

BEFORE THE CENTRAL OTAGO DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

An application to the Central Otago District Council

by Ao Marama Limited for resource consent to undertake an eight lot subdivision creating new allotments and eight building platforms in a Rural Resource Area (RC 250259).

**STATEMENT OF EVIDENCE OF CHRISTINE MCMILLAN
ON BEHALF OF MCINTOSH ORCHARDS LIMITED**

PLANNING

18th September 2026

Introduction

1. My name is Christine McMillan. I am a Planning Consultant employed by Bonisch Consultants, a consultancy firm specialising in land development. I operate out of Bonisch's Invercargill office. I hold a Bachelor of Arts and a Master of Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
2. I have over 19 years of planning experience within the Southland Region. My role at Bonisch Consultants includes the preparation of resource consent applications and assisting clients with planning work across New Zealand.

Code of Conduct for Expert Witnesses

3. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and although I note this is not an Environment Court hearing, I agree to comply with this code. The evidence I will present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

Scope of evidence

4. My submissions will address the following matters:
 - McIntosh Orchards submission
 - Landscape Effects
 - Transport and Servicing Effects
 - Reverse Sensitivity Effects
 - Comment on the proposed conditions of consent prepared on behalf of Central Otago District Council (CODC) by Tim Anderson.

5. I have read and am familiar with the resource consent application, the engineering advice from CODC, the applicants evidence and the officers' s42A report.
6. I am familiar with the area surrounding the site. I have not been on the site itself.

Executive summary

7. I consider that the application should be declined.
8. While I accept that the further information provided by the applicant and the proposed conditions of consent have adequately addressed transport and servicing matters, I remain concerned about rural amenity and reverse sensitivity effects arising from the proposal.
9. Of particular concern is the introduction of additional sensitive receivers in close proximity to existing orchard operations that rely on frost fans. In the absence of an acoustic assessment, the extent of adverse effects on future residents is unknown. I do not consider that a consent notice simply advising purchasers that they are located within a rural area is sufficient to address the reverse sensitivity effects that may arise.
10. I agree with the s42A conclusion that the application fails both limbs of the gateway test under s104D of the Resource Management Act 1991 and therefore consent cannot be granted.
11. Should consent be approved, I consider that additional mitigation is required, including acoustic performance standards for future dwellings and a no-complaints covenant relating to normal orchard operations, including methods to address frost.

McIntosh Orchard Limited Submission

12. The submission of McIntosh Orchards Limited focused on landscape effects, transport and servicing effects and reverse sensitivity effects relating to noise from frost fans used on the submitters orchard.

13. In relation to landscape effects McIntosh Orchards consider that even modest development within this Significant Amenity Landscape will have adverse effects on the landscape and rural amenity.
14. McIntosh Orchard consider that the resultant land use will have adverse effects on existing users of Hawley Road unless significant upgrades of the road are undertaken and that servicing had not been properly addressed within the application.
15. I accept that as further information in relation to transport and servicing as been supplied to Council and should consent be granted, proposed conditions of consent will appropriately manage the effects on these aspects of the application.
16. Of most concern to McIntosh Orchards are the rural amenity and reverse sensitivity effects associated with the existing operation of their orchard which has been in operation for 146 years.
17. McIntosh Orchards uses frost fans to combat frost, helicopters to dry cherries following rain, and other noise generating machinery such as horticultural sprayers and heavy vehicles.

Landscape Effects

12. I have reviewed both the 42A report and the evidence of Mr Moore and note the distinction that Mr Anderson makes between landscape effects and rural amenity. I agree with Mr Andersons assessment that the development of the site will result in more than minor adverse effects on rural amenity.
13. Mr Moore makes the statement that the development *'could have been configured to comply with the CODP RRA average and minimum allotment size standards as outlined in Rule 4.7.4 iii'*¹ The implication I take from that statement is that it would be a 'complying' subdivision and not subject to the degree of scrutiny resulting from the proposed layout. I note that at that scale subdivision is assessed as a discretionary activity and is subject to matters that will be given particular consideration, including open space, landscape, natural character, amenity values and reverse sensitivity.

¹ Refer paragraph 33 of Mr Moore's evidence

14. Mr Moore also considers that the landscape effects and rural amenity effects are essentially the same, particularly when considered under Te Tangi a te Manu². I prefer Mr Andersons distinction in considering the additional factors resulting from residential intensification such as noise, vehicle movements, lighting and reverse sensitivity. I agree with the Mr Anderson that effects on rural amenity are more than minor³.

Reverse Sensitivity

13. A significant concern of McIntosh Orchards is reverse sensitivity effects resulting from the existing use of noise generating machinery including frost fans and helicopters within their orchard. The applicant has not undertaken an acoustic assessment to determine the level of effect from surrounding orchards and as such the level of effect on new dwellings within the proposed building platform is unknown.
14. Mr Anderson seeks to rely on a consent notice condition⁴ that simply notes that the site is located within a rural area in order to mitigate reverse sensitivity effects. The proposal introduces additional sensitive receivers into a productive rural environment and increases the risk that existing frost protection activities, including frost fans, may become subject to complaints, pressure for additional mitigation, restrictions on future expansion, or limitations on operational flexibility. These are recognised reverse sensitivity effects.
15. I consider that if consent is granted, conditions of consent should require acoustic treatment of dwellings to ensure that noise levels within bedrooms do not exceed 30dB LAeq(15min) at night-time and that a no-complaint restrictive covenant should be registered on the new Records of Title to prevent complaints relating to typical orchard operations.

S42A Report and Consent Conditions

16. I agree with Mr Anderson assessment that adverse effects on rural amenity will be more than minor. I disagree with Mr Anderson that reverse sensitivity

² Refer paragraph 26 of Mr Moore's evidence

³ Refer page 14 s42A Report

⁴ Refer page 10 s42A Report

effects will be adequately mitigated by the inclusion of the proposed consent notice stating that the site is within a rural area, particularly in the absence of an acoustic assessment relating to the effects of frost fans.

17. I agree that the application does not pass either leg of the gateway test under s104D and therefore consent cannot be granted.

18. Should the Commissioner be of a mind to grant consent I consider that additional conditions of consent relating to reverse sensitivity should be imposed as follows:

C1. A land covenant shall be registered on the new Records of Title for Lots 2 to 8 in favour of Central Otago District Council to state that the owners and successors in title for Lots 2 to 8 shall not lodge any compliant against normal orchard operations in the area.

C2. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the Records of Tile for Lots 2 to 8 by way of a Consent Notice pursuant to s.221 of the Act

- a. The residential unit on Lots 2 to 8 shall be designed, constructed and maintained to ensure that the internal noise level in any bedroom does not exceed 30dBLAeq(15min) with windows closed during operation of helicopters and frost fans on nearby properties.
- b. Prior to occupation of the residential unit on Lots 2 to 8, a certificate shall be submitted to the Council from a suitably qualified person stating that the proposed construction will achieve 30dBLAeq(15min) with the windows closed

Conclusion

19. Overall, I consider that the activity will result in more than minor effects on rural amenity and reverse sensitivity and is contrary to the objectives and policies for the Rural Resource Area. Therefore, consent cannot be granted under s104D of the Resource Management Act 1991. Should the Commissioner be of a mind to grant consent then the above proposed

conditions will provide a level of mitigation to address the concerns of McIntosh Orchards Limited.



Christine McMillan

18th September 2026