



bonisch

2nd October 2024

Invercargill City Council
PO Box 90104
Invercargill 9840
Attn: Emma Spalding

Dear Emma

JOB NO 83261 – PA & JM Murray Family Trust – Land use consent to establish and operate a farm machinery sales and service business within the Rural Zone and to undertake earthworks.

Invercargill Council Ref: RMA/2024/80

Thank you for your letter dated 26 July 2024, requesting further information in relation to the above application. The following provides a response to each of the points raised in the letter.

RURAL CHARACTER AND AMENITY

1. The description and analysis of the existing landscape and values is well described but brief and relies heavily on the photos to provide an understanding of the site and context. The photos are useful and are considered sufficient in number and to have been taken from sufficiently representative locations.
 - a) Does the Assessment consider that highly productive land has a bearing on rural character and landscape values and if so, will there be any landscape/ rural character effects as a result of the proposal in this location?
2. Under the assessment of 'physical effects' the Assessment states: "The proposed development will result in another rural service building in an area already characterised by such buildings, and other commercial premises. It will reinforce the rural service centre / settlement character at the expense of open rural character, but in my assessment, landscape sensitivity to development of this nature is low, due to the existing character."
 - a) Due to the description of the existing character being limited, the attributes that make up the 'rural service centre / settlement character' (other than other rural service buildings) are not clear. Can the Assessment expand briefly on the land use/ building form patterns (e.g setbacks, building heights, and relationship between buildings and surrounding open space) and describe the specific way/s in which the proposal may be in keeping with these to help determine the extent to which the proposal will reinforce this character?
 - b) Similarly, can the Assessment expand on the nature and degree to which open rural character will change as a result of the proposal as a rationale to support the statement above?
 - c) Can the assessment expand on the assessment of the proposal against the Objectives and Policies relating to rural character and amenity (noting that the subject site is within the Rural Zone, not the adjacent Business 5 Zone).
3. Under 'visual effects' the Assessment describes publicly accessible views from the adjacent road and private views from two nearby dwellings (24 and 70A Wallacetown Lorneville Highway).

The Assessment explains that while there are other dwellings in the area, the proposed facility will be effectively screened from these places by existing plantings and / or built form.

It is noted that there are buildings other than dwellings in the immediate vicinity, with different groups of people e.g. staff and visitors at businesses / commercial buildings, with potential views.

While it is recognised that development that is in keeping with the landscape character may have no adverse landscape and visual effects even if it is highly visible and a noticeable change, it is helpful to be able to show that the potential audience has been considered.

- a) Can the Assessment briefly expand on the potential viewing audience associated with the area from where the proposal will be seen and the nature and degree of effects or explain why they may not be impacted.
 - b) Can the Assessment clarify whether the existing (screening) plantings referred to are on the applicant's property, and if not, whether/how views to the project site may be impacted if vegetation was to be removed?
 - c) It is noted that there are potential elevated views from the railway overpass on the Wallacetown Lorneville Highway and may be potential for views from a dwelling at 78 Wallacetown Lorneville Highway. Has the Assessment considered visual effects from these locations?
 - d) In assessing views from the private property at 24 Wallacetown Lorneville Highway, the Assessment notes that proposed planting will completely screen views within 5 years. There currently appear to be gaps below and between the existing boundary vegetation towards the northeast corner of the site, however the proposed *Pittosporum* screen planting (on the Landscape Mitigation Plan provided) is not continuous through this area. Can the Assessment confirm that views will be completely screened at this boundary?
 - e) Can the Assessment also expand briefly on potential views and visual effects for these residents along their driveway.
4. Can the Assessment consider potential landscape and visual effects during the construction period (and provide an estimated construction timeframe) particularly given the proposal to remove some existing perimeter vegetation as part of the project.
 5. The Assessment states that 'The planting illustrated in Figure 6 and specified in Appendix A, is to be implemented within 6 months of the completion of the building.'

For a response to each of the above questions, please refer to the attached Memo prepared by Mike Moore, dated 22 August 2024.

EARTHWORKS

- Please provide an earthworks plan showing all proposed earthworks information including area and volume of earthworks, depth of cut/height of fill, any proposed retaining (if required), and any bunding or stockpiles proposed.

Please refer to the attached Earthworks Plan. A total volume of 5800m³ of earthworks is proposed. 2800m³ of cut is proposed, which includes 2300m³ of topsoil strip. 3000m³ of fill is proposed, including 2300m³ of fill to replace the stripped topsoil. The maximum depth of cut proposed is 0.5m, and the maximum depth of fill 0.70m. The total area of earthworks proposed is 7600m².

No permanent bunding is currently proposed. Once stripped, topsoil will be stockpiled in a bund in the western part of site. The indicative location of a 60m x 20m stockpile area is shown on the Earthworks Plan, with a buffer of at least 6 metres to be provided from the site boundary. The bund will not exceed three metres in height. Should it be necessary, the stockpiled soil can be watered or covered to reduce the likelihood of dust generation. The bund will be on-site on a temporary basis only, and such stockpiling is common practice during a construction process. Any visual effects associated with the bund will be less than minor. The bund will be located on flat land, with a buffer from the boundary. It is not expected that any runoff or sedimentation will cause an adverse effect on adjoining land.

Stripped topsoil may be re-used for filling, though this will depend on the suitability of the soil. If not re-used for filling, stripped topsoil will be sold and removed from the site.

An assessment of potential effects associated with earthworks was included in the AEE, based on initial estimated volumes of 3200m³ of cut and 4000m³ of fill. The volume of earthworks has now been confirmed as

less than was estimated in the AEE. No changes to the earthwork's methodology are proposed, and the assessment of potential effects from the AEE can continue to be relied upon.

NOISE EFFECTS

Rule NOISE-R3 notes that within the Rural zone, any operational equipment which is mobile during its normal use and which is associated with primary production (e.g. tractors, harvesters and farm vehicles) is exempt from the noise limits detailed in NOISE-R2. This exemption would not apply to the proposed non-rural activity (farm machinery sales and service activity, and the associated testing of farm machinery). Please provide further information to describe the likely frequency of the farm machinery testing on the site, identify which area of the site the testing will be undertaken, and provide a noise assessment to demonstrate that the activity will comply with the District Plan noise limits, particularly in relation to the adjacent property at 24 Wallacetown Lorneville Highway.

The updated XL Structural Concept Plans show the area proposed for outdoor testing of farm machinery. The area is to the northwest of the building site and is partially located on the concrete hardstand area.

Farm equipment to be tested will generally include tractors, telehandlers, and silage wagons. The applicant advises that testing of farm equipment will occur approximately five times a day, and for periods of five to ten minutes at a time.

Please find attached a noise assessment prepared by Marshall Day Acoustics. The noise assessment predicts noise levels at the closest sensitive receivers and concludes that noise generated from the site will comply with the relevant District Plan noise limits at the notional boundary of all dwellings. The Marshall Day assessment predicts a breach of 4dB L_{Aeq} at the notional boundary of the Whitehouse Hotel, located at 39 Wallacetown Lorneville Highway. The Marshall Day assessment predicts that the average noise from the state highway will be 15dB greater than the noise generated from the FarmChief site and predicts no noticeable change to noise levels at the Whitehouse Hotel. Traffic from the state highway will be the dominant noise experienced at the Whitehouse Hotel, with Marshall Day predicting that noise from the FarmChief operation would only be occasionally audible.

Based on the findings of the Marshall Day assessment, the effects of noise generation from the site are assessed as less than minor. Noise will be compliant with District Plan limits at all dwellings, and will be acceptable at the Whitehouse Hotel despite a 4dB breach of the District Plan limit. No parties will be adversely affected by noise generated at the site.

ENGINEERING

- The applicant has proposed on-site stormwater management system to be used to capture water for potable water and firefighting services. Please provide additional stormwater information, including pre and post development flows and calculations for on-site stormwater attenuation.

Please refer to attached email from Bonisch's Principal Civil Engineer, Jeremy Rees, regarding pre- and post-development flows for a 20% AEP (5 year event). As noted in the email, stormwater discharge will attempt to mimic the current discharge to the south through the use of swale discharge points. Tanks referred to in the AEE are for firefighting and domestic water supply rather than stormwater attenuation.

- Please also provide further information and detail to confirm how RURZ-R17 (1)-(5) will be met, including location and capacity of tanks, location of hardstand areas and access for fire appliances.

The specific approach to firefighting supply has not been finalised. To demonstrate that compliance with requirements of RURZ-R17 will be achievable the applicant has obtained an assessment of firefighting water supply requirements, prepared by Chris Thomas of Kensington Consulting. The report from Mr Thomas outlines two potential options for firefighting supply, should the building be non-sprinklered. An option for firefighting supply for a sprinklered building is also included.

Should a non-sprinklered supply be implemented, a water tank of the appropriate size will be installed on the hardstand area, likely to the north of the building. The tank will be more than 6 metres and less than 90 metres from the building and will have unimpeded vehicle access via the driveway and over the hardstand area. The appropriate couplings will be provided. To retain the ability to finalise firefighting reserve requirements during detailed design, the applicant has not identified a specific approach, nor size and location of water tank.

Should a sprinklered approach be employed, the applicant will install an appropriately sized and located water tank.

The applicant promotes inclusion of a condition of consent that ensures compliance with the requirements of RURZ-R17(1)-(5) and SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. The applicant promotes that the condition of consent require compliance with the requirements to be demonstrated at the time of lodgement of building consent.

ASSESSMENT OF REGIONAL POLICY STATEMENT AND PART 2 RMA

- Please provide an assessment against Part 2 of the RMA.

Section 5 - Purpose

The purpose of the Act is “to promote the sustainable management of natural and physical resources”. Section 5(2) of the Act states that sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

The proposal is considered to represent sustainable management where adverse effects on the environment have been appropriately mitigated. The use of the site for a rural service activity is an efficient use of natural and physical resources that enables the applicant and the wider farming community to provide for their social and economic well-being. The life-supporting capacity of air, water, soil and ecosystems will be retained.

The proposal is consistent with the purpose of the Act.

Section 6 – Matters of national importance

Section 6 of the Act identifies matters of national importance and requires that they be recognised and provided for. No Section 6 matters have been identified as being relevant to this application. The land is not an outstanding natural feature and is not within an outstanding natural landscape. The site is not located near the coastal marine area or any wetlands, lakes or rivers, and does not contain significant indigenous vegetation or significant habitats of indigenous fauna. The site has no historic heritage value and is not at significant risk from natural hazards. The applicant is not aware of any cultural values of significance associated with the site, and the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is not expected to be affected.

The proposal is consistent with Section 6 of the Act.

Section 7 – Other matters

Section 7 of the Act identifies other matters to which particular regard must be had. The following matters listed in Section 7 are considered relevant to this application:

- (b) *the efficient use and development of natural and physical resources:*
- (c) *the maintenance and enhancement of amenity values:*
- (f) *maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*

As noted, the use of the site for a rural service activity represents an efficient use of natural and physical resources. The proposal provides for the establishment of an operation that will be of value to the rural sector and will be appropriately located in close proximity to an existing cluster of similar activities. The proposal will utilise a portion of the site only, providing for the remainder of the land to be used for rural activities. Although high value soils are a finite resource, the applicant has demonstrated that the site is unable to be viably used for primary production activities. The proposed activity is not considered an inappropriate use of rural land.

The nature of the receiving environment and proposed mitigation measures ensure that amenity values will be maintained. The area is characterised by the presence of rural-service and commercial activities, and the receiving environment can absorb the change with minimal effect on amenity values and the quality of the environment. The proposal is consistent with Section 7 of the Act.

Section 8 – Treaty of Waitangi

Section 8 of the Act requires the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) to be taken into account in achieving the purpose of the Act. It is not considered that there are any matters pertaining to the Treaty of Waitangi that are of concern for this application.

Conclusion

Overall, the proposal is considered to meet the purpose and principles of Part 2 of the Act.

- Please provide an assessment of the relevant objectives and policies of the Southland Regional Policy Statement.

Table 1 – Southland Regional Policy Statement

Chapter 3 – Tangata Whenua	
Objective TW.1 Decision-making and partnerships with tangata whenua	<i>The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are taken into account in a systematic way through effective partnerships between tangata whenua and local authorities, which provide the capacity for tangata whenua to be fully involved in council decision-making processes.</i>
Objective TW.2 Provision for iwi management plans	<i>All local authority resource management processes and decisions take into account iwi management plans.</i>
Objective TW.4 Sites of cultural significance	<i>Wāhi tapu, wāhi taonga and sites of significance are appropriately managed and protected.</i>
Policy TW.1 Treaty of Waitangi	<i>Consult with, and enhance tangata whenua involvement in local authority resource management decision-making processes, in a manner that is consistent with the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.</i>
Policy TW.3 Iwi management plans	<i>Take iwi management plans into account within local authority resource management decision making processes.</i>
Chapter 3 – Assessment	
The application includes an assessment against the most relevant provisions of Te Tangi a Tauria – Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (Te Tangi). The proposed activity is assessed as being consistent with Te Tangi a Tauria. The site is not known to be of cultural significance, and there are no known archaeological sites in the vicinity of the site. Tangata whenua involvement in the decision-making process is provided for under the Resource Management Act 1991 (the Act), with the local authority to determine the notification pathway for the application.	
The proposed activity is consistent with the Tangata Whenua objectives and policies of the SRPS.	
Chapter 5 – Rural Land/Soils	
Objective RURAL.1 Sustainable use of rural land resource	<i>Achieve sustainable use of Southland's rural land resource, in respect of:</i> <i>(a) agriculture and primary sector activities;</i> <i>(b) subdivision, use and development activities;</i> <i>(c) earthworks and vegetation clearance activities;</i> <i>(d) the use of soil resources;</i> <i>(e) mineral extraction activities; and</i> <i>(f) on-site wastewater systems.</i>

Objective RURAL.2 Life supporting capacity of soils	<i>Safeguard the life-supporting capacity, mauri and health of soils in rural areas, and prevent or minimise soil erosion and sedimentation from land use soil disturbance.</i>
Policy RURAL.1 Social, economic and cultural wellbeing	<i>Recognise that use and development of Southland's rural land resource enables people and communities to provide for their social, economic and cultural wellbeing.</i>
Policy RURAL.2 Land use change and land development activities	<i>Manage subdivision, land use change and land development activities in rural areas of Southland, in a way that maintains or enhances rural amenity values and character.</i>
Policy RURAL.4 Loss of high value soils from productive use	<i>Avoid the irreversible loss of high value soils from productive use, through inappropriate subdivision, use and development.</i>
Policy RURAL.5 Effects of rural land development	<i>The effects of rural land development shall be sustainably managed and land management practices encouraged so that:</i> <i>(a) soil properties are safeguarded;</i> <i>(b) soil erosion is minimised;</i> <i>(c) soil compaction and nutrient and sediment loss is minimised;</i> <i>(d) soil disturbance is reduced;</i> <i>(e) water quality is maintained or enhanced;</i> <i>(f) indigenous biodiversity is maintained or enhanced;</i> <i>(g) the mauri of water and soils is safeguarded.</i>
Policy RURAL.6 Adverse effects of on-site wastewater systems	<i>Make provision for the use of on-site wastewater systems in rural areas, provided new systems are not located within a site which is culturally sensitive to tangata whenua and adverse effects, including cumulative effects, are avoided or mitigated.</i>
<p>Chapter 5 – Assessment</p> <p>The proposed activity is considered an appropriate and sustainable use of rural land. Use of the land for a rural service activity enables the applicant to provide for their social and economic wellbeing. Other members of the farming community will have access to the service, contributing to their ability to provide for their own social and economic wellbeing. While not permitted in the Rural Zone, the proposed activity is related to the rural sector and represents a sustainable and effective use of the land resource. The area is fragmented, and the development will cluster around similar rural service and commercial activities. Given the nature of the receiving environment it is considered that rural amenity values and character will be maintained.</p> <p>While there will be the loss of a small portion of land that is mapped as highly productive, the land is subject to constraints that prevent it's use as effective productive land. Given this and the rural nature of the activity, the proposed activity is not considered an inappropriate use of land that is mapped as highly productive.</p> <p>Soil disturbance will be for site preparation purposes only and will be reflective of the volume anticipated for a development of this scale and nature. Given the relatively flat nature of the site, erosion is not anticipated and there will be relatively small extents of cut and fill. Soil properties are not expected to be affected and is not anticipated that there will be nutrient and sediment loss of any significance. The site is of appropriate size and topography to enable on-site wastewater disposal without generating adverse effects on the environment.</p> <p>The proposed activity is consistent with the Rural Land/Soils objectives and policies of the SRPS.</p>	
<p>Chapter 15 – Infrastructure/Transport</p>	
Policy INF.5 Development, subdivision and use	<i>Management of development, subdivision and land use shall ensure:</i> <i>(a) development does not result in adverse effects on the efficient operation, use, maintenance and development of infrastructure;</i> <i>(b) the nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of infrastructure, as appropriate for the type of development being undertaken;</i> <i>(c) the efficient and effective functioning of infrastructure, including the ability to develop, maintain, remove, decommission and upgrade infrastructure, is retained;</i> <i>(d) a coordinated and integrated approach across regional and district boundaries, and between agencies.</i>
Objective TRAN.1 Transport and land use	<i>Development of transport infrastructure and land use take place in an integrated and planned manner which:</i> <i>(a) integrates transport planning with land use;</i> <i>(b) protects the function, safety, efficiency and effectiveness of the transport system;</i>

	<p>(c) <i>minimises potential for reverse sensitivity issues to arise from changing land uses;</i></p> <p>(d) <i>provides for positive social, recreational, cultural and economic outcomes;</i></p> <p>(e) <i>minimises the potential for adverse public health and environmental effects;</i></p> <p>(f) <i>enhances accessibility and connectivity, maximising transport choice for users of the transport system.</i></p>
Policy TRAN.1 Transport decision making	<i>Strategic decision making processes relating to the transportation network shall be undertaken in a collaborative manner between local authorities, key stakeholders, and the community.</i>
Policy TRAN.3 Integration of existing and future transport infrastructure	<i>Integrate land use planning with transport infrastructure planning and make provision for future transportation requirements.</i>
<p>Chapter 15 – Assessment</p> <p>The development will integrate effectively and safely with the existing transportation network. The applicant proposes to utilise an existing connection to the transportation network and proposes to upgrade the accessway to Waka Kotahi Diagram E standard. The proposed upgrade will ensure the access to the site is adequate for the anticipated number of vehicle movements, protecting the safety, efficiency and effectiveness of the transport system. Waka Kotahi have provided written approval to the application, confirming that the development will not result in adverse effects on the efficient operation and use of transportation infrastructure and that the potential for reverse sensitivity issues to arise is acceptable.</p> <p>The site will utilise an existing connection to the electricity network. It is not expected that the development will adversely affect the operation of the electricity network.</p> <p>The proposed activity is consistent with the Infrastructure/Transport objectives and policies of the SRPS.</p> <p>Summary of assessment against Southland Regional Policy Statement Overall, the proposal is assessed as being consistent with the relevant provisions of the SRPS.</p>	

CUMULATIVE EFFECTS AND PRECEDENT

- Please provide an assessment on cumulative effects of establishing a non-rural activity within the Rural zone, as well as on land subject to the NPS-HPL.

The potential for inappropriate cumulative effects associated with establishing the activity in the Rural Zone is low. The activity will cluster around existing similar activities, which are primarily located in the Business 5 Zone. Existing rural service activities in the Business 5 Zone are appropriately located and are clustered in a manner intended by the zoning of the District Plan. Of particular relevance, effects associated with existing rural service activities in the Business 5 Zone are primarily anticipated by the District Plan and are not unacceptable in the receiving environment. The addition of a similar activity in close proximity is not likely to not result in any effects reaching a threshold where they become unacceptable. Effects associated with the proposed activity have been assessed as no more than minor and will not contribute to unacceptable adverse cumulative effects.

Despite being mapped as highly productive land, the applicant's Productive Capacity Assessment (PCA) has demonstrated that the site is not suitable for land-based primary production. For this reason, the development of the activity on the site is considered appropriate in relation to the NPS-HPL. The establishment of a non-rural activity on the site will not contribute to the cumulative loss of highly productive land that is able to be viably used for primary production purposes.

- Please provide further assessment on whether the granting of this activity would establish a precedent.

Despite the non-complying activity status, approval of the application would not establish a precedent of any sort. The site and receiving environment are unique in terms of both location and characteristics, and both contribute to ensuring the proposal is acceptable. The AEE assessed that the effects of the proposed activity will be no more than minor, and that the proposal is in accordance with the provisions of the District Plan and the NPS-HPL. The AEE assessed that the proposal passes both limbs of the Section 104D gateway test. Should Council grant the application, it will be on the basis that the applicant has successfully demonstrated that the proposal is acceptable. While approval of the current application would be of some relevance to any future

applications of a similar nature, it would not set a precedent that guarantees their approval. Any such applications would need to be assessed on their merits and against the relevant provisions of the District Plan. The need for every application to be assessed on its merits was noted in *Berry v Gisborne District Council* [2010] NZEnvC 71 at [24] where the Court stated:

The short and inescapable point is that each proposal has to be considered on its own merits. If a proposal can pass one or other of the s104D thresholds, then its proponent is entitled to have it considered against the range of factors in Part 2 and s 104. If it does not measure up, it will not be granted. If it does, then the legislation specifically provides for the possibility of it being granted a consent as a true exception to what the relevant Plan generally provides for.'

Yours faithfully
BONISCH CONSULTANTS

A handwritten signature in black ink, appearing to read "Scott Dickson".

Scott Dickson
Senior Planner

encl