

**Before The Hearings Panel appointed by
the Central Otago District Council**

Under the Resource Management Act
1991

And

In the Matter of Central Otago District Council's
Plan Change 19.

**Statement of
Sean Dent
for Crossbar Trust (S94), Shamrock Hut
Limited (S95), and Sean Dent (S93)**

Dated: 24th April 2023

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INTRODUCTION

Qualifications and Experience

1. My name is Sean Dent. I am a resource management planning consultant and a Director of Southern Planning Group (2017) Limited (**Southern Planning Group**). I live in Cromwell, Central Otago.
2. I hold the qualification of Bachelor of Resource Studies from Lincoln University which I obtained in 2005 and I am an Associate Member of the New Zealand Planning Institute. I have been a resource management planning consultant with Southern Planning Group for 16 years. Prior to this I was employed as a resource consent processing planner and compliance officer with Lakes Environmental (formerly CivicCorp) for approximately two years.
3. Throughout my professional career, I have been involved in a range of resource consent and policy matters. I have made numerous appearances before various District and Regional Councils, and the Environment Court.
4. From the variety of working roles that I have performed as described in the previous paragraphs, I have acquired a sound knowledge and experience of the resource management planning issues that are faced in the Central Otago District.
5. Notwithstanding my professional background and qualifications, this statement, and my future appearance before the Hearings Panel regarding Plan Change 19, is made in my personal capacity as a resident, and a landowner within the Cromwell area of over thirteen years.
6. Specifically, I am the sole landowner of 63 Antimony Crescent, Cromwell (S93), a Director of Shamrock Hut Limited (S95) which owns 71 Waenga Drive, Cromwell, and I am a business partner and friend to the trustees of the Crossbar Trust (S94) that own 47 Erris Street, Cromwell.

SCOPE OF STATEMENT

7. The topics covered in my statement are as follows:
 - (a) the zoning of the submitter's sites;
 - (b) residential density & subdivision;

- (c) minor residential units;
 - (d) visitor accommodation;
 - (e) summary.
8. I have read the Section 42A Report prepared by Ms Liz White (Council's consultant planner).

THE ZONING OF THE SUBMITTERS SITES

9. All three of the submitter's sites are proposed to be located within the Low Density Residential Zone.
10. The submitters agree with the application of the Low Density Residential Zone being applied to their properties, however, concerns are held regarding the density, minimum allotment sizes, and management of visitor accommodation that the Council is promoting. These concerns are covered in more detail below.

RESIDENTIAL DENSITY & SUBDIVISION

11. The original submissions opposed the Standard LRZ-S1 and SUB-S1(3) which restrict residential density (where a reticulated sewer system is available) and minimum allotment size for subdivision in the Low Density Residential Zone respectively, to 1 unit per 500m² or a minimum allotment size of 500m².
12. All three submitters that I am representing today purchased their properties based on being subdividable in the future under the existing density/minimum allotment provisions in the Operative District Plan (minimum Lot size of 250m²).
13. The changes proposed in PC19 subsequently mean that the properties of submitters 93 and 95 which are located at 63 Antimony Crescent and 71 Waenga Drive are no longer subdividable without a Non-Complying Activity Consent – a status which indicates it would only be approved in exceptional situations.
14. In terms of submitter 94, their property at 47 Erris Street will change from having the potential of four residential units/four Lots to two.

15. For landowners such as these submitters that have made a conscious investment in their properties on the basis that they are further developable (at minimum lot sizes/densities of 1 unit per 250m²), what has been proposed in PC19 will have significant financial effects on property values, and ultimately our respective economic well-being.
16. I can confirm that the intention of all three submitters, was that when debt levels were suitably reduced on the affected properties, subdivision and re-development of the properties is the long term intended outcome. The existing residential units are comfortable and meet the healthy home standards but are old (dam era or older) and therefore, there is economic benefit from their removal and subsequent re-development of the properties.
17. Ms White outlines she has been advised (but does not state by who) that the current density provisions have been around since around 1990 but development has rarely occurred at this density. An assumed reason for this is the unlikely ability to put a compliant residential unit on a smaller site under the current bulk and location provisions.
18. In part, I agree with Ms White's assumptions, however, I also consider that as I have noted above, re-development of existing sites is often more feasible on a long-term basis. For example, the submitters properties at 63 Antimony Crescent and 71 Waenga Drive would have had residential units of 10 – 15 years old on them in the early 1990's and their current configuration on the properties doesn't easily provide for subdivision or location of secondary additional residential units.
19. As stated above, the submitters have purchased the properties on the basis that the existing residential units will be nearer their need for replacement once the debt on the properties is paid down (i.e., within the next five to ten years they will be 50 + years old) and that subdivision and development is intended at this point.
20. Therefore, with the amendments to the bulk and location provisions sought by PC19, infill development and/or complete re-development at the existing densities/lot sizes of 1 unit per 250m² or lot sizes down to 250m² is highly likely to be taken up by the submitters.
21. Maintaining the ability for infill development of existing residential sections down to the current densities within the proposed Low Density Residential

Zone will provide a greater housing supply and a range of densities to accommodate the differing needs of the district's residents.

22. I also consider that the difference between allowing a minor residential unit on the properties of up to 90m², particularly those at 63 Antimony Crescent and 71 Waenga Drive, will have a negligible difference in residential character and amenity than if these sites were subdivided into two lots and the resultant Lots each had a residential unit.
23. Excluding garages, both these properties have residential units of approximately 106m² in area and therefore, the difference in effects on residential character between having an additional 90m² residential building (minor unit) or a similarly sized 100m² + residential unit on a separate section are considered similar.
24. I understand that the Council is concerned about achieving the zone purpose which in part states:

“for traditional suburban housing, comprised predominately of detached houses on sections with ample on-site open space, and generous setbacks from the road and neighbouring boundaries. Buildings are expected to maintain these existing low density characteristics, minimise the effects of development on adjoining sites and integrate with the surrounding area.”
25. In this regard, the Council's PC19 seeks to 'relocate' higher density development to the Medium Density Residential Zones identified in PC19 to increase development capacity and maintain a more traditional Low Density Residential Zone environment.
26. In my opinion, maintaining residential density and subdivision in the Low Density Residential Zone down to 250m² can maintain low density characteristics and integrate with the existing environment.
27. It is important to note that not every site in this zone would be developed or subdivided down to the minimum 250m². Not every landowner will have the financial means or the desire to subdivide and develop their site. Accordingly, the existing low-density characteristics and open space are unlikely to change immediately, or to the extent of detrimentally altering the character of the Zone.

28. Further, the Medium Density Residential Zone provides for development of different housing typologies by increasing height limits i.e., 11m and three storeys, and provides for comprehensive residential development plans. Both are significant differences to the Low Density Residential Zone provisions and differentiate the two proposed zones and their potential residential character, density, and levels of amenity.
29. Should the Council be concerned about the effects of a higher density of built form and its ability to maintain the existing low-density characteristics because of effects of development on adjoining sites, there are ways other than removing existing development rights that can be utilised.
30. For example, the QLDC Proposed District Plan allows for a higher level of residential density in their Low Density Suburban Residential Zone where any site below 900m² in net area which seeks to have more than one residential unit is required to adhere to a lesser height limit (7m for a single residential unit and 5.5m for a second residential unit).
31. Additional height restrictions such as this can assist in reducing the effects of dominance, privacy, shading etc. on adjoining properties whilst still enabling an increase in housing density and maintain existing levels of development rights.
32. The submitters would be supportive of the same control being imposed to enable a greater density at land use stage. The smaller section sizes and notified provisions for setbacks and recession planes is considered to adequately control these effects for subdivision down to 250m².

MINOR RESIDENTIAL UNITS

33. The submitter's support proposed Rule LRZ-R2 which provides for the establishment of minor residential units with a maximum floor area of 70m² – 90m² (over 70m² to include garaging).
34. In my opinion, this is a significant improvement over the ODP provisions which will enable greater diversity in housing typology and provide for the economic well-being of residential property owners by enabling an income stream to offset mortgage/building costs.

35. The provision of minor residential units (residential flats) has been common place in other District Plan's¹ for years and has been a well-used housing typology that enables a diversity of housing options in a housing market where demand outstrips supply.
36. It is also my experience both personally and professionally that there are existing minor units in the Central Otago District that are unconsented because the landowners do not like the idea/risk of going through a resource consent process for a 'multi-unit' development under the current provisions.
37. Changing the provisions as proposed, and subsequently enabling these types of development will in my opinion, increase housing supply and diversity of living opportunities, but by incentivising them, Council will obtain the development contributions from their known existence, and safety will be improved (in terms of the Building Act) with plumbing and fire-rating being assessed which is not the case with the unconsented minor units I am currently aware of.
38. I have read the Section 42A Report and agree with the amendments to Rule LRZ-R2.1 proposed by Ms White² that the number/density of minor residential units is amended to one per principal residential unit.

VISITOR ACCOMMODATION

39. The submitters support enabling the use of a residential unit for short term visitor accommodation as specified in Rule LRZ-R6. However, the submitters consider there is no clarity around what level of use is 'ancillary' to residential activity as required by the proposed Rule.
40. For example, I have not identified anything in the Rule that could prevent somebody having a residential unit that they reside in for six months of the year and then let it out for short term rents on Air BnB.
41. With no specified level of permitted use in the Rule, in the event of Council receiving complaints, the frequency of visitor accommodation use and whether it is 'ancillary to' residential activity will be difficult to monitor and enforce.

¹ QLDC Operative and Proposed District Plans

² S42A Report paragraphs 98 – 103.

42. As identified in the submissions, visitor accommodation can in some situations, result in issues with anti-social behaviour that affect residential amenity for adjacent neighbours, and which can be exceedingly difficult to resolve particularly when there is no enforcement available from the Council (other than excessive noise directions issued under Section 327 of the RMA for breaching Section 16 of the Act).
43. I acknowledge that this can occur in a residential situation as well. I have personally lived in a situation in Cromwell, where frequent excessive noise by adjacent residents was unable to be controlled by the Council's enforcement officer(s) and it makes life unbelievably difficult. Ultimately, I was left to resolve the situation myself and I do not wish to risk being put in this situation again. I consider that uncontrolled visitor accommodation can heighten this risk as most people using AirBnB's are on holiday and while most people are respectful, people on holiday are in my opinion likely to have a higher propensity to drink and wish to stay up later and potentially affect residential amenity.
44. I am also aware of such situations having occurred in the QLDC on properties used for visitor accommodation when I was working as a compliance officer.
45. Accordingly, to protect the residential amenity of residents, the submitters had recommended a tiered consenting approach be imposed.
46. The tiered approach put forward in the submissions replicated the approach of the QLDC in the notified version of their Proposed District Plan. I can confirm that this approach was under appeal at the time of drafting the submissions.
47. The appeal between QLDC and AirBnB Australia Pty Ltd (and others) has been resolved via Consent Order³. The tiered approach identified for the Low Density Suburban Residential Zone which I consider would be appropriate in the PC19 Low Density Residential Zone is as follows:
- Permitted up to 90 nights per annum (cumulatively on a site i.e., between residential units and minor units (residential flats in the QLDC PDP), the let is to one group at any one time, the maximum

³ Consent Order dated 30th January 2023

occupancy is 2 adults per bedroom, outdoor space is not used between 10am and 7pm and a range of record keeping and management controls. The full revised Standard in the QLDC PDP is attached as **Appendix [A]**.

- Anything above 90 nights per annum (cumulatively on a site) requires a Restricted Discretionary Activity Consent where the following matters of discretion apply:
 - a. The location, nature, and scale of activities;
 - b. Vehicle access and parking;
 - c. The management of noise, rubbish, recycling, and outdoor activities;
 - d. Privacy and overlooking;
 - e. Outdoor lighting;
 - f. Guest management and complaints procedures;
 - g. The keeping of records of residential visitor accommodation use, and availability of records for Council inspection; and
 - h. Monitoring requirements, including imposition of an annual monitoring charge.
48. I would support this simplified tiered regime being incorporated into the Low Density Residential Zone provisions in PC19. In my opinion, this identifies a threshold of use that is 'ancillary' to permanent residential activity and enables a landowner/family to go away on an extended holiday and cover some of their costs by a period of short-term letting of their permanent residential unit which has an economic benefit for them, and some very basic management controls to ensure residential amenity for neighbours is maintained.
49. Allowing for short-term letting over 90 nights per annum as a Restricted Discretionary Activity ensures that any longer-term application of short-term letting can be adequately controlled through a resource consent and suitably enforced (if ever necessary).

50. The effects of visitor accommodation are in my opinion, well understood and the suggested matters of discretion provide a comprehensive list of considerations that are not overly restrictive, but which are also broad enough that an inappropriate proposal could be refused.
51. Ms White has recommended that in the Central Otago context, a tiered regime (as suggested in the original submissions) would limit the ability for a permanent resident to obtain supplementary income from renting out part of their property to a limited number of guests, without there being a corresponding benefit⁴.
52. I disagree entirely with Ms White and in my opinion, the costs of gaining a resource consent for this activity vs the potential return is a negligible concern. The letting of a single residential unit, whilst dependent on the time of year and quality of the unit, can return several hundred dollars a night. The cost of a resource consent process would therefore be covered from a handful of nights of short-term letting and would remain in perpetuity provided that the activity did not cease to occur on the site for a period greater than 12 months⁵.
53. Regardless, the revised tiered approach that I have outlined above, more closely aligns that which was notified by the Council in PC19 and provides for a Permitted level of letting whilst providing for protection of residential amenity from longer term and more 'commercial like' visitor accommodation in residential neighbourhoods.

CONCLUSION

54. Overall, it is my opinion that the changes outlined above to the provisions relating to density/subdivision, and visitor accommodation will result in a more efficient use of the proposed Low Density Residential Zone.
55. However, the changes are not considered to be detrimental to the Low Density Residential Zone character and amenity values when compared with the ability to provide for minor residential units, the suggested height controls for multi-unit development at land use stage, and the differentiation that will

⁴ S42A Report, Paragraph 114

⁵ RMA Section 10(2) regarding existing use rights

occur with the height and building typology provided for in the identified Medium Density Residential Zone.

56. The changes to the visitor accommodation provisions still enable a low level of Permitted short-term letting activity whilst protecting residential amenity and character.
57. Overall, the amendments recommended above are considered to appropriate in the context of the Resource Management Act 1991.

Sean Dent

24 April 2023

PART 3 LOWER DENSITY SUBURBAN RESIDENTIAL 7

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance status
		mitigation to manage the location of the building.
7.5.15	<p>Road Noise - State Highway</p> <p>Any new residential buildings or buildings containing Activities Sensitive to Road Noise, located within:</p> <ul style="list-style-type: none"> a. 80 metres of the boundary of a State Highway that has a speed limit of 70km/h or greater; or b. 40 metres of the boundary of a State Highway that has a speed limit less than 70km/h. <p>shall be designed, constructed and maintained to ensure that the internal noise levels do not exceed 40dB LAeq(24h) for all habitable spaces including bedrooms.</p>	NC
7.5.16	<p>Building Restriction Area</p> <p>Where a building restriction area is shown on the District Plan web mapping application, no building shall be located within the restricted area.</p>	NC
7.5.17	<p>Home Occupation</p> <p>7.5.17.1 No more than 1 full time equivalent person from outside the household shall be employed in the home occupation activity.</p> <p>7.5.17.2 The maximum number of two-way vehicle trips shall be:</p> <ul style="list-style-type: none"> a. heavy vehicles: none permitted; b. other vehicles: 10 per day. <p>7.5.17.3 Maximum net floor area of 60m².</p> <p>7.5.17.4 Activities and storage of materials shall be indoors.</p>	D
7.5.18	<p>Residential Visitor Accommodation <u>where:</u></p> <p>7.5.18.1 <u>The total nights of occupation by paying guests on a site do not exceed a cumulative total of 90 nights per annum from the date of initial registration. Must not exceed a cumulative total of 90</u></p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. The location, nature and scale of activities; b. <u>vehicle access and parking;</u>

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance status
	<p>nights occupation by paying guests on a site per 12 month period.</p> <p>7.5.18.2 <u>A single residential unit (inclusive of a residential flat) must be rented to a maximum of one (1) group of guests at any one time. Must not generate any vehicle movements by heavy vehicles, coaches or buses to and from the site.</u></p> <p>7.5.18.3 <u>The number of guests must not exceed 2 adults per bedroom and the total number of adults and children must not exceed:</u></p> <ul style="list-style-type: none"> • <u>3 in a one-bedroom residential unit</u> • <u>6 in a two-bedroom residential unit.</u> • <u>9 in a three-bedroom or more residential unit. Must comply with the minimum parking requirements for a residential unit and/or residential flat (whichever is used for the residential visitor accommodation activity) in Chapter 29 Transport.</u> <p>7.5.18.4 <u>No vehicle movements by a passenger service vehicle capable of carrying more than 12 people are generated.</u></p> <p>7.5.18.5 <u>Outdoor space is not used between the hours of 10:00pm and 7:00am and sign/s are installed and visible from the outdoor space advising the permitted hours of use.</u></p> <p>7.5.18.6 <u>Rubbish and recycling is not left on/adjacent to the road, except on the day of collection.</u></p> <p>7.5.18.7 <u>The activity is registered with Council prior to commencement.</u></p> <p>7.5.18.8 <u>Council is provided with the following information at the time of registration:</u></p> <ul style="list-style-type: none"> (a) <u>the contact details of the person and/or organisation responsible for managing the property and responding to any complaints; and</u> (b) <u>confirmation that the immediately adjacent neighbouring properties,</u> 	<p>The location, provision, use and screening of parking and access;</p> <p>c. The management of noise, outdoor lighting, use of outdoor areas, rubbish and recycling. <u>The management of noise, rubbish, recycling and outdoor activities;</u></p> <p>d. The compliance of the residential unit with the Building Code as at the date of the consent <u>Privacy and overlooking;</u></p> <p>e. Health and safety provisions in relation to guests <u>Outdoor lighting;</u></p> <p>f. <u>Guest management and complaints procedures;</u></p> <p>g. <u>The keeping of records of RVA residential visitor accommodation use, and availability of records for Council inspection; and</u></p> <p>h. <u>Monitoring requirements, including imposition of an annual monitoring charge.</u></p> <p>All other sites:</p> <p>Standard 7.5.18.1: 91-180 nights — RD >180 nights — NC</p> <p>All other Standards: NC</p> <p>For RD non-compliance with Standard 7.5.18.1 discretion is restricted to:</p> <p>i. The nature of the surrounding residential context, including its residential amenity values, cohesion and character, and the effects of the activity on the neighbourhood;</p>

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance status
	<p style="text-align: center;"><u>including any property with shared access arrangements, have been provided written notice that the property is to be used for residential visitor accommodation and the contact details of the person and/or organisation responsible for managing the property and responding to any complaints.</u></p> <p><u>7.5.18.9 The information required by Standard 8 is reviewed and resubmitted to Council on an annual basis (from the date of registration of the activity), including the annual provision of written notice to neighbours required by Standard 8.b.</u></p> <p><u>7.5.18.10 Up to date records of the activity are kept including:</u></p> <p style="margin-left: 40px;"><u>(a) a record of the date and duration of guest stays and the number of guests staying per night; and</u></p> <p style="margin-left: 40px;"><u>(b) a detailed record of any complaints received and remediation actions taken.</u></p> <p><u>7.5.18.11 The records required by Standard 10 are provided to Council on an annual basis from the date of registration and made available for inspection by Council with 24 hours' notice.</u></p> <p>Note: The Council may request that records are made available to the Council for inspection, at 24 hours' notice, in order to monitor compliance with rules 7.5.18.1 to 7.5.18.3.</p>	<p>j. The cumulative effect of the activity, when added to the effects of other activities occurring in the neighbourhood;</p> <p>k. The scale and frequency of the activity, including the number of guests on site per night;</p> <p>l. The management of noise, use of outdoor areas, rubbish and recycling;</p> <p>m. The location, provision, use and screening of parking and access;</p> <p>n. The compliance of the residential unit with the Building Code as at the date of the consent;</p> <p>o. Health and safety provisions in relation to guests;</p> <p>p. Guest management and complaints procedures;</p> <p>q. The keeping of records of RVA use, and availability of records for Council inspection; and</p> <p>r. Monitoring requirements, including imposition of an annual monitoring charge.</p>
7.5.19	<p>Homestay</p> <p>7.5.19.1 The total number of paying guests on a site does not exceed five per night. Must not exceed 5 paying guests on a site per night.</p> <p>7.5.19.2 No vehicle movements by a passenger service vehicle capable of carrying more than 12 people are generated. Must comply with minimum parking</p>	<p>Standards 7.5.19.1 and 7.5.19.2: RD</p> <p>All other Standards: NCRD</p> <p>For non-compliance with Standards 7.5.19.1 and</p>