

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of RC240234 to undertake a two-lot subdivision (from 1 current lot) and establish a residential building platform in the Rural Resource Area at 2500 Tarras-Cromwell Road, Cromwell

BY Richard Hart

Applicant

**STATEMENT OF EVIDENCE OF MR JAKE WOODWARD (PLANNING) ON BEHALF OF
RICHARD HART**

24 January 2025

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1.0 INTRODUCTION

1.1 My name is Jake Woodward. I am an independent resource management planning consultant and an associate member of the New Zealand Planning Institute. I have over 12 years resource management experience, with the previous seven years working as a consultant in the Central Otago and Southern Lakes Districts. Prior to this, I worked at both Auckland Council and Queenstown Lakes District Council in various resource management planning roles.

1.2 I hold a Bachelor of Social Sciences Majoring in Environmental Planning and a Post Graduate Diploma in Environmental Planning, both obtained from the University of Waikato.

1.3 Throughout my professional career, I have been involved in a range of resource consenting matters, particularly as it relates to land use consents and rural subdivisions. I have made numerous appearances in front of various district Councils both as the Council reporting officer and as an independent planning witness.

Involvement in this project

1.4 For this application, I was engaged by Mr Richard Hart (the applicant) to provide resource management advice as it relates to this subdivision. I coordinated all specialists input and prepared the Assessment of Environmental Effects (hereon referred to as the AEE) and formally submitted the resource consent application to Council on 30 September 2024.

Scope of evidence

1.5 This evidence will focus primarily on the matters raised in Council's recommending report (s42A Report), prepared by Mr Tim Anderson dated 15 January 2025. In brief, my evidence largely agrees with the recommendations of Council's s42A report and will simply clarify any outstanding matters.

1.6 I agree with Mr Anderson's description of the proposal, description of the site, summary of the consent history, and the planning framework that applies to the proposal. I do not repeat these matters here.

Code of Conduct

1.7 Whilst this is not an Environment Court hearing I confirm that I have read and agree to comply with the Environment Court Practice Note 2023 for expert witnesses. I confirm that this statement is within my area of expertise except where stated otherwise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express in this statement of evidence.

2.0 STATUTORY FRAMEWORK

2.1 Mr Anderson has accurately outlined the relevant statutory requirements relating to the proposal in his s42A recommending report. I concur with Mr Anderson's assessment here. In brief, the proposal requires the following resource consents:

- a. A non-complying subdivision consent where the proposed allotments will be below the minimum allotment areas prescribed for the Rural Resource Area;
- b. A restricted discretionary land use consent for the establishment of a residential building platform that does not meet the 25 metre internal setbacks;
- c. A restricted discretionary land use consent whereby the existing access is located within 200m of adjacent accesses; and
- d. A controlled activity under the *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health* for disturbance and subdivision of land with identified HAIL activities.

3.0 ASSESSMENT OF EFFECTS

Assessment of Effects

3.1 A comprehensive assessment of the actual and potential adverse effects of the proposal has been provided in the AEE and is supported by advice by various subject matter experts including landscape, infrastructure, access, productive land and contaminated land advice. I have not repeated that assessment here and note that Mr Anderson and I agree that overall, the adverse effects of the proposed subdivision, including effects on landscape, and effects resulting from breaches of standards for lot sizes and averages, are considered to be no more than minor and acceptable.

3.2 Mr Anderson's s42A report expands on the potential cumulative effects of the proposal. Mr Anderson points out that rural subdivision has the potential to result in cumulative effects, whereby the addition of development has effects that go beyond the changes to the site itself and can affect the overall character of the landscape. This can occur when a threshold of development is exceeded such that the landscape can no longer be considered distinctly rural. Mr Anderson correctly identifies that Ms Snodgrass assesses the character of the site as being an established node of development where the character is not typically rural, and the proposal represents infill development within a previously modified area. I agree with Mr Anderson's assessment that on the basis of the character of the area, the area surrounding the subject site cannot be considered characteristic of the Rural Resource Area, and the proposed subdivision will not detract from that existing character. I concur with Mr Anderson's conclusion that the proposed subdivision and building platform can be absorbed without notably changing the character of the landscape and therefore cumulative effects are considered to be no more than minor.

3.3 Mr Anderson is in agreement with me that all other effects on the environment can be suitably mitigated and no more than minor. No other evidence or advice has been submitted to the contrary.

4.0 ASSESSMENT OF RELEVANT PLANNING PROVISIONS

Central Otago District Plan

4.1 Mr Anderson has comprehensively listed the relevant objectives and policies of the Central Otago District Plan that are relevant to this application. Mr Anderson and I agree that the application is not contrary with the relevant provisions of the District Plan.

4.2 In terms of precedent effects, I agree with Mr Anderson that each application is to be assessed on its merits in terms of cumulative effects, and the granting of this consent would not negate this requirement for any future applications. Given the provisions of the District Plan, and the level of assessment required for each individual development, it is considered that this proposal would unlikely have implications in terms of setting a precedent that enables development within the wider Rural Resource Area and therefore would not affect the integrity of the District Plan. Any further development within the "wedge" that defines the immediate area will be equally non-complying, and will necessitate the requirement to consider whether further development beyond this

application (assuming this application is approved and enacted) can be appropriately absorbed into the receiving environment without detracting from Rural Amenity values, landscape character and so on. Mr Anderson notes that within the “wedge”, there is one other potential site (2464 Tarras Cromwell Road¹) of a similar size that could be subdivided in a manner consistent with this proposal. However, as I have pointed out, such an application would be equally classified as non-complying and it would be necessary for subdivision of that land to demonstrate that it can occur without giving rise to adverse cumulative effects over and above the receiving environment that applies at the time. In my view, no person can simply point to this application as reason enough to grant an unrelated application without first meeting the necessary gateway test under Section 104D of the Resource Management Act 1991 and therefore I do not consider a precedent will be set.

National Policy Statement

4.3 With regard to the National Policy Statement for Highly Productive Land (NPS-HPL), Mr Anderson is in agreement with me that it has been demonstrated that the site is subject to permanent and long-term constraints that means the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years. Accordingly, pursuant to Clause 3.10(1) of the NPS-HPL, the territorial authority may allow subdivision of the site despite being classified with Class LUC 3 Soils. The proposal is therefore consistent with Policy 7 of the NPS-HPL which seeks to avoid subdivision of highly productive land *except* where it is provided for by the NPS-HPL itself. That pathway, Clause 3.10, has been demonstrated in the AEE through reliance on advice from both a horticultural and pastoral consultant.

Part 2 of the RMA

4.4 The purpose of the Act is to promote the sustainable management of natural and physical resources in a way that enables people and communities to provide for their social, economic, and cultural well-being.

4.5 It has been established in the AEE and concurred by Mr Anderson that the site is constrained in its ability to provide a viable contribution for primary production. The proposal is considered to represent sustainable management where adverse effects on the environment have been appropriately mitigated whilst providing for the social, cultural

¹ I note that the s42A report refers to 2664 which is likely an error and should in fact relate to 2464.

and economic wellbeing of the applicant. The activity represents a logical and appropriate use of the land resource irrespective of the zone that applies.

4.6 Mr Anderson and I agree the proposal meets the purpose of the Act.

5.0 SUBMISSIONS

5.1 The application was publicly notified on a volunteered basis. At the close of the submission period, only one submission was received from NZ Transport Agency Waka Kotahi² (NZTA). NZTA's submission was neutral and confirms that no changes to the existing access is required, with the exception of ensuring the access is registered (on the Title as a Crossing Place) and have suggested the following condition:

Prior to the issuing of a certificate pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall provide to Council confirmation that the New Zealand Transport Agency has been advised of relevant documentation (such as proposed title references, draft LT (Land Transfer) plan or SO (Survey Office) plan) to facilitate the registration of any new Crossing Place (CP) Notices against those new titles, under Section 91 of the Government Roading Powers Act 1989.

5.2 The applicant confirms to adopt this condition and has already initiated contact with NZTA regarding the process of registering the Crossing Place accordingly.

5.3 Secondly, NZTA recommends the following condition in order to mitigate potential reverse sensitivity effects arising from road noise:

A consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered against the title of Proposed Lot 2 of the subdivision of land shown on the scheme plan titled 'Proposed Subdivision of Lot 1 DP 7416', Revision C, dated 05/09/2024, that addresses potential reverse sensitivity effects resulting from the normal operation of State Highway 8. This consent notice shall read as follows:

(a) Any new dwelling or other noise sensitive location on Proposed Lot 2 in or partly within 100m of the edge of State Highway 8 carriageway must be designed, constructed and maintained to achieve an indoor design noise level of 40 dB LAeq(24hr) inside all habitable spaces.

² Dated 25 November 2024.

5.4 The applicant has reviewed this condition and agrees to adopt this condition in full.

6.0 CONDITIONS

6.1 With regard to the recommended conditions of consent, as detailed in Appendix One of the s42A Report, the applicant agrees to all conditions as drafted with the exception of Condition 11.

6.2 Condition 11 requires, prior to Section 224c Certification, that the Right of Way over proposed Lot 1 is formed with a width of 4.5 metres within a legal right of way of 10 metres, in accordance with Table 3.2 (a) Rural Standards of CODC's Addendum. I note that the CODC Addendum differs to Clause 16.7.5 of the District Plan which requires a right of way in rural areas of 6 metres legal, with a 4 metre formed width.

6.3 The proposed scheme plan shows the legal width of the right of way as 6.9 metres, of which the formed carriageway will be 4.0 metres. The legal width was dictated by the existing alignment of the fences and through consideration of Clause 16.7.5. The legal width of 6.9 metres still allows for a sufficiently wide enough formed carriageway of either 4 or 4.5 metres and necessary stormwater management. As such, it is preferred to amend proposed Condition 11 to reflect this change:

Prior to 224c certification, the proposed right-of-Way (ROW) extending off Tarras-Cromwell Road must be constructed in accordance with the ROW requirements of Table 3.2 (a) of Council's July 2008 Addendum to NZS 4404:2004, and with the following specific requirements:

- *Minimum formed carriageway width of ~~4.5~~ **4.0** metres.*
- *Minimum road reserve / legal width of ~~4.0~~ **6.0** metres.*

6.4 All other conditions are accepted.

7.0 CONCLUSIONS

7.1 I concur with Mr Anderson's recommendation that the adverse effects are able to be mitigated by the design of the proposal and by recommended conditions of consent as modified above.

7.2 In terms of the Section 104D of the Resource Management Act 1991, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either:

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

7.3 With regard to Section 104D(1)(a), the assessment contained within the AEE finds that the adverse effects on the environment will be no more than minor, a conclusion that is similarly reached by Mr Anderson.

7.4 In terms of Section 104D(1)(b), I consider (as detailed in the AEE) that the proposal is not contrary to the relevant objectives and policies of the District Plan, Regional Policy Statement and National Policy Statements.