



Section 200 Land Transfer Act 1952

Application for certificate of title on ground of possession at law

Otago Land Registration District

DECLARATION

We Donald Neil McKinnon and Ann McKinnon of c/- Lucas & Lucas Limited, Solicitors, Level 4, 8, The Octagon, P O Box 5735, Dunedin, the Applicants named below, solemnly and sincerely declare as follows that:

- 1) We claim entitlement to be seised of an estate of freehold in all that piece of land being all that part of the land in Identifier OT 292/59 containing 0.01012 hectares, (the subject of this application, or "the Subject Land") being all that part of the land putatively in the said Certificate of Title which is not part of the Residue Parcel shown in the attached plan marked "A".
- 2) The plan attached and marked "A" comprises in all:
CSD Plan LT 463825
Title Plan, Lot 1 being parts sections 16 & 17 Block XX Town of Dunedin.
- 3) The Subject Land is contiguous on its south western boundary with the land in OT 282/58 (comprising part of 45 Cargill Street).
- 4) The property known as 45 Cargill Street and which is occupied by us (and our tenants) and has been so occupied continuously by our predecessors in title is comprised in the said Certificate of Title OT 282/58 and in the Subject Land.
- 5) The part of 45 Cargill Street which is already in our names is the whole of the land in Certificate of Title OT 282/58.
- 6) It is our submission that possession of the Subject Land has been continuous at least since 1916, and, in any event, prior to 1937 when the Subject Land was provisionally brought under the Land Transfer Act, and that we are entitled to the issue of a single

fresh Certificate of Title incorporating all the land in Certificate of Title OT 258/58 and the Subject Land.

7) As evidence of such continuous possession we submit the following:

a) **1916 Dwelling**

In 1916 a dwelling was erected on part of the land at 45 Cargill Street but not wholly on the land in Certificate of Title OT 282/58. The dwelling, ("the 1916 Dwelling") which remains the principal building on the land at 45 Cargill Street, was erected across and over part of the Subject Land as set out in the plan attached hereto marked "A".

b) **1916 Concrete Rear Wall**

The boundary between the Subject Land and land in Certificate of Title OT 282/59 (43 Cargill Street) is delineated at the rear of the property by a concrete wall which dates from the time of the erection of the 1916 Dwelling. The basis for this assertion is that the wall is composed of the same concrete as the 1916 Dwelling's foundations, and it is therefore submitted that they are of the same vintage.

c) **Rear Wall concrete matches 1916 Dwelling alignment**

The boundary between the Subject Land and land in Certificate of Title OT 282/59 (43 Cargill Street) so marked at the rear of the property by a concrete wall continues in a straight line by an existing fence to the point to the north east of the 1916 Dwelling, and, parallel to the north east wall of the 1916 Dwelling to the front (east corner of the Dwelling as shown and at a distance from that wall as shown on the said attached plan marked "A".

d) **Agreed boundary between house and garage**

From a point close to the east corner of the 1916 Dwelling, the boundary between the subject land and land in Certificate of Title OT 282/59 (43 Cargill Street) is marked by a more recent fence.

Separately filed is a declaration of Ian Michael St George, a medical practitioner, one of our predecessors in title at 45 Cargill Street between the years 1974 and 1991.

This evidences the demolition of the old fence and the erection of the current fence along the true boundary of the Subject Land and 43 Cargill Street.

e) The evidence of Ian Michael St George corroborates the position of the boundaries and the ownership of the Subject Land already evidenced by the position of the old concrete and the 1916 Dwelling. This is consistent with the understanding of the respective owners in the 1970s.

f) **Corroboration of established boundary in 1954**

The evidence of Ian Michael St George from the 1970s that the true boundaries of 43 Cargill Street do not accord with the Limited Certificate of Title OT 282/59 is

corroborated (albeit not in detail) by certain records of the Dunedin City Council dating from 1954 and 1956.

Annexed hereto and marked respectively with copies letter "B", and DCC memoranda "C", and "D", are

i) "B" details the 1954 conditions of subdivision consent of section 17 Block XX Town of Dunedin (43 Cargill Street Limited Certificate of Title OT 282/59)

The later documentation below shows that the consent to subdivide could not be actioned because true land area of 43 Cargill Street was reduced by the adverse possession.

ii) "C" A memorandum from N & ES Paterson, surveyors to the DCC in 1956:

- (1) Re-applying for subdivision of 43 Cargill Street and
- (2) Recording that the 1954 proposal did not proceed because of adverse occupation which reduced the effective area of 43 Cargill Street from 40 poles to 37.3 poles.
- (3) Attaching a sketch plan of the proposed subdivision.

The application identified difference in area as 2.73 poles (minimised further as 2.7 poles in the text), which is 69 square metres, as against the 80 square metres measured from the actual occupation in 2014. It is submitted that this difference is accounted for by the probability that the surveyor would have calculated areas based on a topographic survey rather than a full land transfer survey at this stage of the application.

The plan attached to the application also reveals that the boundary changed as it approached the street, in the area where the garages had been erected and which dog leg is depicted on the second sheet of the exhibit "C" and in 7 (h) below. We submit that this is what would have been known today as a very basic scheme plan, not even showing where the existing garages were.

It is submitted also that the "south-eastern boundary" refers to the common boundary between 43 and 45 Cargill Street.

iii) "D" A 1956 Council memorandum recounting the history of the subdivision applications and recommending that the further revived application be declined because the dimensions of the property were insufficient for subdivision.

g) Occupation of 43 Cargill Street and availability of contrary evidence in 1954

- i) It is known that 43 Cargill Street was registered from 1937 to Joan Adam Walker. Online Birth Death and Marriage, and Dunedin Cemetery records confirm that this person died in 1948, aged 80. She is recorded on the electoral roll of Dunedin West as a spinster living at 43 Cargill Street in 1938.
- ii) A more consistent record of occupation is that of Lillian Alexina Walker, or Lillian Alexina Walker, niece of the registered proprietor. Lillian Alexina Walker is shown as living at 43 Cargill Street on selectively checked electoral rolls of Dunedin West in 1935 and 1938, and Dunedin Central in 1946 and 1949.
- iii) Lillian Alexina Walker, inherited a half share of 43 Cargill Street from her Aunt Joan in 1948, and appears therefore to have lived there until the sale of the property in 1953 when she was then aged 49, having been born in 1904.
- iv) At the time of the sale of 43 Cargill Street by the Walkers a property was purchased at 334 Castle Street, (now 22 Ethel Benjamin Place), in the same names as 43 Cargill Street had been held, and Lillian Alexina Walker is recorded as consistently residing there until her death in 1979.
- v) The new owner of 43 Cargill Street by the transfer registered on 1 April 1953 was Reginald Francis Barnes and Addie Muir Barnes. They were registered proprietors until 3 November 1954 and would have been the applicants in the first (1954) application to subdivide. The application having been declined, they appear to have sold the property.
- vi) Had the adverse occupation been recent, that is, since 1937, Mr and Mrs Barnes or their solicitor or surveyor had only to prove this to be entitled to the issue of a title for which would have enabled their subdivision to proceed.
- vii) The registered proprietor from 3 November 1954 to 4 March 1957 was one John Jacquier of Dunedin storekeeper. His application to subdivide was likewise declined.
- viii) Had the adverse occupation been recent the evidence of Lillian Alexina Walker, recent owner and occupier since at least 1935 should have been available to allow such a subdivision. Lillian Alexina Walker, a Spinster was still alive and available to argue for the entitlement of their successors in title had Mr and Mrs Barnes or Mr Jacquier or their respective solicitors or surveyors sought such assistance.
- ix) The fact that the subdivision application was refused, and the grounds of refusal calmly accepted, is only consistent with there being no possibility of proving title to the whole 40 poles or a greater proportion of that area.
- x) This information concerning the Walker family has been sourced from online electoral rolls confirming directories and LINZ records for 334 Castle Street and from the Births, Deaths & Marriages website and the online records for Dunedin cemeteries.
- h) From the south eastern end of the paling fence (the subject of the declaration of Ian Michael St George separately filed, the boundary diverts in a south westerly

direction until it meets the face of a 90 yr old concrete wall then follows the face of this wall in a south easterly direction until it intersects the road boundary. This dog-leg alignment is in agreement with a position mid-way between the respective garages which were both built before both titles issued in 1937.

- 8) We further declare that we are not aware of any mortgage, encumbrance, or claim affecting the said land, or that any person has any claim or interest in the said land, at law or in equity, in possession or in expectancy, other than is set forth and is stated as follows – that is to say:

The ANZ National Bank is Mortgagee of the land in OT282/58 under mortgage 8891043.3 with intention that it is also mortgagee of the land the subject of this application.

- 9) And we further declare that there is no person in possession or occupation of the said land (that is; the said land the subject of this application) adversely to our estate or interest therein. And that the said land is now in our occupation; and that the owners and occupiers of the contiguous land are as set out on the attached list marked "F".
- 10) And we further declare that there are no deeds or instruments of title in our possession or under our control other than those attached hereto or enumerated in the schedule hereto or at the foot hereof. And we severally make this solemn declaration conscientiously believing the same to be true.
- 11) **Annexed hereto marked "E" are the names and addressed of the registered proprietors of all the land contiguous to the Subject Land and 43 and 45 Cargill Street.**

And we make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared by the abovenamed

Ann McKinnon this 5th

day of March 2014

before me:

ANN MARIA BUCKLEY
SOLICITOR
CHRISTCHURCH


A Solicitor of the High Court of New Zealand

Declared by the abovenamed

Donald Neill McKinnon this 5th

day of March 2014

before me:

ANN MARIA BUCKLEY
SOLICITOR
CHRISTCHURCH


A Solicitor of the High Court of New Zealand

Section 200 Land Transfer Act 1952

**Application for certificate of title on ground of possession at law
Otago Land Registration District**

APPLICATION

We Donald Neil McKinnon and Ann McKinnon, the above declarants, do hereby apply to have the piece of land described in the above declaration (the Subject Land) brought under the provisions of the Land Transfer Act 1952 and for the issue of a single new title on our name for the Subject land and the Land already in Certificate of Title OT 282/58 upon the grounds set out in our declaration and the declaration of Ian Michael St George filed herein.

Dated at *Christchurch* this *5th* day of *March* 2014

Signed by the abovenamed
Ann McKinnon in the presence of:

Ann McKinnon

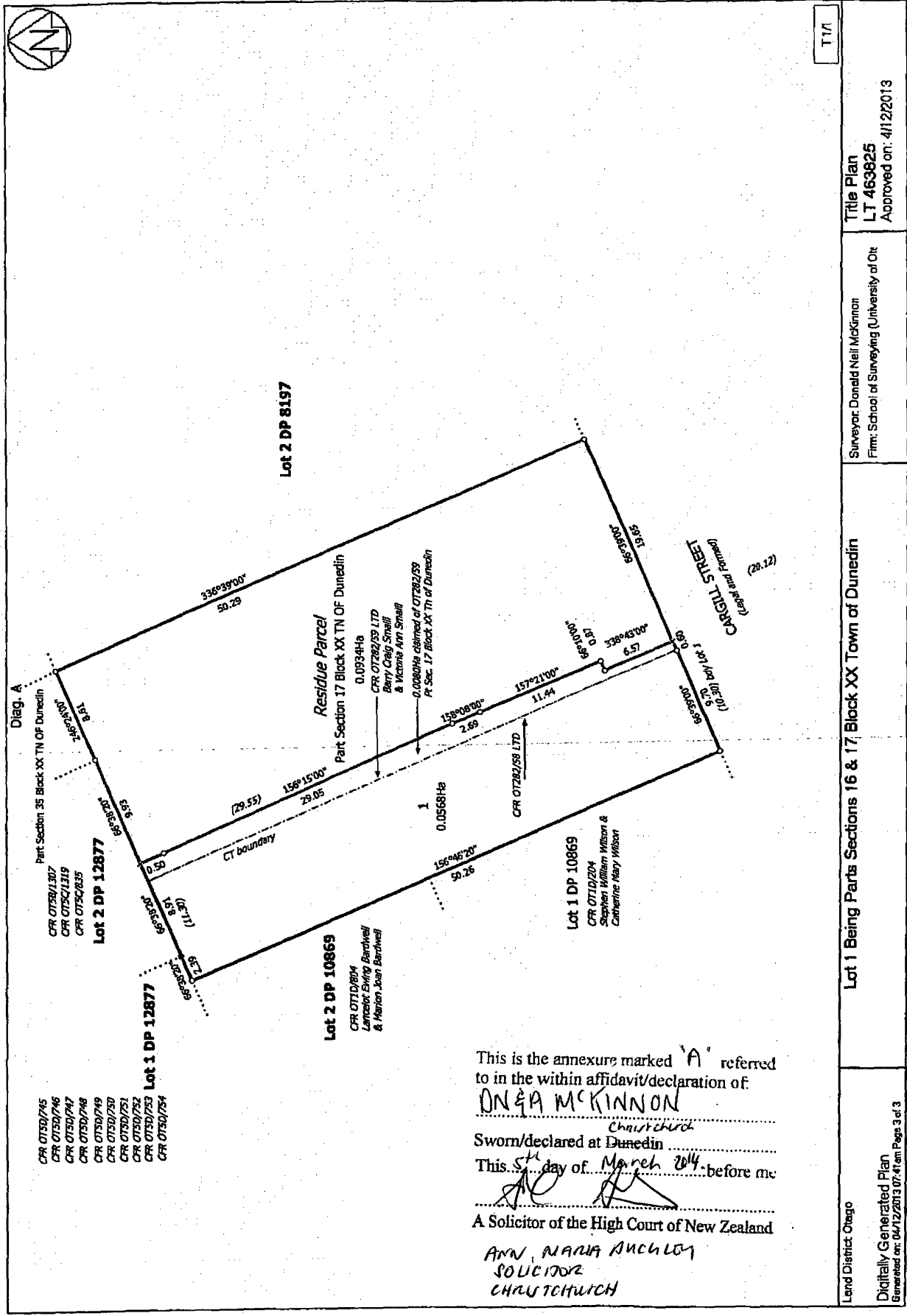
Witness *AM* *AM*
Ann Maria Buckley
Solicitor
Christchurch

Signed by the abovenamed
Donald Neil McKinnon in the presence of:

Donald Neil McKinnon

Witness *AM* *AM*
Ann Maria Buckley
Solicitor
Christchurch

'A'



T1/A

Title Plan
LT 463825
Approved on: 4/12/2013

Surveyor: Donald Neil McKinnon
Firm: School of Surveying (University of Otago)

Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin

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CR 0150/745
CR 0150/746
CR 0150/747
CR 0150/748
CR 0150/749
CR 0150/750
CR 0150/751
CR 0150/752
CR 0150/753
CR 0150/754

Diag. A

This is the annexure marked 'A' referred to in the within affidavit/declaration of:

DN & A MCKINNON

Chairperson

Sworn/declared at Dunedin

This 5th day of March 2014 before me

(Signature)

A Solicitor of the High Court of New Zealand

ANN, MARIA RUCKLOV
SOLICITOR
CHAU TCHUICH

DP 463825

Lot 1 Being Pt's Sections 16 and 17 Block XX Town of Dunedin

Schedule of Existing Easements			
Purpose	Document Number	Servient Tenement	Dominant Tenement
Right to drain sewage and water	T.345119	Lot 1 DP 463825	Lots 1 & 2 DP 12877



CSD Plan - LT 463825

Survey Number LT 463825
Surveyor Reference 45 Cargill St
Surveyor Donald Neil McKinnon
Survey Firm School of Surveying (University of Otago)
Surveyor Declaration I Donald Neil McKinnon, being a licensed cadastral surveyor, certify that:
 (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and
 (b) the survey was undertaken by me or under my personal direction.
 Declared on 03 Dec 2013 01:20 PM

Survey Details

Dataset Description Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin
Purpose Limited Title
Status Approved as to Survey **Type** Survey
Land District Otago **Survey Class** Class A
Coordinate System North Taieri 2000

Survey Dates

Surveyed Date 09/04/2013 **Certified Date** 03/12/2013
Submitted Date 03/12/2013 13:20:44 **Survey Approval Date** 04/12/2013
Deposit Date

Referenced Surveys

Survey Number	Land District	Bearing Correction
DP 10869	Otago	-0°00'42"
DP 12877	Otago	-0°01'20"
DP 8197	Otago	-0°00'42"
SO 17121	Otago	-0°01'20"

Territorial Authorities

Dunedin City

Comprised In

CT OT282/58 Ltd
CT OT282/59 Ltd

Created Parcels

Parcels	Parcel Intent	Area	CT Reference
Lot 1 Deposited Plan 463825	Fee Simple Title	0.0568 Ha	614679
Part Section 17 Block XX Town of Dunedin	Residue Parcel	0.0934 Ha	
Total Area		0.1502 Ha	

Mark and Vector

Survey Number DP 463825
Coordinate System North Taieri 2000

From	To	Code	Bearing	Adpt Surv	Distance	Adpt Surv
Survey School Otago University	SM 6 SO 22910	ob0	297°51'14"	M	589.00	M
Survey School Otago University	IT 20 SO 22910	ob1	229°11'32"	M	1,066.66	M
Survey School Otago University	IT 3 DP 463825	ob2	264°48'35"	M	681.36	M
Survey School Otago University	3C ST 11	ob3	259°47'09"	M	736.28	M
Survey School Otago University	SS 1(SL ST11 Dist) DP 463825	ob4	267°17'10"	M	766.08	M
Survey School Otago University	2C ST 11	ob5	263°52'18"	M	565.15	M
Survey School Otago University	II SO17121	ob6	273°13'32"	M	603.60	M
3C ST 11	IT I DP 10869	ob14	66°39'00"	M	67.90	A DP 10869
IT I DP 10869	IS II DP 8197	ob21	66°39'00"	M	29.81	C
IS II DP 8197	2C ST 11	ob23	66°39'00"	M	79.49	A DP 8197
2C ST 11	II SO17121	ob18	336°38'40"	M	102.71	M
II SO17121	4L ST 11	ob20	246°38'00"	M	25.85	M
4L ST 11	IS III DP 12877	ob25	246°38'00"	M	63.48	M
IS III DP 12877	IS I DP 12877	ob26	246°38'00"	M	37.11	M
IS I DP 12877	SS 1(SL ST11 Dist) DP 463825	ob28	246°38'00"	M	50.66	M
SS 1(SL ST11 Dist) DP 463825	SS 2(2H ST11 Dist) DP 463825	ob17	156°37'30"	M	39.62	M
SS 2(2H ST11 Dist) DP 463825	3C ST 11	ob29	156°44'30"	M	63.04	M
IS III DP 12877	IS IV DP 12877	ob27	160°06'10"	A DP 12877	50.23	A DP 12877
IS IV DP 12877	IS V DP 12877	ob31	246°38'20"	A DP 12877	14.58	A DP 12877
IS V DP 12877	IS VI DP 12877	ob33	260°53'40"	A DP 12877	16.48	A DP 12877
IS VI DP 12877	IS I DP 12877	ob34	332°15'00"	A DP 12877	46.22	A DP 12877
IT I DP 10869	IS IV DP 10869	ob22	319°34'20"	A DP 10869	26.99	A DP 10869
IS II DP 8197	PEG IX DP 8197	ob24	336°39'00"	A DP 8197	0.91	A DP 8197
IS IV DP 10869	PEG IVb DP 10869	ob35	353°55'20"	A DP 10869	26.59	A DP 10869
PEG IVb DP 10869	DISK B DP 463825	ob37	156°46'20"	A DP 10869	0.03	C
DISK B DP 463825	DISK A DP 463825	ob39	156°46'20"	A DP 10869	50.26	C
DISK A DP 463825	IT I DP 10869	ob40	147°50'20"	A DP 10869	0.92	A DP 10869
DISK A DP 463825	DISK H DP 463825	ob41	66°39'00"	A DP 10869	9.70	C
DISK H DP 463825	UNMK Hi DP 463825	ob42	66°39'00"	A DP 10869	0.60	C
UNMK Hi DP 463825	PEG IX DP 8197	ob45	66°39'00"	A DP 10869	19.65	C



Mark and Vector

Survey Number DP 463825
Coordinate System North Taieri 2000

From	To	Code	Bearing	Adpt Surv	Distance	Adpt Surv
IS V DP 12877	PEG X DP 12877	ob32	156°38'00"	A DP 12877	1.38	A DP 12877
IS IV DP 12877	PEG IX DP 12877	ob30	84°39'40"	A DP 12877	4.48	A DP 12877
DISK B DP 463825	PEG X DP 12877	ob38	66°38'20"	A DP 12877	2.39	C
UNMK Ci DP 463825	PEG IX DP 12877	ob46	66°38'20"	A DP 12877	9.93	C
UNMK Hi DP 463825	PEG I DP 463825	ob44	338°43'00"	C	6.57	C
3C ST 11	NAIL 8 DP 463825	ob15	79°57'40"	M	73.32	M
NAIL 8 DP 463825	NAIL I DP 373185	ob54	79°57'40"	M	6.51	M
NAIL I DP 373185	IS 1 DP 463825	ob55	328°18'30"	M	32.03	M
IS 1 DP 463825	NAIL 2 DP 463825	ob59	316°06'00"	M	13.72	M
NAIL 2 DP 463825	IT 3 DP 463825	ob60	340°49'00"	M	18.92	M
IT 3 DP 463825	IS 4 DP 463825	ob11	73°52'30"	M	12.64	M
IS 4 DP 463825	IS 5 DP 463825	ob61	153°23'30"	M	30.83	M
IS 5 DP 463825	IS 6 DP 463825	ob62	124°51'30"	M	36.70	M
IS 6 DP 463825	NAIL I DP 373185	ob63	247°00'00"	M	25.54	M
2C ST 11	IS 6 DP 463825	ob19	232°35'00"	M	76.26	M
NAIL I DP 373185	IT 7 DP 463825	ob56	308°43'00"	M	20.73	M
IT 7 DP 463825	IT I DP 10869	ob64	290°08'00"	C	0.10	C
IT 3 DP 463825	PEG X DP 12877	ob7	342°51'00"	M	6.15	M
PEG IX DP 8197	PEG XIV DP 8197	ob36	336°39'00"	A DP 8197	50.29	A DP 8197
PEG XIV DP 8197	PEG IX DP 12877	ob65	246°24'00"	C	8.61	C
UNMK Ci DP 463825	PEG C DP 463825	ob47	156°15'00"	C	0.50	C
PEG C DP 463825	DISK E DP 463825	ob66	156°15'00"	C	29.05	C
DISK E DP 463825	DISK F DP 463825	ob67	158°08'00"	C	2.69	C
DISK F DP 463825	PEG G DP 463825	ob68	157°21'00"	C	11.44	C
NAIL 8 DP 463825	DISK A DP 463825	ob49	325°14'00"	M	18.15	M
NAIL 8 DP 463825	DISK H DP 463825	ob50	355°36'00"	M	18.81	M
NAIL 8 DP 463825	PEG I DP 463825	ob51	352°34'00"	M	25.33	M
NAIL 8 DP 463825	PEG G DP 463825	ob52	354°26'30"	M	25.59	M
IS 1 DP 463825	DISK F DP 463825	ob57	24°50'00"	M	8.42	M
IS 1 DP 463825	DISK E DP 463825	ob58	14°02'00"	M	10.45	M
IT 3 DP 463825	DISK B DP 463825	ob8	320°57'00"	M	6.37	M
IT 3 DP 463825	PEG C DP 463825	ob9	36°12'00"	M	11.11	M
IT 3 DP 463825	UNMK Ci DP 463825	ob10	34°02'00"	C	11.37	C
NAIL 8 DP 463825	UNMK Hi DP 463825	ob53	357°26'00"	C	19.03	C
PEG X DP 12877	UNMK Ci DP 463825	ob43	66°38'20"	A DP 12877	8.91	C
PEG I DP 463825	PEG G DP 463825	ob48	66°10'00"	C	0.87	C

Mark Name	Description
IT 7 DP 463825	OIT I DP 10869 disturbed

Mark and Vector

Survey Number DP 463825
Coordinate System North Taieri 2000

Mark Name	Description
Survey School Otago U	Threaded stainless steel pin in concrete pillar on roof of Survey School. Occupied by continuous GPS

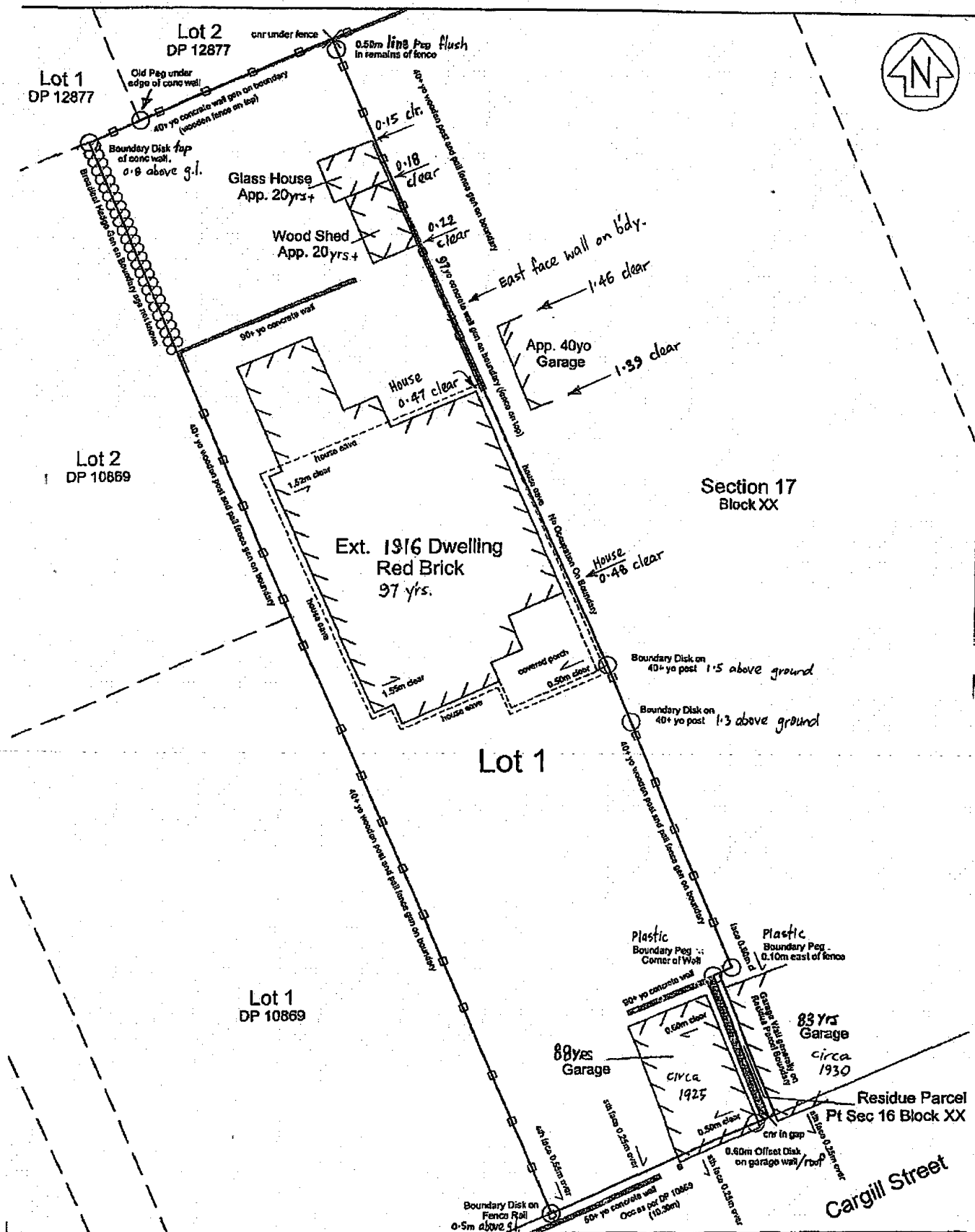
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Schedule / Memorandum

DP 463825

Lot 1 Being Pt's Sections 16 and 17 Block XX Town of Dunedin

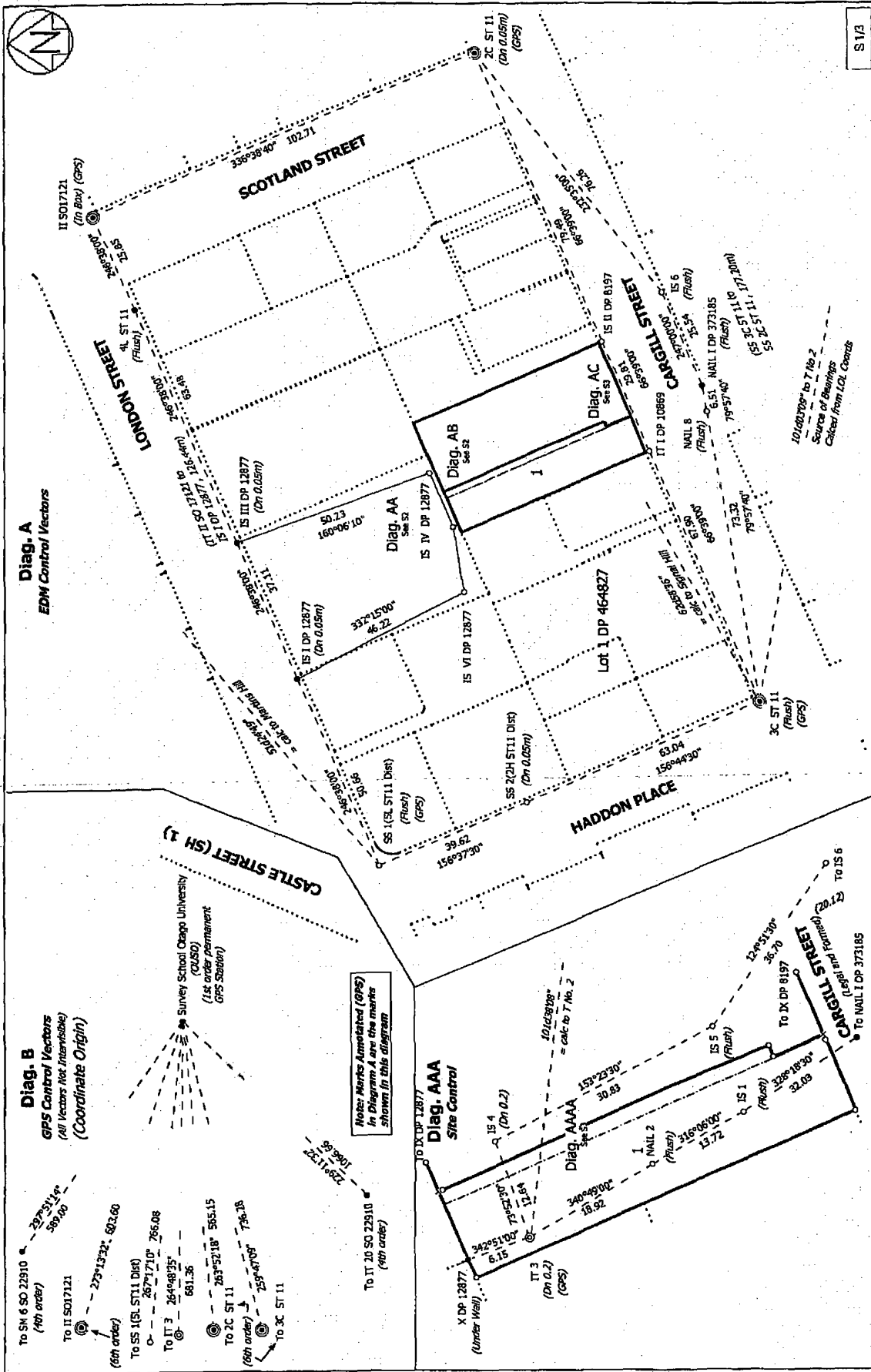
Schedule of Existing Easements			
Purpose	Document Number	Servient Tenement	Dominant Tenement
Right to drain sewage and water	T.345119	Lot 1 DP 463825	Lots 1 & 2 DP 12877



45 CARGILL ST.
DUNEDIN

Occupation Diagram
DP 463825

Purpose	Version	Date	Drawn by	Job No.
Orig. Scale			Orig. Paper Size	
1:150			A3	
Sheet Number:				1 of 1



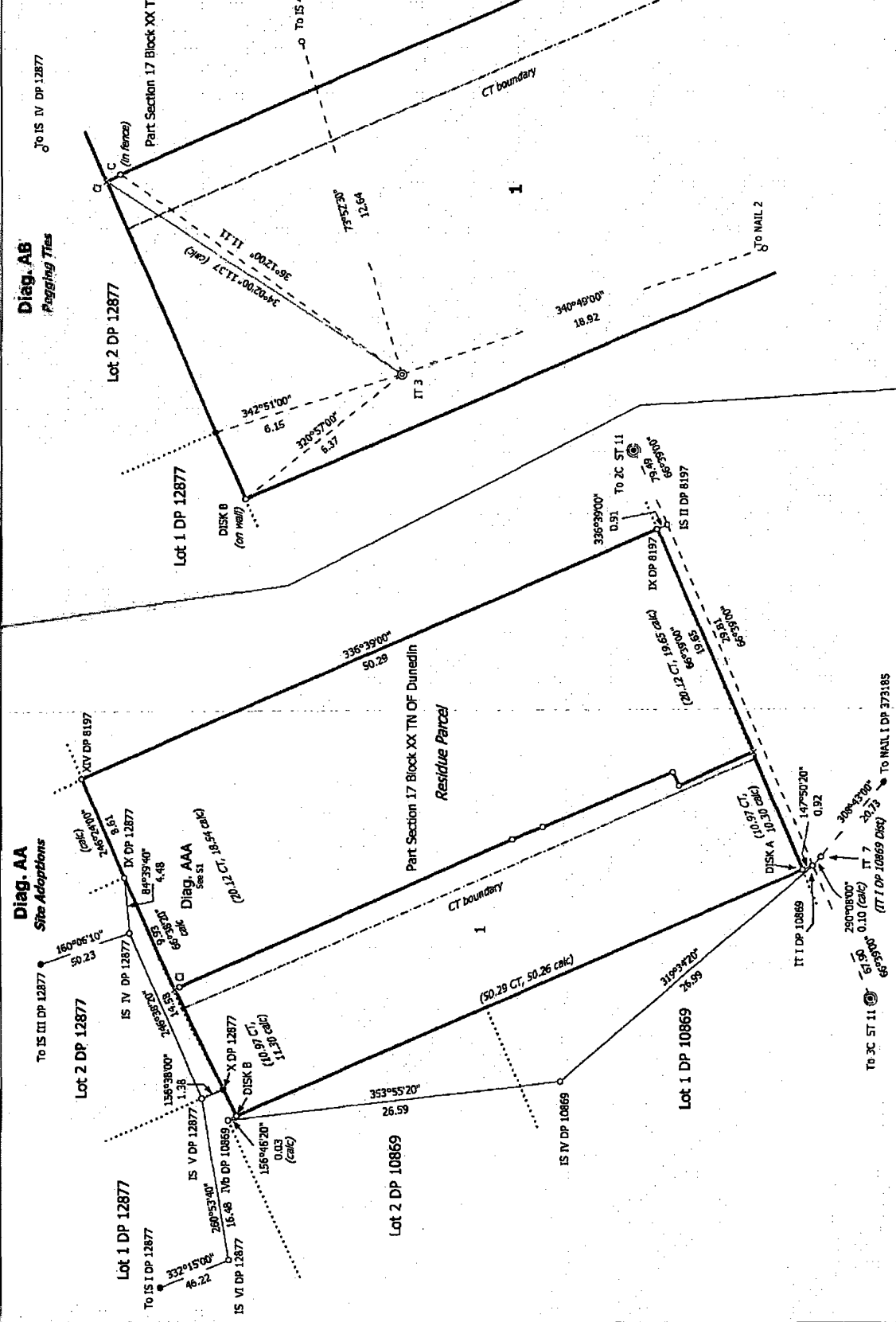
S 1/3

CSD Plan
 LT 463825
 Approved on: 4/12/2013

Surveyor: Donald Neil McKinnon
 Firm: School of Surveying (University of Otago)
 Survey Date: 9/04/2013

Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin

Land District: Otago
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S23

CSD Plan
LT 463825
 Approved on: 4/12/2013

Surveyor: Donald Neil McKinnon
 Firm: School of Surveying (University of Otago)
 Survey Date: 9/04/2013

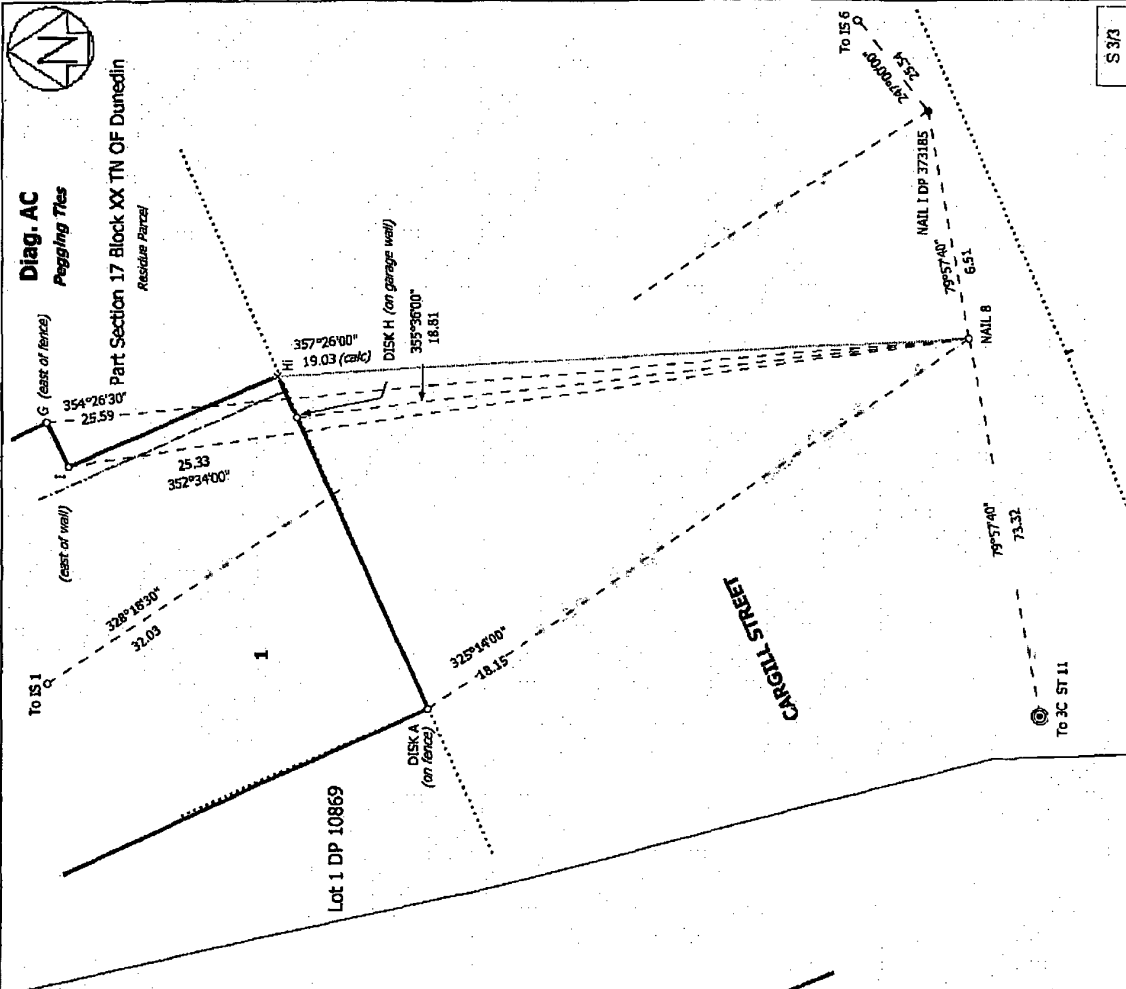
Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin

Land District Otago
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Diag. AC
Pegging Ties

Part Section 17 Block XX TN OF Dunedin
Residual Parcel



Lot 1 DP 10869

CARGILL STREET

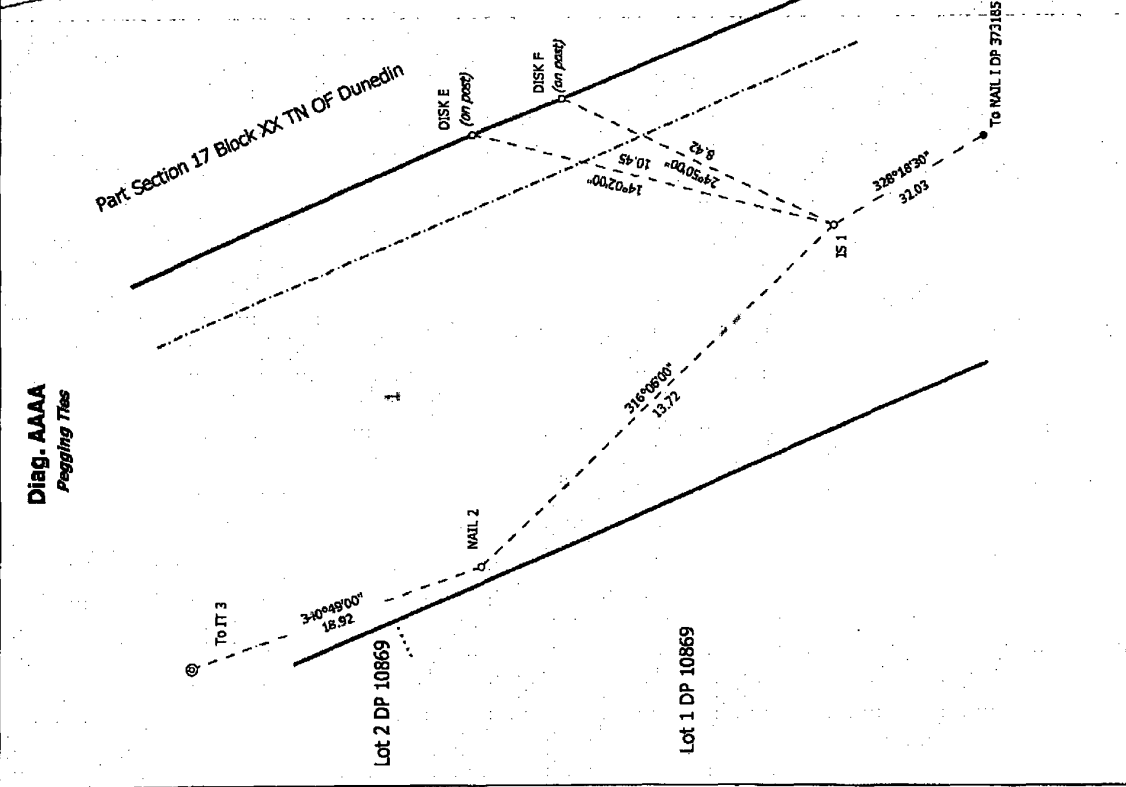
S 373

CSD Plan
LT 463825
Approved on: 4/12/2013

Surveyor: Donald Neil McKinnon
Firm: School of Surveying (University of Otago)
Survey Date: 9/04/2013

Diag. AAAA
Pegging Ties

Part Section 17 Block XX TN OF Dunedin

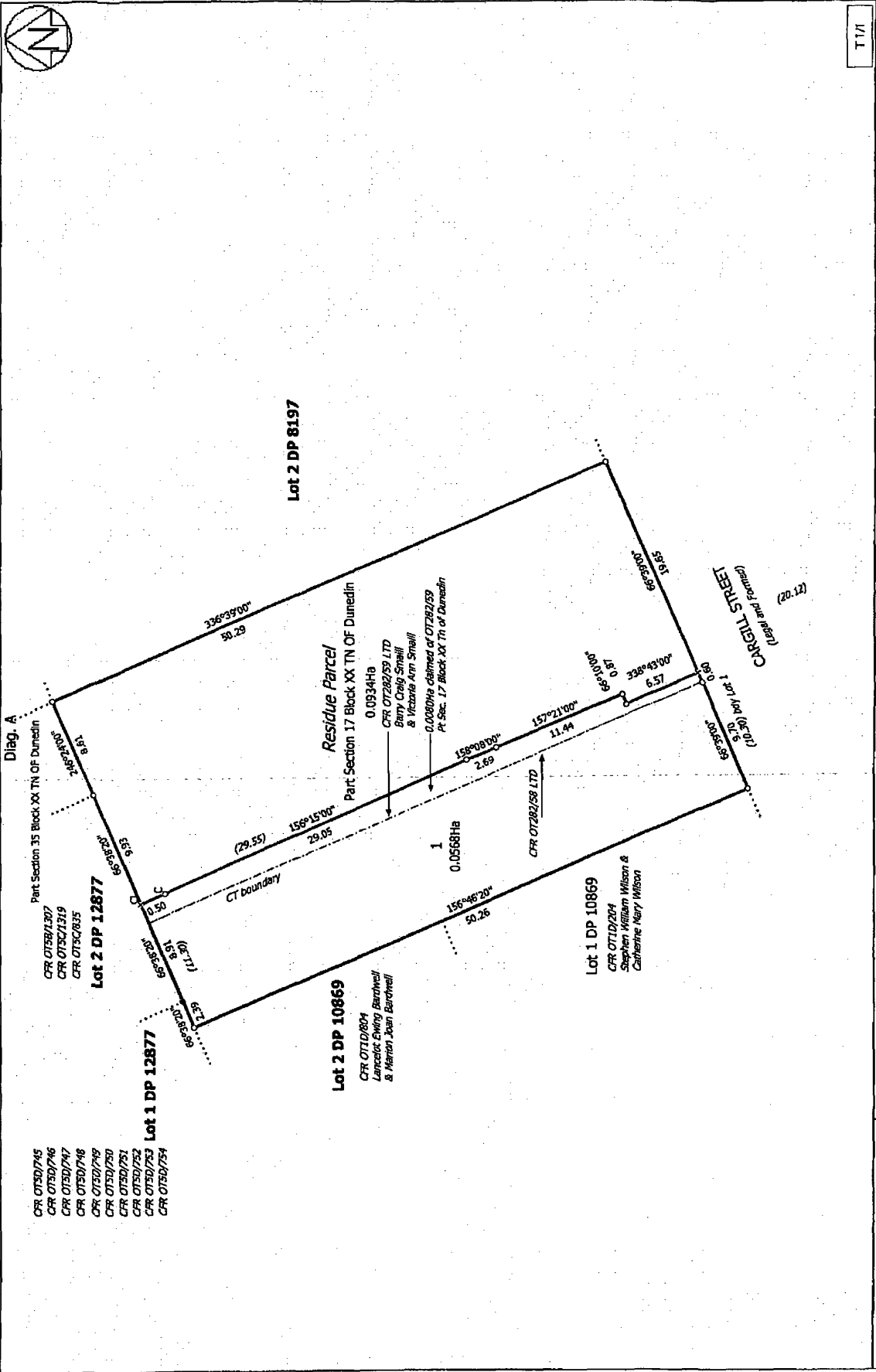


Lot 2 DP 10869

Lot 1 DP 10869

Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin

Land District: Otago
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T1/1

<p>Land District: Otago Digitally Generated Plan Generated on: 04/12/2013 07:41am Page 10 of 10</p>	<p>Lot 1 Being Parts Sections 16 & 17 Block XX Town of Dunedin</p>	<p>CSD Plan LT 463825 Approved on: 4/12/2013</p> <p>Surveyor: Donald Neil McKinnon Firm: School of Surveying University of Otago Survey Date: 9/04/2013</p>
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B

2nd March, 54

c/20/1

SUBDIVISION OF CARGILL STREET

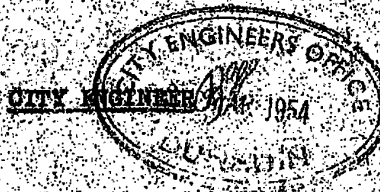
AWR/DAP

Messrs N. & T. S. Paterson apply for consent to a proposed subdivision of Section 17 Block XX, Town of Dunedin, situated in Cargill Street.

The scheme provides for a front lot of 19.5 poles with a 51ft frontage, and a rear lot of 20.7 poles with a frontage of 15ft. The rear lot has a building area of 15 poles.

The scheme complies with the Council's requirements, and is recommended for approval subject to the following conditions:-

- (1) The entrance to lot 2 is to be not less than 15ft wide.
- (2) The area of lot 2 exclusive of the entrance strip is to be not less than 15 poles.
- (3) Payment will be required of a reserves contribution amounting to 5% of the value of lot 2.



This is the annexure marked 'B' referred to in the within affidavit/declaration of:

DNEA MCKINNON

Christchurch

Sworn/declared at Dunedin

This *5th* day of *March* 20*th* before me

AMC *AK*

A Solicitor of the High Court of New Zealand

Ann Maria Buckley
Solicitor
Christchurch

N. & E. S. PATERSON LTD.

25th July, 1956,
Wks. 5/7/6414,
File. 0/23/2,
CARGILL STREET.

TOWN CLERK:

re Subdivision - 43 Cargill Street.

Further to our letter dated 24th February, 1954, and in acknowledgement of your letter of 17th March, 1954, we have to advise that on further investigation in the matter of this subdivision, it was discovered that because of adverse occupation on the south-eastern boundary, the title area has been reduced from 40 poles to 37.3 poles.

The owners at that time were not prepared to proceed with the subdivision, because in order to get 15 poles in Lot 2, exclusive of the entrance strip, the rear boundary of Lot 1 coincided with the rear wall of the house.

The present owner has now instructed us to proceed with the subdivision, and it is suggested that the right-of-way shown coloured yellow will provide a restricted area, and allow the owner of the wooden house the free use of the back door.

As the time limit of two years has elapsed since the previous application was approved, we enclose a further 21 and would be glad if your Council would give our consideration to this proposal.

N. & E. S. PATERSON LTD.

C.E. - for report - 26/7/56.

54/216/9,

S. & S. - for report - 27/7/56.

This is the signature marked C referred to in the within affidavit declaration of

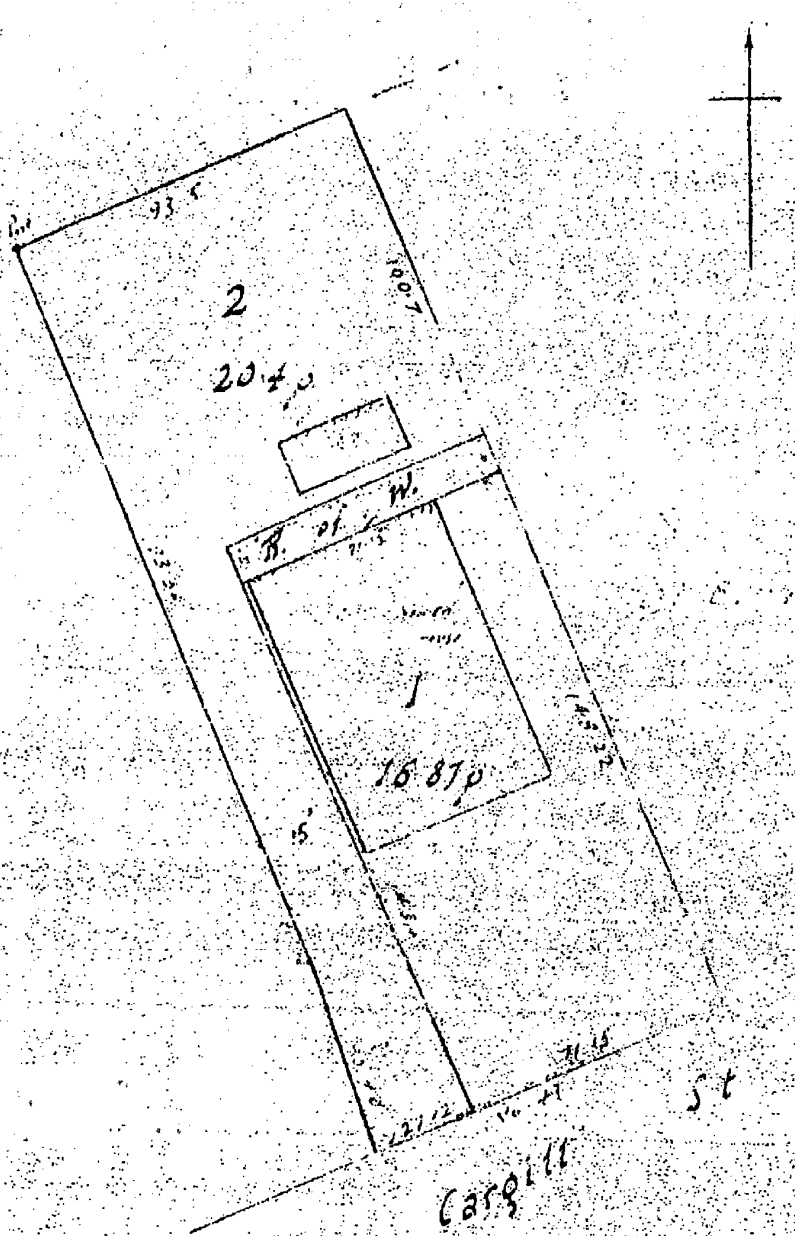
ONE A. MCKINNON

Sworn/Declared at Christchurch

This 20th day of March 1956 before me

A Solicitor of the High Court of New Zealand

Ann Marie Buchan
Solicitor
Christchurch



Proposed Subdiv. Sec 17 Block XX
 Town of Dunedin
 CT 282/59 Ltd
 Scale: 40 links to an inch

30th July,

56

0/23/2

Wks. 8/7. 6414.

SUBDIVISION - CARGILL STREET.

AWB/DAP

In March 1954 tentative approval was given to a proposed subdivision of section 17 Block XX Town of Dunedin, fronting Cargill Street. The land was shown on the scheme to have an area of 1 rood, and the proposed subdivision was in compliance with by-law requirements. When the survey was put in hand it was found that the owner had lost possession of some of the land, and the area to which he could claim title was reduced to 57.3 poles. The other considered a subdivision was consequently impracticable, and he abandoned the scheme.

The property has now been taken over by a new owner, who wishes to proceed on the basis of the scheme now submitted. To overcome the difficulty of losing access to the rear of the house on lot 1 it is proposed to create a right-of-way over part of lot 2.

The proposal does not comply with requirements, as the useful area of lot 2, excluding the right-of-way, is only 13.9 poles. The minimum area of 15 poles fixed for this locality cannot include any land that is not exclusively for the benefit of the owner.

The application should be declined.

CITY ENGINEER:
PUBLIC WORKS SUB-COMMITTEE - 31.7.56.

Subdivision - Cargill Street.

The application of N. & E.S. Paterson for consent to the proposed subdivision of section 17, Block XX, Township of Dunedin has been declined. 27/22/74.

CITY ENGINEER.

This is the annex marked D referred to in the within affidavit/declaration of

DN & A MCKINNON

Sworn/declared at ^{Christchurch} Dunedin

This 24 day of May 2014 before me

A Solicitor of the High Court of New Zealand

Ann Maria Buckley
Solicitor
Christchurch

Sheets

CFR Reference	Proprietors	Street Address	Postal Address for Correspondence
OT1D/204	Stephen William Wilson and Catherine Mary Wilson	49 Cargill Street Dunedin	49 Cargill Street Dunedin 9016
OT1D/804	Lancelot Ewing Bardwell and Marion Joan Bardwell	51 Cargill Street Dunedin	51 Cargill Street Dunedin 9016
OT5D/745	Colleen Ethel Curran-Stichbury and James William Stichbury	80A London Street	Curran-Stichbury Family Trust 80A London Street Dunedin 9016
OT5D/746	Carolyn Waugh Burns	80B London Street Dunedin	10 Haddon Place Dunedin 9016
OT5D/747	Robert William McDonald	80C London Street Dunedin	62 Blackwood Street Yarraville VIC 3012 AUSTRALIA
OT5D/748	Nola Agnes Wyber	80D London Street Dunedin	80D London Street Dunedin 9016
OT5D/749	Dorothy Eve Oorschot	80E London Street Dunedin	80E London Street Dunedin 9016
OT5D/750	Mary Patricia Thompson	80F London Street Dunedin	197 Balmacewen Road Dunedin 9010
OT5D/751	Margaret Catherine MacCormick	80G London Street Dunedin	241 Highcliff Road Dunedin 9013
OT5D/752	Mansukh Keshawji Lalji	80H London Street Dunedin	2/105 Railway Terrace Schofields NSW 2762 AUSTRALIA
OT5D/753	Lucy Anne Jones	80J London Street Dunedin	80J London Street Dunedin 9016
OT5D/754	David Gareth Jones and Beryl Jones	80K London Street Dunedin	Lawrenny Trust 37 Garden Place Dunedin 9010
OT5B/1307	Mary Winifred Johnson and Farry and Co Trustees Limited	78C London Street Dunedin	R M and M W Johnson Family Trust 78C London Street Dunedin 9016
OT5C/1319	Maria Veronica Van der Vliet, Maria Wilhelmina Sleeman and Heritage Trustee Company Limited	78B London Street Dunedin	Van Der Vliet Family Home Trust 78B London Street Dunedin 9016
OT5C/835	King Kwan Wong and Albert Alloo & Sons Trustee Company Limited	78A London Street Dunedin	78A London Street Dunedin 9016
OT282/59LTD	Barry Craig Smaill and Victoria Ann Smaill	43 Cargill Street Dunedin	84 Preston Crescent Dunedin 9011

E

This is the annexure marked 'E' referred to in the within affidavit/declaration of:

DINEA MCKINNON

Sworn/declared at Christchurch

This 31st day of Nov 2014 before me

A Solicitor of the High Court of New Zealand

ANN MARIA BUCKLEY
SOLICITOR
CHRISTCHURCH

ORDER FOR NEW CERTIFICATE OF TITLE

To the District Land Registrar

Please issue a new certificate of title in the name of

DONALD NEIL MCKINNON and ANN MCKINNON

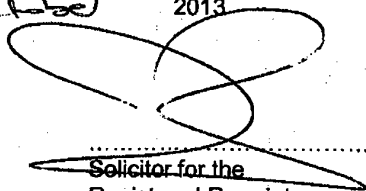
for

Lot(s)	Deposited Plan	Certificate(s) of Title
1	DP 463825	614679

Being ~~*all/balance/part~~ of the land included in Certificate(s) of Title identifier OT282/58

of the Otago Land Registry

DATED at Dunedin this 17th day of October 2013


Solicitor for the
Registered Proprietor

11089/59899.1
lm

In the matter of the Land Transfer Act 1952

And in the matter of an application under section 200

Declaration of Ian Michael St George

I, Ian Michael St George, Medical Practitioner formerly of Dunedin and now Medical Practitioner of Wellington solemnly and sincerely declare:

1. That I am the same person who is described on historic certificate of title OT 282/58 as Ian Michael St George.
2. That that title relates to the property known as 45 Cargill Street Dunedin in which I resided from 1974 until 1991.
3. That in about 1975 during the period of my occupation of that property the neighbouring owner Ralph King of 43 Cargill Street and I erected a fence along the alignment shown X-Y on the attached Occupation Diagram 2 DP 463825.
4. I identify the same fence shown in the attached photograph marked "A" as the fence which Ralph King and I built in about 1975. The fence was erected along the same alignment as an earlier fence which we removed. That fence was constructed (I think) of rusting corrugated iron, wire and rails and (as I recall) it appeared to be very old at the time of removal. This fence also extended in a northerly direction parallel to the house to meet up with the old concrete wall shown S-T on the attached Occupation Diagram 2 DP 463825. We didn't replace the part beside the house.
6. I am informed and believe that my neighbour Ralph King was the same person as Ralph Daniel Bellugue King (shown as registered proprietor of the land in historic certificate of title OT282/59) who lived next door at 43 Cargill Street during part of the time we lived at No. 45.

And I make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

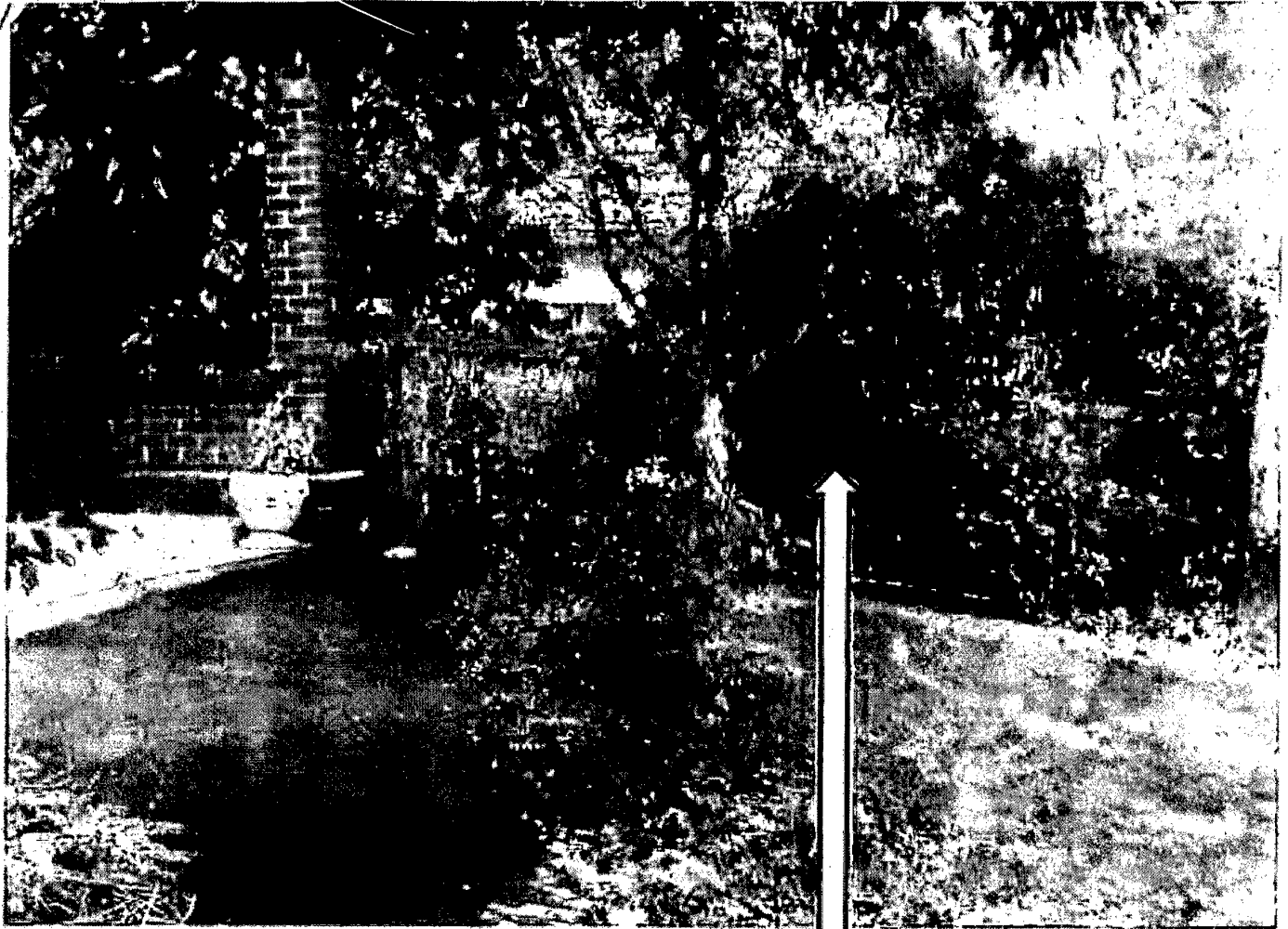
Declared at Wellington by the said Ian Michael St George


.....
this 4th day of February 2014.

before me

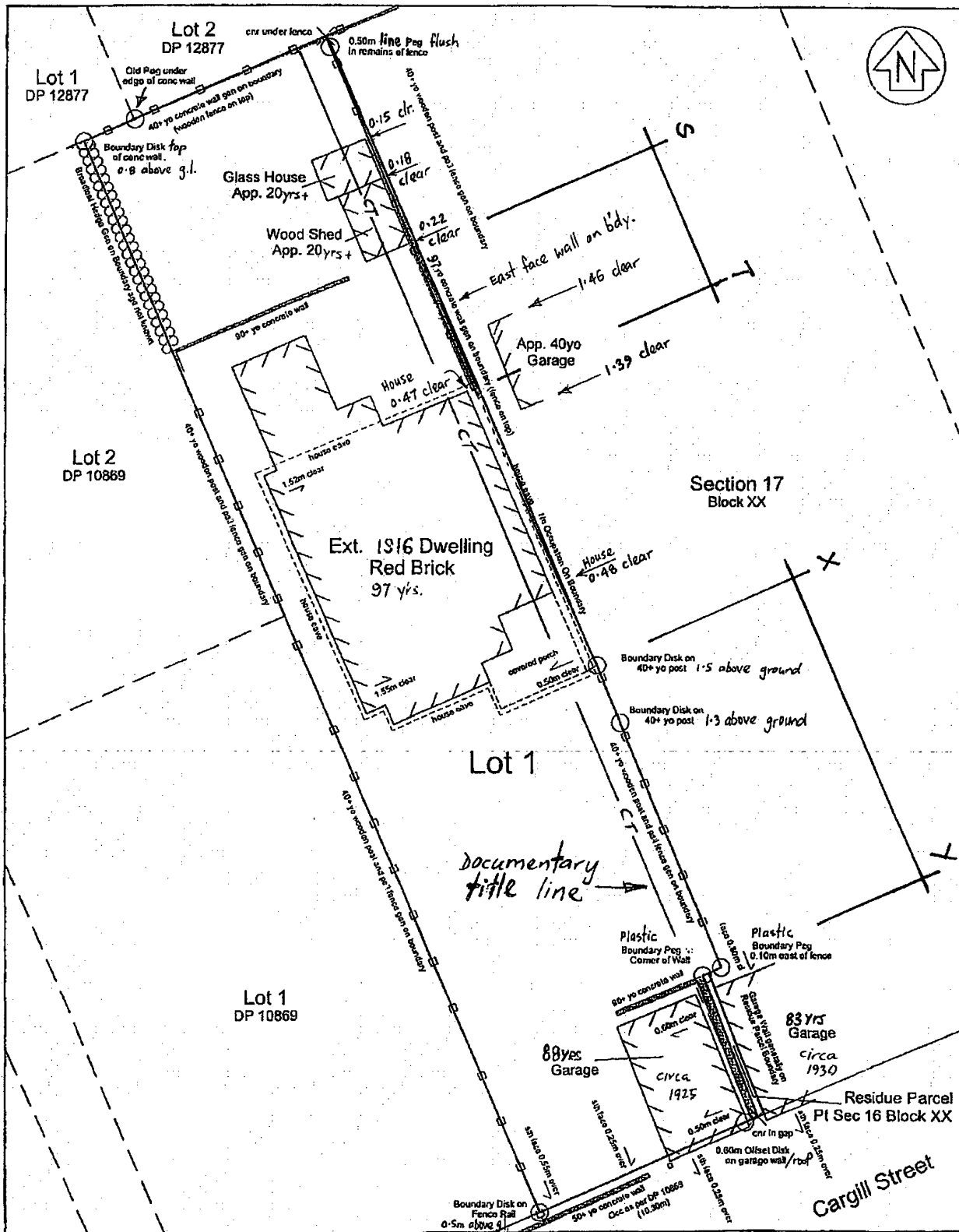

.....
A Justice of the Peace for New Zealand/A solicitor of the High Court of New Zealand

Mike Basil-Jones
Barrister Solicitor Notary Public
P O Box 33303
Petone



Fence "A" between 45 and 43 Cargill Street Dunedin
as viewed from 45 Cargill Street 3 February 2014

"A"



45 CARGILL ST.
DUNEDIN

Occupation Diagram 2
DP 463825

Purpose	Version	Date	Drawn by:	Job No.
			Orig. Scale	Orig. Paper Size
			1:150	A3
			Sheet Number: 1 of 1	

[Handwritten Signature]

Section 200 Land Transfer Act 1952

Application for certificate of title on ground of possession at law

Otago Land Registration District

This is a supplementary application in support of the original application submitted 7 March 2014.

DECLARATION

We Donald Neil McKinnon and Ann McKinnon of c/- Lucas & Lucas Limited, Solicitors, Level 4, 8, The Octagon, P O Box 5735, Dunedin, the Applicants named below, solemnly and sincerely declare as follows that:

- 1) We claim entitlement to be seized of an estate of freehold in all that piece of land being all that part of the land in Identifier OT 282/59 containing 0.0080 hectares, (the subject of this application, or "the Subject Land") being all that part of the land in the said Certificate of Title which is not part of the Residue Parcel shown on LT 463825.
- 2) The property known as 45 Cargill Street and which is occupied by us (and our tenants) and has been so occupied continuously by our predecessors in title, is comprised in Certificate of Title OT 282/58 and in the Subject Land. This possession commenced by us on 1 November 2011 and has been exclusive and undisputed from that time.
- 3) It is also our submission that possession of the Subject Land has been continuous and undisputed since 1916, and, in any event, prior to 1937 when the Subject Land was provisionally brought under the Land Transfer Act, and that we are entitled to the issue of a single fresh Certificate of Title incorporating all the land in Certificate of Title OT 258/58 and the Subject Land.
- 4) In support we provide the following:
 - a) Appendix "A1", declaration of William Pinckney Miller, predecessor in title of OT 282/58 from 1995 to 2002.
 - b) Appendix "B1", declaration of Lancelot Ewing Bardwell, longstanding neighbour with no vested interest and of good repute
 - c) Appendix "C1", Dunedin City Council Property Report evidencing significant building permits issued to the proprietors of 45 Cargill Street :
 - i) Brick Dwelling, 1916 to Holmes
 - ii) Garage, 1925, to Ballard, name of the proprietor when CT 282/58 first issued in 1937.

And we make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared by the above named

Ann McKinnon this **6th**

day of **May** **2014**

Ann McKinnon

before me:

Ann Maria Buckley
Solicitor
Christchurch

Ann Maria Buckley

A Solicitor of the High Court of New Zealand

Ann Maria Buckley
Solicitor
Christchurch

Made and subscribed by the above named

Donald Neil McKinnon this **6th**

day of **May** **2014**

Donald Neil McKinnon

before me:

Ann Maria Buckley
Solicitor
Christchurch

Ann Maria Buckley

A Solicitor of the High Court of New Zealand

Ann Maria Buckley
Solicitor
Christchurch

In the matter of the Land Transfer Act 1952

And in the matter of an application under section 200

Declaration of William Pinckney Miller

I, William Pinckney Miller, formerly University lecturer of Dunedin and now retired of Waitahuna, solemnly and sincerely declare:

1. That I am the same person who is described on historic certificate of title OT 282/58 as William Pinckney Miller
2. That, that title relates to the property known as 45 Cargill Street Dunedin in which I resided from October 1995 until July 2002.
3. That at the time I purchased 45 Cargill Street and for the duration of my occupation of that property the fence with 43 Cargill Street as shown on the photograph marked "A" was in existence on the alignment shown X-Y on the attached Occupation Diagram 2 DP 463825.
4. The old concrete wall shown S-T and the remainder of the fencing and occupation shown on the attached Occupation Diagram 2 DP 463825 was also in existence from the time I purchased 45 Cargill Street until the time I sold it.
5. At no time during my ownership of 45 Cargill Street was ^{my} occupation ever disputed or challenged by abutting land owners.

*WPM
JM.*

And I make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at Milton by the said William Pinckney Miller

W.P. Miller

this 11 day of April 2014

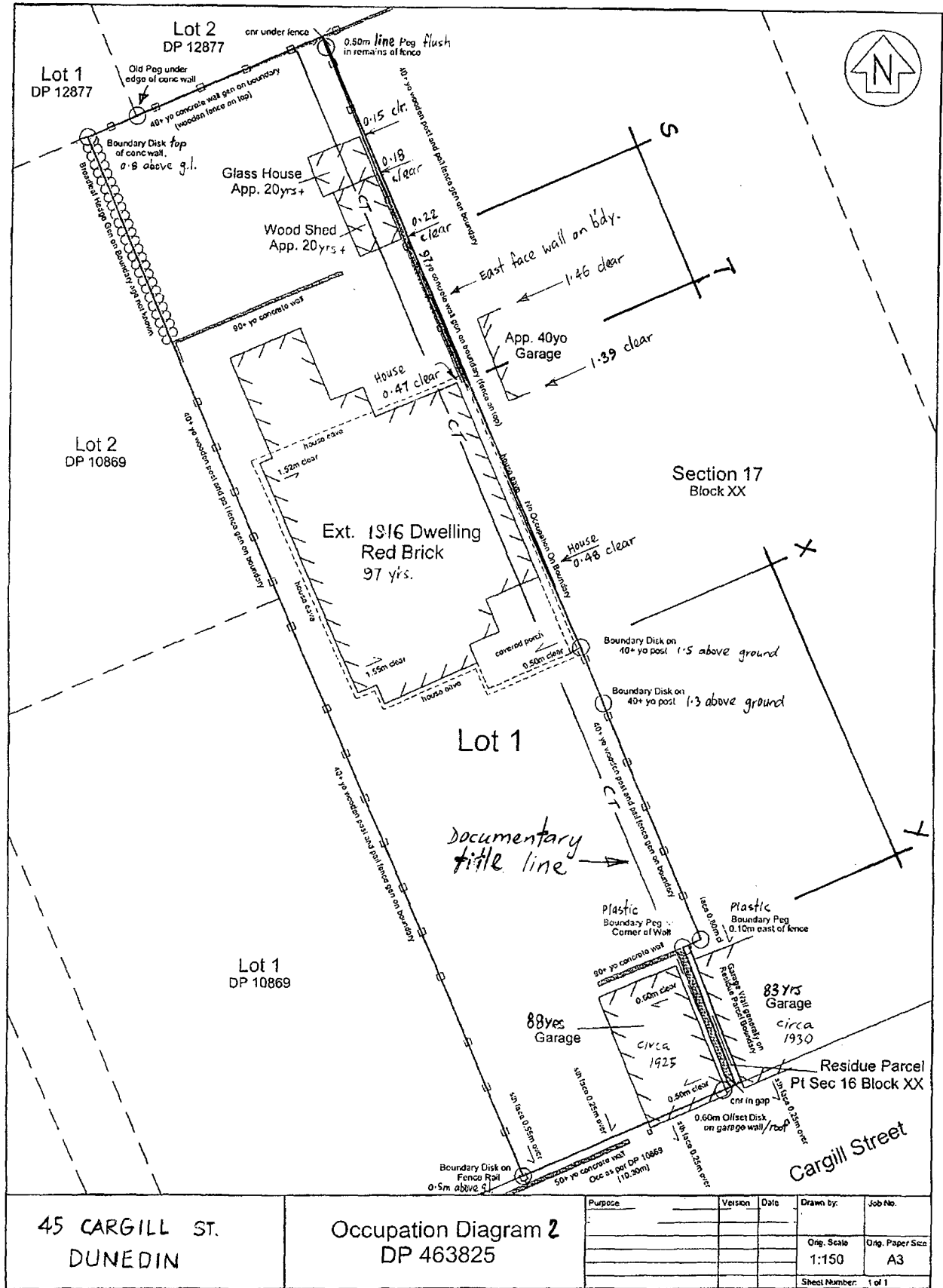
before me

J.C. McIntosh

J.C. McIntosh, JP
#12042
SOUTH OTAGO
Justice of the Peace for New Zealand

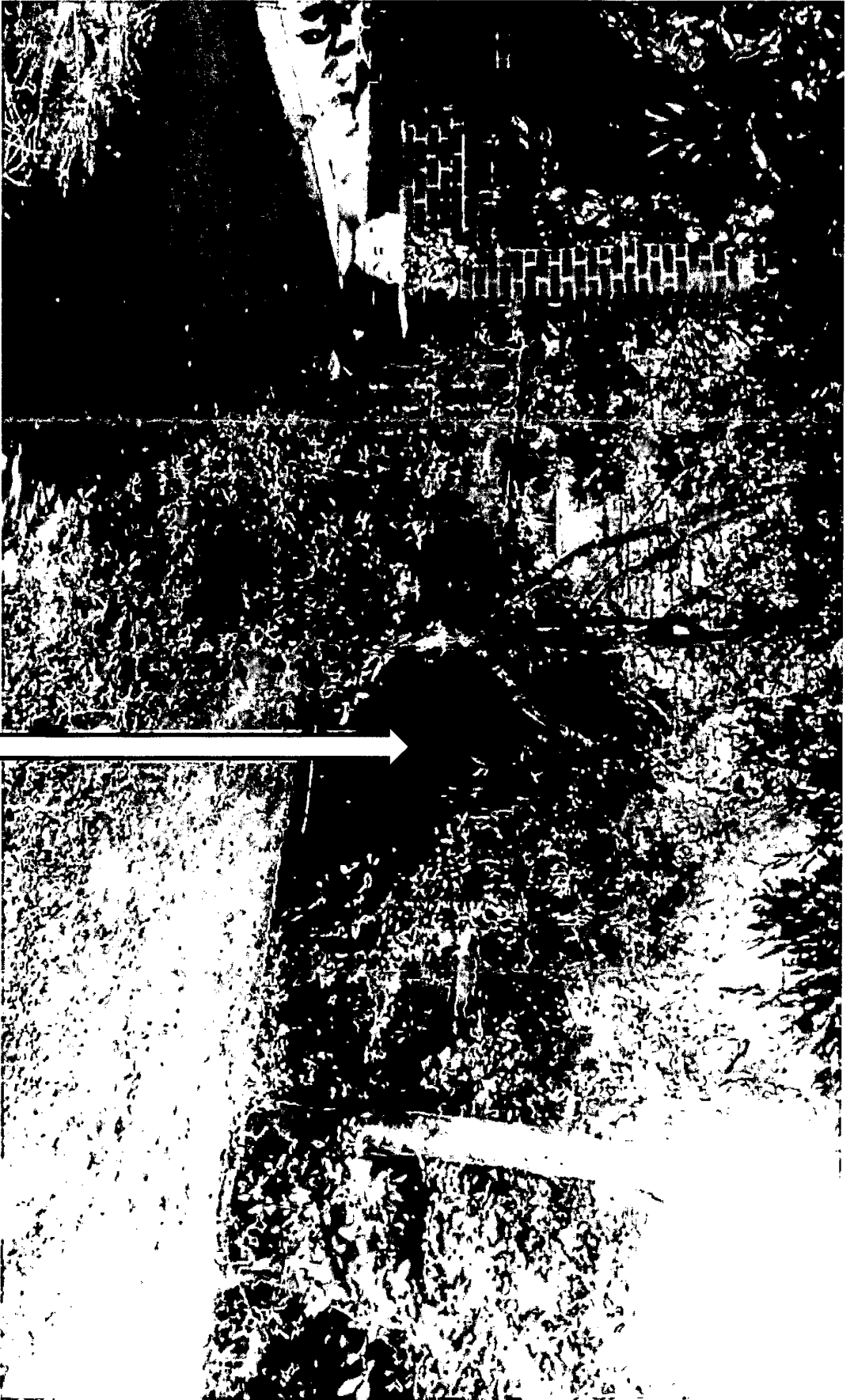
A Justice of the Peace for New Zealand/~~A solicitor of the High Court of New Zealand~~

*Appendix A1
(3 sheets)*



A1 sheet 2

Wm
Jm.



Fence "A" between 45 and 43 Cargill Street Dunedin
as viewed from 45 Cargill Street 3 February 2014

A1 sheet 3

Handwritten signature

In the matter of the Land Transfer Act 1952

And in the matter of an application under section 200

Declaration of Lancelot Ewing Bardwell

I, Lancelot Ewing Bardwell, formerly Police Superintendent of Dunedin and now retired of Dunedin, solemnly and sincerely declare:

1. That I am the same person who is described on historic certificate of title OT1D/804 as Lancelot Ewing Bardwell
2. That, that title relates to the property known as 51 Cargill Street Dunedin in which I currently reside and have done so from May 1978 until the present time.
3. During the period of my residency I have known the owners and residents of 45 Cargill Street and have had cause to walk about that property and am familiar with the fencing and buildings on that property.
4. The fencing and occupation between 45 and 43 Cargill Street as shown on the attached Occupation Diagram 2 has been constant from the time Ian Michael St George built the wooden paling fence "A" (attached Photograph) through to the present day.
5. To the best of my knowledge, at no time during my ownership of 51 Cargill Street was the fencing or occupation between 45 and 43 Cargill Street ever disputed or challenged.

And I make this declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at Dunedin by the said Lancelot Ewing Bardwell

L. Bardwell

this 20th day of April 2014

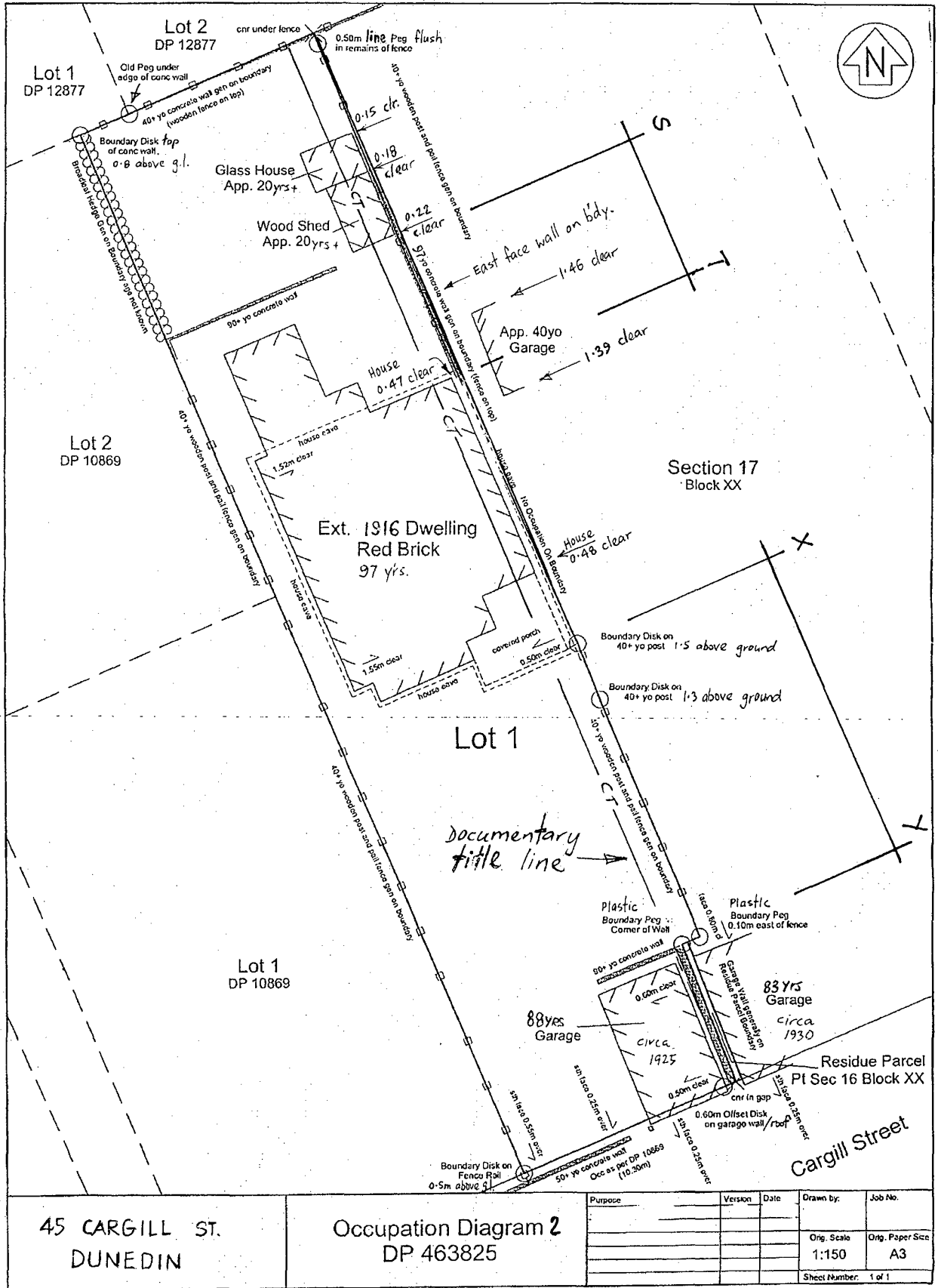
before me

B.J. Coutts, JP
#7130
DUNEDIN
Justice of the Peace for New Zealand



A Justice of the Peace for New Zealand/A solicitor of the High Court of New Zealand

*Appendix B1
(3 sheets)*



45 CARGILL ST.
DUNEDIN

Occupation Diagram 2
DP 463825

Purpose	Version	Date	Drawn by:	Job No.
			Orig. Scale	Orig. Paper Size
			1:150	A3
Sheet Number:				1 of 1

B1 sheet 2 *LB*



Fence "A" between 45 and 43 Cargill Street Dunedin
as viewed from 45 Cargill Street 3 February 2014

Handwritten signature or initials

B1 sheet 3

Dunedin City Council Property Report



PROPERTY DETAILS

Property Key	5028764
Print Date	10/10/2013 03:34 PM
Address	45 Cargill Street Dunedin
Property Type	Situation
Property Name	
Legal Description	PT SEC 16 BLK XX SO 12496 TN OF DUNEDIN

BUILDING PERMITS/CONSENTS

Pre-1992 Historical Records (No CCC Required)

Building Permit

Details

AAB19160140 (DWX) 3612 - Erect Brick Dwelling, (Holmes)

Number	Type	Status	Started
H-1916-5468 (AAB19160140)	Building Permit	Historical Record	20/10/1916

Details

AAB19250394 (DWX) 8058 - Erect Garage, (Ballard)

Number	Type	Status	Started
H-1925-10013 (AAB19250394)	Building Permit	Historical Record	17/06/1925

Details

AAB19630739 (DWX) 10244 - Repair Boundary Fence, (Armitage & Powell)

Number	Type	Status	Started
H-1963-60094 (AAB19630739)	Building Permit	Historical Record	25/10/1963

Details

AAB19750808 (DWX) 1883 - French Doors in Diningroom, (St George)

Number	Type	Status	Started
H-1975-80277 (AAB19750808)	Building Permit	Historical Record	06/10/1975

*Appendix C1
(1 sheet)*

MANUAL DEALING LODGEMENT FORM

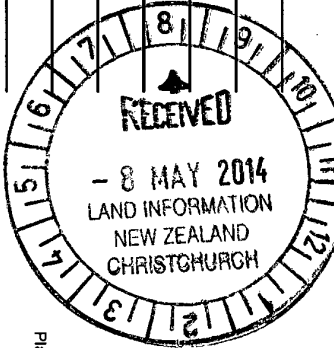
Landonline User ID: lmuholland001

Dealing/SJD Number: Lucas & Lucas Limited
(LINZ use only)

LODGING FIRM: Linda Mulholland

Private Individual: PO Box 5735
Address: DUNEDIN

Priority Barcode/Date Stamp
(LINZ use only)



OT

APP 9722236.1 Applicati
Copy - 02/02, Pgs - 038, 09/05/14, 11:48
Copies
(inc. original)
DocID: 213710716

ASSOCIATED FIRM: _____
Client Code / Ref: 11089

Plan Number/Pre-Allocated or to be Deposited: 463825
Rejected Dealing Number: _____

Priority Order	CT Ref	Type of Instrument	Names of Parties	Document Fees	Resubmission	Notices	Priority Capture*	FEE \$ GST INCLUSIVE
1	OT282/58	APP	D N AND A MCKINNON / R SMALL	\$231.00		1	5.00	236.00
2	As Above 614679	APP	D N AND A MCKINNON	\$135.00	1			223.00
3								
4								
5								

Annotations (LINZ use only):
*Signatures original, except on OCT, Declaration, photo plan.
2 letters as SUD*

Original Signatures? _____

Subtotal **\$459.00**
Total for this dealing **\$459.00**
Less fees paid on Dealing # _____
Debit my Landonline account for (Only available for Landonline customers)
or Cash / Cheque enclosed for (Only pay in cash if depositing in drop box at a LINZ processing centre)
or EFTOS payment due for (Eft-pos only available if lodging the dealing in person at a LINZ processing centre)

\$459.00
627.00

LINZ Form 9005

GST Registration Number: 7-022-895

* Making a priority lodgement ensures the lodgement is entered into the LINZ work queue at the time and date it was handed over at the counter. Priority does not provide agency for processing the dealing. For further details please reference the manual dealing user guide.

Receipt CH7 clg 015 209

PAID

PAID
dealy

P