

28 April 2016

Ross Dowling Marquet Griffin
Solicitors
P O Box 1144
DUNEDIN 9054

Attention: Alistair Logan

Dear Partners



Galloway Cook Allan Lawyers Dunedin
Corner High & Princes Streets
PO Box 143
Dunedin 9054, New Zealand
Phone 03 477 7112
Fax 03 477 5544

Galloway Cook Allan Lawyers Wanaka
24 Dunganon Street
PO Box 450
Wanaka 9343, New Zealand
Phone 03 443 0014
Fax 03 443 6551

OTAGO REGIONAL COUNCIL PROPOSED DESIGNATION 218 - OTAGO RACING CLUB

We refer to the meeting between the parties on site on Wednesday 27 April. At the conclusion of the meeting we supplied your clients with a copy of the approved subdivision plan, which they had evidently not seen before. This came as a surprise to us since the Regional Council was a submitter on the resource consent application and we took to be satisfied with the Council's decision because they did not exercise rights of appeal. At no time during the subdivision consent process did the Regional Council indicate that it was proposing to designate part of the subdivision site in a way that would be quite inconsistent with the proposed land development. As it was pointed out on site, our clients' then surveyor (Mr Craig Horne) had consulted with Council staff about the prospects of converting the Council's scheduled drain to a piped underground system and was given to understand this was unlikely to be problematic.

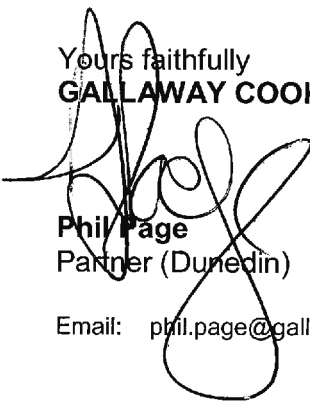
As discussed on site, our client regards the alignment and extent (width) of the designation as being highly problematic from a land development and marketing perspective. Your clients were candid enough to concede that the designation was not drawn or conceived in light of the proposed subdivision works. Our clients are committed to the subdivision project and will shortly embark upon the detailed engineering design with a view to commencing civil works in the spring. In light of that we propose the following:

1. That your client's existing bylaw provides all of the control over works in the vicinity of the drain that the Regional Council could possibly require, including new connections. Our clients will need to lodge an application for a bylaw permit in due course. At that stage the appropriate conditions on which a permit can be granted can be addressed.
2. In the meantime, the designation serves no useful purpose save that in an extreme situation, the Council can acquire property rights to access the scheduled drain. That is most unlikely to be necessary in the context of the Racing Club but, in any case, the Club can offer the Regional Council legal rights of access to the scheduled drain until such time as replacement property rights are provided.
3. At the conclusion of the subdivision works, which we anticipate putting the scheduled drain in a pipe, then the Club would offer the Regional Council a registered easement in gross to convey water, along with a mechanism to deal with access and maintenance

costs. Those terms need not be finally resolved now as we anticipate that the bylaw permit will be the mechanism by which the detail of those arrangements will be resolved.

On further reflection, it seems that the interests that both parties are really in the nature of property rights rather than considerations that the Resource Management Act 1991 is designed to deal with. We endorse the above as a means by which the Council can safely withdraw proposed designation 218 insofar as its alignment passes through the consented lots of the proposed subdivision. In the absence of the Regional Council withdrawing that part, then the Club will be forced to attend the Council hearing in support of its position.

Yours faithfully
GALLAWAY COOK ALLAN



Phil Page
Partner (Dunedin)

Email: phil.page@gallowaycookallan.co.nz