

Under The Resource Management Act 1991

In the matter of an application by Ao Marama Limited for a
residential subdivision at Earnscleugh, Alexandra
(RC250259)

**Legal Submissions on behalf of the
Director-General of Conservation *Tumuaki Ahurei*
Dated 10 September 2026**

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May it please the hearing panel,

The following matters are submitted on behalf of the Director-General of Conservation (DG):

Introduction

1. The DG lodged a submission¹ on the application by Ao Marama Limited (the Applicant) to the Central Otago District Council (Council) for subdivision of its property at Earnsclough.
2. The DG's submission sought if Council is minded to grant the application, then ecological assessments should be required to be undertaken to accurately identify the species present on the site, to ensure adverse effects are avoided, minimised or remedied as appropriate and to inform and quantify any necessary offsets or compensation.
3. The submission acknowledged and supported the Applicant's proposal to register a QEII covenant on 182 ha within the site to facilitate the ongoing restoration of indigenous vegetation within the site, noting that without an ecological assessment, it is difficult to know whether this is adequate.
4. The DG acknowledges the Applicant's intentions to take a previously unproductive site and restore its ecological health, including by reducing the size of lots 2-4 (0.5 ha each) to maximise lot 1, the area proposed for the QEII covenant. This decision by the Applicant contributed to the application being assessed as non-complying, as it does not meet the minimum lot sizes in the rural resource area under the District Plan.

The absence of an ecological assessment makes it difficult to assess the application

5. This site, like many areas around Alexandra and Earnsclough, is likely to support Threatened and At Risk species including rare spring annual plants and lizards.
6. The DG considers the application is incomplete without having an ecological assessment. The DG does not propose the full site be assessed, rather the DG says this assessment can be restricted to areas which would be modified or

¹ Submission on behalf of Director-General of Conservation, dated 4 May 2026 – submitter 4

disturbed by the activity, including house platforms, curtilage, ancillary structures, water infrastructure, new or widened roads/tracks, wastewater disposal fields etc.

7. This is not a “nice to have”, rather the DG submits this is essential and relevant information to enable a complete effects assessment.
8. While supporting the concept of the QEII covenant and the Applicant’s intention to facilitate ecological restoration, the DG is concerned that without having an ecological assessment, new native planting on the site including within the proposed covenant area could disturb irreplaceable Threatened plants.
9. Similarly, the DG supports the intention to undertake predator control on the site. However, the DG considers this should be addressed through an appropriate predator pest management plan based on an ecological assessment and implemented pursuant to conditions specifying the objectives and the outcomes to be achieved.

Implications arising from the lack of an ecological assessment

10. As consent authority, the Council must assess the application having regard to the actual and potential effects on the environment: s104(1)(a) Resource Management Act 1991 (RMA). The DG’s concern is the actual and potential effects of the proposed activity on the environment cannot be assessed.
11. In this instance, the District Plan is dated and has limited provision for maintenance of indigenous biodiversity, being a function of the Council under s31(1)(b)(iii) RMA introduced in 2003. An example of this is Policy 4.4.10 regarding subdivision, including to manage adverse effects on the ecological values of significant indigenous vegetation and significant habitats of indigenous fauna through the use of minimum (and average) allotment sizes.²
12. Rule 4.7.6.KA Clearance of Indigenous Vegetation implements this policy and relevantly³ provides:
 - I. Clearance of indigenous vegetation on land not listed for protection under Schedule 19.6.1 and subject to Rule 4.7.6.K, where the vegetation-

² Central Otago District Plan Policy 4.4.10.f: [District Plan - Central Otago District Plan](#)

³ The site is not listed under Schedule 19.6.1 (and thereby subject to Rule 4.7.6.K), nor is it a site with species listed as threatened in Schedule 19.6B and identified on the planning maps. The exemption for properties freeholded under the Crown Pastoral Land Act 1998 also does not apply, as Earnscleugh was dealt with under the Land Act 1948.

- i. comprises more than 10 hectares of snow tussock grassland (*Chionochloa rigida*), or half a hectare or more of other indigenous vegetation on one site; or

...

is a discretionary (restricted) activity. ...

13. The Reason the District Plan⁴ gives for Rule 4.7.6.KA acknowledges the high level of biodiversity loss in the District and the continuing pattern of land use change across the District. Here the Applicant's subdivision activity may require clearance of indigenous vegetation (not being snow tussock) that totals half a hectare or more across the site. However, without an ecological assessment of the actual areas proposed to be disturbed or modified, the consent authority just doesn't know if this Rule is triggered or not.
14. Because of the potential presence of spring annuals, the DG considers the site may include areas of significant indigenous vegetation which, if present, the Hearing Panel shall recognise and provide for their protection as a matter of national importance: s6(c) RMA. Again, without an ecological assessment this potential effect on the environment cannot be assessed.

The Council has discretion to decline the application if it has inadequate information

15. I submit section 104(6) provides the Council with the discretion to decline an application if it considers it has inadequate information to assess the application. In making this assessment, I submit the consent authority must decide:
 - a. the level of effects based on a sufficiently and relevantly informed understanding of those effects, and
 - b. if the information before the consent authority is of adequate quality as well as provided in sufficient detail to enable the grant of consent.⁵
16. The question for the Hearing Panel is whether it has adequate information to make this assessment of the level of effects on indigenous biodiversity for this application. The DG says it does not.

⁴ [District Plan - Central Otago District Plan](#) – Rule 4.6.7.K Reason

⁵ *Remediation (NZ) Limited v Taranaki Regional Council* [2026] NZHC 55, at [115]-[116].

Expert evidence for the DG

17. The DG is calling evidence from two expert witnesses at the hearing:
 - a. Richard Ewans – Principal Technical Advisor – Ecology
 - b. Leah McEnhill – Resource Management Planner

Conclusion

18. The DG is not opposed to the application in principle and supports the Applicant's intention to better manage an otherwise unproductive site, including through the proposed QEII Covenant. However, the DG says the application is lacking detail about its actual and potential effects on the environment, particularly relating to indigenous biodiversity.
19. Accordingly, the Council may consider it is unable to grant the application as currently proposed.
20. In the alternative, if Council is minded to grant the application, then appropriate conditions should be imposed to:
 - a. ensure ecological assessments are undertaken prior to any site modification or disturbance, including requiring avoidance or mitigation of identified adverse effects of the proposed activity should areas of significant indigenous vegetation be identified,
 - b. state the objectives and outcomes for ecological restoration on the site, with Council certification of management plans to achieve this, and
 - c. have regard to the objectives and outcomes for ecological restoration in requiring the QEII covenant or similar protective mechanism is imposed on Lot 1 to Council's satisfaction.



Pene Williams

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