

**BEFORE A COMMISSIONER APPOINTED BY THE OTAGO REGIONAL  
COUNCIL AND THE CENTRAL OTAGO DISTRICT COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991

**AND**

**IN THE MATTER OF** applications by Cromwell Certified  
Concrete Limited for resource  
consents to expand Amisfield Quarry

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**STATEMENT OF EVIDENCE OF DOMINIC SUTTON  
ON BEHALF OF CROMWELL CERTIFIED CONCRETE LIMITED**

Dated: 30 November 2021

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**GREENWOOD ROCHE**  
LAWYERS  
CHRISTCHURCH  
Solicitor: Monique Thomas  
(Monique@greenwoodroche.com)

Applicant's Solicitor  
Level 3  
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## 1 INTRODUCTION

- 1.1 My name is Dominic Sutton. I am the Head of Operations and Sales (Southern Region) for Firth Industries which is a division of Fletcher Concrete and Infrastructure Limited. I have held this role since 2012 but originally joined Firth in 1997 and have held various roles within the company in the intervening years. I have a BSc (Hons) from the University of Brighton.
- 1.2 I am responsible for the manufacture and sale of Firth Certified Concrete from New Plymouth to Invercargill, including operational and environmental aspects of some 26 concrete plants and the commensurate trucking and staffing. I also hold Directorships in 3 other joint venture companies on behalf of Fletcher Concrete and Infrastructure including Cromwell Certified Concrete Limited and a quarrying business in Oamaru.
- 1.3 Cromwell Certified Concrete Limited ('CCCL' or 'the Company') was established in 1990 and is a joint venture between Fletcher Concrete and Infrastructure Limited and McNulty's Investment Limited (a local Cromwell company). CCCL owns and operates Amisfield Quarry, located at 1248 Luggate-Cromwell Road (State Highway 6), approximately 15 km north of Cromwell and 250 m to the west of Lake Dunstan. It also operates a concrete plant in Cromwell.
- 1.4 Amisfield Quarry was established in 1994, primarily to serve the concrete market. It was first consented then, as an aggregate quarry only (no crushing). A crushing plant was added and consented in 1998. The current land use consent was granted in 2015 and regional consents in 2016.
- 1.5 When the quarry was first established, it was estimated to contain 50 years of resource. However demand for aggregates has been much stronger than was first anticipated. Deepening of the existing quarry and its expansion onto adjoining land is now proposed (the Proposal). An 8 ha block of land adjoining the quarry was purchased by the Company for this purpose in 2017.
- 1.6 I have been involved in the Proposal since January 2019, and I have senior management responsibility and accountability for it. I have

been involved in consultation with neighbouring landowners, reviewing the methodologies for extracting the gravel, the application of best practice in developing the Proposal, and ensuring that the wider experience of Winstone Aggregates (a Fletcher Concrete and Infrastructure Ltd company) is also reflected in the Proposal and its ongoing operation. If consents for the Proposal are granted, I will be responsible at a governance level for ensuring compliance with the conditions applied. Mr Allison, the quarry manager, will be responsible for compliance at the operational level.

1.7 As a result of my more than twenty years experience with Firth and my role as a director of CCCL, I understand:

- (a) the need and demand for different types of aggregate in the Central Otago and Queenstown Lakes District (referred to in my evidence as Inland Otago);
- (b) the nature and importance of the Company's quarrying activities;
- (c) the Company's environmental responsibilities and its approach to them;
- (d) the importance of the environment to our neighbours, customers and employees; and
- (e) the Company's commitment to its neighbours, good environmental practice, sustainability and health and safety.

1.8 I am authorised to provide this evidence on behalf of the Company.

## 2 **SCOPE OF EVIDENCE**

2.1 My evidence addresses:

- (a) Aggregates sourced from Amisfield Quarry and their use;
- (b) The demand for aggregates in Inland Otago;
- (c) The Company and its existing operations;
- (d) The expansion proposal;
- (e) The consultation undertaken on the expansion proposal;

(f) Some of the matters raised in submissions on the expansion proposal; and

(g) The section 42A officers reports.

2.2 The operational detail of the expansion proposal is described in the evidence of Mr Travis Allison, the quarry manager.

### 3 **AGGREGATES SOURCED FROM AMISFIELD QUARRY AND THEIR USE**

3.1 Aggregates are crushed and/or graded rocks, stones and sand. In New Zealand, aggregates are mostly sourced from volcanic rock (known as greywacke), shaped and formed by the action of rivers (known as alluvial gravel).

3.2 Aggregates underpin virtually all of our day to day activities and are an essential component of virtually every modern building. They are used extensively to construct everything from roads, bridges, cycleways and airports to water and waste networks, hospitals, factories, offices and housing.

3.3 A sustained and reliable supply of aggregate is required to provide for building, construction and roading projects, and to maintain and redevelop existing infrastructure. To construct and maintain significant built structures and infrastructure without aggregate would be totally impracticable, if not impossible. Aggregates also form an important component of manufactured products such as ready mixed concrete, precast concrete beams and panels, blocks, pavers, pipes, and the like.

3.4 Aggregate resources in New Zealand can be largely grouped into two classes: hard rock and gravel. Gravel quarries, such as Amisfield Quarry, are typically located in river valleys and alluvial plains. In Inland Otago, viable sources of suitable aggregate are limited due to the geology of the area.

3.5 Aggregate is extracted based on its physical properties (strength, durability, cohesiveness, size), chemical properties (beneficial or lack of deleterious minerals), and its homogeneity and volume at a site. It

must meet specifications set by NZ Standards in order to be used for certain purposes or applications.

- 3.6 Amisfield Quarry produces a range of aggregates (including concrete aggregates) to meet differing needs by excavating, washing and processing materials on site as described in the evidence of Mr Allison, the quarry manager.
- 3.7 The type of aggregate required to make concrete is only found in the Pisa area in the context of the Upper Clutha valley, and is relatively rare elsewhere in the Central Otago and Queenstown Lakes districts where there is an abundance of schist material. Schist material is totally unsuitable for use as any form of aggregate because it is too soft.
- 3.8 Overall, approximately 50% of the aggregates produced at Amisfield Quarry are concrete aggregates which are used to make concrete at the Company's concrete plant in Cromwell or at Firth plants in Wanaka and Queenstown for building and infrastructure projects. These plants supply half all concrete used in Cromwell, Queenstown and Wanaka.
- 3.9 There is currently only one other concrete supplier in Inland Otago (Allied Concrete, which operates at Parkburn, Alexandra, Queenstown and Wanaka).
- 3.10 The other 50% of the quarry's current output are non-concrete aggregates and sands which are typically used in for roading, in the construction process for stable pavements, and as fill material for retaining walls and trench fills. These products are purchased at the quarry by customers (mainly general civil contractors and roading contractors) across Inland Otago (but mainly in Cromwell, Wanaka and Queenstown).

#### 4 **DEMAND FOR AGGREGATES**

- 4.1 There is strong ongoing demand for aggregate in the Central Otago and Queenstown Lakes districts (Inland Otago) for large volumes of aggregate for new building, construction and roading projects, but also for the maintenance and upgrade of existing infrastructure. Although construction and building activity overall in New Zealand is forecast to decrease slightly in the next 5 years, the infrastructure component

(roads, rail, bridges, groundworks etc) in many areas is forecast to increase. This is not surprising because New Zealand typically runs low build cost, high maintenance models for roading.

- 4.2 To meet that continued demand, there needs to be reliable production and transportation of aggregate from existing quarries and/or development of new quarry sites. Aggregate supplies need to be located close to areas of demand to reduce economic, environmental and social costs. To be economic, aggregate resources are extracted close to their markets as the cost of transporting aggregate doubles approximately every 30km.
- 4.3 Amisfield Quarry is particularly well located in that regard, being within economic distances of Cromwell, Wanaka and Queenstown. The locations of other aggregate quarries are set out in Table 1 and shown in Figures 1 – 4 below. The nature of the products produced at these other quarries depends on the type of aggregate found on that land and customer requirements.

	Cromwell	Wanaka	Queenstown
Amisfield Quarry	15	39	72
McKay Road (Central Machine Hire)	45	15	81
McKay Road (Fulton Hogan)	45	15	81
Earnsclough (Road Metals)	27	56	83
Road Metals Parkburn (Downer quarry)	12	43	67
Fulton Hogan Parkburn	12	43	67

*Table 1: Distances to Cromwell, Wanaka and Queenstown*



*Figure 1: Aggregate quarries in Inland Otago*



*Figure 2: Location of aggregate quarries near Cromwell*



*Figure 3: Location of Earnsclough Quarry, Alexandra*



*Figure 4: Location of aggregate quarries near Wanaka*

- 4.4 There are two quarries at Parkburn, located next to each other (Figure 2). The larger of those two quarries is owned by Fulton Hogan and the other is owned by Downer. Those quarries are located 2km to the south of Amisfield Quarry. The Fulton Hogan quarry immediately adjoins the Pisa Moorings residential settlement and a cherry orchard.



- 4.5 Both of the Parkburn quarries currently produce concrete aggregates. However I understand that Fulton Hogan has recently started consultation on a plan change in relation to its site.
- 4.6 McKay Road (Central Machine Hire) (Figure 3) serves the Wanaka market and is producing drainage and basecourse aggregates which are not suitable for concrete. This quarry is owned by a developer, mainly to serve his own developments. McKay Road (Fulton Hogan) also serves on the Wanaka market and produces basecourse. I understand that the sand at that site is too coarse to make concrete aggregates without washing and fine crushing.
- 4.7 Earnsclough (Road Metals) serves Alexandra (Figure 4). It produces general and concrete aggregates. There is coal in that aggregate which needs to be removed using a floatation plant. This adds cost and risk to making concrete, particularly as concrete and coal react to each other. I understand that concrete aggregates produced at that site only supply a concrete block plant in their yard.
- 4.8 If consents for expansion of Amisfield Quarry are not granted, CCCL and Firth would need to try to source an alternative supply of concrete aggregates. However I doubt that a single existing provider could meet this demand. Our existing and potential future non-concrete aggregate customers would also have to source products from other existing quarries (depleting those resources more quickly) or from further afield (assuming that new sources are available).
- 4.9 If there were to be a shortage of local supply, aggregate could theoretically be imported from other districts but this is unlikely to be economic. If aggregate needed to be trucked into the district from other areas, aggregate costs in the Inland Otago area would increase significantly and these costs would be passed onto the end user. There are also additional transport effects when trucking aggregate over longer distances.
- 4.10 The nature of quarrying activities means that a quarry can only be established where there is access to a viable aggregate resource of sufficient quality and quantity. The criteria which are considered in choosing a potential quarry site include:

- (a) geological and geotechnical considerations to ensure there is sufficient material to produce high quality aggregates which meet the required product specifications safely and efficiently;
- (b) proximity of the site to a demand centre for aggregate and a roading network that allows for efficient distribution of product;
- (c) the size of the site and whether it allows for the establishment of necessary processing and management facilities;
- (d) the surrounding environment, including the number and proximity of dwellings and whether the site is or can be screened from surrounding sensitive land uses;
- (e) existing land use, investment and ownership;
- (f) groundwater issues including excavation depths in relation to groundwater and groundwater availability for resource processing;
- (g) proximity to any sites of ecological, historical or landscape significance; and
- (h) the relevant planning framework.

4.11 We have looked at whether there may be other suitable sites in Inland Otago from time to time however none were suitable.

## 5 **CCCL AND ITS EXISTING OPERATIONS**

5.1 The construction of the Clyde Dam and the creation of Lake Dunstan in 1992 - 1993 flooded extensive areas of land, including the site of the former metal quarry operated by McNulty's near Cromwell. After extensive investigations, a new quarry site on a large block of rural land above the proposed lake level was located between State Highway 6 and Lake Dunstan, northwest of the Amisfield Burn and approximately 15km north of Cromwell. In 1994, consents were granted to subdivide that large block of land into two lots (one for the quarry and one for farming) and for the establishment of the quarry.

5.2 Amisfield Quarry has now been operating on that site for 27 years and is a major supplier of both concrete and non-concrete aggregates in

Inland Otago (the Central Otago and Queenstown Lakes districts). It also contributes directly to the local economy by providing employment to locals, purchasing materials and utilising local contractors. The quarry currently directly employs 6 people who live locally, contracts the services of numerous local businesses such as repairs and maintenance, and supports the construction industry through concrete supply and supply of aggregate products.

- 5.3 The Company has good relationships with local communities. It supports those communities by donating materials for various projects. Beneficiaries include the hockey, golf and bowling clubs, and local primary schools.
- 5.4 If consents for the expansion are granted, the quarry will generate direct employment for 7-8 full time on-site staff, and continued indirect employment for workers in the local construction and roading industries, truck drivers, maintenance staff and contractors, for a longer period than would otherwise occur under the existing consents. Granting the consents will also secure the continued operation of our concrete plant in Cromwell (which employs 5 full time and 3 casual staff) and the Firth plants in Queenstown and Wanaka (which employ 15 staff).

*Development of land around the quarry over time*

- 5.5 As described above, the quarry was first consented in 1994. In 2001, land around the existing quarry was subdivided into a number of blocks. When granting the subdivision consent, the District Council imposed a condition requiring that owners of that land make future purchasers aware of the proximity of the quarry and effects of quarrying which may have effects beyond the boundary of the quarry. Because of the ongoing nature of that consent condition, it was imposed on the titles for that land as a consent notice. A copy of the consent notice is attached to my evidence as Appendix 1.
- 5.6 A restrictive covenant was also put in place (in favour of the existing quarry) to make future owners of the subdivided land fully cognisant of the quarry and its effects. A copy of the covenant is attached to my evidence as Appendix 2.

- 5.7 The covenant applies to all of the land around the existing quarry site. The covenant allows rural use of the land around the quarry provided that use does not interfere with the operation of the existing quarry. In particular, it requires that no more than 1 dwelling be erected or placed on any part of the land (except for Lot 9 where 2 houses may be built)<sup>1</sup>.
- 5.8 The covenant does not require the existing quarry to cease by any particular date. It endures for 200 years or when existing quarry operations cease, whichever occurs earlier.
- 5.9 The subdivided land was then sold and a number of activities established on land around the quarry over time. Most of the current activities on land near the quarry were established after the current consents for the existing quarry were granted in 2015/2016. I understand that:
- (a) the Clark property at 1308 Luggate-Cromwell Road was purchased in January 2014;
  - (b) the Manukau Fifty property was purchased in September 2017;
  - (c) the Amisfield Orchard land was purchased in September 2017; and
  - (d) the Hayden Little Family Trust land was purchased in March 2018.

## 6 THE EXPANSION PROPOSAL

- 6.1 Knowing how much need there is for aggregates, when a block of adjoining land came on the market in 2017, we decided to purchase it for the potential expansion of the existing quarry.
- 6.2 There are a range of reasons why we ultimately chose to expand the existing quarry in this location, rather than to develop a new quarry elsewhere:

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<sup>1</sup> Schedule 3, Clause 1

- (a) The existing quarry and the expansion land both contain a large volume of aggregate with the necessary geological properties to produce high quality concrete and non-concrete aggregates which meet the necessary product specifications. The existing quarry can be deepened by quarrying below the groundwater table;
- (b) It is located away from urban areas but within economic distances to centres of strong demand, close to the Company's concrete plant in Cromwell and on a State Highway;
- (c) It is a large site and already has the necessary processing and management facilities;
- (d) There are relatively few dwellings nearby and the existing quarry co-exists with surrounding land uses;
- (e) Environmental effects were assessed and could be addressed. The site is currently screened from surrounding sensitive land uses and quarrying on the expansion land can be screened through the use of bunds;
- (f) We already own the land, we have experience of quarrying there and employ locally based staff with knowledge of the operation and the geology;
- (g) There is ample groundwater available for processing, potable water and dust control; and
- (h) The expansion land is closer to the DoC reserve than the existing quarry, however we consulted with DoC about the proposal and were comfortable that we could address any concerns raised by the Department through mitigation measures and consent conditions. There are no sites of historical or landscape significance in the immediate area.

6.3 The expansion proposal is estimated to contain up to 4.6M tonnes of resource.

## 7 CONSULTATION

- 7.1 Relationships with our immediate neighbours at Amisfield Quarry, including those who purchased land around the quarry after our current consents were granted in 2015/2016, have traditionally been very good.
- 7.2 We began informal consultation about the expansion proposal (and a possible boundary adjustment with land owned by Hayden Little Family Trust) as early as May 2019.
- 7.3 In March 2020, we wrote to owners/occupiers of the properties surrounding the application site who we identified as potentially interested in the proposal<sup>2</sup>. The letter included a brief description of the proposal and a draft site plan, and comments were invited. Feedback was received in person and over the phone from the owners of three properties<sup>3</sup>. The feedback received informed initial design mitigations, for example adopting an underpass to provide access to the expansion land and limiting the height of the bunds.
- 7.4 At this initial feedback stage, two of our immediate neighbours<sup>4</sup> advised that they would like to increase the number of dwellings on their properties and sought our agreement to this. We are amenable to a variation of the covenant however, to date, this offer has not been accepted<sup>5</sup>.
- 7.5 Following the initial consultation undertaken, the same property owners were provided with a draft AEE and supporting technical reports on 14 September 2020 to provide more information on the proposal, and to provide assurance that any effects on those properties had been assessed. The draft AEE was also provided to the

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<sup>2</sup> Bryson and Nicola Clark, Manukau Fifty Limited, Red Tractor Estates Limited, Justine and Philip Davis, Department of Conservation, Hayden and Malcolm Little, Amisfield Orchard Limited, Douglas Cook, Lindsay Moore and Rosemary Sidey, Lindsay Moore.

<sup>3</sup> Malcolm and Hayden Little, Justine and Philip Davis, Bryson and Nicola Clark.

<sup>4</sup> Malcolm Little and Bryson and Nicola Clark.

<sup>5</sup> Notwithstanding this, after our applications for resource consent had been lodged, Amisfield Orchard Limited and Hayden Little Family Trust applied for and were granted resource consent for two additional building platforms, one next to the existing quarry and one next to the expansion land. Amisfield Orchard has since applied for and was granted a resource consent for a dwelling on the platform on its land.

Department of Conservation and Hokonui Rūnanga and Te Rūnanga o Ōtākou (Kā Rūnaka) for comment on 15 September 2020.

- 7.6 Consultation was also undertaken with NZTA in relation to State Highway 6. The design of the proposed right turning bay addresses the feedback received from NZTA, as is described in the transport evidence of Mr Fernando.
- 7.7 A written approval was subsequently provided by Mr Lindsey Moore (an owner of Lot 1 Deposited Plan 384908 and Lot 2 Deposited Plan 384908), although that approval was later withdrawn in order to allow a submission to be made by Amisfield Estate Society Incorporated (the Society) in relation to groundwater matters. The Society has an easement over Mr Moore's land for the purpose of maintaining the Society's water infrastructure and conveying water to the Society's members. I understand that the Society takes water from a bore on Mr Moore's land.
- 7.8 Feedback was also received from Mr Malcolm Little, representing Amisfield Orchard Limited and Hayden Little Family Trust.
- 7.9 The resource consent applications were lodged in late October 2020. At the time of lodging the resource consent applications, we had not received feedback from DoC or Kā Rūnaka. Both made submissions on the resource consent applications and we have continued to engage with those organisations in relation to the matters raised in their submissions. DoC has confirmed that the conditions we have proposed address the matters raised in the Department's submission, and it does not wish to be heard at the hearing of the applications.
- 7.10 NZTA also made a submission on the proposal. We continued to engage with NZTA in relation to the matters raised in its submissions and have proposed conditions which I understand also address those matters.
- 7.11 We have had ongoing correspondence with Mr Malcolm Little (who represents Amisfield Orchard Limited and Hayden Little Family Trust) since 2019 in relation a range of matters, including about the expansion proposal, the restrictive covenants over the land owned by Amisfield Orchard Limited and Hayden Little Family Trust (in favour of

the existing quarry), and a potential boundary adjustment with the Trust's land.

- 7.12 We have also engaged with a number of other submitters (including Amisfield Estate Society and Irrigation & Maintenance) and undertook some sampling and testing of their bores. We have sought feedback from AES on the proposed draft conditions and hope to meet with the Society to discuss those.

### *Encroachment*

- 7.13 As described above, the land for the existing quarry was created by a subdivision in 1994. I understand that the subdivided land was fenced by a local fencing contractor. Since then, the quarry has been operated on the basis that the fenced boundary is the correct boundary of the quarry site and a part of bund was placed on that boundary. From aerial photos, this bund was formed sometime between 1998 and 2003<sup>6</sup>.

- 7.14 In 2019, Malcolm Little made us aware that the boundary had been fenced in the wrong place. I understand that Hayden Little Family Trust had the land surveyed prior to purchasing it. The mistake made in the location of the fence has resulted in mutual 'encroachments' – some of our land appears to have been fenced within the Trust's land, and vice versa. This has resulted in part of our bund being located on the Trust's land, and water tanks for the Trust land being placed on our land (although I understand that the tanks may recently have been removed by the Trust).

- 7.15 In May 2019, we paid for 100% of the costs of repairing and rabbit fencing the existing fence which is on both properties to prevent any damage to cherry trees which the Trust intended to plant on its land. We had agreed with Mr Little to undertake a formal boundary adjustment (which we would pay for). Mr Little initially agreed to this but requested removal of the building covenant in return. We were agreeable to this in principle but in return sought his support for our expansion proposal.

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<sup>6</sup> Condition 2



7.16 When the boundary adjustment and related matters could not be agreed, we offered to undertake works to relocate the relevant part of the bund back onto our land and realign the fence line to accord with the correct legal boundary (at our cost). This was not acceptable to Mr Little and we have not been able to resolve these matters with him.

## 8 **SUBMISSIONS**

8.1 We have carefully considered all of the matters raised in the submissions on the applications and have made a number of amendments or refinements to the proposal in response, as discussed in the evidence of Mr Allison (the quarry manager).

8.2 One submission<sup>7</sup> refers to people having chosen to move into the area around the quarry, knowing that the quarry was there but not being aware that it was re-consented in 2016. They refer to their expectation that quarrying would finish on the site in the near to mid term. I assume that the existence of the current quarry would have been included in LIM reports issued by the District Council for land within a certain distance, and note that the current land use consent does not require quarrying to cease by any particular date.

8.3 Some of the submissions state that Cromwell has a limited supply of productive land with access to a good water supply, and what remains needs to be protected. Equally, there is a very limited supply of suitable aggregate resource and as I have stated above, concrete aggregates are only found in the Pisa area in the context of the Upper Clutha valley.

## 9 **SECTION 42A OFFICERS' REPORTS**

9.1 The s42A report for the District Council states that the economic assessment prepared by Mr Colegrave has assumed that quarrying activities must be located in a single confined location<sup>8</sup>. The s42A report states that while this may be the most economic model, a more distributed system of quarrying to obtain aggregate to shallower depths (progressively across different parts of the district) and then

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<sup>7</sup> Towyn Trust and Lake Terrace Cherries Limited  
<sup>8</sup> At paragraph 12.23.4

rehabilitating the land (and restoring soils for new uses) has not been considered.

- 9.2 Mr Colegrave's assumption is correct for several reasons. As I have described, suitable aggregate resource in Inland Otago is very limited. Even if this were not the case, quarrying land in one location (where the necessary processing plant with sufficient water supply can be consented and set up) is by far the most efficient and sustainable model, rather than attempting to purchase land and consent quarries and water takes for various parcels of land. and then moving processing plant across the district.

## 10 **CONCLUSION**

- 10.1 There is a need for a sustained, reliable and competitive local supply of concrete and non-concrete aggregates in Inland Otago for a wide range of purposes. This proposal (which represents, in practical terms, an extension of the existing activity) goes some significant way towards meeting that need, using existing crushing and screening infrastructure. The proposed expansion will also provide for the continued employment of staff at the Amisfield Quarry and support of local businesses as well as the continued supply of concrete aggregate for concrete production at CCCL's concrete plant in Cromwell and Firth's plants in Queenstown and Wanaka.

- 10.2 With the significant experience gained over the time a quarry has operated on this site, the manner in which we operate our business and the consent conditions proposed, I am confident that the effects of this proposal will be mitigated appropriately and that we will exercise the consents (if granted) in a careful and responsible manner.

**Dominic Sutton**

**November 2021**

## **Appendix 1: Consent Notice**



DocID: 110241998

In accordance with the conditions of a resource consent of the Central Otago District Council granted pursuant to Section 105 of the Resource Management Act 1991 dated 21 December 2000, the following conditions are to be imposed on an ongoing basis by a consent notice to be registered against the certificates of title for Lots 1, 2, 3, 4, 6, 7, 9, 10, & 11.

1. The owner(s) of Lots 1, 2, 3, 4, 6, 7, 9, 10 & 11 is/are aware of and will take all reasonable and appropriate steps to advise all purchasers, lessees, licensees or tenants, or any other users coming to use or having an interest in Lots 1, 2, 3, 4, 6, 7, 9, 10 & 11 of or any part thereof, of:
  - (a) The proximity of a working quarry and other land to be developed and used as a quarry located upon Lots 5 & 8; and
  - (b) The usual incidences of quarrying including (but without limitation) noise, vibration, earth movements, transport of materials, dust and effective explosion which may have consequences beyond the boundaries of Lots 5 & 8.
2. Electricity and telephone services, within Lots 1, 2, 3, 4, 6, 7, 9, 10 & 11 are to be laid underground.

DATED this 3<sup>RD</sup> day of MAY 2001

SIGNED for and on behalf of the

CENTRAL OTAGO DISTRICT COUNCIL

by its Chief Executive.....

  
R.E. McNeil  
(Pursuant to delegated authority)

IN THE MATTER of Lots 1 - 11 being a subdivision of Lot 1 DP 24589 and Lot 3 DP 300388 being all the land in CT's 2412 & OT 16C/333.

AND

IN THE MATTER of resource consent from the Central Otago District Council to subdivide the above land owned by Lake Dunstan Farms Ltd and Cromwell Certified Concrete Ltd.

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CONSENT NOTICE PURSUANT  
TO SECTION 221 OF THE  
RESOURCE MANAGEMENT ACT 1991

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PATERSON PITTS PARTNERS LTD  
REGISTERED SURVEYORS  
P O Box 84  
CROMWELL

## **Appendix 2: Restrictive Covenant**

COU 5074990.16 COVENANT (ALL TYP  
CPY-01/02.PGS-000.24/08/01.09:49



DocID: 110242015

**LAKE DUNSTAN FARMS LIMITED**

**AND**

**CROMWELL CERTIFIED CONCRETE LIMITED**

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**DEED OF COVENANT**

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**ANDERSON  
LLOYD  
CAUDWELL**

BARRISTERS, SOLICITORS & NOTARIES SINCE 1862

**DUNEDIN, QUEENSTOWN & CHRISTCHURCH**

NEW ZEALAND

Tel: 64 3 442 7570

Fax: 64 3 442 8848

E-mail: [lawyers@andersonlloyd.co.nz](mailto:lawyers@andersonlloyd.co.nz)

PO Box 201

Queenstown

DEED dated 17<sup>th</sup> July

**PARTIES**

**LAKE DUNSTAN FARMS LIMITED ("Covenantor")**  
**CROMWELL CERTIFIED CONCRETE LIMITED ("Covenantee")**

**INTRODUCTION**

- A. The Covenantor will be registered as proprietor of the land described in Schedule 1 ("the Covenantor's Land") following the deposit of and registration of new titles under subdivision plan DP301379.
- B. The Covenantee will be registered as proprietor of the land described in Schedule 2 ("the Quarry Land") on deposit of and registration of new titles under subdivision plan DP301379.
- C. The Covenantee and/or the occupiers and operators of the Quarry Land carry out various quarrying activities on the Quarry Land which result in or are likely to result in noise, vibration, earth movement, dust, effects of explosion and the usual incidences of quarrying which may have consequences beyond the boundaries of the Quarry Land.
- D. The Covenantee agrees to grant in favour of Lots 1, 6, 10 and 11 of the Covenantor's Land a limited right of way easement over Lot 5 of the Quarry Land (the "Quarry Access"). That grant will consist of no more than eight vehicle movements daily in total for Lots 1, 6, 10 and 11 collectively.
- E. In consideration of the Covenantee granting the Covenantor the Easement over the Quarry Access, the Covenantor has agreed to covenant with the Covenantee as provided in this deed.

**COVENANTS**

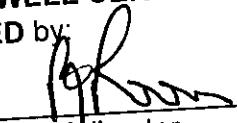
The Covenantor for itself and its successors in title to, and assigns and lessees of, the Covenantor's Land or any part of it, hereby covenants and agrees with the Covenantee, its successors in title and assigns and the occupiers and the operators of the Quarry Land or any part of it, from time to time, as a positive covenant for the benefit of the registered proprietors and users from time to time of the Quarry Land, that the Covenantor will henceforth and at all times hereafter observe and perform all the stipulations and restrictions contained in Schedule 3 to the end and intent that such stipulations and restrictions shall forever enure for the benefit of, and be appurtenant to, the Quarry Land and the occupiers and operators of the Quarry Land for a term of 200 years from the date of this deed, or terminating on such earlier date as quarry operations on the Quarry Land shall cease provided always that any party shall as regards this covenant be liable only in respect of breaches of this covenant which shall occur while it shall be the registered proprietor of the Covenantor's Land or any part thereof.

Handwritten signatures and initials: AM, BK, RR, MM.



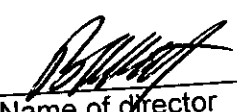
**SIGNED AS A DEED**

**CROMWELL CERTIFIED CONCRETE  
LIMITED by:**

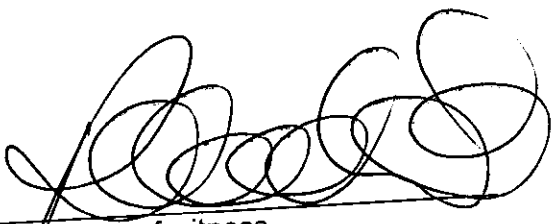
  
\_\_\_\_\_  
Signature of director


Peter James Rooney  
\_\_\_\_\_  
Name of director

A. M. Nweto  
\_\_\_\_\_  
Signature of director

  
\_\_\_\_\_  
Name of director

**LAKE DUNSTAN FARMS LIMITED by**

  
\_\_\_\_\_  
Signature of witness

  
\_\_\_\_\_  
Mark Jeremy Mason  
Sole Director

REBECCA SUSAN MANDERS  
SOLICITOR  
\_\_\_\_\_  
Occupation **QUEENSTOWN**

\_\_\_\_\_  
City/town of residence

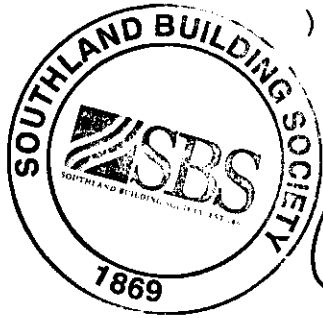
Southland Building Society as Mortgagee of the Covenantor's Land described in Schedule 1 pursuant to Mortgage 5007386.3 HEREBY CONSENTS to the within covenants without prejudice to the Mortgagee's rights and remedies under the said Mortgage.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2001

Executed by or on behalf of the  
**SOUTHLAND BUILDING SOCIETY**  
in the presence of:

) THE COMMON SEAL OF THE  
SOUTHLAND BUILDING SOCIETY  
was hercunto affixed by Order of the  
Directors in the presence of

Signature:  
Occupation:  
Address:



*[Handwritten signature]*

*[Handwritten signature]*  
**JOANNE MAREE TOOGOOD**  
Manager Corporate Services  
**BHOY ALEXANDER McMILLAN**  
Senior Corporate Services Officer

ANZ Banking Group (New Zealand) Limited as Mortgagee of the Quarry Land described in Schedule 2 pursuant to Mortgage 906998.2 HEREBY CONSENTS to the within covenants without prejudice to the Mortgagee's rights and remedies under the said Mortgage.

Dated this 2<sup>5<sup>th</sup></sup> day of *July* 2001

Executed by or on behalf of the  
**ANZ BANKING GROUP (NEW ZEALAND))**  
**LIMITED** in the presence of:

*[Handwritten signature]*  
**MURRAY JOHN GREER**  
CHIEF MANAGER  
CORPORATE & INSTITUTIONAL BANKING

Signature:  
Occupation:  
Address:

*[Handwritten signature]*  
**KEVIN WILLIAM SMITH**  
BANK OFFICER  
AUCKLAND

*BH*  
*AM.*

*[Handwritten initials]*  
*[Handwritten initials]*

**ANZ BANKING GROUP (NEW ZEALAND) LIMITED**

**CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY**

I, **MURRAY JOHN GREER** of Auckland in New Zealand, a Chief Manager of ANZ Banking Group (New Zealand) Limited, hereby certify that:


1. By deed dated 23 December 1994 I was, by virtue of my holding a specified office, appointed Attorney of ANZ Banking Group (New Zealand) Limited, a Company incorporated in New Zealand and having its head office at Wellington, on the terms and subject to the conditions set out in that deed.

Copies of that deed are deposited in the Land Transfer Offices listed below under the number shown alongside each of those offices;

North Auckland	C701593.IF	Nelson	345112.1
South Auckland	B250811.	Marlborough	177772.
Gisborne	G201332.1	Canterbury	A156447/1
Hawkes Bay	618733.1	Westland	100272.
Taranaki	417741.	Otago	873424.
Wellington	B413857.1	Southland	227623.1

- 2 At the date hereof I have not received any notice of the revocation of that appointment by the winding up or dissolution of ANZ Banking Group (New Zealand) Limited or otherwise.

SIGNED by the above mentioned )  
Attorney at Auckland )  
this 25<sup>th</sup> )  
day of July, 2001 )

  
CHIEF MANAGER  
CORPORATE & INSTITUTIONAL BANKING

**SCHEDULE 1**  
**The Covenantor's Land**

5.32 ha more or less being Lot 1 DP301379, 7.3115 ha more or less being Lot 6 DP301379, 1.3235 hectares more or less being Lot 10 DP301379, and 564 m2 more or less being Lot 11 DP301379 as contained in Certificate of Title 5963

7.34 ha more or less being Lot 2 DP301379 and 3173 m2 more or less being Lot 7 DP301379 as contained in Certificate of Title 5964

9.8655 ha more or less being Lot 3 DP301379 as contained in Certificate of Title 5965



17.944 ha more or less being Lot 4 DP301379 as contained in Certificate of Title 5966

~~2115 m2 more or less being Lot 5 DP301379 and 18.915 ha more or less being Lot 8 DP301379 as contained in Certificate of Title 5967~~

16.017 ha more or less being Lot 9 DP301379 as contained in Certificate of Title 5968

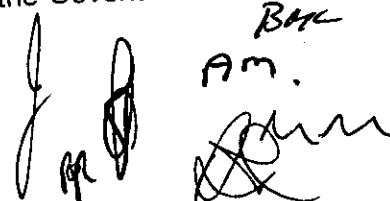
**SCHEDULE 2**  
**The Quarry Land**

2115 m2 more or less being Lot 5 DP301379 and 18.915 ha more or less being Lot 8 DP301379 as contained in Certificate of Title 5967

  
BVK  
AM.  


**SCHEDULE 3**  
**Covenants**

1. The Covenantor shall ensure that at all times during the term of this covenant, all parts of the Covenantor's Land are used only for the purpose of rural allotments provided that any such use will not interfere with the operation of the quarry on the Quarry Land. In particular but without limiting the generality of the foregoing, the Covenantor shall ensure that no more than one dwelling is erected or placed on any part of the Covenantor's Land. Provided that Lot 9 may be further subdivided into no more than 2 lots, and that no more than one dwelling may be erected or placed on any such resulting lot.
2. The Covenantor is aware of, and will take all reasonable and appropriate steps to advise all purchasers, lessees, licensees or tenants or any other users coming to use or having an interest in the Covenantor's Land or any part thereof, of:
  - (a) the proximity of a working quarry and other land to be developed and used as a working quarry located upon the Quarry Land; and
  - (b) the usual incidences of quarrying including (but without limitation) noise, vibrations, earth movements, transport of materials, dust, and effective explosion ("**Quarrying**") which may have consequences beyond the boundaries of the Quarry Land; and
3. The Covenantor will allow the Covenantee to carry on the activities of Quarrying without interference or restraint from the Covenantor.
4. The Covenantor shall not make or bring any claim, writ, demand for damages, costs, expense or allege any liability whatever on the part of the Covenantee and/or the quarry occupiers or operators arising out of or caused or contributed to by:
  - (a) the fact that the Quarry Land is used by the Covenantee, and/or its occupiers and operators of the Quarry Land for Quarrying provided that Quarrying is being carried out in compliance with clause 5 of this deed; or
  - (b) the fact that the Quarry Access is used by the Covenantee and/or the occupiers and operators of the Quarry Land in accordance with the terms of the Easement;
  - (c) any matters arising as a consequence of the grant of the Easement.
5. The Covenantee and/or the occupiers and operators of the Quarry Land covenant with the Covenantor, that for the remaining economic life of the quarry, that Quarrying on the Quarry Land will, subject to the proviso at the end of this clause, at all times be carried on in full compliance with the applicable rules of the Central Otago District Council District Plan. Provided that such compliance is without prejudice to any existing use rights enjoyed by the Covenantee and/or occupiers and operators of the quarry which may be inconsistent with District Plan requirements.
6. The Covenantor shall not, as part of any application for a resource consent by the Covenantee and/or the occupiers and operators of the Quarry Land related to the Quarrying use, or as part of any review of or change to the applicable District Plan, whether on the grounds of the effects of Quarrying on the use of the Covenantor's

  
BMC  
AM.  
[Signature]

Land or on any other ground, make any submission seeking to apply to the Quarry Land any noise, dust and/or vibration standards or any other environmental controls, rules or policies, which are more stringent on the Quarry Land than those which apply currently or in the future, under the District Plan applicable to the Quarry Land or to the surrounding similarly zoned land.

7. The Covenantor shall pay its solicitor's legal costs and disbursements directly or indirectly attributable to the perusal, execution and registration of this deed and its covenants together with the Covenantee and/or the quarry occupiers' and operators' solicitor's legal costs and disbursements directly or indirectly attributable to the enforcement of this deed and its covenants.
8. The Parties agree to pay their own solicitor's legal costs and disbursements directly or indirectly attributable to the preparation, perusal and execution of this deed and its covenants.

  BAL  
AM.  
