

**CENTRAL OTAGO DISTRICT COUNCIL
APPLICATION FOR RESOURCE CONSENT
RC250155 & RC220396V3
NEW ZEALAND CHERRY CORP (LEYSER) LP
112 & 144 RIPPONVALE ROAD, CROMWELL**

MINUTE 2

- [1] This Panel Direction addresses the information the Panel wishes to receive following the hearing on Friday 7 August 2026 and makes directions on the process from here including the Applicant's Right of Reply.

Further Information Requests

- [2] The Panel requests that the Applicant provide the following information and clarification, as discussed with Ms Eveleigh (Legal Counsel, Applicant) at the Hearing. For context, we also set out the reasons for these requests below.

Case Law (Ms Eveleigh)

- [3] The Panel seeks clarification from Ms Eveleigh regarding the legal authority relied upon in applying the *Port Otago* and *Calveley* decisions to the assessment of this proposal under the RRA(5) Zone and RLA6 provisions.
- [4] The Panel's understanding is that both cases were determined within broader policy contexts and do not, on their face, address the interpretation of directive, zone-specific district plan policies of the kind engaged in the present case.
- [5] The Panel therefore requests that Counsel supply a copy of relevant case law, together with a supplementary legal analysis identifying the legal basis for relying on the *Port Otago* 'material harm' approach to the interpretation of 'avoid' within a district-plan framework that is precise and directive, and for relying on *Calveley* to inform the s104D(1)(b) gateway where the relevant objective and policies are specific to development in the RRA(5) Zone and RLA6. In particular, the Panel seeks to understand the authority showing that these cases have been used to justify a departing from directive and specific zone-based policies when determining whether a proposal is 'not contrary' for the purposes of s104D(1)(b).

Economics (Mr Colegrave)

- [6] The Panel notes that Mr Monthule-McIntosh concluded in his s42A Report that the proposal is inconsistent with Policy 4.4.18(p), stating that:

"The proposal would continue to sit within the wider Shannon Farm framework of open space, rural production, recreation and landscape controls, however, the increased density across RLAs 3, 4 and 6 would result in a greater number of lots comparable in size to those provided for in the Large Lot Residential Zone (Precincts 2 and 3) thereby reducing the distinction between the rural lifestyle role of RRA(5) and the large-lot residential opportunities provided within the District's residential zoning framework".¹

- [7] At the Hearing, Mr Colegrave confirmed that he had not specifically addressed this matter in his evidence. The Panel directs that Mr Colegrave provide a supplementary assessment of the actual and potential economic effects of the proposal, guided by Policy 4.4.18(p). In particular, the Panel seeks an evaluation of the extent to which the proposal will complement rather than compete with, urban areas in the District, by providing a focus on rural living areas. This assessment should address whether the proposed allotment pattern and density have any implications for the functioning or economic role of existing

¹ Oli Monthule-McIntosh. S42A Report, 14 July 2026, District Plan provisions section.

urban and large-lot residential zones, and whether the proposal maintains the intended distinction between rural lifestyle development and urban residential development.

Access Sightlines

- [8] The Panel requests information to confirm if any of the allotments proposed to be created by the subject subdivision will **not** be able to accommodate an access that complies with the sight distance requirements in Rule 12.7.1(ii). The Panel requests:
- a) A list of all proposed allotments that cannot accommodate an access that achieves sight distance Rule 12.7.1(ii);
 - b) An assessment of the actual and potential adverse effects on the safety and efficiency of the roading network generated by the sight distance non-compliance; and
 - c) Any mitigation measures that can be imposed to mitigate the adverse effects.
- [9] This information is sought to ensure that the effects of any non-compliant accesses can be considered as part of the subdivision application process through which the allotments would be created.
- [10] For clarity, the Panel is not concerned with situations where a lot can accommodate an access that complies with Rule 12.7.1(ii), but the future landowners of the allotment seek to develop an alternative access that does not comply with the standard. In this situation the Council has the ability to decline such an application, knowing that a compliant access location exists on the allotment.

Rule Interpretation (Mr Woodward)

- [11] Mr Woodward referred the Panel to Controlled Activity Rule 4.7.2ib for residential activity in RRA(5), and in particular clause (e) of this rule which sets out the requirement for a Landscape Plan to be submitted and approved for each residential activity in RRA(5).
- [12] In the event that the current subdivision consent application is granted, 16 new allotments will be created within RLA6, which will have buildings platforms, and are located outside of the "Area for locating future building platform in RLA6".
- [13] The Panel seeks clarification as to whether or not Controlled Activity Rule 4.7.2 ib will apply to future residential activities proposed within RLA6 within the allotments created via the current subdivision application (which have identified building platforms), or if Discretionary Activity Rule 4.7.4 xi will apply to any building on allotments given the allotments are outside of the "Area for locating future building platform in RLA6". This information is requested to ensure the Panel understands the resource consent pathway that would apply to future residential development on the lots proposed to be created in RLA6.

Structure of Application (RLA6)

- [14] During the Hearing, the Panel sought clarification from the Applicant as to whether the application is structured such that approval of RLA6 is integral to the overall proposal, or whether the Panel is able to consider granting consent for the remainder of the development should RLA6 be found to be contrary to Policy 4.4.18 and the Structure Plan.
- [15] The Panel requests that Ms Eveleigh provide a clear statement on this matter, including whether the RLA6 components of the proposal are severable, or whether the applicant seeks consent on an 'all-of-proposal' basis.

Design Guidelines

- [16] The Panel requests that the Applicant provide a complete copy of the Shannon Farm Subdivision Design Guidelines proposed to be implemented by way of covenant on all proposed allotment titles.

Visual Simulations

- [17] During the Hearing, the Panel asked Mr Milne (Landscape Architect, Applicant) whether he had considered producing visual simulations illustrating the visual and landscape effects of future residential development on the proposed allotments from key viewpoints. Mr Milne advised that such simulations could be prepared if requested by the Panel.
- [18] In response to the same question, Ms Harshey (Landscape Peer Review, Council) said she considered the Graphic Attachment to Mr Milne's evidence sufficient for her assessment, and that she was comfortable in her understanding of visual and landscape effects of the proposal without the need for simulations.
- [19] Given both landscape architects are comfortable that they understand the visual effects of the proposal, we consider visual simulations may offer limited additional assistance. The Panel invites the Applicant to comment on this matter, including whether it considers that visual simulations would assist the Panel's assessment and, if so, the reasons for that view.

Directions

- [20] The **Applicant** is invited to consider the further information requests set out in this Panel Direction and advise us in writing by or before **5pm Wednesday 12 August 2026** of a suitable timeframe for the Panel's receipt of this information.
- [21] Upon receipt of the advice in response to [20] above the Panel will issue a further direction setting out the process and associated timeframes for circulation of the information, comments in response from hearing parties, and the Applicant's Right of Reply.

Correspondence and Service

- [22] If there are any questions arising from this Panel Direction, please direct those in the first instance to Ms Dick, Planning Support Officer.
- [23] All correspondence regarding the Hearing, and service of evidence and legal submissions must be via Council's Planning Support Officer: Jessie Dick:

Email: jessie.dick@codc.govt.nz / Ph. +64 3 262 7204

Dated this 10th August 2026

Signed by



Ros Day-Cleavin

Independent Commissioner – Chair – on behalf of the Independent Hearing Panel