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4 April 2025

Selwyn District Council
PO Box 90
Rolleston 7643

Our reference: 520233

Attention: Jonathen Gregg

Dear Sir

# RFI Response – RC246049

This letter addresses the matters to which further information was requested on 15 January 2025 regarding resource consent application to construct a new residential dwelling at McDonald Road (RES 3537).

The following are attached as appendices to support this response:

- Appendix A – Building Plans
- Appendix B – Preliminary Site Investigation
- Appendix C – ECan Flood Hazard Assessment
- Appendix D – SDC Flood Assessment Certificate
- Appendix E – McDonald Road Sensitive Activity Setback Plan
- Appendix F – Memorandum from Tallulah Parker and Jo Appleyard (Chapman Tripp)

**Notification**

After much consideration, in terms of the effects on neighbouring properties and on the environment, we consider that the effects are less than minor. Therefore, we consider that no parties are considered to be affected by the proposal.

Further consideration has been given to Rule GRUZ-R18 and it is noted that the Stalker land to the north would not meet the requirements of GRUZ-REQ8 as their land is within 300m of the notional boundary of existing dwellings as shown in the plan attached in Appendix E. Therefore, further intensification of primary production would not be a permitted activity. The approval of the applicant's dwelling would have no effect in respect of the status of any intensive primary production activity.

Given the existing precedent of other undersized allotments in the area, these dwellings have not caused adverse effects on the neighbours or surrounding environment. Therefore, the potential impact of this proposal is known to not have significant effects and is consistent with the existing environment.

As highlighted in the memorandum from Tallulah Parker and Jo Appleyard (Chapman Tripp) dated March the 27th 2025, the assessment of effects concludes that the Application's adverse effects are considered at worse no more than minor.

It is considered that this application should be processed on a non-notified basis as on the matter of effects it is apparent there are no adversely affected parties.

The proposed use for rural lifestyle is highly appropriate for achieving the purpose of the RMA. The adverse effects are considered less than minor. The proposal is an efficient use of an existing site and there will be no change in reverse sensitive effects greater than already existing from existing land parcels lees than 20 ha in area.

The potential for reverse sensitivity effects occurs when a change in land use is incompatible with, and causes new conflicts with, existing activities nearby. Typical rural reverse sensitivity effects are typically noise, odour, and dust. The change to residential use as a result of the rezoning request needs to consider the reverse sensitivity effects related to the site's proximity to existing rural activities.

It is also noted that there are no existing intensive farming activities (pig or poultry farming) in the vicinity that currently occur that would be of concern in respect of reverse sensitivity effects adjacent to a proposed residential area.

Consistent with this assessment is permitted baseline in respect of what can occur on the site on a 24 hour basis with no restriction. It is note that residential activity is permitted on the site and that the establishment of seasonal worker accommodation is also permitted. Given the current rental shortage[1], and the seasonal work in the area that this is a legitimate and feasible option.

It is therefore not necessary to apply the test to whether the proposal is contrary to the objectives and policies. Granting resource consent to the proposed activity is considered sustainable and consistent withthe purpose of the Act.

**RFI Response**

Please find the responses to these requests below in *italicised font:*

1. To better understand the adverse effects associated with the construction of a residential dwelling here, noting the 'black box' you have proposed, please provide further clarity around the potential appearance, including but not limited to the materiality, finishes and extent of glazing.

*Please see attached plans (Appendix A). This is a small dwelling with recessive colours to be used and limited glazing given the scale of the building.*

2. To better understand the adverse effects on the environment, please clarify whether the existing hedge/shelterbelt along McDonald Road is proposed to be retained, and whether a condition of consent is offered to achieve this.

[1] Personal communication Lincoln property managers

*The existing shelterbelt along Englishs Road (clarified it is Englishs road being referred to via email correspondence) is to remain. We would be supportive of a condition of consent to that effect.*

3. Please provide more information to understand the adverse reverse sensitivity effects associated from the introduction of this additional dwelling into this rural environment which seeks a 20ha minimum lot size and how these will be managed and/or mitigated.

*Any further intensification of other surrounding sites is likely not to be a permitted activity and would require resource consent application where any effects of further intensification could be assessed.*

4. As the proposal is for the change of use of the land to a more sensitive activity, in order to demonstrate compliance with the NES-CS please provide a Preliminary Site Investigation.

   *Please refer to the PSI Attached as Appendix B. In summary, the PSI concludes that HAIL activities related to landfilling/backfilling operations have been identified on the site in the early 1990's. There could be a potential risk to human health should the proposed soil disturbance occur and therefore the preparation of a Detailed Site Investigation (DSI) has been recommended in order to determine contaminant concentrations across the proposed building platform. The DSI would determine appropriate remedial actions to be undertaken.*

5. To demonstrate compliance with the minimum floor levels required, please provide a Floor Level Certificate.

   a. In order to obtain the information required for Selwyn District Council to issue the FAC, you will need to request a Flood Hazard Assessment from Environment Canterbury. https://www.ecan.govt.nz/do-it-online/property-information/flood-hazard-assessments/

   b. Once you have obtained the ECAN Flood Hazzard Assessment you can apply for the Flood Assessment Certificate via this link: https://www.selwyn.govt.nz/property-And-building/resource-consent/flooding-assessment-certificates.

   Please ensure you attach the ECAN Flood Hazzard Assessment to your application.

   *A flood hazard assessment is provided (attached as Appendix C).*

   *Please refer to Appendix D for the Flood Assessment Certificate. In conclusion a residential dwelling can be safely established if the proposed minimum floor level of +4.10m NZVD2016 is adhered to.*

**Other Matters**

1. You may wish, at this stage to provide a more thorough objectives and policies assessment, noting GRUZ-P2 seeks to avoid residential units on undersized sites. GRUZ-P7 is also not limited to just intensive outdoor primary production, but covers all primary production activities

*Please see the attached Memorandum, dated March 27th 2025, from Tallulah Parker and Jo Appleyard (Chapman Tripp) for this assessment.*

Yours sincerely

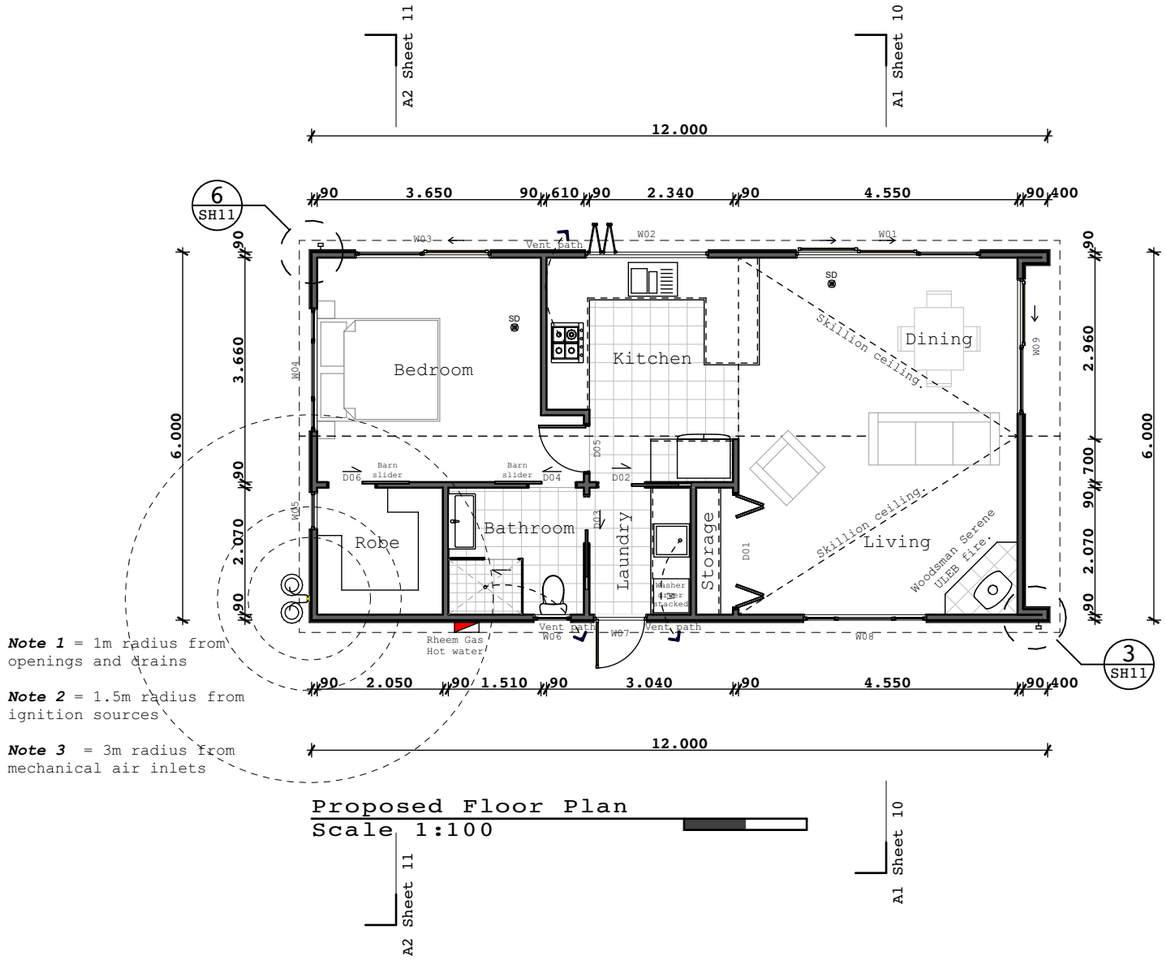
Isabelle Harding

Resource Management Planner

BA, MEPM, Assoc.NZPI, RMLA

isabelle.harding@eliotsinclair.co.nz

# Appendix A – Building Plans




***Note 1*** = 1m radius from openings and drains

***Note 2*** = 1.5m radius from ignition sources

***Note 3*** = 3m radius from mechanical air inlets

## Proposed Floor Plan
Scale 1:100

A2 Sheet 11 — A1 Sheet 10

| | |
|---|---|
| Switch Board | |
| Meter Board | |
| SD | Smoke Detector |
| DP | Down Pipe |
| HT | Hose Tap |

## *General Notes:*

**Smoke Alarms** (hush type)
Smoke Alarms to be fitted within 3.0m of sleeping areas and on Escape routes as indicted on plan.

**Miscellaneous:**

Dimensions shown are to frame (90mm) GIB Thickness not shown.
Entry through external doors
Mechanical Ventilation
Air Seals to have PEF Rod & Low expansion foam
All windows and doors entered in room unless shown otherwise

**Wall Framing:**

Designed to High Wind Zone

| | |
|---|---|
| Stud Height | 2465mm (underside of truss) |

Exterior and Interior

| | |
|---|---|
| Loadbearing Wall | 90x45mm Studs @ 600crs |
| Dawngs (Ext) | 90x45 @ 480crs |
| Non-Loadbearing | 90x45mm Studs @ 600crs |
| Dawngs (Int) | 90x45 @ 800crs |

**Lintels and Beams:**

Lintels and Beams can be found on the Truss and Frame Design

**Building Wrap:**
Ecoply Barrier - refer to manufacturers specs for install instructions

**Doors:**

| | |
|---|---|
| All internal doors: | 1980mm |
| Robe Doors: | 2400mm |
| Type: | Contempro MDF Panel Poly MDF |

**Insulation:**

| | |
|---|---|
| Walls: | Earthwool Batts R2.6 |
| Ceiling: | Earthwool Batts R3.6 |
| Floor: | Expol Black 1 layer R1.8 Two layers recomended |

**Roof & Wall Cladding:**

| | |
|---|---|
| Roof: | 15° - Metalcraft T-Rib |
| Walls: | LMA vertical shiplap weatherboards on 20mm cavity<br>Metalcraft vertical corrugated colorsteel on 20mm Cavity |

**Wall & Ceiling Linings:**

| | |
|---|---|
| Walls: | Okume Smartline 9mm Ply (check bracing plan)<br>10mm GIB Aqualine (Bathrooms) |
| Ceiling: | Standard 13mm GIB<br>13mm GIB Aqualine (Bathrooms)<br>Okume Smartline Ply to Kitchen, Dining and Living |

**Floor Finishes:**
Carpet, Tiles,

**Interior & Exterior Joinery:**

| | |
|---|---|
| Exterior: | Altherm Aluminium joinery (Climate Zone 5)<br>Double Glazed in accordance with Climate Zone 5 requirements minimum R 0.37 |
| Interior: | Shelf & Rail |

**Water Heating:**
Rheems 26L Gas Hot Water

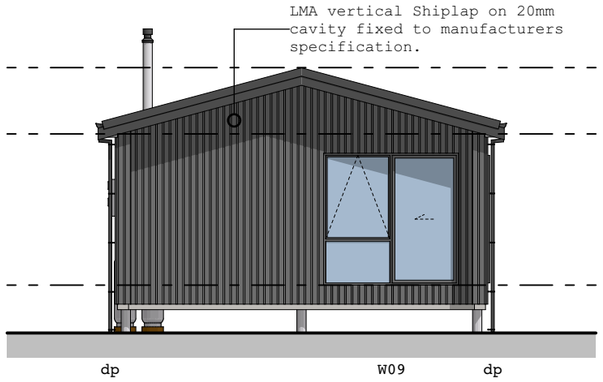
**Kitchen Cooktop:**
Gas Hob

**Electrical:**
Note: Manufacturers instructions and installation requirements must be adhered to for all lights and down light specification TBC by Client. All clearances from timber and insulation **MUST** be adhered to and installation to be carried out by a registered electrician to NZECP

MAS Architecture.



| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Drawing Title: New Residence, 81 Poplar Lane Lincoln | Client: Watson Residence, 81 Poplar Lane Lincoln | Project Info: Lot No: 7; DP No: 14467; Wind Zone: High; Corrosion Zone: C; Snow Zone: Truss Designer; Quake Zone: 2 | Drawing Info: Drawn MAS; Date 10-02-23; Scale Stated; Sheet No TBC-Sheet 2; Rev 0.2 | Date / Issue / Rev: 07.11.2022 Issued for Consent 0; 31.01.2023 Issued for Consent 0.1; 10.02.2023 Issued for Consent 0.2 | Floor Plan: DO NOT SCALE - IF IN DOUBT ASK; *All Plans to Scale on A3 Sheets printed @ 100%* | | | |

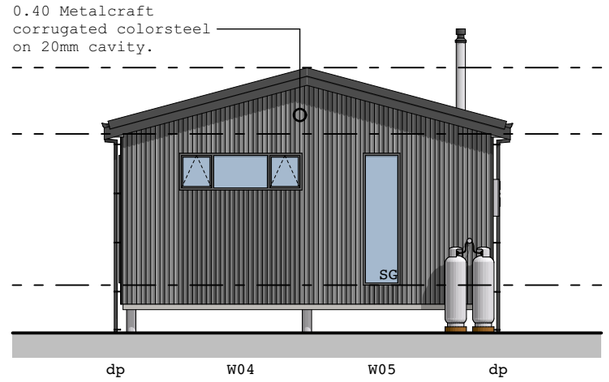



North Elevation
Scale 1:100

SG = Safety Glazing

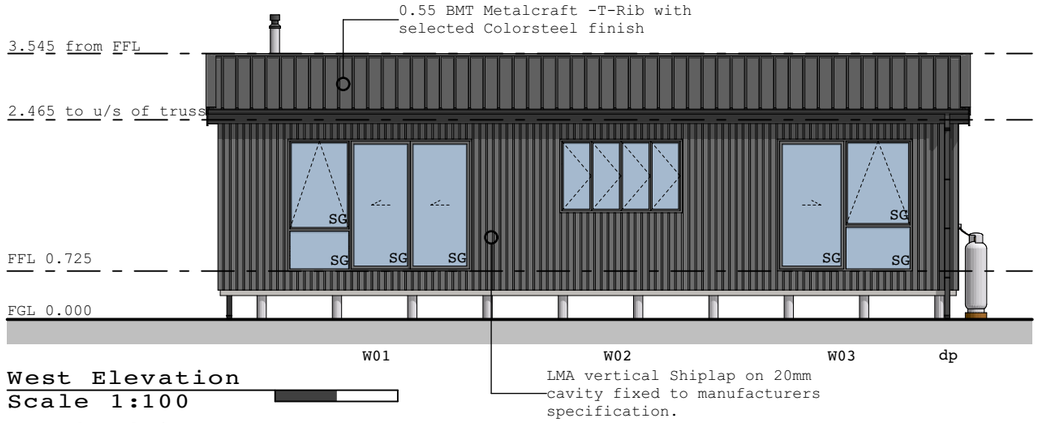
| BUILDING ENVELOPE RISK MATRIX | | |
|---|---|---|
| North - South Elevation | | |
| **Risk Factor** | **Risk Severity** | **Risk Score** |
| **Wind zone (per NZS 3604)** | High risk | 1 |
| **Number of storeys** | Low risk | 0 |
| **Roof/wall intersection design** | Medium risk | 1 |
| **Eaves width** | High risk | 2 |
| **Envelope complexity** | Low risk | 0 |
| **Deck design** | Low risk | 0 |
| **Total Risk Score:** | | **4** |

| BUILDING ENVELOPE RISK MATRIX | | |
|---|---|---|
| East-West Elevation | | |
| **Risk Factor** | **Risk Severity** | **Risk Score** |
| **Wind zone (per NZS 3604)** | High risk | 1 |
| **Number of storeys** | Low risk | 0 |
| **Roof/wall intersection design** | Medium risk | 1 |
| **Eaves width** | High risk | 2 |
| **Envelope complexity** | Low risk | 0 |
| **Deck design** | Low risk | 0 |
| **Total Risk Score:** | | **4** |



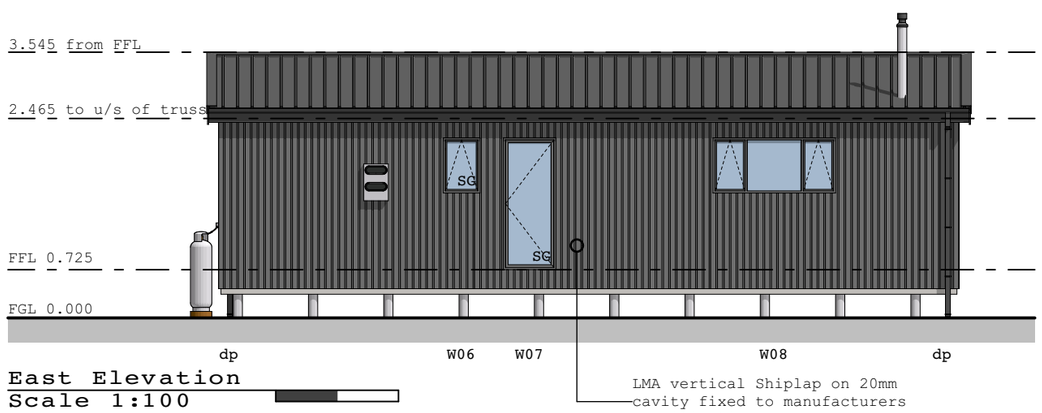

South Elevation
Scale 1:100

SG = Safety Glazing




West Elevation
Scale 1:100

SG = Safety Glazing




East Elevation
Scale 1:100

SG = Safety Glazing

MAS Architecture.



Drawing Title: New Residence
81 Poplar Lane Lincoln

Client: Watson Residence
81 Poplar Lane
Lincoln

Project Info
Lot No: 7
DP No: 14467
Wind Zone: High
Corrosion Zone: C
Snow Zone: Truss Designer
Quake Zone: 2

Drawing Info
Drawn: MAS
Date: 10-02-23
Scale: Stated
Sheet No: TBC-Sheet 9
Rev: 0.2

| Date | Issue | Rev |
|---|---|---|
| 07.11.2022 | Issued for Consent | 0 |
| 31.01.2023 | Issued for Consent | 0.1 |
| 10.02.2023 | Issued for Consent | 0.2 |

Elevations

DO NOT SCALE - IF IN DOUBT ASK

*All Plans to Scale on A3 Sheets printed @ 100%*

# Appendix B – Preliminary Site Investigation

# Preliminary Site Investigation

Version A

eliot sinclair

**McDonald Rd & Englishs Rd, Lincoln**

Prepared for Jo-Anne & Paul Campbell

520233

# Preliminary Site Investigation

McDonald Rd & Englishs Rd, Lincoln

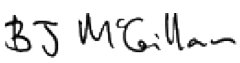
Prepared for Jo-Anne & Paul Campbell

520233

**Quality Control Certificate**

Eliot Sinclair & Partners Limited

eliotsinclair.co.nz

| Action | Name | Signature | Date |
|---|---|---|---|
| **Prepared by:** | Peter Ngenang<br>Geotechnical Engineer<br>NZDE Civil MEngNZ |  | 10 February 2025 |
| **Reviewed by:** | Philippe Dumont<br>Environmental Scientist<br>BAgSc(Hons) MSc CEnvP SQEP |  | 10 February 2025 |
| **Directed and approved for release by:** | Bryan McGillan<br>Resource Management Planner<br>BAppSc, MNZPI & RMLA |  | 19 February 2025 |
| **Status:** | Version A | | |
| **Release date:** | 19 February 2025 | | |
| **Distributed to:** | Jo-Anne & Paul Campbell | | |

## Version History

| Status | Description | Author | Release Date |
|---|---|---|---|
| A | First issue of document | P. Ngenang | 19 February 2025 |

# Contents

# 1. Executive Summary

| Site Address | McDonald Rd & Englishs Rd, Lincoln |
|---|---|
| Legal description | GAZ 01-940 RES 3537 BLK V HALSWELL SD -GRAVEL PIT |
| Site area | 2.0234 ha |
| Local authority | Selwyn District Council |
| Proposed activity/land use | Change in land use and soil disturbance for construction of a residential dwelling |
| Historical and current land uses | Historical: Rural grazing land<br>Current: Rural grazing Land |
| Current zoning | Rural Zone – Outer Plains |
| Adopted NESCS land use scenario | Rural Residential - Lifestyle Block (25% produce) |
| HAIL activities identified during site history review, site inspection, and owner interview | Historical aerial imagery:<br>■ HAIL G3 (landill sites) |
| Conclusions | It is concluded that<br>■ HAIL activities related to landfilling/backfilling operations have been identified on the site in the early 1990s. There could potentially be a risk to human health should the proposed soil disturbance activity relating to the construction of a residential dwelling be carried out. |
| Recommendations | It is recommended that<br>■ a Detailed Site Investigation (DSI), in terms of the Ministry for the Environment's Contaminated Land Management Guidelines (CLMG) would be prepared and undertaken to characterise the underlying soils and to determine contaminant concentrations across the proposed building platform. |
| NESCS activity status | The activity is considered Discretionary under the NES, until a DSI has been carried out. |

# 2. Introduction

Eliot Sinclair & Partners Ltd was engaged by Jo-Anne & Paul Campbell to undertake a Preliminary Site Investigation (PSI) at McDonald Rd & Englishs Rd, Lincoln ('the site') prior to the proposed activity which will include a change in land use from rural grazing land to rural lifestyle land and soil disturbance to construct a new residential dwelling.

The purpose of this PSI report is to undertake a contamination assessment prior to the proposed activity being carried out to determine whether activities potentially contaminating the soil have been or are currently carried on the site and evaluate whether those activities are *"more likely than not"* generating risks for human health.

Note; The Hazardous Activities and Industries List (HAIL) is a compilation of activities and industries created by the Ministry for the Environment (MfE) that are likely to cause land contamination.

## 2.1. Investigation, Objectives, and Scope

The objective of the investigation was to prepare a PSI in general accordance with the Ministry for the Environment (MfE) Contaminated Land Management Guidelines (CLMG) No. 1[1] and No. 5[2], MfE National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health[3] (NESCS), and BRANZ (2017) 'New Zealand Guidelines for Assessing and Managing Asbestos in Soil'[4].

The scope comprises:

- Reviewing the Environment Canterbury (ECan) Listed Land Use Register (LLUR) database.
- Reviewing historical and recent aerial images of the site.
- Obtain and reviewing information on the property file held by the SDC.
- Fieldwork including a site walkover and interview of owners/managers of the site.
- Preparation of a PSI report in accordance with NESCS[3], BRANZ[4], and the CLMG No. 1[1] and No. 5[2].

## 2.2. Site Identification

Site identification details are provided in Table 1.

**Table 1. Site identification**

| Details | |
|---|---|
| Street address/Site name | McDonald Rd & Englishs Rd, Lincoln |
| Appellation | GAZ 01-940 RES 3537 BLK V HALSWELL SD - GRAVEL PIT |
| Title | 1114901 |
| Site Area | 2.0234 ha |
| Current site plan | Refer to 0 |

[1] Ministry for the Environment (MfE) 2011. Contaminated Land Management Guidelines No. 1. Reporting on Contaminated Sites in New Zealand. Wellington: Ministry for the Environment (Revised 2021).
[2] Ministry for the Environment (MfE) Contaminated Land Management Guidelines No. 5. Site Investigation and analysis of soils. (Revised 2021).
[3] Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 administered by the Ministry for the Environment
[4] BRANZ, 2017. New Zealand Guidelines for Assessing and Managing Asbestos in Soil.

## Details

| | |
|---|---|
| Locality map | Refer to Figure 2 |


**Figure 1. Current site plan with the property boundary indicated in red. Proposed dwelling location outlined in yellow.**

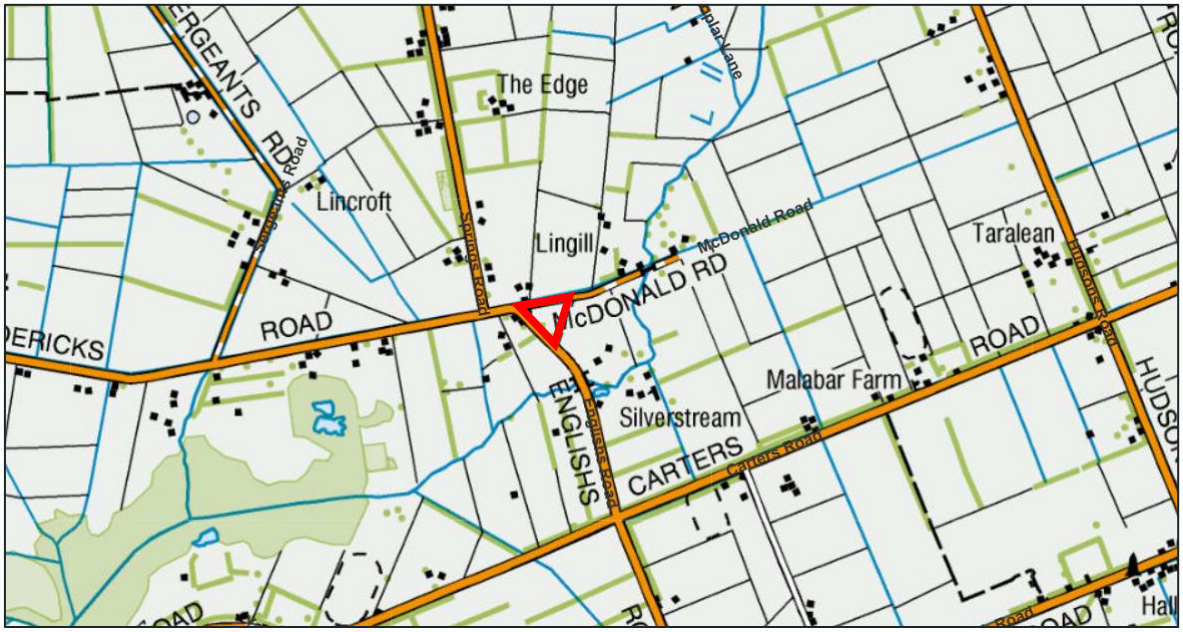



**Figure 2. Locality Map – Property boundary outlined in red**

## 2.3. Proposed Site Use

A 216m$^2$ '*Farm Building*' constructed with a timber pole frame, lightweight steel roofing and cladding, and a concrete floor slab currently resides at the central part of the site.

The proposed activity includes a change in land use from rural grazing land to rural residential lifestyle land. Following the change in land use, we understand the landowner intends construct a new residential dwelling adjacent to the existing shed, refer to Figure 1.

# 3. Site Description and Information

Site description details are provided in Table 2.

**Table 2. Site details including the environmental setting, district plan zoning, and land uses**

| Site Name | McDonald Rd & Englishs Rd, Lincoln |
|---|---|
| Current land use | Rural Grazing Land |
| Proposed land use | Rural Residential Lifestyle Land |
| Neighbouring land use | Rural Residential |
| District plan zoning | Rural Zone – Outer Plains |
| Geology | GNS[5] has mapped the area as '*Modern river floodplain/low-level degradation terrace. Unweathered, variably sorted gravel/sand/silt/clay. Surfaces <2 degree slope.' (OIS1 (Holocene) river deposites).*<br>The Landcare Research Database has listed the site and surrounding land area as '*deep, poorly drained silt over sand*'. |
| Surface water | Araiara/LII River is located approximately 150m southeast of the site.<br>A shallow open drain is located along the western boundary of the site which feeds into Araiara/LII River to the south. |
| Groundwater | Eliot Sinclair's shallow soil investigation for the existing Farm Building undertaken in July 2023 recorded groundwater between 0.5m to 0.8m below surrounding ground level.<br>ECan well logs (M36/20237 & M36/5335) located approximately 160m northwest and 200m southeast recorded ground water around 1.2m at time of drilling. |
| Topography | The overall topography is gently undulating.<br>The existing Farm Building (shed) is located on a raised terrace. Further to the west of the shed the site dips towards a densely vegetated area along the western boundary. |

[5] https://data.gns.cri.nz/geology/

# 4. Historical Site Use

## 4.1. Review of Council Information

**Selwyn District Council (SDC) Property Files**

The following property file documentation were retrieved from SDC:

- Building Consent; Certificate of Acceptance for Farm Shed dated 7 December 2019.
- Building Consent; Outbuilding alteration dated 22 August 2019.
- Building Consent; Construction of a pole shed dated 20 September 2023 with associated geotechnical report prepared by Eliot Sinclair dated August 2023.
- Project Information Memorandum; Outbuilding Alteration.

Eliot Sinclair's geotechnical investigation and reporting in 2023 as part of the building consent package of the farm building, recorded the presence of shallow undocumented fill comprising topsoil and gravelly soils within the upper 600mm soil profile. Groundwater was recorded between 0.5m to 0.8m bgl at time of investigation.

The presence of undocumented fill (HAIL G3) is likely associated with the historic earthwork operations dating back from the early 90's. HAIL G3 is defined by MfE as *'Landfill Sites'*

The PIM recorded the site to be located within an area known to have a high groundwater table and within the *'lower plans flood prone area'*.

**HAIL Registry**

According to the Land Listed User Register (LLUR) database, the site is not registered as a HAIL site and no investigation related to HAIL activities (historical or current) was carried out on the site.

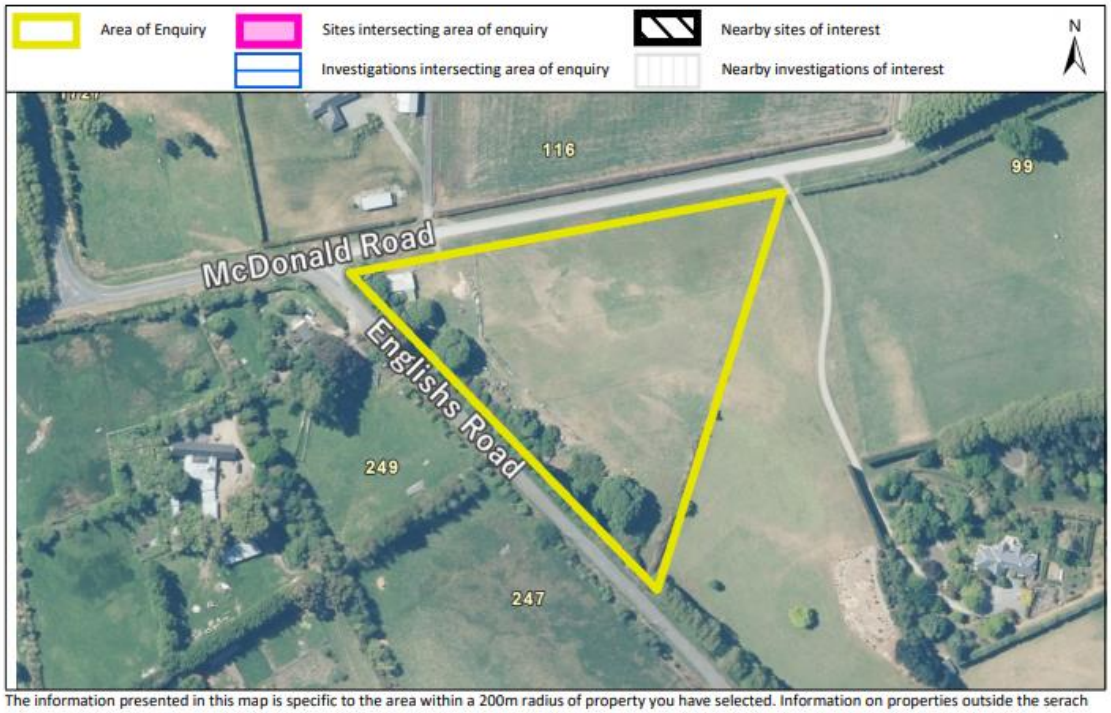
The nearest property listed as a HAIL site is 1727 Springs Road located approximately 220m northwest of the site. This site is currently registered in the LLUR as HAIL A10 defined as *'Persistent pesticide bulk storage or use including sport turfs, market gardens, orchards, glass houses or spray sheds'*.

**Property Statement from the Listed Land Use Register**

Environment Canterbury Regional Council
Kaunihera Taiao ki Waitaha

Visit ecan.govt.nz/HAIL for more information or
contact Customer Services at ecan.govt.nz/contact/ and quote ENQ403278

**Date generated:** 30 January 2025
**Land parcels:** RES 3537




The information presented in this map is specific to the area within a 200m radius of property you have selected. Information on properties outside the serach radius may not be shown on this map, even if the property is visible.

**Sites at a glance**

Sites within enquiry area

| Site number | Name | Location | HAIL activity(s) | Category |
|---|---|---|---|---|

*Please note that the above table represents a summary of sites and HAILs intersecting the area of enquiry only.*

**Figure 3. HAIL map with the area of enquiry outlined in yellow. Extract retrieved from ECan LLUR database in January 2025.**

## 4.2. Review of Aerial Photographs

Aerial images from Canterbury Maps (CM) and Google Earth (GE) were reviewed to identify previous land uses and potential HAIL activities between 1940 and 2024. A summary of information retrieved from this review is provided in Table 3 and the reviewed images along with a historical layout plan are presented in Appendix B. Several historical activities potentially contaminating the soil were identified during the review of historical aerial photos.

The review of historical aerial photos indicates that the site was mostly used for rural grazing land activities very likely limited to light grazing. Between 1940 and 1990 no significant changes in the land use can be seen (see Appendix B).

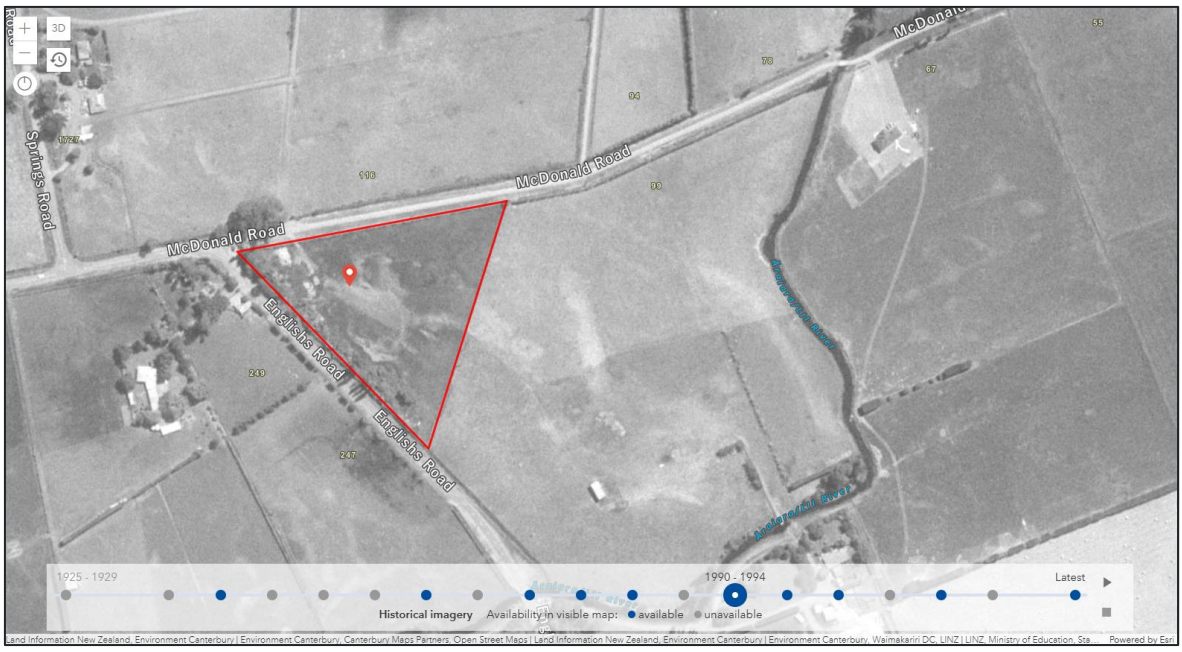



**Figure 4. Site outlined in red – Imagery extract dated 1990-1994 from Canterbury Maps.**

Figure 4 infers earthworks comprising soil disturbance and stockpiling across the site (HAIL G3) that were undertaken in the early 1990s. There are no records in SDC's property file that documents the inferred earthworks across the site, however aerial imageries following the mid 90's indicate stockpiles has been removed and/or spread across the site then grassed over. The site appears to be largely vacant farmland up to 2024.

**Table 3. Summary of information retrieved from historical aerial images (source: Canterbury Maps and Google Earth)**

| Date of photograph | Land use, site features, and identified HAIL area(s) |
|---|---|
| 1940 – 1944 (CM) | Dense vegetation along the western boundary, some soil disturbance across the central part of the site. Some soil disturbance inferred across neighbouring land to the northeast. |
| 1960 – 1964 (CM) | Some soil disturbance following removal of vegetation across the southern part of the site. |
| 1970 – 1974 (CM) | Largely grassed vacant farmland. |
| 1980 – 1984 (CM) | No significant changes |
| 1990 – 1994 (CM) | Inferred earthworks comprising soil disturbance and stockpiling across the site. (HAIL G3) |
| 1995 – 1999 (CM) | Largely grassed vacant farmland. |
| 2000 – 2004 (CM) | No significant changes |
| 2010 – 2014 (CM) | Farm shed visible at the northwest corner of the site. Grass stripped across most of the remaining land for farming purposes. |
| Jull 2015 (GE) | Largely grassed vacant farmland. Inferred stockpile of vegetation located close the farm shed. |
| Jan 2021 (GE) | The site is largely grassed vacant land. |

| Date of photograph | Land use, site features, and identified HAIL area(s) |
|---|---|
| Mar 2024 (GE) | Pole Shed visible across central part of the site. |

HAIL activities were identified during the historic aerial search (HAIL G3 associated with the historic landfilling activities).

## 5. Eliot Sinclair's Site Walkover – 5 February 2025

Eliot Sinclair undertook a site walkover on the 5 February 2025 to assess the current conditions of the site. A meeting onsite with the site owner was held to discuss site use and history. Photos were also collected during the site visit which are available in Appendix C.

At time of our site visit, the site was largely vacant and overgrown with long grass and weeds. An existing farm building constructed in 2024 with adjoining sheds and chicken coup is situated at the central part of the site on a raised mound. The farm building is accessed off McDonald Road to the north via a gravel-chip driveway.

Storage containers are founded at the northwest corner of the site. The site is typically undulating with dense vegetation and large trees along the western boundary of the site.

Eliot Sinclair has identified the underlying ground across the site as a *'Location of Interest'* which relates to the inferred historic earthworks comprising soil disturbance and stockpiling operations. Eliot Sinclair's geotechnical investigation in July 2023 recorded the presence of topsoil fill with some gravels over silty sandy gravel fill to around 0.6m bgl. The characterisation of the gravel fill was typically uniform with no rubbish or construction debris (incl. ACM debris), or hydrocarbon odours noted at time of investigation and during foundation excavation.

**Figure 5. Foundation excavation inspection for Farm Building dated 2023.**

# 6. Contamination Assessment

## 6.1. HAIL Activities "More Likely Than Not"

The information reviewed in this investigation and the evidence found during the site visit suggest that HAIL activities have been or are "*more likely than not*" to have occurred on the area under consideration.

A review of the HAIL includes the following listings which are relevant to the activities identified above:

HAIL G3 Landfill Sites

## 6.2. Potential Contaminants Associated with Historical Use

Table 4 outlines the potential contaminants that could be present onsite due to its current and/or historical use.

**Note:**
*The terms used below are directly taken from the HAIL contaminants list.*

**Table 4. Hazardous substances typically associated with selected HAIL activities**

| HAIL Category | Activity or industry on the HAIL | Hazardous substances likely to be associated with that activity or industry |
|---|---|---|
| G3 | Landfill Sites | Heavy Metals, Asbestos in Soil |

Note: given that no construction debris or any type of material potentially including asbestos was seen during the earthwork related to the construction of the shed (2023), it is deemed reasonable to assume that the presence of asbestos in soil is highly unlikely. Therefore, asbestos was removed from potential contaminants of concern. However, should future earthwork come across unexpected soil or material potentially containing asbestos, the accidental discovery protocol outlined in Section 8 would have to be applied.

## 6.3. Preliminary Conceptual Site Model

A Conceptual Site Model (CSM) helps to identify whether complete exposure pathways exists. An exposure pathway must include a contaminant source, a transport mechanism, and a receptor. If one of these components does not exist, or can be removed, then the exposure pathway is incomplete. If the exposure pathway is incomplete, then there is little risk to human health at the specified location.

The conceptual site model developed for the site is presented in Table 5.

**Table 5. Conceptual site model**

| Contaminant Source(s) | Contaminant/s of concern | Transport Mechanism | Receptor | Pathway complete Y/N |
|---|---|---|---|---|
| ■ Historical landfilling operations (HAIL G3) | ■ Heavy metals, | ■ Ingestion of soil and dust.<br>■ Home grown produce consumption. | a) Site occupiers and the surrounding environment<br>b) Construction workers (or | Likely |

| Contaminant Source(s) | Contaminant/s of concern | Transport Mechanism | Receptor | Pathway complete Y/N |
|---|---|---|---|---|
| | | ■ Dermal contact with soil. | contractors) during development phases<br>c) Future users of the site (post-development) | |

The assessment of the proposed activities indicates that the risk to human health and the environment is more likely than not to exist for any future soil disturbances across the site. The contaminants of concern associated with the identified HAIL activity include heavy metals and asbestos in soil.

Pathways between contaminants of concern and potential recipients are likely to be complete essentially by ingestion and inhalation, and through dermal contact to a lesser extent.

## 6.4. Risk to Potential Receptors

For any future soil disturbance across the site, detailed testing will be required.

## 6.5. Determining resource consent requirements under the NESCS

An assessment (Table 6) to determine the resource consent requirements for activities involving a change of land use under the NESCS has been completed using Figure 6.

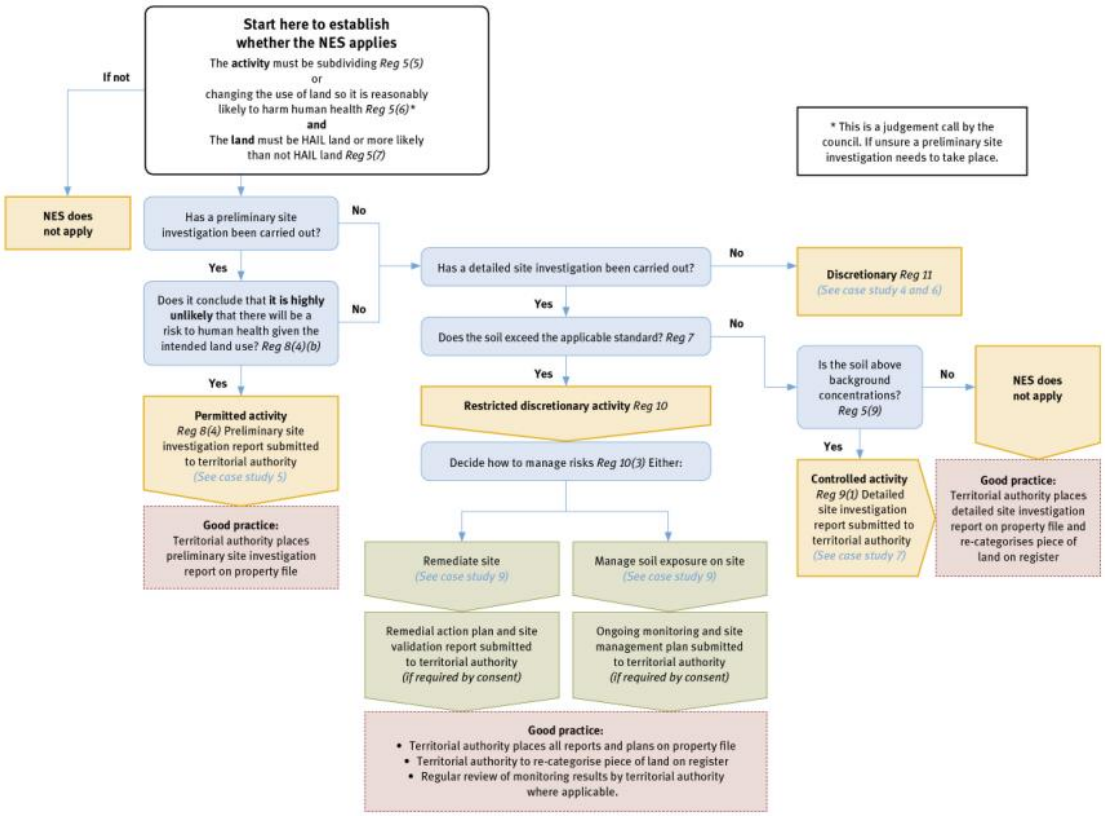



**Figure 6. Reporting and consent requirements for activities involving change of land use (NESCS, 2012)**

**Table 6. Assessment of NES resource consent requirements**

| Step | Description | Comments |
|---|---|---|
| 1 | Is the activity covered by the NES? Reg 5(2) - 5(6) A | Yes, the proposed activities involve soil disturbance, Reg 5(4) and change in land use, Reg 5(6) |
| 2 | Is the land covered by the NES? Reg 5(7) – 5(9); reg 6 | Yes |
| 3 | A preliminary site investigation (PSI) can establish if:<br>a) It is more likely than not a HAIL site Reg 5(7)c; Reg 6(3)<br>b) It is highly unlikely that there will be a risk to human health if the activity is done Reg 8(4). | It is more likely than not a HAIL site, Reg 5(7)c and Reg 6(3).<br>Risk to human health during soil disturbance cannot be ruled out. |

Because it is more likely than not a HAIL site and there is a likely risk to human health if soil disturbance has been undertaken, the proposed activities is therefore considered **Discretionary** under the NESCS.

# 7. Conclusions and Recommendations

This PSI is based on a review of SDC records, Canterbury Maps & Google Earth historical aerial images, Eliot Sinclair's geotechnical investigation and reporting in 2023 and Eliot Sinclair's site walkover inspection on 5 February 2025.

It is concluded that HAIL activities related to landfilling/backfilling operations have been identified on the site in the early 1990s. There could potentially be a risk to human health should the proposed soil disturbance activity relating to the construction of a residential dwelling be carried out.

We recommended that a Detailed Site Investigation (DSI), in terms of the Ministry for the Environment's Contaminated Land Management Guidelines (CLMG) would be prepared to characterise the underlying soils and to determine contaminant concentrations across the proposed building platform.

# 8. Accidental Discovery Protocol

It is recommended that if any unusual or contaminated materials are encountered during any future site works within the site that the requirements of the Accidental Discovery Protocol provided are followed.

If any of the following materials are encountered during any future earthworks, such as:

- Stained or odorous soil (e.g., black, green, grey; or smells of rotting organic material, petroleum hydrocarbons or solvents)
- Slag, ash, charcoal
- Rubbish comprising putrescible waste, or hardfill, or treated timber, or agrichemicals, etc
- Potential asbestos containing-material (for example fragments from cement fibre sheets, or loose fibres from insulation, etc.)

Then we recommend:

- Excavation and earthworks cease, the site secured to stop people entering the area where potential contamination was encountered, and then:

- Contact a contaminated land specialist for further advice. If required, Eliot Sinclair (03) 379 4014 can inspect the area, assess the material determine if it is contaminated or hazardous, and then determine a practical course of action.

This report does not relieve contractors of their responsibilities under the Health and Safety at Work Act 2015. Site conditions relevant to construction works should be assessed by contractors who can make their own interpretation of the factual data provided. They should perform any additional tests as necessary for their own purposes, at their own expense.

# 9. SQEP Certifying Statement

I, (Philippe Dumont), of Eliot Sinclair & Partners Limited ("Eliot Sinclair") certify that:

This preliminary site investigation meets the requirements of the Resource Management (National Environmental Standard for assessing and managing contaminants in soil to protect human health) Regulations 2011 because it has been:

a) done by a suitably qualified and experienced practitioner, and

b) reported on in accordance with the current edition of Contaminated land management guidelines No 1 – Reporting on contaminated sites in New Zealand, and

c) the report is certified by a suitably qualified and experienced practitioner.

For activities under R8(4) of the NESCS this preliminary site investigation concludes it is highly likely that there will be a risk to human health if the activity is done to the piece of land.

The activity to be undertaken as defined in R 5(5) and R5(6) is described:

a) in Section 2.3 ..... of this preliminary site investigation; and

b) in Appendix A .....

Evidence of the qualifications and experience of the suitably qualified and experienced practitioner(s) who have done this investigation and have certified this report is appended to the preliminary site investigation report (Appendix D).

# 10. Disclaimer

This report has been prepared by Eliot Sinclair & Partners Limited ("Eliot Sinclair") only for the intended purpose as a Preliminary Site Investigation report (PSI) for the proposed soil disturbance relating to the dwelling construction.

The report is based on:

- Information shown on LLUR database
- Historical aerial imagery source from Canterbury Maps and Google Earth.
- Information from the SDC property file.
- Eliot Sinclair's site walkover on 5 February 2025.
- NESCS and MfE's CLMG no.1 and no.5.

Where data supplied by Jo-Anne & Paul Campbell or other external sources, including previous site investigation reports, have been relied upon, it has been assumed that the information is correct unless otherwise stated. No responsibility is accepted by Eliot Sinclair for incomplete or inaccurate data supplied by other parties.

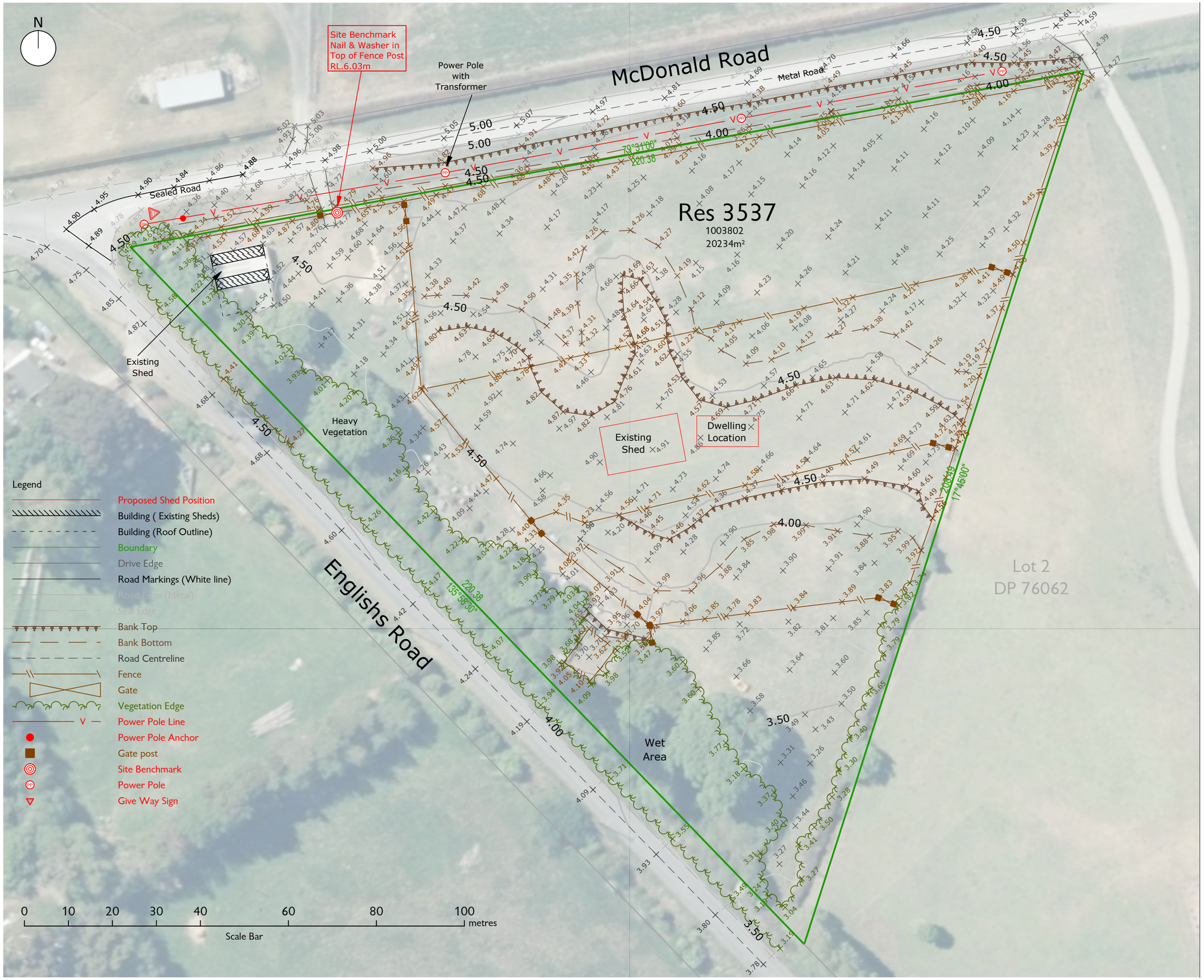
Whilst every care has been taken during our investigation and interpretation of soil conditions and available data to ensure that the conclusions drawn, and the opinions and recommendations expressed are correct at the time of reporting, Eliot Sinclair has not performed an assessment of all possible conditions or circumstances that may exist at the site. Variations in conditions may occur between investigatory locations and there may be conditions such as contaminant sources that were not detected by the scope of the investigation that was carried out or have been covered over or obscured over time. Eliot Sinclair does not provide any warranty, either express or implied, that all conditions will conform exactly to the assessments contained in this report.

The exposure of conditions or materials that vary from those described in this report, or any update to the NES SCS or CLMG guidelines may require a review of our recommendations. Eliot Sinclair should be contacted to confirm the validity of this report should any of these occur.

This report has been prepared for the benefit of Jo-Anne & Paul Campbell and Selwyn District Council for the purposes as stated above. No liability is accepted by Eliot Sinclair or any of their employees with respect to the use of this report, in whole or in part, for any other purpose or by any other party.

# Appendix A. Proposed Development Plan

C:\12dSynergy\data\SQL01\520233_106017\12d\SURVEY\SUR TP 00 English Road Lincoln.12dmodel\SUR TP 00 English Road Lincoln [Mon Jan 27 10:46:44 2025] [rcp]






SURVEY INFORMATION

| | |
|---|---|
| SURVEYED | |
| SURVEY DATE | **April 2023** |
| COORD SYSTEM | **NZGD2000** |
| CIRCUIT | **Mt Pleasant** |
| DATUM | **Lytt 1937 (2018)** |
| ORIGIN OF LEVELS | **EJ8F 5.001** |

NOTES

| REV. | DRAWN | DATE | NOTE |
|---|---|---|---|
| B | RCP | 27.01.2025 | Updated Building Locations |
| A | RCP | 26.04.2023 | For Issue |

CLIENT
**Jo-Anne & Paul Campbell**

| | |
|---|---|
| DESIGNED | |
| DRAWN | **R.C.Paulsen** |
| REVIEWED | **D.J.Hocken** |
| APPROVED | **D.J.Hocken 26.04.2023** |
| STATUS | **For Issue** |
| SCALE | **1:800 [A3]** |

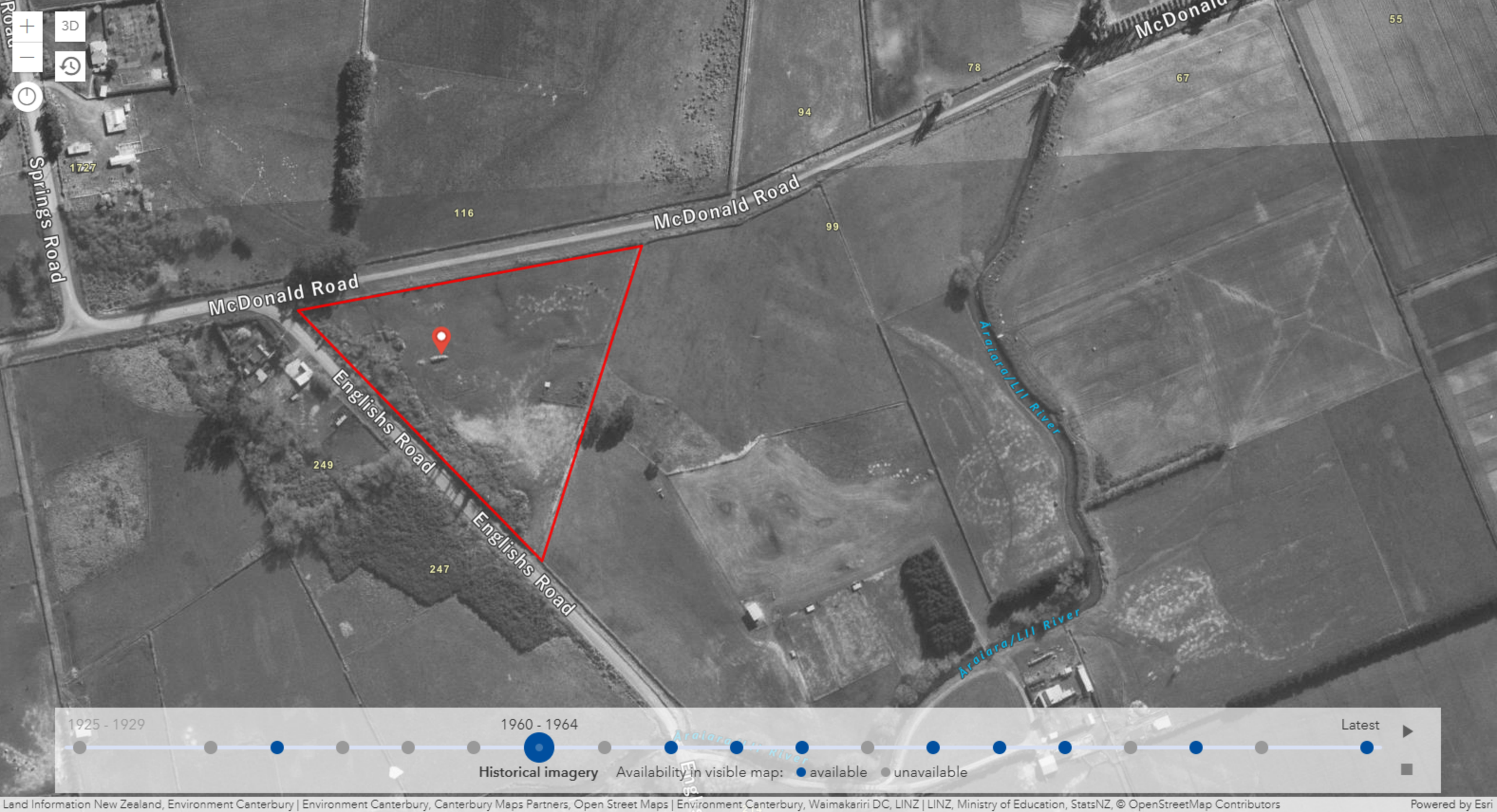
# Topographical Survey

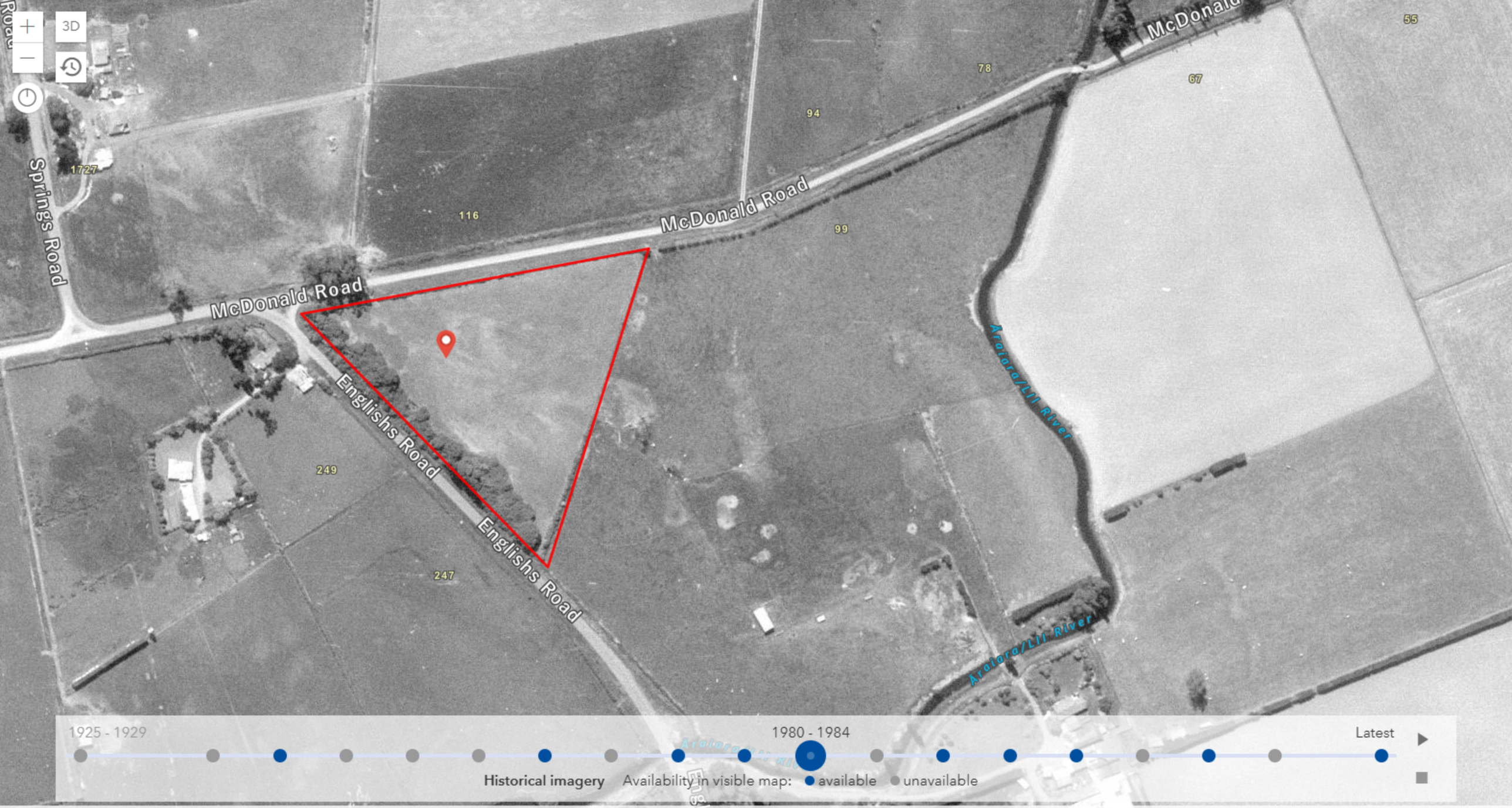
Englishs & McDonald Roads - Lincoln

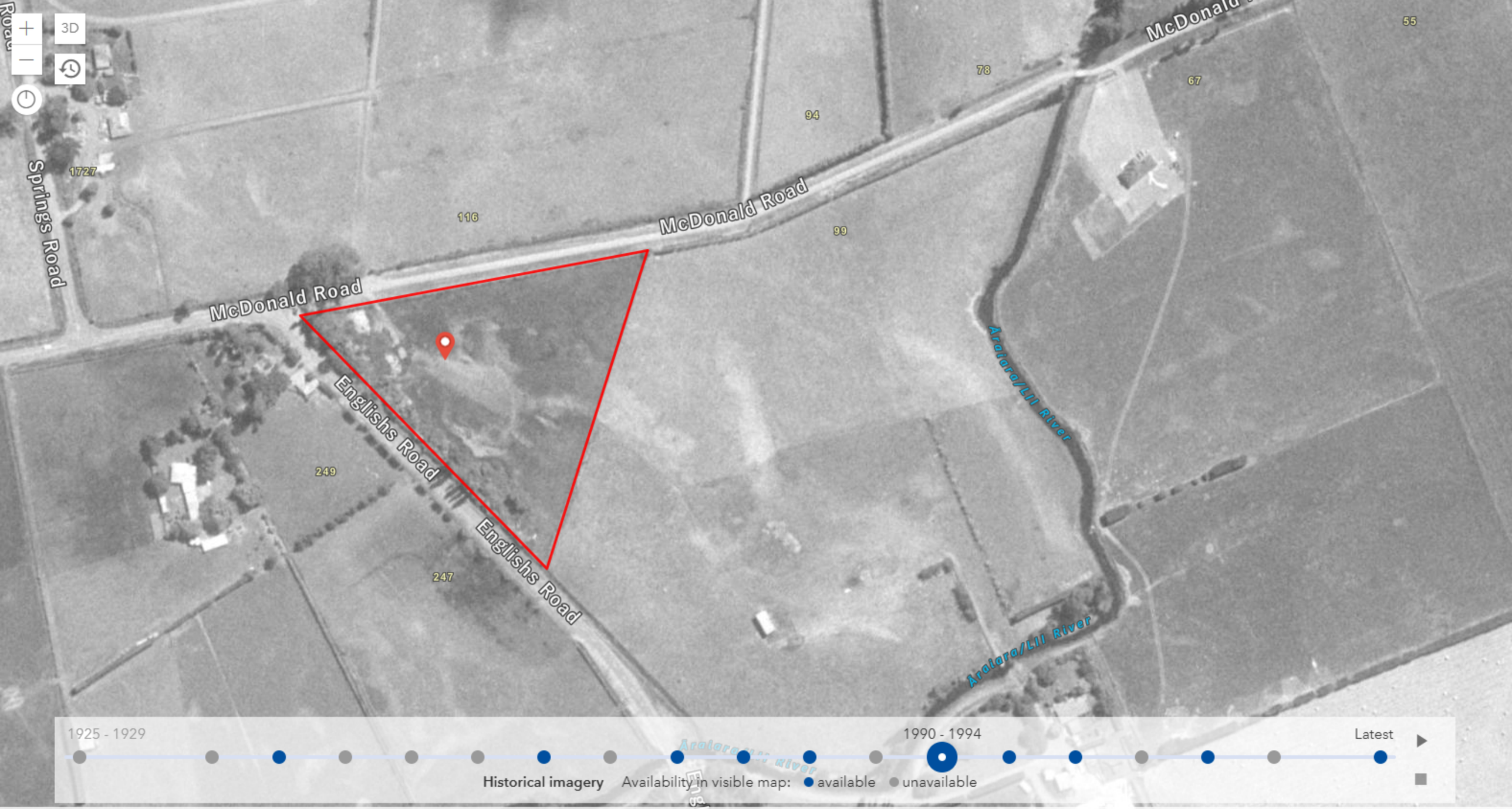
| PROJECT | SET | SHEET | REV. |
|---|---|---|---|
| **520233** | **T1** | **1** | **B** |

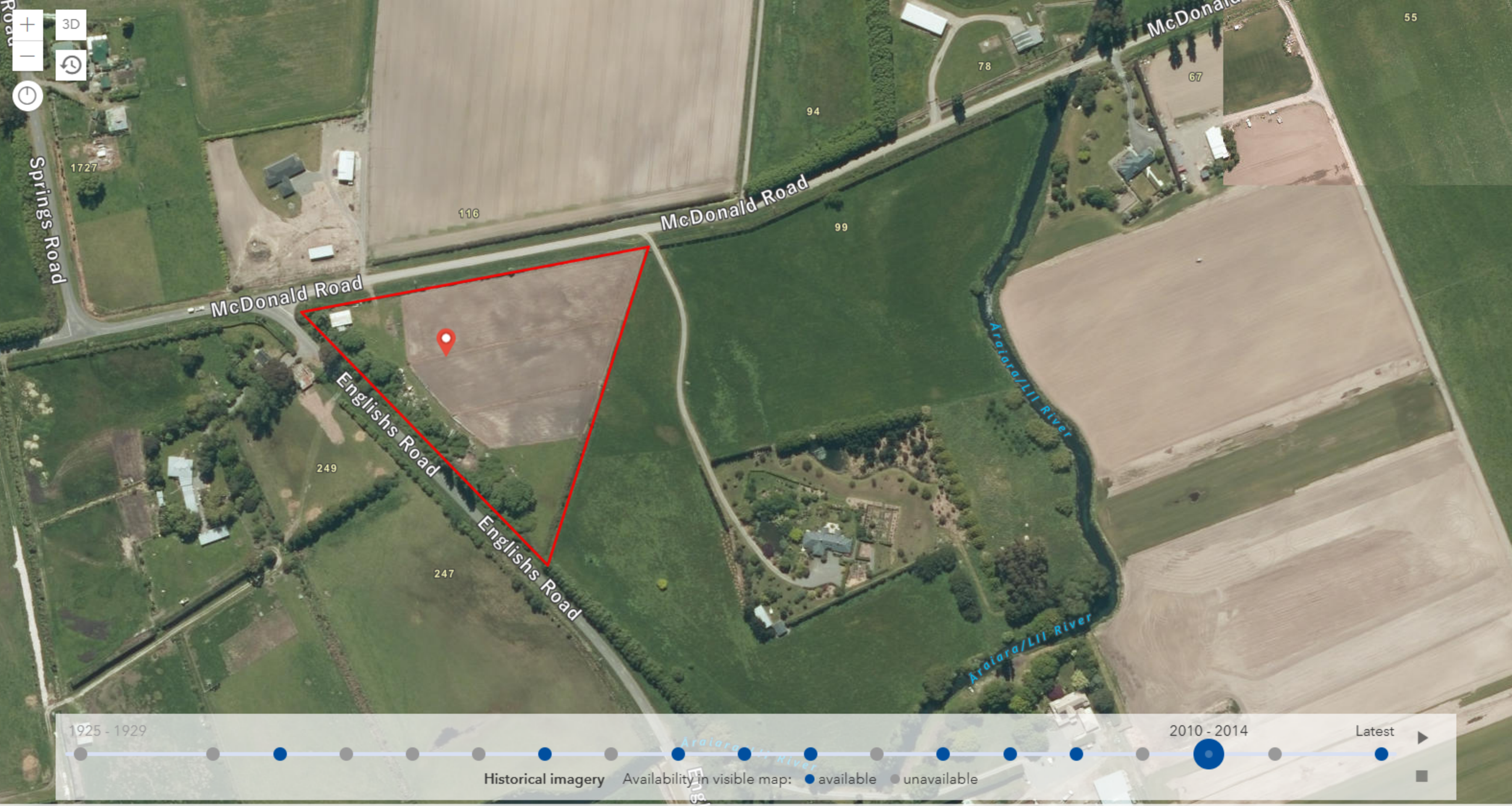
eliot sinclair

# Appendix B. Historical Aerial Imagery









7/2015
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Image © 2025 Maxar Technologies
Google Earth
1985
Imagery Date: 7/22/2015 43° 40.475' S 172° 28.436' E elev 0 m eye alt 521 m

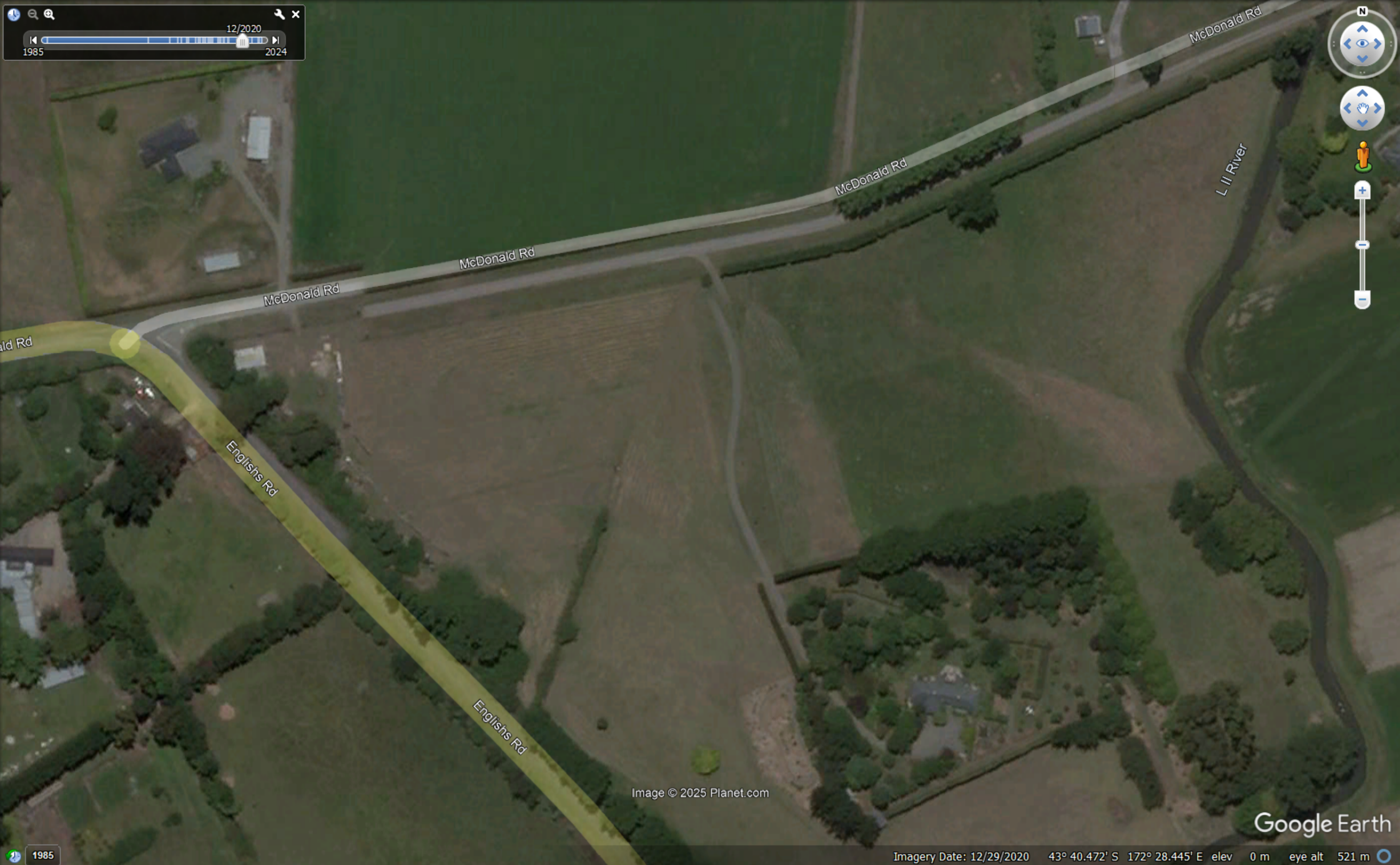
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Image © 2025 Planet.com
Google Earth
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Imagery Date: 12/29/2020 43° 40.472' S 172° 28.445' E elev 0 m eye alt 521 m

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Image © 2025 CNES / Airbus
Google Earth
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Imagery Date: 1/26/2021 43° 40.568' S 172° 28.659' E elev 0 m eye alt 521 m

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Google Earth
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Imagery Date: 12/24/2022 43° 40.472' S 172° 28.463' E elev 0 m eye alt 521 m


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Englishs Rd
Image © 2025 Airbus
Google Earth
1985
Imagery Date: 3/20/2024 43° 40.474' S 172° 28.472' E elev 0 m eye alt 521 m

# Appendix C. Site Photographs

Figure 7. Farm Building

Figure 8. Driveway access to farm building

**Figure 9. Chicken Coup**

**Figure 10. Storage Containers**

# Appendix D. SQEP Certification

*The CEnvP Scheme Certification Board*
*hereby attests that*

# Philippe Dumont

*having fulfilled all the requirements of the Board*
*has been certified as a*

## *Certified Environmental Practitioner*

*with Registration Number*

1246

*on the date*

07-Aug-2019

*President EIANZ*

30/06/2026
*Certification Expiry Date*

# Appendix C – ECan Flood Hazard Assessment

Environment Canterbury
Regional Council
Kaunihera Taiao ki Waitaha

Customer Services
P. 03 353 9007 or 0800 324 636

PO Box 345
Christchurch 8140

P. 03 365 3828
F. 03 365 3194
E. ecinfo@ecan.govt.nz

www.ecan.govt.nz

7 February 2025

Isabelle Harding
iph@eliotsinclair.co.nz

Dear Isabelle

**RES 3537 – MCDONALD ROAD, LINCOLN**

**Flood Hazard**

The property may be susceptible to flooding from local rainfall runoff.

Enclosed is a photograph of the property taken after a rainfall event in 2013 that shows minor ponding on the property. Note that the photograph may not show flooding at its peak. In larger rainfall events it is likely that more extensive areas will be affected by flooding.

Also enclosed is a map showing ground levels across the property derived from LiDAR data obtained in 2023. LiDAR is an airborne laser system that surveys ground topography. The ground levels are presented in metres – New Zealand Vertical Datum 2016 (NZVD2016). When compared to known survey points, the data typically has a vertical accuracy of ± 150 mm or better.

Selwyn District Council has completed rain-on-grid flood modelling for the majority of the district. This modelling includes 200 and 500 year average recurrence interval (ARI) events. The modelling shows some ponding on the property, however the proposed dwelling location is clear of flooding in both ARI events. Mapped results of this modelling are available here:

https://apps.canterburymaps.govt.nz/FloodModelResults/?extent=1557543.4371%2C5163812.6084%2C1558116.7148%2C5164072.6735%2C2193

The proposed dwelling location is within the Partially Operative Selwyn District Plan (SDP) 'Plains Flood Management Overlay'. Constructing new dwellings within this overlay is a permitted activity under the district plan if they are not located in a high hazard area and have a finished floor level that is at least 300 mm above the 200 year ARI flood level. High hazard areas are defined as areas where the water depth (m) x velocity (m/s) is greater than 1, or the water depth is greater than 1 m, in a 500 year ARI flood event.

Based on the information above, the proposed dwelling location is not within a high hazard area. No significant flooding is expected at the proposed dwelling location, therefore **the floor level does not need to be raised to meet the district plan requirement.** Building code and building act requirements will still apply and care should be taken to ensure there is adequate fall away from the dwelling to avoid the potential for nuisance flooding.

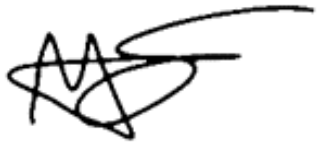
When using the information provided in this letter, it is important that the following points are understood:

- The information is limited to what Environment Canterbury currently has available. The District Council or local residents may have further information about flooding at the property.
- Environment Canterbury's understanding of flooding at the property may change in the future as further investigations are carried out and new information becomes available.

- It is assumed that flood protection works will be maintained to at least their current standard in the future.
- Stopbank failure can occur at flows less than the design standard, and the location of bank failure/overtopping may affect flood depths/levels at the property.
- Flood flow paths and depths/levels can be affected by changes on the floodplain such as:
  - Earthworks, road alterations, and irrigation structures
  - Property development including buildings, fencing, and hedges
  - Blockages in culverts, drains, and bridges
  - Seasonal vegetation growth
  - Antecedent soil conditions

**The prediction of flood depths/levels requires many assumptions and is not an exact science.**

Yours sincerely,



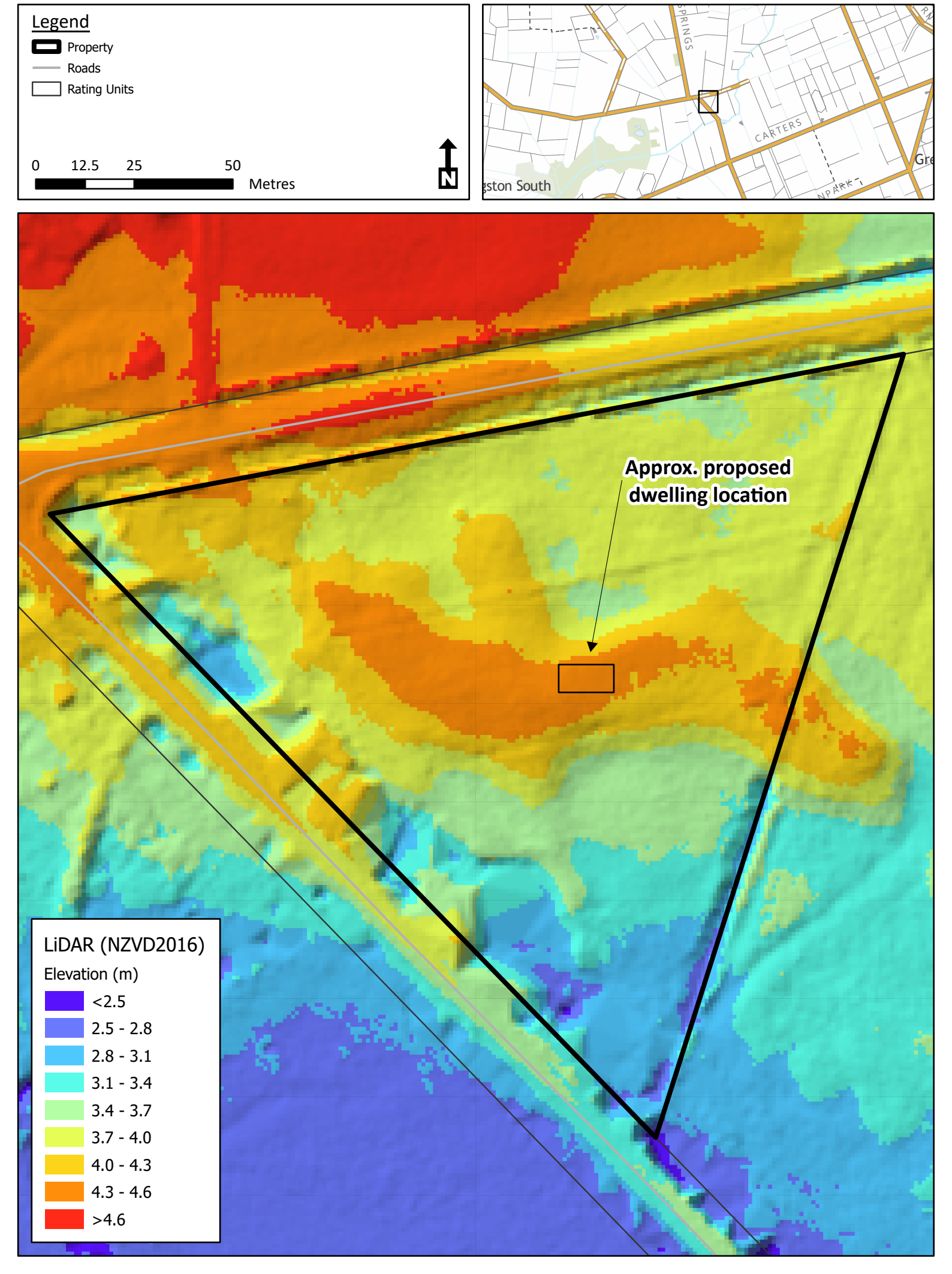
Michael Thwaites

**Science Analyst (Natural Hazards)**

Encl. 2023 LiDAR Map
Photo no. 0321 (23/06/2013)

- Looking south-east across the intersection of Springs, Goodericks and Englishs Roads - 23-06-2013

# McDonald Road, Lincoln - LiDAR Map



# Appendix D – SDC Flood Assessment Certificate

# Flood Assessment Certificate
# FC250065

Issued pursuant to NH-SCHED1 of the Partially Operative Selwyn District Plan.

| | |
|---|---|
| Property Address: | Corner of McDonald and Englishs Road |
| Legal Description: | GAZ 01-940 RES 3537 BLK V HALSWELL SD -G RAVEL PIT- |
| Date of Issue: | 21 February 2025 |
| This certificate is valid until: | 21 February 2027 |

This site is not located on land within a high hazard area.

The site is likely to be subject to inundation in a 200-year Average Recurrence Interval (ARI) flood event.

Minimum finished floor level shall be:

**+4.10m NZVD2016**

## Disclaimers:

1. Whether the site is likely to be subject to inundation in a 200-year ARI flood event, and the minimum finished floor level have been determined with reference to:
   (a) The most up to date models and maps held by Selwyn District Council or Canterbury Regional Council;
   (b) Any relevant field information; and
   (c) Any site specific flood assessment prepared by a suitably qualified and experienced person, including a site specific Flood Hazard Assessment prepared by Canterbury Regional Council.
2. This certificate is based on the best information available to Selwyn District Council at the time the certificate was issued. This information is subject to change and may be updated at any time, including during the valid period of this certificate. Selwyn District Council accepts no liability for changes in this information.
3. This certificate relies on flood modelling. Flood modelling is a tool that predicts what might happen in a flood event of a given magnitude. A flood model uses hypothetical scenarios and makes assumptions about how a flood event might unfold however there are many more variables that can influence how a site is affected in an actual flood event. The minimum finished floor level does not infer that no damage will occur to a structure built above the minimum finished floor level in a flood event.
4. The Building Act 2004 also manages flood risk. The minimum floor level certified under the Partially Operative District Plan may be different to the floor level required by the Building Act 2004, which must be met in order to obtain a building consent.
5. Any activity or construction carried out on a site where a Flood Assessment Certificate is issued is carried out at your own risk, and Council recommend that you carefully consider the impact of any flooding risk associated with this site.

## Advice notes:

a) For a new residential unit or principal building or the alteration of, or addition to any residential unit or principal building to be a permitted activity under the Selwyn District Plan as a whole, all other relevant rules must be complied with.

b) If the certified level is for a particular location on the site, the certified level is the minimum floor level for the proposed building location shown on the attached plan. If you wish to build elsewhere on the site the minimum floor level may be different, and you will need to request another certificate for the new location.

c) For the purposes of this certificate, ground level means:

   a. The actual finished surface level of the ground after the most recent subdivision that created at least one additional allotment was completed (when the record of title is created);

   b. If the ground level cannot be identified under paragraph (a), the existing surface level of the ground;

   c. If, in any case under paragraph (a) or (b), a retaining wall or retaining structure is located on the boundary, the level of the exterior surface of the retaining wall or retaining structure where it intersects the boundary.

d) You must reference this certificate when applying for a building consent or the building consent will not be accepted.

Signed for and on behalf of the Selwyn District Council:

Emma Larsen

**Head of Resource Consents**

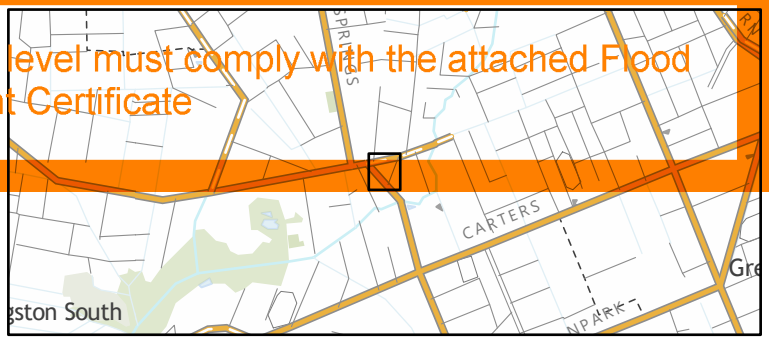
# McDonald Road, Lincoln - LiDAR Map

Indicative site plan only. The finished floor level must comply with the attached Flood Assessment Certificate

Legend
- Property
- Roads
- Rating Units

0 12.5 25 50 Metres

N

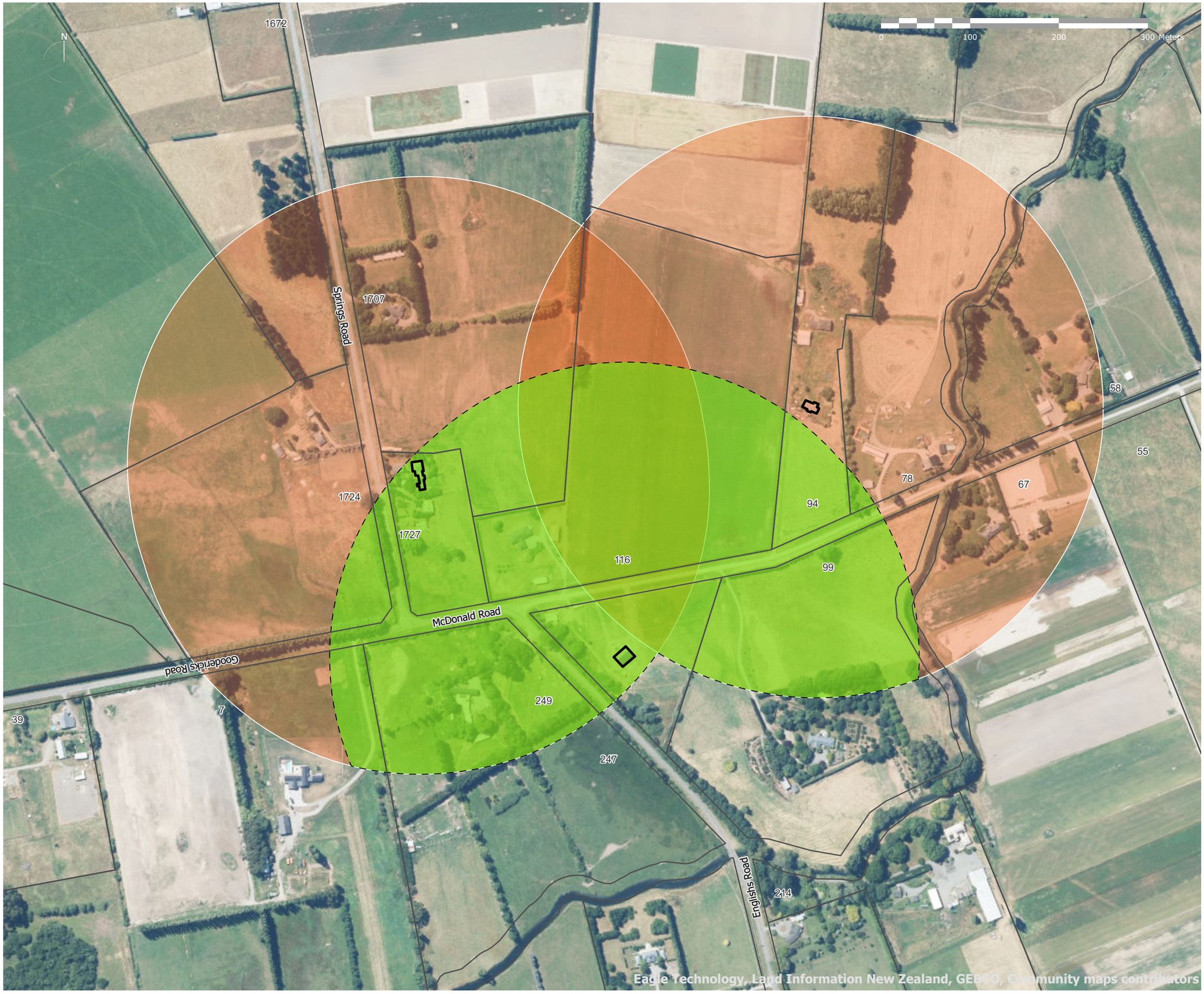



Approx. proposed dwelling location

Flood Assessment Certificate
FC250065
21/02/2025 - Janine.Horn

LiDAR (NZVD2016)
Elevation (m)
- <2.5
- 2.5 - 2.8
- 2.8 - 3.1
- 3.1 - 3.4
- 3.4 - 3.7
- 3.7 - 4.0
- 4.0 - 4.3
- 4.3 - 4.6
- >4.6

# Appendix E - McDonald Road Sensitive Activity Setback Plan






NOTES

Boundaries shown have been adopted from underlying LINZ XML cadastral database and are subject to cadastral survey.

Easements and encumbrances on the title have not been shown on this plan.

Contours shown have been derived from the LINZ Data.

The Horizontal Datum is HZDATUM

The vertical datum is VTDATUM

Aerial imagery has been sourced from LINZ Data Service.

LEGEND

- Dwelling
- LINZ NZ Property Titles
- Surrounding Dwellings
- Affected Party

CLIENT

SCALE **1:4,014 [A3]**

**McDonald Road Sensitive Activity Setback**

| PROJECT | SET | SHEET | REV. |
|---|---|---|---|
| **520233** | **01** | **0001** | **A** |

eliot sinclair

## Appendix F – Memorandum from Tallulah Parker and Jo Appleyard (Chapman Tripp)

chapman tripp

# Memorandum

Date: 27 March 2025

To: Bryan Mc Gillan

From: Jo Appleyard / Tallulah Parker
Direct: +64 3 353 0022/ +64 3 353 0025
Mobile: +63 27 444 7641 / +64 21 703 767
Email: tallulah.parker@chapmantripp.com
Partner: Jo Appleyard
Ref: 100675421/3444-4858-9880.1

**RESOURCE CONSENT APPLICATION / RFI RESPONSE - THE CORNER OF MCDONALDS ROAD AND ENGLISHS ROAD, GREENPARK**

1 Jo & Paul Campbell (*Applicant*) have applied to the Selwyn District Council (*SDC* or *Council*) for resource consent (RES 3537) to construct a permanent residential dwelling on an undersized allotment at the corner of McDonald's Road and English Road, Greenpark (*Site*) (*Application*).[1]

2 Resource consent is required for a non-complying activity in the General Rural zone (*GRUZ*) (SCA-RD2) under the Partially Operative Selwyn District Plan (*POSDP*). The Proposal does not comply with Rule GRUZ-R5 (Residential Unit on an Undersized Site) as the existing site does not meet the minimum 20 ha requirement (GRUZ-SCHED2).

3 On 15 January 2025, the Council made a further information request (*RFI Request*) on the Application under section 92 of the Resource Management Act 1991 (*RMA*). The RFI Request under an "**Other Matters**" heading states:[2]

> *"You may wish, at this stage to provide a more thorough objectives and policies assessment, noting GRUZ-P2 seeks to avoid residential units on undersized sites. GRUZ-P7 is also not limited to just intensive outdoor primary production, but covers all primary production activities"*

4 The purpose of this memorandum is to make an assessment of the Application against policies GRUZ-P2 and GRUZ-P7 of the GRUZ under the POSDP.

[1] The Applicant is currently seeking a rapid number, and the address is understood to likely be 130 McDonald Road.

**Relevant Background**

5 The Site has a total site area of 2.0234 ha, and historically (~1800), it was identified as a reserve (Legal Description Reserve 3537); the Site was issued as a fee simple estate on 10 May 2023 with encumbrances recorded on the title.[3]

6 A 216m$^2$ 2019 consented (RC195342) farm building is currently on the site, and a container shed in the northwestern corner (i.e. no residential dwelling). There is existing heavy vegetation on the English Road frontage, which effectively screens the existing building and will be retained.

7 The adjoining properties are a combination of residential dwellings on lifestyle blocks and rural pastoral land further to the west, consistent with the predominant land use in the area. There is an existing level of residential development in the surrounding environment with land parcels with dwellings varying between 1.59 ha and 10 ha in the immediate vicinity.

8 The assessment of effects concludes that the Application's adverse effects are considered at worst to be no more than minor and are consistent with the established existing environment. We note:

8.1 The dwelling does not alter the rural lifestyle or detract from traditional farming practices. It is considered that the Application Site will be of similar size to other undersized lots in the area and will be keeping with the surrounding pattern of development in the neighbouring environment.

8.2 Considering the strategic location of the Application and the nature of surrounding agricultural operations, the potential for reverse sensitivity effects is significantly minimised, ensuring compatibility between future residents and existing farming activities.

8.3 The Application is consistent with the National Policy Statement of Highly Productive Land 2022 (*NPS-HPL*). The Agribusiness Group has provided an assessment of the Application against the NPS-HPL and concluded that the Application meets the exemption provided under clause 3.10 and is unable to be considered economically viable (in terms of the utilisation of HPL) both now and in 30 years' time.

9 This is not an application for subdivision creating an undersized allotment as the Site already exists; rather, it is an application for the efficient use of the Site that meets the Applicant's need and avoids reverse sensitivity issues.

[3] Appendix G Record of Title.

**Principles of statutory interpretation**

10 Modern statutory interpretation requires a purposive approach and a consideration of the context surrounding a word or phrase.[4]

11 When interpreting rules in planning documents, *Powell v Dunedin City Council* established that (in summary):[5]

11.1 a 'top down' rather than a 'bottom up' approach is required to be implemented.

11.2 the words of the document are to be given their ordinary meaning unless it is clearly contrary to the statutory purpose or social policy behind the plan or otherwise creates an injustice or anomaly;

11.3 the language must be given its plain and ordinary meaning, the test being "what would an ordinary reasonable member of the public examining the plan have taken from" the planning document;

11.4 the interpretation should not prevent the plan from achieving its purpose; and

11.5 if there is an element of doubt, the matter is to be looked at in context and it is appropriate to examine the composite planning document.

12 Reading the words of a planning document with reference to its plain and ordinary meaning is therefore the starting point to any interpretation exercise. Where that meaning, however, creates an anomaly, inconsistency, or absurdity (such as is the case here where there is possible conflict between two pieces of legislation with one saying "avoid" and the other seeks to "support, maintain, or enhance") other principles of statutory interpretation must be considered to help shed light on how a planning document should properly be interpreted. We touch on some of those relevant concepts now.

13 It is widely accepted that the RMA provides for a three-tiered management system – national, regional and district. This establishes a 'hierarchy' of planning documents:[6]

13.1 first, there are documents which are the responsibility of central government. These include national policy statements. Policy statements of whatever type state objectives and policies, which must be "given effect to" in lower order planning documents.

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[4] The most fundamental principle of statutory interpretation is contained in section 5(1) of the Interpretation Act 1999: "The meaning of an enactment must be ascertained from its text and in light of its purpose".

[5] *Powell v Dunedin City Council* [2004] NZRMA 49 (HC), at [35], affirmed by the Court of Appeal in *Powell v Dunedin City Council* [2005] NZRMA 174 (CA), at [12].

[6] *Environmental Defence Society v New Zealand King Salmon [*2014] NZSC 38 at [10]-[11].

13.2 second, there are documents which are the responsibility of regional councils, namely regional policy statements and regional plans; and

13.3 third, there are documents which are the responsibility of territorial authorities, specifically district plans.

**Assessment of GRUZ-P2 and GRUZ-P7**

14 A general assessment of the proposal's compliance with the Objectives and Policies of the POSDP is included in the Application. This assessment intends to provide further assessment in relation to the application of Policies GRUZ-P2 and GRUZ-P7.

15 This assessment relies on the assessment contained within the Application of the proposal's compliance with the Canterbury Regional Policy Statement (*CRPS*) and the relevant Objectives of the POSDP that sit above GRUZ-P2 and GRUZ-P7, including the Application's alignment with:

15.1 Objective 5.2.1 of the CRPS that seeks to consolidate well-designed development, particularly around existing urban areas, while maintaining rural activities that sustain the rural landscape and character.

15.2 Policy 5.3.12 of the CRPS which reinforces the need to maintain and enhance resources important to Canterbury's rural economy by avoiding fragmentation of land that would limit its potential for primary production.

15.3 The Strategic Directions which set out the overarching direction of the POSDP (SD-DI-01, SD-D02 and SD-DI-05) and promote an attractive and pleasant place to live, taking into account the anticipated character of individual communities and efficient use of land (including HPL), resources, and infrastructure.

15.4 The single Objective of the GRUZ is GRUZ-01, to support, maintain or enhance the function and form, character, and amenity value of rural areas.

(*Supporting Policies and Objectives*)

***GRUZ-P2***

16 GRUZ-P2 is a density policy within the POSDP rural chapter. The GRUZ-P2 is to:

> *Avoid the development of residential units on sites that are smaller than the required minimum site size, except where:*
>
> (a) *the development has been provided for through a legacy clause; or*
>
> (b) *the minimum residential density requirement is achieved through balance land that adjoins the proposed undersized site in a coherent form to maintain a predominance of open space immediately surrounding the undersized site or*
>
> (c) *the development is for a temporary activity or temporary accommodation.*

(d) *in SCA-RD7 – High Country/ Kā Tiritiri o Te Moana, the development is within a building node, is necessary for the operation and maintenance of a rural production activity, and it can be demonstrated that no balance land is available; and*

(e) *in all cases, the development of the residential unit(s) is outside both the Airport 50dB Noise Control Contour and the Port 45dB Noise Control Overlay.*

17 Read in a vacuum, the policy provides that decision makers avoid development except where it fits into one of the criteria outlined in (a)-(d) and also (e).

18 However, adopting this interpretation of GRUZ-P2 and reading it in isolation does not reconcile with the Supporting Policies and Objectives and would lead to the type of problems identified by the Court in *Powell* as these higher-order Policies and Objectives would be undermined. Namely, the interpretation would be contrary to the Supporting Policies and Objectives and would interpret the word "avoid" outside the proper legislative context for reading GRUZ-P2.

19 GRUZ-P2 looks to prevent residential development, including minor residential units, on sites that do not meet the minimum density requirements except where development is provided through a legacy clause or balance land is utilised to maintain the predominance of open space. The purpose of this Policy is to maintain rural amenity and character in a way that preserves the efficient utilisation of HPL and ensures the continued operation of primary production activities.

20 In terms of the rural character and amenity, there is some evident tension between the Application and the planning provisions given the undersized Site size – however, the rules of the POSDP still enable resource consent to be granted as a non-complying activity for development which does not fit into the strict criteria outlined from (a)-(d) of GRUZ-P2 and as stated above the Application is in keeping with the surrounding pattern of development in the neighbouring environment.

21 Whilst the Application does not meet the criteria of the 'legacy clause' under GRUZ-R4 as mentioned in exemption (a) of GRUZ-P2, we note the underlying Site was laid out in ~1800 and is not considered economically viable for primary production. It seems illogical and inconsistent with the purpose and principles of the RMA and those Supporting Policies and Objectives outlined above to disallow development when the Application aligns with the rural character and amenity values in this specific location (i.e. the purpose of GRUZ-P2).

22 In light of the above, it appears appropriate in circumstances such as the Application to 'read down' or 'soften' the interpretation of 'avoid' in the specific context of interpreting GRUZ-P2 to give effect to the Supporting Policies and Objectives by grafting a further limited exception on the Policy but only in those limited circumstances where there is an existing under sized lot and where a development would align with the Supporting Policies and Objectives and is enabled through an assessment under Rule GRUZ-R5.

23 For completeness, we note that the Site complies with GRUZ-P2(e) and is outside both the Airport 50dB Noise Control Contour and the Port 45dB Noise Control Overlay.

***GRUZ-P7***

24 GRUZ-P7 is a reverse sensitivity policy in the POSDP. GRUZ-P7 intends to:

> *Avoid reverse sensitivity effects on:*
>
> (a) *lawfully authorised or established primary production activities;*
>
> (b) *activities that have a direct relationship with, or are dependent, on primary production; and*
>
> (c) *important infrastructure*.

25 In terms of GRUZ-P7, as summarised within the Application, the impact on existing established primary production activity in the surrounding environment is considered less than minor. Communication with the Selwyn District Council Duty Planner confirms that the Council are not aware of any intensive outdoor primary production in the vicinity of the Applicant's Site. The Agribusiness consultants who are based at Lincoln University have also confirmed they are unaware of any intensive outdoor primary production in the area of the Applicant's site.

26 The Application aligns with the high level of development that currently exists in the surrounding environment, with parcels with dwellings varying between 1.59 ha and 10 ha in the immediate vicinity of the Site, with a number of other Sites in the vicinity between 10 and 20 ha, also undersized for the zone. Although primary production is lawfully authorised as a permitted activity within the GRUZ, the existing agricultural landscape in the area has been characterised by small-scale farming and rural-lifestyle properties, which typically operate at lower intensities.

27 The overall reverse sensitivity effects of the Application are expected to be less than minor, ensuring compatibility between future residents and existing farming activities and is compliant with Policy GRUZ-P7.

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Partner / Senior Solicitor