IN THE ENVIRONMENT COURT **ENV-2024-CHCH-**
CHRISTCHURCH REGISTRY

I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE

UNDER	the Resource Management Act 1991 (the **RMA**)
IN THE MATTER	of an appeal under Schedule 1, Clause 14(1), of the Act
BETWEEN	**TOPP PROPERTY INVESTMENTS 2015 LTD**
	Appellant
AND	**CENTRAL OTAGO DISTRICT COUNCIL**
	Respondent

NOTICE OF APPEAL ON BEHALF OF TOPP PROPERTY INVESTMENTS 2015 LTD

DATED 9 AUGUST 2024

LARA BURKHARDT
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TO: The Registrar
Environment Court
CHRISTCHURCH

1. Topp Property Investments 2015 Ltd (**TPI**) appeals the decision of the Central Otago District Council (**CODC** or **Council**) concerning Plan Change 19 – Residential Zoning to the Central Otago District Plan which "proposed to make a complete and comprehensive suite of changes to the way the District's residential areas are zoned and managed, and giving effect to the zoning outcomes of the Cromwell and Vincent Spatial Plans" (**Decision**).

2. TPI made a submission regarding the Decision (Submitter 161).

3. TPI is not a trade competitor for the purposes of Section 308D of the Act.

4. TPI received notification of the decision on 27 June 2024.

5. The parts of the Decision that TPI is appealing are all aspects of the Decision that affect TPI's interests at Muttontown, as raised in its original submission, including, in particular:

   (a) The provisions relating to the Future Growth Overlay (**FGO**) particularly as the FGO applies to TPI's interests at Muttontown, including identification of the specific infrastructure required and non-complying status should that infrastructure not be available;

   (b) The lack of recognition and a pathway for addressing alternative means of servicing, to resolve any infrastructure issues; and

   (c) The lack of a structure plan approach for TPI's interests at Muttontown; or adequate provision for the creation of a structure plan through means of consent, within the plan, and supporting objectives and policies.

Reasons for the appeal – specific: introductory text to the LDRZ

6. The decision, in respect of the Low Density Residential Zone, made the following changes to the introductory text of the Low Density Residential Zone:

> *The Future Growth Overlay identifies ~~any~~ areas that ha~~s~~ve either been signalled in the Vincent Spatial Plan for medium density residential zoning, in future, or other areas identified as being appropriate for future residential growth. ~~The provisions applying to this area are those of the underlying zoning, and therefore a Plan Change will be required to rezone this area in future.~~ However, there are some wider servicing constraints to developing these areas that must be addressed before they are able to be developed. Provisions are therefore applied in the Overlay ~~is intended to identify any location where future growth is anticipated, when further supply of residential land is required, and provided that~~ restricting development until there is capacity within the reticulated water and wastewater networks to service the additional development.* [1]

7. While there are provisions identifying specific upgrades, the Decision does not provide for alternative means of servicing, including temporary measures or provide for priority of upgrades or the priority of allocation of capacity to zoned opportunities (such as TPI's land).

8. In addition, the amendments made by the Decision also suggest that other areas, beyond those identified being subject to the FGO, could be appropriate for future residential growth (for example through a private plan change). It is not clear whether this was the intention or whether only the land subject to a FGO is intended to be signalled as appropriate for future residential growth. If the former, the Decision is not clear around priorities that could apply should Council not have enough servicing available for FGO land *and* additional residential land (ie via a private plan change). This needs to be clarified.

Reasons for the appeal – specific: Residential Zones Subdivision – Objectives and Policies (SUB-01; and SUB-P1 to P4)

9. There Decision provides no objectives or policies that refer to servicing, despite subdivision of land in the FGO being non-complying, should the identified wastewater treatment infrastructure requirements imposed be not met.

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[1] The same changes were also made to the introductory text of the Medium Density Residential Zone and Large Lot Residential Zone.

10. Through the hearing process it became apparent that there are servicing and capacity constraints that have come about as a result of faster than expected residential growth that apply even to land that is zoned residential.[2]

11. Whilst there are provisions identifying specific upgrades, the plan does not consider alternative means of servicing, temporary measures or priority of upgrades.

Reasons for the appeal – specific: Residential Zones Subdivision – Rules – Non-complying Status (SUB-R8)

12. Subdivision of Land within a FGO is a non-complying activity if the identified upgrades are not completed and a regional council discharge consent for the treatment plant is issued. Specifically, the requirement is for:

> *The Alexandra Wastewater Treatment plant has been upgraded and a regional council discharge consent has been issues for treatment of Alexandra and Clyde wastewater.*

13. The standard is absolute and inflexible. It is also questionable whether the trigger should appropriately (or lawfully) include the grant of resource consent by another consent authority.

14. It provides for one solution only, without any recognition for alternative solutions to be considered. This could include alternative reticulated servicing, or even temporary servicing.

15. In any event, a restricted discretionary activity status is more appropriate given the issue here is wastewater servicing – only. Otherwise, all effects (and objectives and policies) get opened back up by non-complying status. This is inefficient in terms of achieving the outcome sought (ie appropriate infrastructure provision, before development).

16. Should it be found that other land could also be developed as anticipated under the introduction to the low density residential zone then it may be

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[2] Eg Plan Change 19 – Residential Chapter Provisions Section 42A Report – PART 2 (Zoning Requests): Water and wastewater servicing matters, Prepared by Julie Muir Three Waters Director, Paragraphs 33-46.

appropriate that land that is not zoned or subject to the FGO retain the activity status of non-complying.

Reasons for the appeal – specific: Structure Plan (SUB-P5)

17. TPI requested structure plan approach, particularly inclusion of a commercial or mixed use area.

18. Large subdivisions typically contain multiple land uses with uses like neighbourhood centres, child care facilities, services like doctors, or other healthcare facilities are often included in the overall subdivision design.

19. This approach is often achieved through a structure plan to provide certainty upfront of either the location of such activities or that there's an expectation of these activities.

20. At paragraph 101 of the decision it states (emphasis added):

> *Ms Skuse, on behalf of Topp Property Investments 2015 Ltd, also **sought that a Structure Plan be added in relation to a site in the Muttontown Area** that would provide for a lower density in this area of LRZ (of 300m2 minimum) where in accordance with the Structure Plan. Ms Skuse's also requested a higher density of 1 dwelling per 1500m2 of gross site area would apply under a comprehensive development.*

21. While SUB-P5 refers to structure plans that apply, it is not clear how Muttontown would now "get" a structure plan given that there was no structure plan that was approved as part of PC19. The Decision is also not clear at paragraphs [98]-[110] about the reasoning as to why a structure plan for Muttontown was excluded.

Reasons for the appeal – General

22. Without limiting the above specific reasons given, TPI appeals on the grounds that:

    (a) The Central Otago District is experiencing rapid growth. To meet the expected demand, the efficient use of residential land is necessary. Well planned management of residential land will prevent urban

sprawl. TPI's site, and area surrounding it, is well located to enable further residential development, to give effect to the provisions of the National Policy Statement for Urban Development 2020 (NPS-UD), and needs to have development enabled to a greater extent than the Decision provides.

(b) The Decision failed to correctly apply the NPS-UD. This resulted in a failure to find that the CODC is a Tier 3 authority despite Council's advice that it could make such a finding through this process.

(c) The Decision failed to consider and address the relief that TPI was actually seeking by the end of the hearing. In particular, the Decision erred in not accepting the structure plan proposed.

(d) The Decision failed to address the lack of capacity and servicing issues within the objectives and policies by giving guidance about what is expected in relation to servicing, while applying an activity status of Non-Complying.

(e) The Decision failed to consider alternatives for servicing or consideration of temporary measures. Such an approach could easily be enabled through more specific policies.

(f) The Decision fails to promote sustainable management of resources, including the enabling of people and communities to provide for their social and economic well-being, and will not achieve the section 5 purpose of the Act.

(g) The Decision fails to promote the efficient use and development of the land, a matter to have particular regard to under section 7(b) of the Act.

(h) The Decision fails to achieve the functions of the Council under section 31 of integrated management of the effects of the use and development of land and physical resources.

(i) The Decision fails to meet the requirements of section 32.

(j) The Decision fails to address the concerns raised in the submission, and evidence.

Relief sought

23. TPI seeks the following relief in this appeal:

(a) For the concerns raised in this appeal, its original submission, and evidence to be addressed.

(b) That greater guidance be given within the objectives and policies around the requirements for servicing.

(c) Provision be made for alternative servicing options or temporary solutions.

(d) Clarification of how sites that are not within the future growth overlay would qualify for servicing (such that capacity for zoned sites within the FGO might be compromised).

(e) Restricted Discretionary activity status for subdivisions where they are located within the FGO and Non-complying for subdivision or plan changes where not located within the FGO.

(f) Provision for a structure plan approach within the subject site or specific provisions acknowledging that mixed-use development is anticipated within a site of a particular scale, provided that does not undermine the centre hierarchy of Alexandra and Cromwell.

(g) Costs.

Attachments

24. TPI attaches the following documents to this notice:

(a) A copy of its original submission (**Attachment A**).

(b) The Decision (**Attachment B**).

(c) A list of the names and addresses of persons to be served with a copy of this notice (**Attachment C**).

Signature: **TOPP PROPERTY INVESTMENTS 2015 LIMITED** by its duly authorised agent

____
Lara Burkhardt
Counsel for the Appellant

Date: 9 August 2024

Address for service of Appellant:

Lara Burkhardt
Barrister & Solicitor
PO Box 4432
Mount Maunganui South 3149
Tel: 07 575 2569
027 222 8656
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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and

- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland.

Attachment A

Submission

RECEIVED
02/09/2022
CODC

19/161

CENTRAL OTAGO
DISTRICT COUNCIL

Resource Management Act 1991

Submission on Notified Proposed Plan Change to Central Otago District Plan

Clause 6 of Schedule 1, Resource Management Act 1991

(FORM 5)

To: The Chief Executive
Central Otago District Council
PO Box 122
Alexandra 9340

Details of submitter

Name: Topp Property Investments 2015 Ltd ____

Postal address: __ Level 3 / Five Mile Centre, 36 Grant Road, Frankton, Queenstown 9371
PO Box 2130, Queenstown 9371
____

(Or alternative method of service under section 352 of the Act)

Phone: ______027 445 6845
____

Email:
_wmurray@propertygroup.co.nz____
____

Contact person: _____Werner Murray
____
(Name & designation, if applicable)

This is a submission on proposed Plan Change 19 to the Central Otago District Plan (the proposal).

I am / am not* a trade competitor for the purposes of section 308B of the Resource Management Act 1991 *(*select one)*

***I / We am / am not (select one) directly affected by an effect of the subject matter of the submission that:**
(a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition.
**Delete this paragraph if you are not a trade competitor.*

The specific provisions of the proposal that my submission relates to are:

(Give details, attach on separate page if necessary)

See Attached

This submission is:
(Attach on separate page if necessary) Include:

- *whether you support or oppose the specific parts of the application or wish to have them amended; and*
- *the reasons for your views.*

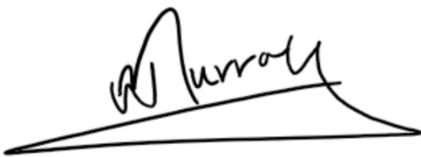
See Attached

I / We seek the following decision from the consent authority:
(Give precise details, including the general nature of any conditions sought)

See attached

- **I support / oppose the application OR neither support nor oppose** *(select one)*
- **I wish / do not wish to be heard in support of this submission** *(select one)*
- ***I / We will consider presenting a joint case if others make a similar submission**
  **Delete this paragraph if not applicable.*

In lodging this submission, I understand that my submission, including contact details, are considered public information, and will be made available and published as part of this process.



02/09/2022

Signature **Date**

Submissions close at 4pm on Friday 2 September 2022

Submissions can be emailed to districtplan@codc.govt.nz

Note to person making submission:
If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.
Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that a least 1 of the following applies to the submission (or part of the submission):

- *it is frivolous or vexatious:*
- *it discloses no reasonable or relevant case:*
- *it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:*
- *it contains offensive language:*
- *it is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.*

the propertygroup

Submission on	Plan Change 19
Submitter	Topp Property Investments 2015 Ltd
Prepared by (agent)	Joanne Skuse – Planner at The Property Group Werner Murray – Planner at The Property Group
Agent contact details	Phone: 027 498 1745; 027 445 6845 Email: jskuse@propertygroup.co.nz; wmurray@propertygroup.co.nz
Outcome sought	Given the breadth of the submission we oppose the Plan Change in its entirety.
Hearing	The submitter seeks to be heard at the hearing

Introduction

1. This is a submission on proposed Plan Change 19 (PC19) which seeks to make changes to the Central Otago District Plan ('the Plan'). PC19 proposes to make a complete and comprehensive suite of changes to the way the district's residential areas are zoned and managed.

Specific provisions of the Variation that the submission relates to

2. The Submitter has an interest in the entire Plan Change, specifically in respect of proposed density, minimum lot sizes, multi-unit development, built form standards and the methodology for future growth areas.

3. The Submitter also has a particular interest in the proposed re-zoning of land south of Mutton Town Road and proposed future growth development area.

4. The Submitter supports:

    a. The introduction of three new zones

5. The Submitter opposes the following:

a. That the District is not required to give effect to the NPS-UD
b. The use of the Low density residential zone rather than the General residential zone
c. The proposed 200m^2 density/minimum lots size in the medium density zone
d. The proposed 500m^2 density/minimum lots size in the low density zone
e. The proposed density/minimum lots size in the large lot zone
f. The removal of the multi-unit development rule from the low density zone
g. Objectives and Policies as per the points made in the submission below
h. Built form standards as per the submission below
i. Methodology behind the management of future growth areas, specifically retaining the underlying zone until a future plan change is adopted.

No trade competition

6. The Submitter could not gain an advantage in trade competition through this submission.

Submission

General

7. Proposed zone of Residential Resource Area 3 and 13 is Low Density Residential – Precinct 1. There is no corresponding Low Density Residential – Precinct 1 referenced anywhere else in the Plan Change documents. Requires clarification. Is this supposed to be Large Lot Residential – Precinct 1?

8. It is not clear from the s32 analysis that feasibility testing has been undertaken on the proposed built form standards to ensure development can actually occur as a permitted activity. As such it is submitted that all Standards across the three zones are challenged on this basis.

Medium Density Zone (MDR)

Objective and Policies

9. *MRZ-O2; MRZ-P1; MRZ-P2* - The objective and policies need to highlight that the amenity and character of this area is anticipated to change over time. This is supported by the NPS-UD. Requiring development to maintain the anticipated amenity values of adjacent sites isn't enabling the character of the zone to change and become medium density.

10. *MRZ-P7 – Future Growth Overlay* - This will be covered in more detail later however; the policy is problematic. Who decides the threshold of 'necessary' and 'anticipated demand'? Is this a numerical we have to wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and actually increase unaffordability.

11. A development pattern that is driven by the NPS-UD, is for greenfield development to be done in a comprehensive manner. This includes providing for a range of dwelling densities and typologies. While we support the use of medium density zones it is considered that in larger greenfield subdivisions or potentially even larger infill development sites (within the general residential zone) could benefit from comprehensive development. What this does is create dwelling choice and affordability by design by encouraging developing down to what could be considered a medium density.

Rules

12. MRZ-R1 – It is submitted that limiting the number of units per site to two is unnecessarily restricting development and does not achieve the objectives of an MDR zone, or address the issues noted in the s32 report. Up to three units per site should be enabled before consent is required. Rather than restricting the number of units per site, rely on a density standard and create a new rule for Multi-unit development.

13. MRZ-R2 - Comprehensive Residential Development Master Plan - This is not defined in the revised definitions. Does it relate to Comprehensive Residential Development? If so, update definition or provision to align; or define new definition.

14. MRZ-R3 – Amend Rule - As Minor Units are ancillary to principal residential units the standard should be a maximum of one minor unit per principal unit, rather than one per site.

15. MRZ-R7 – Amend rule to enable visitor accommodation activity in minor residential units as well as principal units. Amend to remove permitted standard 3.

16. MRZ-19 – Buildings on land subject to hazards – how well are the hazards mapped? We submit that a more appropriate way of addressing hazards through the application process is to make the level of assessment Restricted Discretionary with the matters of discretion restricted to management of the hazard. Given the current CODC delegations it requires a hearing to deal with hazards that are not an impediment to development. Dealing with Hazards as a non-complying activity is onerous, costly and unnecessary.

Standards

17. MRZ-S1 - It is submitted that the proposed density of 200m^2 is not high enough to achieve sufficient medium density housing. Considering the minimum density and lot size is currently 250m^2, a density of 200m^2 does not go far enough to set the MDR zone apart from existing residential development, and achieve *'intensive options, to meet the diverse needs of the community, provide affordable options and provide a greater critical mass to support commercial and community facilities'*[1].

18. To enable the diversity of housing, and volume of housing, 150m^2 is the favoured density around the country for medium density living. This density allows small houses on small lots, as well as duplex, terrace and small apartment type housing. The principle behind this is a design led

[1] Medium Density Zone Introduction

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approach. Buildings can be designed and built to a density of 150m^2 then subdivided. This gives assurance that the final product is fit for purpose and workable. In line with this, the creation of a vacant lot can remain at 200m^2, but the density of development should be one unit per 150m^2. This will encourage comprehensive development of sites.

19. MRZ-S4 – Increase building coverage to at least 50%. Has feasibility work been undertaken to confirm the built standards can be achieved? The matters of discretion put too much emphasis on open space and space around buildings. This is an MDR zone, and the focus should be ensuring open space and amenity is derived from recreation reserves and other public amenity spaces.

20. MRZ-S8 – Decrease landscape permeability or demonstrate feasibility testing has been undertaken. The matters of discretion put too much emphasis on open space and space around buildings. This is an MDR zone, and the focus should be ensuring open space and amenity is derived from recreation reserves and other public amenity spaces.

21. MRZ-S10 – Remove standard. How does this reconcile with a 1m yard setback? Question whether this has been tested.

22. MRZ-S12 – Remove standard. Restricts potential housing typologies such as walk up apartments

23. MRZ-S13 – Minimum car parking requirements have to be removed for Tier 3 Council under NPS-UD. It is submitted that car parking should be carefully considered as part of this plan change (including the road reserve requirements). Central Otago does not have a public transport network and car ownership and dependency is high. We expect that there will be many issues to work through in relation to car parking.

Design Guidelines

24. The Design Guidelines are noted as a supporting document. It is unclear how they are being incorporated into the Plan Change. Although the guidelines discuss how they are to be applied and how they relate to matters of discretion in the MDR zone, they are not explicitly listed as a matter of discretion. Therefore we question the weighting they are to be given?

25. As the Guidelines have been issued with this Plan Change, there has been little to no opportunity for the Submitter to test the feasibility of the guidelines. This then begs the question whether we can submit on the Guidelines? Given they are to be utilised as a tool for anyone undertaking a residential development within the Medium Density Residential zone, they should be open to a submissions process.

Low Density Residential Zone (LDR)

Definitions[2]

26. The definition of the Low Density Residential Zone is as follows:

"Areas used predominantly for residential activities and buildings consistent with a suburban scale and subdivision pattern, such as one to two storey houses with yards and landscaping, and other compatible activities."

Whereas the definition of the General Residential Zone is as follows

Areas used predominantly for residential activities with a mix of building types, and other compatible activities.

27. Given the growth and development pattern that has occurred within the district over the past decades leading up to this plan change, it is submitted that the General Residential Zone better describes the development pattern of the district. Some examples below there are numerous compatible activities that are located within the residential zones of the district and are therefore not precluded as the definition for Low Density Residential Zone would suggest. Having a stricter definition does not allow the necessary flexibility for future uses to locate within the small settlements that make up the urban population centres of the district.

[2] In accordance with the National Planning Standards Zone Framework Standard

Barry Avenue

Gair Avenue

Shortcut Road

General

28. It is submitted the LDR introduction describes a Large Lot Zone. Whilst some areas of the existing residential resource area may be generally characterised by single detached houses with large setbacks, the District Plan currently allows for a higher density of housing at 250m^2 per unit. As such

statements such as *"Buildings are expected to maintain these existing low density characteristics"*[3], are not aligned with the character the current plan could realise.

29. The land re-zoned from Residential Resource Area to Low Density Residential is effectively being 'down zoned' and existing development rights removed. Currently the residential resource area allows for a minimum lot size of 250m² and a residential density of 1 dwelling to every 250m² if in an area where sewer is available. The proposed density and character described in the LDR chapter is not aligned with the character the current plan could realise and by becoming more restrictive, the proposed provisions are contrary to the purpose of the Plan Change – meeting the demand of new residential development and affordable housing and the NPS-UD.

30. Further this could raise issues around interests in land as described under section 85 of the RMA, this is further discussed below.

Future Growth Area

31. This will be covered in more detail at paragraph 56. However, the premise of the future growth areas is flawed in that there is no detail or methodology behind when this land can be developed. The trigger for "further supply of residential land is required" has not been quantified. Is this a numerical we have to wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and actually increase unaffordability.

32. It may also be useful to align the Development areas framework that is more in line with the National Planning Standards. Development areas, are defined as:

A development area spatially identifies and manages areas where plans such as concept plans, structure plans, outline development plans, master plans or growth area plans apply to determine future land use or development. When the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the development area provisions or at a later plan change.

33. Doubling up on plan change processes is not efficient, so it is submitted that development area provisions are included in the plan. It is acknowledged that there is often uncertainty around the provision of services. This is where planning provisions that require an approved structure plan, or outline plan prior to subdivision is useful. This is a better outcome from a market and a certainty

[3] Low Density Residential Zone introduction

perspective than requiring a further future plan change which can be costly and unnecessary. This is further discussed in paragraph 56 below.

Objective and Policies

34. *LRZ-O2; LRZ-P1; -* The objective and policies need to highlight that the amenity and character of this area is anticipated to change over time. This is supported by the NPS-UD. Requiring development to maintain the anticipated amenity values of adjacent sites isn't enabling the character of the zone to change.

35. *LRZ-P6 – Future Growth Overlay* - This will be covered in more detail below; however, the policy is problematic. Who decides the threshold of 'necessary' and 'anticipated demand'? Is this a numerical we must wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and increase unaffordability.

Rules

36. LRZ-R1 –Limiting the number of units per site to two is unnecessarily restricting development. Up to three units per site should be enabled before consent is required. Rather than restricting the number of units per site, rely on a density standard and create a new rule for multi-unit development.

37. LRZ-R2 - Amend rule - As Minor Units are ancillary to principal residential units the standard should be a maximum of one minor unit per principal unit, rather than one per site.

38. LRZ-R6 - Amend rule to enable visitor accommodation activity in minor residential units as well as principal units. Amend to remove permitted standard 3.

39. LRZ-R18 – Buildings on Land Subject to Hazards - Amend activity status to restricted discretionary with the matters of discretion limited to management of the hazards

Standards

40. LRZ-S1 – density – The land re-zoned from Residential Resource Area to Low Density Residential is effectively being 'down zoned' as the existing plan allows for a 250m^2 minimum lot size (7.3.3(i)(a)) and 250m^2 density for multi-unit development. By decreasing the density enabled in some areas, the Plan Change unreasonably constrains private property rights and the ability of a landowner to reasonably subdivide, use and develop their land. As an example, many landowners have bought lots in the district and developed half the site with the intension of developing the other half at a later stage. The existing Multi-Unit development rule (7.3.3(vi)) and 250m^2 density enables good outcomes in the District. This rule has not been used to a substantial degree and the current multi-unit development rule could be modified to include some additional design outcomes. However, this rule creates flexibility in the residential market to be able to provide varying dwelling typologies (this is in line with outcome sought by the NPS UD), to respond to various site constraints like for instance large lots that are located in areas with relatively low amenity, or steep sites.

41. As this Plan Change is occurring ahead of a full District Plan review and will be reasonably 'new' policy at the time of the full plan review, it may not be revisited. As

such, the density standards proposed now will be in place for at least the next 10 years if not longer. Growth via infill development should be future proofed now, not restricted. It is not sustainable, or an efficient use of land, to rely on greenfield development alone to provide for growth.

42. LRZ-S2 – height – amend standard to 8m. This is standard for 2 storey home. Include provision for chimneys to extend beyond height limit

43. LRZ-S5 – amend to decrease required setback to 3m. Can be a barrier to infill development in the future and result in inefficient use of space in front yards.

44. Refer to paragraph 23 above in relation to car parking.

Large Lot Residential

Future Growth Area

45. This will be covered in more detail at paragraph 56. However, the premise of the future growth areas is flawed in that there is no detail or methodology behind when this land can be developed. The trigger for "further supply of residential land is required" has not been quantified and there is no overarching strategic direction chapter to direct the release of the greenfield land. Is this a numerical we have to wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and actually increase unaffordability.

Objectives and Policies

46. All objective and policies discussing retaining the existing character of the area, specifically as the proposed density is lower than existing.

47. *LLRZ-P8 – Future Growth Overlay* - This will be covered in more detail below; however, the policy is problematic. Who decides the threshold of 'necessary' and 'anticipated demand'? Is this a numerical we must wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and increase unaffordability. Further, is it necessary in the Large Lot zone for reticulated services to be available? All Lots are over 800m² and could accommodate services onsite.

Rules

48. LLRZ-R1 –Limiting the number of units per site to one is unnecessarily restricting development. Remove rule and rely on density standard.

49. LLRZ-R2 - Amend rule - As Minor Units are ancillary to principal residential units the standard should be a maximum of one minor unit per principal unit, rather than one per site.

50. LLRZ-R6 - Amend rule to enable visitor accommodation activity in minor residential units as well as principal units. Amend to remove permitted standard 3.

51. LLRZ-R10 – Amend to enable increased volume of earthworks given size of sites.

52. LLRZ-R15 – Buildings on Land Subject to Hazards - Amend activity status to restricted discretionary with the matters of discretion limited to management of the hazards.

Standards

53. LLRZ-S1 - Density - The existing Residential Resource Areas 1-13 are mostly proposed to be rezoned Large Lot Residential in some form. The proposed minimum lot sizes are detailed below along with whether the new zoning will allow additional development. Out of 13 residential areas, only 3 areas (RRA(6), RRA(7) and RRA(12)) will be able to be further developed. Five areas will retain their current Lot size and five areas will be subject to a more restrictive lot size requirement.

54. As this Plan Change is occurring ahead of a full District Plan review and will be reasonably 'new' policy at the time of the full plan review, it may not be revisited. As such, the density standards proposed now will be in place for at least the next 10 years if not longer. Some growth in the Large Lot Density zones should be enabled via infill development. It is not sustainable, or an efficient use of land, to rely on greenfield development alone to provide for growth.

Current Zone	Proposed Zone	Existing Min Lot Size	Proposed Min Lot Size	Development Enabled?
Residential Resource Area	Low Density Residential	250	500	No
Residential Resource Area 1	Large Lot – Precinct 2	3000	3000	No
Residential Resource Area 2	Large Lot – Precinct 3	4000 (1 ha average)	6000	No
Residential Resource Area 3	Low Density Residential – Precinct 1	1000	? zone doesn't exist If Large Lot Precinct 1 – 1000	No
Residential Resource Area 4	Large Lot	1500 (2000 average)	2000	No
Residential Resource Area 5	Large Lot – Precinct 2	3000	3000	No
Residential Resource Area 6	Large Lot	3000	2000	Yes
Residential Resource Area 7	Large Lot – Precinct 3	10,000	6000	Yes
Residential Resource Area 8	Large Lot	1500	2000	No
Residential Resource Area 9	Large Lot – Precinct 3	6000	6000	No
Residential Resource Area 10	Large Lot – Precinct 1	800	1000	No
Residential Resource Area 11	Low Density Residential	400	500	No

Residential Resource Area 12	MDR / LDR	500 1000 (SH6)	200/500	Yes
Residential Resource Area 13	Low Density Residential – Precinct 1	600 800 (average)	? zone doesn't exist If Large Lot Precinct 1 – 1000	? Or No

55. LLRZ-S2 – height – amend standard to 8m. This is standard for 2 storey home. Include provision for chimneys to extend beyond height limit.

56. LLRZ-S4 – Building Coverage – what feasibility testing has been undertaken on these numbers?

57. Refer to paragraph 23 above in relation to car parking.

Future Growth Areas

58. The premise of the future growth areas is flawed in that there is no detail or methodology behind when this land can be developed. The trigger for "further supply of residential land is required" has not been quantified. Is this a numerical we have to wait for before future growth areas can be developed? It is submitted this will frustrate the housing market and actually increase unaffordability. There is no overarching strategic direction chapter to inform when the greenfield land should be released. Requiring a further plan change, then an Outline Development Plan of some sort is onerous and an inefficient use of time. It will also unnecessarily hold up development.

59. Under the National Planning Standards these areas would likely be noted as Development Areas. They would be rezoned the intended resulting zone rather than maintaining their underlying zoning. This negates the need for an additional Plan Change. Objectives, rules and policies can then be utilised to dictate when and how the land is developed. A common mechanism is to utilise a Comprehensive Development Plan, Outline Development Plan or Structure Plan. Council should be liaising with landowners to develop the outline plans now so that development can come online in a timely manner. This would avoid additional costs from having to go through the Plan Change process again, when the land has already been identified as suitable for future development.

60. Rezoning the land now, then requiring a 'Comprehensive Residential Development Master Plan' as per Rule MRZ-R2, or similar mechanism, would be a much more efficient process and cost effective process.

61. It is submitted this will frustrate the housing market and actually increase unaffordability.

Section 85 – Incapable of reasonable use

62. As alluded to above, the change from a 250m^2 density for minimum lot size and multi-unit development to 500m^2 will take away existing development rights.

63. By decreasing the density enabled in some areas, the Plan Change unreasonably constrains private property rights and the ability of a landowner to reasonably subdivide, use and develop their land. As an example, it is probable many landowners have bought lots in the District and developed the front or rear of the site with one dwelling, with the intention of

developing the other half at a later stage. The proposed Plan Change is a significant change to the development right currently enjoyed by landowners in the District.

Inadequacy of s32 report

64. The s32 report briefly mentions the economic cost of reducing development potential of lots across the district by introducing new densities only once. It does not quantify the cost as low, moderate or high or elaborate on it in the evaluation.

65. There are further inconsistencies in the cost/ benefit analysis. For example, there is a reliance on an economic benefit from increasing site coverage in the MDR zone however this has not changed from the operative plan, at 40%.

66. The feasibility of the built from standards is questionable as no evidence of testing is mentioned in the s32 report. The analysis in the s32 of the built form standards, specifically for the MDR zone is lacking.

67. The s32 states the design guides are to be used to assist with any resource consent process, but notes they have no formal status within the Plan itself. The Design Guidelines have not been released for consultation or feedback. They should be part of the Plan Change and open for submission.

68. The proposed Low Density Residential zone does not address issue 1 listed in the s32 and the NPS-UD as it is restricting infill development.

69. It is submitted that the conclusion that the district does not qualify as an 'Urban Environment' and that the NPS does not apply is incorrect.

    The s32 states:

    "the provisions of the NPS-UD only apply to local authorities that have all or part of an "urban environment" within their district or region. The definition of an "urban environment" means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that is, or is intended to be, part of a housing and labour market of at least 10,000 people. This currently does not apply within the District."

    The 2022 NPS-UD definition is as follows:

    "Urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

    a. is, or is intended to be, predominantly urban in character; and
    b. is, or is intended to be, part of a housing and labour market of at least 10,000 people"

    This has quite markedly change from the 2016 NPS -UDC definition:

    "Urban environment means an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries."

The Spatial plans adopted by Council state the "intended" area of land will easily surpass the 10,000 threshold.

Furthermore, Plan Change 13 stated –

"We make a brief aside here to observe that the Masterplan Spatial Framework reflects Ms Goldsmith's appraisal that Cromwell is not limited to the central urban area, and includes wider satellite areas. It also envisages that 12,000 people will be living in that settlement area over its 30-year lifespan."[4]

70. As Council have endorsed the Spatial Plans which highlight the district 'intends to be' over the 10,000 threshold, therefore it is submitted that the district is a Tier 3 Council and the Council is required to give effect to the NPS-UD.

71. The significance of the light touch that the plan change has taken in regard to the NPS-UD is that most of the lot sizes in the district have increased. Increasing lot sizes from the current would require significant justification if the NPS UD was appropriately applied. Fundamentally, getting rid of the multi-unit development rule and increasing the lot sizes has the effect of decreasing the amount of land available for development. This flies in the face of NPS-UD Objectives like Objective 3 which states:

"…district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment…"

General

72. This plan change does not cover the entire district only the urban zones. This creates a scope issue that relates to fairness and natural justice. Should there be people who have properties in the Rural zones that would be looking to urbanise them when should they submit? When the Rural plan changes occur or when the urban plan changes occur. This is a significant issue as matters of scope are often fiercely debated and this has the potential of excluding many submitters. I submit that there be additional notification for persons who are currently zoned rural but would like to have their land zoned as urban.

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[4] PC13, Final Decision of Panel, 5 Nov 2019; paragraph 3.55-3.77 of Plan Change 13 panel decision covered this view but this is based on old definition of urban environment. Paragraph 3.88 that the panel agreed NPS-UD is applicable.

Consultation

73. The spatial plans review the growth of the district and identifies greenfield sites. There was never discussion that development rights would be removed for the majority of the existing residential zoned land.

Relief sought

74. The Submitter requests the following decision:

(a) Primary relief: reject, refuse, or otherwise decline the Plan Change.

(b) In the alternative: if the Plan Change is to be adopted, to amend, vary or otherwise modify the Plan Change to address the concerns, issues, and other matters raised in this submission (including any necessary additional or consequential relief).

Granting the primary relief sought will:

a. achieve the sustainable management purpose of the RMA and otherwise meet the requirements of Part 2;

b. enable the social, economic and cultural well-being of the community;

c. meet the reasonably foreseeable needs of future generations;

d. allow the s32 and other deficiencies in the methodology used to develop the future growth areas to be remedied "from a re-start", rather than having to try to"fix" a Plan Change that has been developed inappropriately from the start

Granting the alternatives relief sought will:

a. to a lesser extent, achieve the outcomes identified in the above paragraph in respect of the primary relief, although:

b. the s32 and other deficiencies in the methodology used to develop the future growth areas will need to be "fixed" within a Plan Change that has been developed inappropriately from the start;

c. there may be scope limitations that prevent an appropriate "fix" from being adopted, or necessitate the Environment Court's exercise of its powers under s293

Wish to be heard

The Submitter wishes to be heard in support of its submission.

If others make similar submissions, the Submitter will consider presenting a joint case at any hearing.

DATED 2 September 2022

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Attachment B

Decision of the respondent

Attachment C

Names and addresses of persons to be served with copy of appeal

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