

**Before a Hearings Panel Appointed by the
Central Otago District Council**

Under the Resource Management Act 1991
(the Act)

And

In the Matter of RC200270, being a resource consent application by Roger and William Somerville for a rural two lot subdivision of Lot 4 DP 378921 with an associated residential building platform, on a site adjacent to 999 Luggate-Cromwell Road

Statement of Evidence of Campbell Ronald Hills

21 January 2022

**C. Hughes and Associates Limited
Surveying and Resource Management
Central Otago**

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Introduction and Qualifications

1. My full name is Campbell Ronald Hills.
2. I am a Licensed Cadastral Surveyor and Director of C Hughes and Associates Limited.
3. I hold a Bachelor of Surveying (Hons) degree from the University of Otago and am a Voting Member of Survey and Spatial New Zealand (S+SNZ). I'm also a member of the Consulting Surveyors division of S+SNZ.
4. I have been practising as a land surveyor, with associated resource management planning and land development engineering experience, since I started with C Hughes and Associates Limited in 2014. Prior to this I worked in a similar role for a large multi-disciplinary land development and management company in Australia, after graduating from the University of Otago in 2012.
5. I am familiar with the contents and requirements of the Central Otago District Plan and have prepared a significant number of resource consent applications since 2014, both in the Central Otago and Queenstown Lakes Districts.
6. Whilst this is not an Environment Court hearing, I have read the Code of Conduct for Expert Witnesses set out in the Environment Court Practice Note 2014 and agree to comply with it. This evidence is within my area of expertise, except where I make reference to statements or evidence of others, and I confirm I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed herein.

My Involvement

7. I have been involved with this site and subdivision proposal since former C Hughes & Associates Director Tony Cox retired in early 2021.
8. I have been the point of contact between Council and the applicants since Tony retired.
9. I have not previously prepared any documentation associated with this application as Tony was directly involved with all aspects of this consent application / proposal. Nevertheless, I have reviewed all documentation in detail, including the Council Section 42A report, and I have had recent discussions with Tony.

10. I have visited the site, and I have completed various desktop-based investigations, including consideration of plans of existing access and services, and site topography and visibility from Google Earth / Streetview.

Scope of Evidence

11. The primary purpose of my evidence is to respond to some of the specific matters raised in the Section 42A Report prepared on behalf the Central Otago District Council by Mr John Sule.
12. My evidence does not focus on addressing the specific matters raised in the submissions received, though the intention is to discuss these submissions in further detail (as required) during the hearing.
13. For clarity, it is worth noting that I'm in general agreement with the majority of the Section 42A Report, and it is fundamentally only the below matters that I considered required a direct response.

Council's Section 42A Report

14. As noted above, I have reviewed Council's Section 42A Report and comment on the matters / issues raised as follows (in the order they are presented in the Report, with headers to aid understanding).

"Baseline Considerations" (Page 6)

15. The Section 42A Report notes that *"In respect of the proposed building platform (RBP), rural buildings are permitted by the operative Plan subject to compliance with relevant performance standards including colour controls. This provides a permitted baseline for structures in relation to the residential building platform component of the proposal. I note that there is an existing shed located on the adjoining site to the north on the terrace at a similar distance to the proposed platform from the public road which provides an indication of what could occur in terms of effect of a permitted farm building. As a result, I have applied the permitted baseline in my assessment of the proposed residential activity as it is relevant and non-fanciful."*
16. I agree with this statement, and it is important to consider that the bulk / scale of what is proposed and facilitated with the residential building platform is far less than what would be possible as a permitted rural / farm building activity. This is

particularly the case given the generous 10 metre height limit prescribed in District Plan standard 4.7.6A(f) as compared to the 6 metre height limit proposal in the draft conditions attached to the Section 42A Report.

17. In the context of the 'permitted baseline' it is also worth noting that the colour and finish standards noted in Section 4.7.6D(a) apply to any buildings (including dwellings) within the rural zone.
18. On the basis of the above, and given the generous distances between the proposed residential building platform and any public places, it is submitted that the potential impact of the proposed residential building platform is at a similar or lesser scale than the 'permitted baseline'.

"Effects on Rural Character and Amenity Values" (Pages 6 and 7)

19. I agree with the statements within this section of the Section 42A Report.

"Effects on Productive Capacity of the Land" (Pages 7 and 8)

20. I am in general agreement with the statements made in the Section 42A Report relating to productive capacity of land; however I do believe that the following statement (at the bottom of page 7 and top of page 8) does require further consideration: *"I note that the land within Lot 1 could be used to support the productive activity on the overall site. It could be used to site structures for storage packing and distribution that if established on the orchard land would reduce its productive capacity."*
21. The do agree with above quoted statement, but there are also other potential productive capacity considerations in terms of land use of the Lot 1 area. For example, separating the distinctly different Lot 1 portion from the productive / planted orchard area may actually increase productivity by removing an area from the orchard title that is currently a maintenance burden and does not support the orchard operation.
22. If the Lot 1 area was actually of use to the orchard activity then there is a high chance that it would have previously been put to use. In reality, however, it is simply balance land leftover following the establishment and operation of the orchard, and there are likely to be ongoing costs associated with managing / maintaining this area, particularly through pest control.

23. Furthermore, the statement at the top of page 8 of the Section 42A report that the Lot 1 area “*could also allow the orchardist to live on the site avoiding travel to and from the site*” is a possible scenario, but it is also equally likely that there may be a desire to have separation between work and home life. It is quite common for dwellings to be separated from orchard or vineyard sites in this region, and the “...surplus to the requirements...” controlled activity subdivision provision in District Plan Rule 4.7.2(ii)(b)(iii) has been used extensively for this purpose in the past.
24. The establishment of fully planted orchard and vineyard blocks without any attached alternative activities or mixed use is considered to be quite desirable in certain circumstances, particularly if the orchard or vineyard is leased to a management / processing company.
25. Whilst there are many different scenarios for what might be considered productive and economically viable rural land use, the fact remains that the applicants consider the proposed subdivision and land use to be appropriate in this particular situation, but this may not necessarily be appropriate for other sites.

“Reverse sensitivity effects” (Page 8)

26. It is acknowledged that the originally submitted application only briefly considered reverse sensitivity effects and the assessment provided in the Section 42A Report is considered more complete and appropriate. The applicants and I also acknowledge the submissions received in this regard and we fully support the draft conditions related to reverse sensitivity. We are also happy to consider the draft conditions in further detail if requested, so as to ensure suitable ongoing protections are implemented and that reverse sensitivity is not an issue.

“Servicing” (Page 9)

27. In light of the comments made in the submission by Greg and Jo Shepherd related to potable water supply, and the servicing consideration in the Section 42A Report, it is worth clarifying that there are no envisaged issues with respect to the servicing of proposed Lots 1 and 2 with appropriate water supplies. In particular, the bore in the southeast corner of the property was specifically drilled for the purpose of supplying water for the proposed subdivision. Potable water can very easily be conveyed through to Lot 1 with easements to be registered, and Lot 2 does not require water from this bore.

28. The Lot 2 orchard has suitable irrigation and potable water supply from multiple schemes and is not in any way reliant on the bore that has been constructed to service Lot 1. Equally there is no need for a second bore to be constructed as an additional or alternative water supply for Lot 2.
29. The ownership and management of the recently constructed bore can be clearly addressed through the typical legal instruments registered on the new subdivision titles.

"Access" (Page 9)

30. It is worth reiterating the point made in the application that neither I nor the applicants expect any noticeable increase in usage of the right of way access as a result of this proposed subdivision. This expectation is formed on the basis of the existing land use and the proposed residential activity being established on the site whether or not the subdivision proceeds. Furthermore, the establishment of this residential activity is a reasonable expectation on the basis of the effects assessment associated with this Discretionary (Restricted) activity.
31. Regardless of the above, it is in everyone's best interests to ensure that the access is formed to a suitable and functional standard, so both I and the applicants do agree that it is appropriate to require the existing right of way access to be upgraded as a condition of consent. The draft condition, and associated access formation, is considered suitable in the context of the proposal and potential effects, and it is appropriate to consider dust suppression in the vicinity of the existing building platform on Lot 2 DP 437387 (immediately to the north).

"Cumulative Effects" (Page 9)

32. I generally agree with the statements made in the Section 42A Report related to cumulative effects. Whilst cumulative effects can be difficult to assess on a case-by-case basis, the level of tangible or perceivable effects or changes of use with any proposal are generally a strong indicator. In this situation, it will be difficult to perceive any obvious fragmentation of the land resource given that the terrace/riser at the western end of the site is well separated from the highway and is largely screened by the orchard, and this is the logical area for a residential dwelling or other built form on the site, regardless of whether or not the subdivision proceeds.

33. Cumulative effects in the context of the Rural Resource Area are generally associated with an increase in residential activity, domestication, and general built form or modification. Furthermore, the effects of additional residential activity within the Rural Resource Area are quite often confused with, and considered as, the actual / tangible effects of subdivision. In this case, the proposed consent notice condition prohibiting residential activity on Lot 2 does essentially mitigate the potential / perceivable cumulative effects because it is reasonable to expect a level of built form within the Lot 1 area even if the subdivision does not proceed.
34. On the basis of the above, the subdivision itself will not have a cumulative effects impact on the rural landscape or land use as the status quo is being maintained. One new dwelling is a reasonable expectation on the Lot 1 portion of the site, and the Lot 2 portion will remain as a productive orchard, so there is a zero net effect on land use, landscape character and visual amenity. Furthermore, this is particularly the case given that the site is already naturally internally fragmented simply due to the topographical change at the western terrace riser.
35. It is also important to consider the intent of the District Plan and how this applies in specific areas or landscapes when considering potential for cumulative effects. Whilst the minimum and average area requirements are one of the primary mechanisms through which the District Plan attempts to avoid cumulative effects, there are also various other considerations. These include assessment matters such as *“Potential for visual absorption of future built development...”* and *“Whether or not the clustering of lots would be beneficial in terms of avoiding or mitigating adverse environmental effects.”*, as per assessment matters 2 and 15 under Rule 4.7.4(iii).
36. The District Plan expressly allows for lots in the Rural Resource Area down to two hectares in area and does also consider the appropriateness of clustering of lots. As such, there is some expectation that certain parts of the Rural Resource Area will be more fragmented or have a higher localised density of development, whilst other nearby areas will be more expansive and continuous.
37. It is important to consider landform, existing natural / physical fragmentation, and associated potential land use when proceeding with subdivision in the Rural Resource Area, and this is something that seemingly gets overlooked quite commonly with more emphasis being placed on simply aligning with area

requirements. I consider that the alignment of property boundaries with landform, whilst acknowledging the minimum area requirements, is a robust approach to rural subdivision, and does also avoid the potential for cumulative effects commonly associated with incremental subdivision.

38. In this situation, the terrace riser at the western end of the site is an obvious area where sites at the smaller end of the scale are considered appropriate, and perhaps this should have been a consideration with some of the previous subdivisions.
39. Smaller sites (getting down towards the two hectare minimum) may be clustered appropriately along the terrace riser given that the sites are well separated from public spaces, they are (and are likely to be) at least partially screened by orchard trees, they have logical building platforms, the topography is more steep and irregular, and they cannot be as easily productively utilised. This approach therefore leaves the large, open flat areas in larger more productive blocks, particularly with appropriate conditions to limit or prohibit residential activity in these areas.

“Positive Effects” (Page 12)

40. Whilst the Section 42A Report has identified the prevention of over-capitalisation as a positive effect, as submitted in the application, this is not considered to be the only positive effect. One of the other obvious positive effects is that the proposed subdivision will enable better management of the currently untidy and underutilised terrace riser area (being the proposed Lot 1 area). This area is currently a maintenance burden for the orchard operation but can be more easily and appropriately managed as a separate unit.
41. The subdivision process also serves as a great opportunity to assess access and servicing in the area, providing a forum through which the landowners can consider and agree on suitable outcomes.

“Summary of Effects on the Environment” (Page 12)

42. I agree with the statement in the Section 42A Report that the adverse effects associated with the proposed subdivision and land use will be no more than minor

provided appropriate conditions are implemented as proposed. This is also supported by the above assessment.

“OBJECTIVES AND POLICIES FRAMEWORK”

“Central Otago District Plan” (Pages 12 to 16, Objectives and Policies 4.3.1 – 4.4.10)

43. I do agree with the statements in the second paragraph on page 16 of the Section 42A Report that the proposal is “...*generally consistent with the objectives and policies of the Rural Resource Area...*”, and that the proposal may “...*maintain amenity through the volunteered condition preventing a dwelling from being established on proposed Lot 2...*”.
44. Whilst the planner who prepared the Section 42A Report is of the opinion that “*the proposal will not enhance the quality of the environment when considered in context of the surrounding sites*”, I do have a differing opinion, particularly because the subdivision will allow for better management of the different landform areas, and this will potentially result in better maintenance of the Lot 1 terrace riser area.

“Partially Operative and Proposed Regional Policy Statements for Otago” (Pages 19 and 20)

45. I generally agree with the statements made in the Section 42A Report in relation to the Partially Operative and Proposed Regional Policy Statements (PORPS and PRPS respectively). Whilst PRPS Policy UFD-P7 does raise inconsistencies with the proposal, it is important to consider:
- the subdivision may better facilitate the existing rural industry on the site, by removing the unproductive and burdensome terrace riser area from the productive orchard block;
 - whilst a “Rural Residential” zone type does exist in the current District Plan, there are presently no areas in the district that are specifically zoned for “rural lifestyle” development, so this type of development / activity tends to coexist with other rural activity subject to appropriate reverse sensitivity consideration.

“Other Matters (Pages 21 and 22)

46. With reference to the “*Precedent and Plan Integrity*” consideration on pages 21 and 22 of the Section 42A Report, I do not consider the departure from the District Plan average allotment size requirement to be significant in this situation. This is primarily due the existing landform and land use, the proposal to align the property boundaries with this landform and land use, and the volunteered condition prohibiting residential activity on proposed Lot 2.
47. The proposed subdivision will separate the productive and unproductive areas of the site so as to allow for better management and avoid overcapitalisation. The actual division of the land will not be directly perceivable as a result of this subdivision, as residential development or other built form can reasonably be expected on the proposed Lot 1 area regardless of whether or not the subdivision proceeds, and the subdivision will limit potential future built form across the remainder of the site.
48. The consideration of site specific context and landform is an obvious omission in the current District Plan, in terms of the density rules, and this is something that I believe needs to be given significant consideration.
49. With respect to the precedent and plan integrity argument, *Wilson v Whangarei DC* 2007 [43] stated that “*This is an argument that is, to be blunt, overused and it can rarely withstand scrutiny when measured against the provisions of the RMA*” and the Court has since confirmed that cases should be assessed on their merits to avoid affecting plan integrity.
50. For these reasons, I consider that granting of consent for the proposal will not set an undesirable precedent, nor undermine the integrity and coherence of the District Plan or public confidence in its administration. The site specific context and landform / use, and the proposed alignment of property boundaries with this landform, coupled with the volunteered condition for Lot 2, establishes a 'true exception'.
51. The fragmentation of the land into smaller properties (than directly anticipated by the District Plan average area requirement) will not be easily perceivable from any public places, particularly given the status quo will be maintained in terms of residential activity, and the scope for any precedent argument to be applied is very limited. Any future similar application would need to clearly identify productive and unproductive area, generally based on topographical characteristics, and it would

need to also apply a similar condition to prohibit residential activity in a productive area. Servicing and access would also need to be considered suitable, with appropriate conditions to mitigate potential associated adverse effects.

52. Given the limited scope for any precedent argument to be applied, the potential adverse effects being assessed as no more than minor, and the potential for positive effects, the granting of this consent application is considered appropriate subject to the suitable draft conditions attached to the Section 42A Report.

Campbell Ronald Hills

A handwritten signature in black ink, appearing to read 'R Hills', with a long horizontal flourish extending to the right.

Dated: 21 January 2022