

UNDER

the Resource Management Act 1991
("RMA")

IN THE MATTER

of an application under section 88 of the
RMA for consents for an residential activity
and associated matters at 317 Chain Hills
Road, Taieri, Dunedin ((LUC-2021-619)

**STATEMENT OF EVIDENCE OF CONRAD STEWART ANDERSON ON BEHALF OF
JESSICA-LEA THOMPSON & JOE TAYLOR**

1. INTRODUCTION

- 1.1 My name is Conrad Anderson, and I am a director of Anderson & Co (Otago) Limited, a planning/resource management firm based in Dunedin.

Qualifications & Experience

- 1.2 I hold a Masters in Planning from the University of Otago. I have over 10 years of professional experience in planning, and I am a member of the New Zealand Planning Institute.

Involvement in the proposal

- 1.3 My involvement in the Proposal has included the following:

(a) Review of the Section 42A report ("**s42A Report**").

- 1.4 I am familiar with the site and surrounding area.

Scope of Evidence

- 1.5 The application associated with LUC-2021-619 is supported by expert ecological input as well as expert landscape input. With Council subject matter experts providing a review of these, and ultimately their support. The s42A Report provides a comprehensive assessment of the proposal against the statutory framework of the RMA.
- 1.6 The various ecological, landscape and planning experts all agree that, subject to conditions of consent, the proposal is suitable for consent to be granted. It is notable there is no expert evidence to the contrary.

1.7 For the purposes of this evidence I will only focus on the following matters:

- (a) Background
- (b) Application Summary
- (c) Permitted Baseline
- (d) Opposing submissions
- (e) Key Policy
- (f) Bond
- (g) Conditions

Code of Conduct

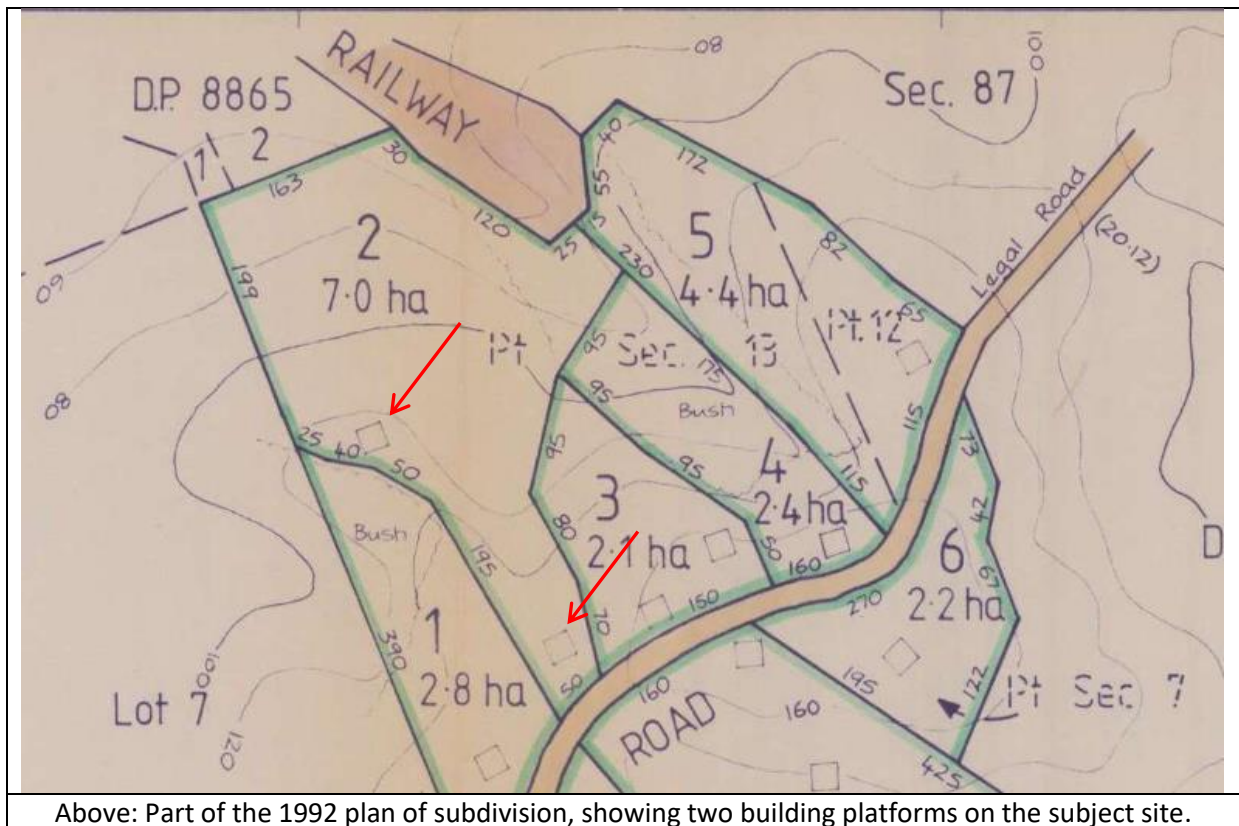
1.8 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

1.9 As I am relying on the various experts and the s42A Report I have deliberately not included a full planning analysis in this statement.

2. Background

2.1 The subject site was created via a 1992 subdivision application by G Scurr & Co Limited. That application created 10 lots, and followed a number of earlier subdivisions by G Scurr & Co Limited of the land between Chain Hills and Abbotsford, which commenced in 1984.

- 2.2 The intent of the 1992 subdivision was for residential development, and this is shown via the inclusion of building platforms on the plan of subdivision (refer below) along with various comments in the application itself¹:



Above: Part of the 1992 plan of subdivision, showing two building platforms on the subject site.

- 2.3 In 1992, as shown above, 34 Paterson Road did not exist.
- 2.4 The current proposed dwelling site aligns well with what was intended by the subdivision that created the subject lot.
- 2.5 The above may assist as it shows the subject site was created with the intention of residential activity, rather than being an historic land parcel.
- 2.6 In addition, the site is effectively cut off from the wider rural land by residential and /or lifestyle blocks:

¹ Page 2 of the 1992 application letter discusses the use of septic tank to dispose of “**household** effluent”, and “**domestic** water supply” for each “**dwelling**”. While page 3 refers to the subdivision being related to “**residential** purposes” (emphasis added). See agenda pages 251 and 252.

- To the north is residentially zoned land, upon which a 12 lot residential subdivision has been approved.
- To the north-east is the rail tunnel.
- To the west is 337 Chain Hill Road (4.2ha, zoned RR1), 333 Chain Hills Rd (3.02ha, zoned RR1 with a dwelling), and 329 Chain Hills Road (2.08ha, zoned RR1 with a dwelling).
- To the south is the road, after which is RR1 zoned land.
- To the west is 307 Chain Hills Road (30.16ha, RR1 zone with a dwelling), and 34 Paterson Road (3.19ha, zoned Rural with a dwelling).

2.7 Ironically it was the creation of 34 Paterson Road, and its use for residential purposes, that results in the subject site being isolated from the wider rural zone.

3. Application Summary

- 3.1 The proposal is for residential activity and associated land use matters including a reduced boundary setback and earthworks.
- 3.2 In terms of the boundary setback, the adjacent neighbour has provided written approval. The reduced setback has no effects beyond that neighbour.
- 3.3 In terms of earthworks, it is understood that following a review the required earthworks/work area slope, the earthworks are a permitted activity i.e. small scale.
- 3.4 The remaining matter is residential activity on an undersized rural lot. As detailed in the s42A this is a non-complying activity.

4. Permitted Baseline

- 4.1 As detailed in the s42A report, since the site is not subject to any landscape overlay, the permitted development of buildings is a relatively relaxed. While this is difficult to accurately portray, it includes numerous buildings up to 10m tall.
- 4.2 In addition to the permissive development rules, the permitted activities include: farming, rural ancillary retail, rural tourism - small scale, and rural contractor and transport depots - small scale. Noting that:

- (a) Farming includes:

- (i) the processing of animals or plants, or the produce of animals or plants, that are grown on the property, and
 - (ii) farm landfills, offal pits, silage pits and silage stacks (note these are still subject to earthworks - small scale thresholds).
 - (b) Rural Tourism - Small Scale provides for up to 25 people per day, except for a maximum of 10 days per calendar year an attendance rate of 26 to 50 people per day.
 - (c) Rural Contractor and Transport Depots - Small Scale provides for up to two people operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site) per day; except up to 5 people can operate from the site per day for no more than 20 days in one calendar year.
- 4.3 The implementation of one or more of these permitted activities would result in increased effects associated with traffic movements and noise, and may require a number of associated (permitted) buildings. This provides a baseline for the future character and amenity values for the site.
- 4.4 As indicated above the non-fanciful baseline is far greater than solely farming, and I see no reason not to utilise the permitted baseline.
- 4.5 Given that the proposed structure (or similar) can be built as of right, any effects of the structure could be disregarded.
- 4.6 Given the permitted activities, it would be conceivable that the proposal will result in reduced transportation and noise effects, thus resulting in an enhancement of the character and amenity values.

5. Opposing Submissions

- 5.1 There are two opposing submissions, from the owners/occupiers of:
- (a) 34 Paterson Road
 - (b) 297 Chain Hills Road
- 5.2 34 Paterson Road has a common boundary with the subject site. The dwelling on 34 Paterson Road is:

- (a) Located over 200m from the proposed dwelling.
- (b) Is west-north-west of the proposed dwelling.
- (c) Sits some 50m lower than the proposed dwelling.
- (d) Seems to be north facing, with vistas including the residential areas of Wingatui, Puddle Alley and to the north-west, the Mosgiel township.
- (e) Has 9 residential properties along its northern boundary, with separation distances of approximately 70m to 130m.

5.3 That physical setting assists in terms of any effects from the proposal i.e. the proposed activity is not close to nor within the main/key sight lines from 34 Paterson Road, which includes many domesticated sites.

5.4 297 Chain Hills Road does not share a common boundary with the subject site. The dwelling on 297 Chains Hill Road is:

- a) Located over 350m from the proposed dwelling.
- b) Separated from the proposed dwelling by a significant amount of bush.
- c) Seems to have access to a very wide vista, with vistas including the residential areas of Wingatui, Puddle Alley and to the north-west, the Mosgiel township.

5.5 Again that physical setting assists in terms of any effects from the proposal, particularly in terms of separation distances and the wide available vista, which includes many domesticated sites.

6. Key Policy

6.1 The key policy is Policy 16.2.1.7. This is discussed at length in the s42A report, including a relevant Environment Court decision (ENV-2022-CHC-024). For the purposes of this evidence, I will only make summary comments in regards to the Policy, with the intent of focusing on the matter of precedent.

6.2 My understanding is that:

- While Policy 16.2.1.7 starts with the word 'avoid' (Policy 16.2.1.7 is repeated in full below), it is not explicitly an 'avoid policy', as it provides exceptions. i.e. the Policy is not a true 'avoid' policy.

Policy 16.2.1.7

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless:

X. it is the result of a surplus dwelling subdivision; or

Y. the residential activity will be associated with long term land management and/or capital investment that will result in:

i significant positive effects for rural productivity; and/or

ii a significant contribution to the enhancement or protection of biodiversity values.

- Due to the exceptions within Policy 16.2.1.7 the application (subject to conditions of consent) has been found to be not contrary with the Policy.
- A undesirable precedent is only likely to occur when a proposal is contrary to an Objective/Policy. As above and in-keeping with the s42A Report the proposal is not contrary to the Policy.
- Based on the above, there is no chance of the proposal creating an undesirable precedent.
- Further, if there remains a concern regarding the possible creation of an undesirable precedent, it is considered that the site has a history (i.e. it was created for the express purposes of residential use), which would assist to differentiate the site from the bulk of the zone.

7. Bond/Covenant

- 7.1 The use of a bond is considered unnecessary, and I note a bond has not been required in past decisions. Refer LUC-2022-45 (108 Quarry Road, Waikouati) and ENV-2022-CHC-024 (68 Currie Road).

8. Conditions

- 8.1 The proposed conditions attached to the s42A Report have been reviewed by the Applicants and are agreeable.

9. Concluding Comments

- 9.1 The site was created in 1992 for the purposes of residential use. The lack of any landscape overlay assists the permitted environment in terms of non-fanciful development and activities. The Policy direction does not explicitly seek to avoid

residential use of the site, but actually provides for the residential use of the site, under certain circumstances. The proposal has had significant expert input, and in terms of the key matter of enhancing biodiversity values, the experts agree, subject to conditions, that a significant contribution to the enhancement of biodiversity values can be achieved.

9.2 The conclusion of the s42A Report is welcomed.

Conrad Stewart Anderson

04/05/2023