	Date	Revision Details	By	Surveyed	Signed	Date	Job No.	Drawing No.
A	10.06.21	Update mitigation planting, Add NE bund, add corner names to coordinate table	GT	JS		11.05.21	17215	03
B	21.9.21	Lot 10 adjusted to include bund	SLB	Drawn	Signed	Date	Scale	
C	19.10.22	Correction to include second screening bund on Lot 8 for driveway as per Paul Smith; Rough & Milne Architects evidence	GT	GT		20.05.21	1:2500 @ A3	
				Designed	Signed	Date	Datum & Level	Rev.
							LP2000	C



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Client	Bendigo Station Ltd
NOTES	<ul style="list-style-type: none">- All dimensions shown are in metres unless otherwise shown- Copyright on this drawing is reserved- Check any electronic data against the hardcopy plan to ensure it is the latest version- If this plan is being used as part of sale and purchase agreement then it is done so on the basis that it is preliminary only, final dimensions and areas may vary on final survey

PROPOSED MITIGATION PLAN
LOT 2 DP 523873

C:\1265\data\SERVER\2008R2\17215-14 Lot Subdivision And Land Use Consent_625\ SHAREDRIVE IMPORT\CAD\17215_04_SCH_C.dwg Plotted: 20.10.2022