CENTRAL OTAGO DISTRICT COUNCIL

APPLICATIONS RC250155 & RC220396V3

S42A OFFICER'S RESPONSE TO MINUTE 5

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Date: 11 September 2026

Purpose and scope

1. This memorandum responds to paragraphs [3] and [4] of Minute 5, dated 7 September 2026. It comments on the applicant's supplementary planning, transport and economic evidence and legal submissions dated 2 September 2026, and the covenant wording and Design Guidelines supplied with the applicant's memorandum dated 12 August 2026.

2. Having considered that material, my recommendation to decline the proposal as applied for remains unchanged. In particular, I disagree with Mr Woodward's conclusion that approval of the proposed RLA6 building platforms under Rule 4.7.4(i) would make subsequent dwellings within those platforms controlled activities under Rule 4.7.2(ib). I also consider that little weight can be placed on the proposed private covenant arrangements as assurance that the particular landscape outcomes relied upon will be secured.

Consenting pathway for future dwellings in RLA6

3. Mr Woodward's supplementary evidence at paragraphs [7]–[34] addresses the relationship between Rule 4.7.2(ib) and Rule 4.7.4(xi). I agree with his observation at paragraph [29] that the drafting presents a complication. However, in my opinion the provisions can be read coherently without extending the exception in Rule 4.7.4(xi) beyond its express terms.

4. Rule 4.7.2(ib)(b) requires dwellings and accessory buildings in RLAs 1–6 to be located within a building platform shown on an approved plan of subdivision. I accept Mr Woodward's point at paragraphs [23]–[25] that this standard does not itself distinguish between platforms approved through controlled and discretionary pathways. A dwelling within a platform approved under Rule 4.7.4(i) could therefore satisfy that particular standard. That does not establish that the separate discretionary trigger in Rule 4.7.4(xi) ceases to apply.

5. Rule 4.7.4(xi) provides:

   > *"Any building within Rural Lifestyle Area 6 that is located outside of the 'No Build' Area shown on the Structure Plan* ***and is not within a residential building platform approved pursuant to Rule 4.7.2.ii.a.vii.b*** *'Area for locating future platform' is a discretionary activity" (my emphasis added).*

6. The rule expressly identifies the approval pathway of the platform that qualifies for the exception. It does not refer generally to any approved residential building platform, or to any platform shown on an approved subdivision plan. Mr Woodward confirms at paragraph [13] that the platforms outside the Structure Plan's identified platform area are sought under Rule 4.7.4(i). Approval under that provision would not constitute approval pursuant

to Rule 4.7.2.ii.a.vii.b A future dwelling within such a platform, outside the No Build Area, would consequently meet the express trigger in Rule 4.7.4(xi).

7. On my reading, Rule 4.7.2(ib) provides the controlled pathway where its requirements are met and the specific RLA6 discretionary trigger is not engaged. Rule 4.7.4(xi) retains full discretion over buildings outside the No Build Area that are not within the particular category of approved platform it identifies. This gives both provisions a meaningful role, including the express inclusion of RLA6 in Rule 4.7.2(ib). Mr Woodward's alternative requires the exception in Rule 4.7.4(xi) to extend to platforms approved under Rule 4.7.4(i), despite being specifically worded as extending only to platforms approved under Rule 4.7.2.ii.a.vii.b.

8. The specific cross-reference appears deliberate and is consistent with Policy 4.4.18(q). Clause (ii) enables building within the identified future-platform area, provided it is well integrated into the landscape. Clause (iii) addresses building elsewhere outside the No Build Area and directs that it be avoided unless the legibility and open and natural character of RLA6 will be maintained. These provisions distinguish the development expressly enabled within the identified area from building elsewhere that requires a substantive assessment against those landscape outcomes.

9. Policy 4.4.18(q)(iv)(b) reinforces that distinction. For the subdivision pathway described in that clause, a dwelling must have been approved under Rule 4.7.4(xi) on each lot proposed to be created. Clause (iv)(c) additionally addresses the effects of subdivision, including maintaining legibility and open and natural character and avoiding boundary delineation through fencing or planting. The express reference to approval of a dwelling under Rule 4.7.4(xi) supports retaining discretion over the actual building, rather than automatically converting it to a controlled activity following approval of a platform.

10. I do not rely on the policy to rewrite the rules. Rather, it corroborates the distinction already expressed in Rule 4.7.4(xi). Nor do I suggest that non-compliance with the policy's identified pathway, by itself, removes the Panel's jurisdiction to determine the subdivision application. It is, however, material to the policy assessment. Approval of the platforms presently sought would not, without approval of the dwellings themselves under Rule 4.7.4(xi), fulfil the requirement described in Policy 4.4.18(q)(iv)(b).

11. At paragraphs [30]–[34], Mr Woodward places weight on the purpose of a building platform and the assessment undertaken when it is approved. I accept that platform approval has planning significance and can provide certainty about the location and envelope of anticipated development. However, it does not necessarily authorise a particular future dwelling or determine its activity status under another rule. A subsequent discretionary assessment would consider the actual building and the scope and conditions of the platform approval. The platform would retain its function of managing location without guaranteeing that every subsequent dwelling proposal must be granted.

12. I also disagree with the reasoning at paragraph [33] that the breadth of the controlled matters supports the controlled pathway. Those matters cover many of the subjects relevant to a discretionary assessment, but the two pathways are not equivalent. The ordinary obligation to grant a controlled activity, subject to the statutory exceptions, differs materially from the ability to decline a discretionary proposal. Rule 4.7.2(ib) also expressly provides for non-notification. Similarity between the assessment subjects does not displace the separate trigger in Rule 4.7.4(xi).

13. Accordingly, under the District Plan provisions being considered, future dwellings on the proposed RLA6 platforms outside the identified future-platform area, approved under Rule

4.7.4(i), would remain subject to Rule 4.7.4(xi). Compliance with Rule 4.7.2(ib)(b) alone would not make those dwellings controlled activities. Any additional consent requirements would depend on the particular dwelling proposal. Equally, the prospect of a later discretionary assessment does not remove the need to assess the foreseeable effects of residential development when determining the present subdivision and platform application.

Design Guidelines and proposed covenants

14. Paragraphs [5]–[7] of the applicant's memorandum dated 12 August 2026 provide anticipated covenant wording and acknowledge that the Design Guidelines will require amendment if consent is granted. The attachment supplies the existing Guidelines, rather than a revised document identifying the amendments proposed for this subdivision. The acknowledgment of necessary changes is appropriate, but their nature and implications remain unresolved.

15. The existing Guidelines are inconsistent with the proposed layout. Section 2.01 and Table 1 retain minimum allotment areas of 4,000m² in RLA3 and 8,000m² in RLA4, and require RLA6 to be held as one allotment. Section 2.01 also explains the relationship between denser development in the less prominent core and larger lots on the outer edges responding to landscape values. The proposal departs from that distribution. Updating lot references and plans may be consequential, but the applicability and effectiveness of the substantive controls cannot simply be assumed.

16. There are also differences between the supplied Guidelines and the mitigation described in Mr Milne's primary evidence. At paragraph [101], Mr Milne states that internal and rear boundaries are restricted to post-and-wire fencing. Guideline 5.02.1, however, permits other rural-style fencing in RLA6, including 2m high deer fencing. It therefore does not itself secure the more limited treatment described in his evidence. Fencing described as rural in style may still delineate the additional allotment boundaries.

17. Guideline 5.11.2 requires naturalistic planting and avoidance of linear or geometric forms. Nevertheless, Guideline 5.12.1 encourages planting particularly adjacent to lot boundaries, while Guideline 5.03.2 favours planting to screen boundary fencing visible from the road. These provisions require reconciliation with the reliance on avoiding boundary delineation. Planting can reveal a subdivision pattern even when individual planting groups are naturalistic.

19. I acknowledge that section 1.03 identifies the Guidelines as secondary to the District Plan and relevant consents. Developer approval therefore does not override an independently applicable statutory requirement. My concern is that the Guidelines themselves do not securely deliver all the additional outcomes attributed to them.

20. The anticipated covenant at paragraph [6] of the applicant's response to Minute 2 requires structures to comply with the Guidelines applicable when building consent is sought or construction occurs. The Guidelines are defined as the document issued by the Developer "from time to time". Section 7 of the Guidelines expressly permits changes at the Developer's discretion, and Guideline 7.02.1 allows approval of a non-compliant design against the Guidelines' objectives and overall vision. The proposed arrangement therefore does not fix the substantive controls on which the Panel is being asked to rely.

21. This is particularly problematic given the applicant's statement at paragraph [5] that the Guidelines "form an integral component of the development framework applying to Shannon Farm". Registration of a covenant does not resolve uncertainty about the content of the document it incorporates or the departures that may subsequently be accepted. The

excerpts also do not demonstrate a Council enforcement right or a complete mechanism securing the relevant landscape outcomes over time.

22. I do not suggest that private covenants are irrelevant to the RMA assessment. They may assist in maintaining design quality. However, I give the anticipated wording little weight as assurance of the particular, enduring landscape mitigation relied upon here, because the incorporated document can change and non-compliance can be approved privately.

23. If the Panel is minded to grant consent, the substantive mitigation on which it relies should be identified and settled before determination. Necessary ongoing restrictions should be secured through clear consent conditions and, where appropriate, consent notices, with precise application to the relevant lots and plans. The private design process can supplement those requirements but should not replace them. Essential mitigation should not depend on a general obligation to prepare amended Guidelines after consent, or on the Developer retaining the present controls.

Rural character and the subdivision pattern

24. Mr Woodward's supplementary evidence at paragraph [37] confirms his conclusion that rural character and amenity effects will be no more than minor, relying on paragraphs [45]–[54] of his primary evidence. This clarifies his conclusion but does not change my assessment. My concern relates to the additional built form, accessways and domestication resulting from the altered subdivision pattern, including the loss of the spatial relief provided by the planned RLA6 outcome and the weakening of the graduated densities across RLAs 3, 4 and 6.

25. Even if the covenant and Guideline deficiencies were resolved, detailed controls on buildings, fencing and planting would not recreate the spatial openness and graduated development pattern anticipated by the Structure Plan. I remain of the opinion that they would not adequately mitigate the fundamental effects identified in my section 42A report. For the avoidance of doubt, the above criticisms concern the certainty of the mitigation in addition to, rather than in substitution for, my substantive conclusion.

Other supplementary responses

26. Mr Colegrave's supplementary evidence provides a fuller comparison with the Large Lot Residential zones and acknowledges overlap in allotment sizes. I acknowledge its support for additional housing choice and its conclusion that material adverse effects on the functioning of those markets are not demonstrated. My concern under Policy 4.4.18(p) is not protection of individual landowners from competition. Market demand and product differentiation do not, by themselves, establish that the revised subdivision maintains the rural-living character and spatial role contemplated by the policy framework. The fact that some comparable lot sizes were anticipated somewhere within Shannon Farm does not resolve the effects of changing their distribution and frequency within RLAs 3, 4 and 6.

27. Mr Carr's supplementary evidence at paragraphs [8]–[11] identifies locations from which each lot can achieve the assessed 40m sight distance, including compliant portions of the frontages of Lots 110, 111, 151, 152, 160 and 161. This usefully clarifies access feasibility. If consent is granted, I recommend securing the identified restrictions on those six lots by reference to a final, clearly dimensioned plan and an ongoing consent notice. Demonstrating that a compliant crossing is possible does not justify leaving its location unrestricted. For avoidance of doubt, I not propose that a fixed crossing location should be required across every otherwise unconstrained frontage.

28. The supplementary legal submissions confirm at paragraphs [30]–[33] that RLA6 is severable and that the applicant would accept consideration of a reduced proposal. That clarification is useful. Excluding RLA6 would remove the effects attributable to its proposed additional residential development, but would not automatically resolve my separate concerns about intensification in RLAs 3 and 4.

29. In response to the supplementary legal submissions, I accept that the relevant objectives and policies must be fairly appraised in context and as a whole. My assessment is not a numerical comparison of supportive and contrary clauses. The specific RRA(5) and RLA6 provisions address the very distribution and character of development at issue. Counsel's reliance on mitigation avoiding material harm also rests on a factual conclusion about residual effects which I do not share. The submissions do not resolve either my effects concerns or the express policy distinction between approval of platforms and approval of dwellings under Rule 4.7.4(xi). My overall assessment and recommendation therefore remain unchanged.

Conclusion

30. For the reasons above, I do not agree that approval of the proposed platforms under Rule 4.7.4(i) would displace Rule 4.7.4(xi) for future dwellings within those platforms. I also consider that the supplied Guidelines and anticipated covenant wording provide insufficient certainty to support the mitigation attributed to them. Improving those arrangements would not overcome my underlying concern about the changed subdivision pattern. I maintain my recommendation that the applications, as presently proposed, be declined.

Oli Monthule-McIntosh
s42A Officer

11 September 2026