

# **DECISION OF THE CENTRAL OTAGO DISTRICT COUNCIL**

## **REQUESTED PLAN CHANGE 12 : WOONG TREE, CROMWELL**

### **P20004**

#### **1.0 INTRODUCTION**

On 13 March 2017 Woong Tree Holdings Limited requested a change to the Central Otago District Plan to change the zoning of land that is currently in the Residential Resource Area (6) to apply a mixture of Resource Area (zone) provisions. Such request was made pursuant to section 73(2) and clause 21 of Part 2 of the First Schedule to the Resource Management Act 1991 (the Act).

The requested plan change provides for parts of the land (which is described in the plan change provisions as the Woong Tree Overlay Area or Woong Tree Overlay) to be included in the Residential Resource Area, the Residential Resource Area (3) and the Residential Resource Area (11) to enable higher density residential subdivision and development to proceed in accordance with amended rules which will be specific to the Woong Tree Overlay Area. Part of the land is to be included in a Business Resource Area (2) to provide for travellers accommodation, shops and other commercial development. Portions of the site adjacent to State Highways 6 and 8B are to be included in the Rural Resource Area; such land to be subject to a Building Line Restriction. The plan change also provides for the Monterey Pine (*Pinus radiata*) known as the “Woong Tree” to be listed as a Notable Tree in the District Plan

The land subject to the request has frontage to State Highway 8B, State Highway 6 and Shortcut Road at Cromwell. This land is described as Section 3 SO 461514 and has an area of 25.4197 hectares more or less.

The Council accepted the request pursuant to clause 25(2)(b) of Part 2 of the First Schedule to the Act on 12 April 2017.

#### **2.0 SUBMISSIONS**

The requested plan change was publicly notified as Plan Change 12 on 30 May 2017 and the closing date for submissions was 23 June 2017. Forty submissions were received in response to the requested plan change by the closing date for submissions.

It is noted that a submission was subsequently received by the Council from The Southern District Health Board c/- Public Health South; such submission being received on 6 July 2017. Section 37 of the Act provides for a local authority, in any particular case, to extend a time period or to waive a failure to comply with a requirement for the time of servicing documents. Having taken into account the matters listed in section 37A(1) of the Act the late submission of The Southern District Health Board c/- Public Health South is accepted. On this basis 41 submissions have been received in response to the requested plan change.

A summary of the submissions (including the late submission by The Southern District Health Board c/- Public Health South) was notified for further submissions on 19 August 2017, with further submissions closing on 4 September 2017. A total of 6 valid further submissions were received from TJ Affleck, BF Dawson, The NZ Transport Agency, PJ Piebenga, GF & A-L Sinnott and Woong Tree Holdings Limited by the closing date for further submissions.

A further submission from ML Morpeth was received by the Council on 6 September 2017. Having taken into account the matters listed in section 37A(1) of the Act the late further submission by ML Morpeth is accepted pursuant to section 37. On this basis 7 valid further submissions have been received in response to the requested plan change.

Several further submissions were lodged which are of doubtful validity as they do not identify the original submission to which they relate. It appears that these “further submissions” simply express support for Plan Change 12 or reiterate issues raised by the further submitters in the context of their own original submissions. The only invalid further submission which has come from persons who are not original submitters is that of K & M Herrick.

Following consideration of the above the “further submissions” received from PJ Goodwin as Trustee of Meadowvale Trust (3 further submissions), JM Hawker, K & M Herrick and WF White are hereby declared invalid as they do not identify any submission to which they relate.

### **3.0 HEARING**

The Council’s Hearings Panel conducted a hearing with respect to requested Plan Change 12 and the submissions and further submissions relating thereto at Cromwell on 28 – 30 November 2017 pursuant to clauses 29(1) and 8B of the First Schedule to the Act.

The requestor exercised its right to appear pursuant to clause 29(3) of the First Schedule to the Act. The requestor was represented by Ms Jan Caunter, Counsel, of Jan Caunter Limited. Ms Caunter called several witnesses to present evidence in support the requested plan change and these included Mr Geoffrey Bews a Director of Wooing Tree Holdings Limited; Ms Glenys Coughlan who appeared as a Tourism Consultant; Mr Tommy Chan an Infrastructure Engineer at Fluent Infrastructure Solutions Limited; Ms Rebecca Skidmore an Urban Designer and Director of R.A.Skidmore Urban Design Limited; Mr Ben Espie a Landscape Architect and Director of Vivian + Espie Limited; Ms Natalie Hampton an economic consultant and Associate Director of Market Economics Limited; Mr Andy Carr a Traffic Engineer and Director of Carriageway Consulting Limited; and Mr Carey Vivian a Resource Management Planner and Director of Vivian + Espie Limited.

Briefs of evidence prepared by the requestor’s witnesses were provided to the Council by 1 November 2017, were posted on the Council’s website and were read by the Hearings Panel prior to the hearing. Accordingly the statements of evidence presented by the requestor were taken as read. It is noted that Mr Carr and Mr Vivian provided supplementary and summary statements, respectively, at the hearing.

Several submitters and further submitters appeared or were represented at the hearing. These included (in order of appearance) Mr K Wally Sanford; Ms Janeen M Wood for the Cromwell & District’s Community Trust, The Central Otago Queenstown Trails Network Trust, on her own behalf, and for Mr David S Moreton; Mr Paul J Piebenga; Mr Gregory F Sinnott for GF Sinnott and A-L Sinnott; Mr Tony McColl (Principal Planning Advisor) and Mr Tony Sizemore (Transport Planning Manager) for the NZ Transport Agency; Mr Andrew C Burton; Mr Graeme McDowell and Mrs Jan-Marie McDowell; Mr William F White; Mrs Jolanda Foale for Richard & Jolanda Foale; and Mr William R Dunbar and Mr Malcolm Lawson who appeared in support of the combined submission by William Robert Dunbar and 25 Others.

Wooing Tree Holdings Limited lodged a further submission in response to the submission by the NZ Transport Agency; and Wooing Tree Holdings Limited therefore appeared at the hearing both as the requestor and as a further submitter.

The brief of expert evidence prepared by Mr Tony McColl for the NZ Transport Agency was provided to the Council by 15 November 2017 and was also placed on the Council website. This evidence was read by the Hearings Panel prior to the hearing and was taken as read. It is noted that Mr McColl presented a summary statement at the hearing.

The Hearings Panel was provided with a copy of each submission and further submission and a summary thereof and the contents of all submissions and valid further submissions have therefore been considered by the Hearings Panel irrespective of whether individual submitters or further submitters appeared at the hearing.

The Council's Hearings Panel has now given consideration to the contents of requested Plan Change 12 and to the contents of all submissions and valid further submissions lodged in response thereto.

#### **4.0 SCOPE OF PROPOSAL**

Plan Change 12 promotes amendments to the Operative Central Otago District Plan to remove the Residential Resource Area (6) and to apply a mixture of Resource Area (zone) provisions to some 25.4197 hectares of land that has frontage to State Highway 8, State Highway 6 and Shortcut Road at Cromwell.

As noted above the plan change provides for parts of the land (which is described in the plan change provisions as the Wooing Tree Overlay Area or Wooing Tree Overlay) to be included in the Residential Resource Area, the Residential Resource Area (3) and the Residential Resource Area (11) to enable higher density residential subdivision and development to proceed in accordance with amended rules which will be specific to the Wooing Tree Overlay Area. Part of the land is to be included in a Business Resource Area (2) to provide for travellers accommodation, shops and other commercial development. Portions of the site adjacent to State Highways 6 and 8B are to be included in the Rural Resource Area; such land to be subject to a Building Line Restriction. The plan change also provides for the Monterey Pine (*Pinus radiata*) known as the "Wooing Tree" to be listed as a Notable Tree in the District Plan.

The Residential Resource Area (6) is subject to a minimum allotment area for subdivision of 4000m<sup>2</sup>. Plan Change 12 provides for denser subdivision of the land concerned as the minimum allotment area in the Residential Resource Area is 250m<sup>2</sup> (where a reticulated sewerage system is available); in the Residential Resource Area (3) is 1000m<sup>2</sup>; and in the Residential Resource Area (11) is 400m<sup>2</sup>.

New rules in requested Plan Change 12, as publicly notified, which are specific to the Wooing Tree Overlay Area include:

- A stipulation that no vehicular access is permitted to the state highway [network] except via a [new] single lane roundabout at the State Highway 8B/Barry Avenue intersection; and that no new development shall occur west of and including the Business Resource Area (2) until the single lane roundabout and a pedestrian underpass is completed and operational.
- Limits on the number of residential allotments which can be created in the Residential Resource Area [50], the Residential Resource Area (3) [60] and the Residential Resource Area (11) [100]. Within the Residential Resource Area the maximum allotment area is to be 350m<sup>2</sup>, multi-unit development is to be provided for as a controlled activity, and side and rear yard, height and coverage rules are to be amended to provide for denser development; and a 15 metre yard is to be provided adjacent to the Residential Resource Area (6) to the north-east of the Wooing Tree Overlay Area.

- A limit on the maximum floor space permitted in the Business Resource Area (2) is 12,000m<sup>2</sup>; being a maximum of 6,000m<sup>2</sup> for travellers accommodation, 4,000m<sup>2</sup> for shops and 2,000m<sup>2</sup> for activities other than travellers accommodation and shops. All shops in the Business Resource Area (2) are to have a maximum floor area of 200m<sup>2</sup>.
- In the Rural Resource Area any building is to be a non-complying activity.
- The existing Building Line Restriction (BLR) is to be amended to provide a greater depth adjacent to the location of a future single lane roundabout; and otherwise the BLR is to be 30 metres off the boundary of State Highways 8B and 6 [as at present].
- The Monterey Pine (*Pinus radiata*) known as the “Wooring Tree” is to be listed as a Notable Tree in Schedule 19.4 of the Operative District Plan and shown by notation on Planning Map 13.

Plan Change 12 amends Section 4 : Rural Resource Area, Section 7 : Residential Resource Area, Section 8 : Business Resource Area, Section 18 : Definitions, Section 19.4 : Register of Heritage Buildings, Places, Sites and Objects and Notable Trees and Planning Maps 12, 13, 13A and 14 to make various amendments, as summarised above.

The provisions of requested Plan Change 12, as publicly notified, are attached at Annex 1. The full text of the Sections of the District Plan amended by Plan Change 12 (with the proposed amendments incorporated) are presented in Attachment F to the request document (discussed further below).

## **5.0 DOCUMENTATION IN SUPPORT OF REQUESTED PLAN CHANGE**

When the plan change was requested in March 2017, a document prepared by Vivian + Espie Limited entitled “Wooring Tree Holdings Limited Private Plan Change to the Central Otago District Plan Application, Section 32 Evaluation and Assessment of Effects on the Environment” dated 13 March 2017 (“the request document”) was provided by the requestor which contains information that is of assistance when assessing the plan change in terms of the relevant provisions of the Act.

The request document provides information with respect to the scope and purpose of the plan change; a description of the location and existing environment; a section 32 evaluation report (assessment) of alternatives; details of consultation undertaken by the requestor; a consideration of statutory matters; and an assessment of the effects of the proposal on the environment. Attached to the request document are various plans and supporting technical documents including:

- Attachment A: Future Development Masterplan
- Attachment B: Certificate of Title
- Attachment C: Resource Consents
- Attachment D: Receiving Environment Plan
- Attachment E: Proposed Zoning Plan
- Attachment F: District Plan Changes Detail
- Attachment G: NZTA correspondence
- Attachment H: Landscape and Visual Effects Assessment
- Attachment I: Urban Design Assessment
- Attachment J: NZ Tree Register
- Attachment K: Detailed Site Investigation
- Attachment L: Services Report

## Attachment M: Traffic Impact Assessment

While the requestor has lodged a further submission in response to one matter raised in the original submission of the NZ Transport Agency (being 27/6) it is appropriate to note that prior to the hearing the requestor sought no amendments to the provisions of requested Plan Change 12, as publicly notified.

### **6.0 MATTERS RAISED IN SUBMISSIONS**

To avoid preparing an unnecessarily lengthy decision and to avoid repetition the matters raised in submissions and discussed at the hearing (including modifications proposed by the requestor) are addressed on a collective basis below, rather than discussing the matters raised on a submission by submission basis. Again it is noted that 41 original submissions and 7 valid further submissions have been lodged; and many of these submissions and further submissions raise multiple topics. The contents of all submissions and further submissions were summarised in the document attached as Annex 1 to the section 42A planning report which was circulated to all parties prior to the hearing.

#### **6.1 Provision for Higher Density Housing**

Fifteen of the submitters raised concerns with respect to the higher density housing provided for in Plan Change 12. While some submitters have opposed Plan Change 12 in its entirety and seek to retain the Residential Resource Area (6) status of the land; others have promoted a minimum lot size of, say, 500m<sup>2</sup> for allotments to be created within areas subject to Plan Change 12.

Currently the Wooing Tree land is in the Residential Resource Area (6) which provides for a minimum lot area of 4000m<sup>2</sup>. Land has been subdivided in accordance with the 4000m<sup>2</sup> rule in the Residential Resource Area (6) generally to the east of Shortcut Road (in the Roberts Drive/Bell Avenue areas) and to the north of Shortcut Road (toward Scott Terrace).

Land immediately to the north of the subject site, between the Wooing Tree property and the northern section of Shortcut Road, is located in the Residential Resource Area (6) but has been subdivided into lots smaller than 4000m<sup>2</sup>. The Environment Court in Olive Branch Investments Limited v CODC C31/2006 permitted this land to be subdivided into 20 residential allotments which were to vary in area between 916m<sup>2</sup> and 1095m<sup>2</sup>; the residential allotments being surrounded by open space which has an area of 2.25 hectares. In essence the Olive Branch subdivision has resulted in a density of approximately one dwelling per 2125m<sup>2</sup> across the Olive Branch property; with three clusters of small residential allotments which vary between approximately 900m<sup>2</sup> and 1100m<sup>2</sup> in area.

It is appropriate to acknowledge the baseline of anticipated development which could result on the Wooing Tree site if the land subject to Plan Change 12 was subdivided into allotments having a minimum area of 4000m<sup>2</sup> in terms of the Residential Resource Area (6) rules. Such a subdivision is depicted on the plan at Attachment D to the request document. This indicates that the subject site could be subdivided into 48 residential allotments.

It is also acknowledged that existing development in the Residential Resource Area (6), to the north and east of Shortcut Road, features both substantial dwellings and large sheds on some of the properties. Such development could also be anticipated on the Wooing Tree site if it were subdivided and developed in accordance with the Residential Resource Area (6) rules. It is appropriate to note that any such built development would be set back 30

metres from the State Highway 6 and State Highway 8B frontages to comply with the current Building Line Restriction notation.

Plan Change 12 provides for a mixture of residential subdivision and development to occur across the subject site. The intention is to provide for the Residential Resource Area (3), where a minimum lot area of 1000m<sup>2</sup> applies, generally at the periphery; to apply the Residential Resource Area (11) where a minimum lot area of 400m<sup>2</sup> applies more centrally; and to apply the Residential Resource Area where a minimum lot area of 250m<sup>2</sup> applies to a discrete area that is centrally located on the site. Within the Residential Resource Area provision is now proposed to be made for multi-unit development (of up to 4 units) and for comprehensive residential development (of 5 units or more) as a discretionary (restricted) activity with an associated relaxation of yards and recession planes; for increased site coverage of 80%; and for a maximum lot area of 350m<sup>2</sup> to apply.

The 30 metre wide Building Line Restriction is to be retained adjacent to the state highways; with a crescent effect to be achieved adjacent to the proposed roundabout (discussed further in 6.5 below). The Rural Resource Area is to apply to the land subject to the Building Line Restriction. A 15 metre yard is proposed adjacent to the Olive Branch subdivision, to the north of the site; and a 5 metre yard is now proposed adjacent to Shortcut Road to the east of the site.

The number of residential allotments is to be controlled by rules provided for in Plan Change 12. Within the Residential Resource Area (3) there is to be a maximum of 60 residential allotments; within the Residential Resource Area (11) there is to be a maximum of 100 residential allotments; and within the Residential Resource Area there is to be a maximum of 50 residential allotments. The provision for multi-unit development and comprehensive residential development as a discretionary (restricted) activity is likely to result in more residential units than residential allotments in the Residential Resource Area.

Attachment A to the request document is a Future Development Masterplan. The request document at Clause 2.3 emphasises that this is only one option for the development of the subject site; and that the Future Development Masterplan is simply an idea of how the requestor would like to develop its land in the future. Accordingly the Future Development Masterplan is not to be included in the District Plan and caution should be exercised when considering the Future Development Masterplan in the context of Plan Change 12. It is possible, for example, that the land could be transferred to another party who will simply choose to develop the land, as provided for in terms of the mixture of Resource Areas provided in Plan Change 12, to its full potential. This may result in a different outcome, particularly in terms of the provision for open space and the retention of vineyards, to that shown on the Future Development Masterplan.

Several submitters have promoted that Plan Change 12 be amended to provide for a minimum lot area of 500m<sup>2</sup> (or 1000m<sup>2</sup>). For example Heather McPherson (25/1) has promoted that the Residential Resource Area (12), which provides for a minimum allotment area of 500m<sup>2</sup>, be substituted for the Residential Resource Area (11). It is noted that the Residential Resource Area (12) was introduced into the District Plan via Plan Change 4B which became operative on 20 November 2009. That Plan Change provided for generally vacant land between Waenga Drive and State Highway 6/McNulty Road to be included in the Residential Resource Area (12). Substantial residential subdivision has occurred in recent times between McNulty Road and Waenga Drive based on this standard.

Ms Skidmore confirmed that a minimum lot area of 400m<sup>2</sup> is a suitable size to accommodate a standard dwelling with associated outdoor living space. She considered that given the projection for a greater number of smaller households in the future; that it is

appropriate to enable smaller sites that are suitable for more compact dwellings. Ms Skidmore also emphasised that given the control of a maximum number of 100 lots within the Residential Resource Area (11) that is unlikely that all lots will be created at a lot size of 400m<sup>2</sup> and that a variety in lot sizes can therefore be anticipated in the Residential Resource Area (11).

Following consideration of the urban design and planning evidence called by the requestor the Council has concluded that a minimum lot area of 400m<sup>2</sup> is more appropriate than, say, a minimum lot area of 500m<sup>2</sup> with respect to the land identified as Residential Resource Area (11) in Plan Change 12.

Plan Change 12 provides for the Residential Resource Area (11) to apply to land beyond the Building Line Restriction/Rural Resource Area to the north of State Highway 8B, generally between the Sargood Road and Barry Avenue intersections. The Council has given consideration to whether the Residential Resource Area (3), which has a minimum lot area of 1000m<sup>2</sup>, should apply to the strip of land closest to State Highway 8B. The Council has concluded that such an amendment to Plan Change 12 is not necessary given the separation to be provided between the Residential Resource Area (11) and State Highway 8B by the vineyard within the Rural Resource Area buffer strip; and having regard to the land use activities on the opposite side of State Highway 8B including land designated D72 for "Recreation Purposes" and the adjacent Business Resource Area (1) (to the west of Sargood Road), and land designated D82 for "Amenity Planting Purposes" which includes the Cromwell Fruit Sculpture (being land to the east of Sargood Road which extends to the Barry Avenue intersection).

M & L Wardill (38/5) have promoted that either reduced development or no development should occur at the south-western corner of the site; being an area marked in pink on the plan attached to the Wardill submission. The Council considers, given the Residential Resource Area (6) status of the site, that such a restriction would be unreasonable. It is also acknowledged that the strip of land adjacent to State Highway 6 and State Highway 8B (being a portion of the land shown in pink) will remain subject to the Building Line Restriction.

WR Dunbar and 25 Others have promoted that the proposed plan change be rejected in its entirety; and Mr Lawson emphasised at the hearing that the submitters wish to have the existing Residential Resource Area (6) retained.

Following careful consideration of the evidence presented by Mr Lawson who appeared with Mr Dunbar at the hearing the Council has concluded that maintaining the existing Residential Resource Area (6) status of the land represents inefficient use of the land resource. As noted above land in the Residential Resource Area (6) to the north and east of Shortcut Road features substantial dwellings and, in many instances, large sheds; with some sites largely vacant beyond the dwelling curtilage. Plan Change 12, which provides for a denser pattern of subdivision and development, will make more efficient use of the Wooing Tree land resource which is strategically located with respect to commercial and community facilities at Cromwell.

The Council considers that providing a 15 metre yard adjacent to the Olive Branch subdivision will provide a sufficient setback between dwellings in the Residential Resource Area (3) at Wooing Tree and properties in the Olive Branch subdivision. Provision of a 5 metre yard adjacent to Shortcut Road, in combination with the road reserve, will also provide sufficient separation between future dwellings in the Residential Resource Area (3) at Wooing Tree and properties on the opposite side of Shortcut Road that are located in the Residential Resource Area (6).

The Council's conclusion is that provision for higher density housing, as provided for in Plan Change 12, is appropriate and is consistent with the relevant objectives and policies of the Operative District Plan.

## **6.2 Business Resource Area (2)**

Thirteen submitters raised concerns with respect to the proposal to provide for retail activity and/or travellers accommodation in the proposed Business Resource Area (2) in Plan Change 12.

Plan Change 12 provides for 2.47 hectares of land to be zoned Business Resource Area (2). The relevant planning history is outlined in Section 3.4 of the request document and the relevant resource consents, being RC 010134 and RC 050408, are presented at Attachment C to the request document. RC 010134 which was granted to GW & JH Bews on 21 November 2001 authorised the establishment of a vineyard on the subject site; and RC 050408 which was granted to Wooing Tree Vineyard Limited on 22 February 2006 authorised an extension to an existing building to include the operation of a wine tasting and sales outlet including café dining, to erect signs advertising the site and to host private functions at the site. RC 010134 and RC 050408 were granted subject to 16 and 28 conditions of land use consent, respectively.

While Plan Change 12 provides for 2.47 hectares of land to be included in the Business Resource Area (2) restrictions are proposed with respect to maximum floor space and building coverage within the Business Resource Area (2). The maximum floor space permitted in the Business Resource Area (2) is now proposed to be reduced to 10,000m<sup>2</sup> divided as follows:

- No more than 6000m<sup>2</sup> to be used for travellers accommodation.
- No more than 3000m<sup>2</sup> to be used as shops.
- No more than 1000m<sup>2</sup> to be used for "any activities other than travellers accommodation or shops".

Furthermore the maximum building coverage is now not to exceed 7500m<sup>2</sup> of the total Business Resource Area (2) area; and this will result in a maximum of 7500m<sup>2</sup> of the 10000m<sup>2</sup> maximum floor space being at ground floor level. Within the Business Resource Area (2) a convenience grocery store is to have a maximum floor area of 100m<sup>2</sup>; five shops are to be permitted to have a maximum floor area no greater than 200m<sup>2</sup>; and all other shops are to have a maximum floor area of no greater than 120m<sup>2</sup>.

In Section 2.3 of the request document (which explains the purpose of the plan change), it is stated that the Business Resource Area (2) has the purpose of:

*"...enabling the continued operation of the Wooing Tree Cellar door and associated operations, providing for small scale business activities that support the Cellar Door. Visitor accommodation is enabled and this will also support the continued operation of the Wooing Tree as a wedding venue."*

Plan Change 12 as notified provides for a new Policy 8.2.8 which states as follows:

### **"8.2.8 Policy – Wooing Tree Overlay Area – Business Resource Area (2)**

*To provide for the development of high quality travellers accommodation with associated "vineyard village" themed retail and commercial activities in a manner that complements other business activities in Cromwell."*



The evidence called by the requestor at the hearing emphasised that retail activity within the Business Resource Area (2) is to be oriented to the needs of tourists and other visitors (including cyclists) as well as to the needs of residents of the Wooing Tree area who would benefit from the provision of a convenience grocery store.

The Council acknowledges that Plan Change 12, as requested, was silent with respect to the types of shops which could be anticipated in the Business Resource Area (2). At the hearing Mr Vivian presented a proposed Rule 8.3.1(iii) which listed the activities anticipated to be found at a shop (as defined) and which listed other activities to be provided for in the Business Resource Area (2). The Council acknowledges that this list was derived from a prescription of store types prepared by Ms Hampson based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) codes. It became apparent at the hearing that such a list based on ANZSIC codes could result in a wide range of shops being established in the Business Resource Area (2); and this would be inconsistent with the requestor's objective of not competing with a range of business activities established at the Cromwell Mall within the Business Resource Area at Cromwell.

At and subsequent to the hearing (in the requestor's reply) the list of activities to be provided for in a shop (as defined) and at other floor space within the Business Resource Area (2) was progressively refined. The Council has further amended the proposed Rule 8.3.1(iii) to better reflect the purpose of the Business Resource Area (2) consistent with an amended Policy 8.2.8 which explicitly states that travellers accommodation with associated "vineyard" village themed tourism retail and commercial activities are to be provided for in a manner that complements other business activities in Cromwell.

In particular it is noted that explicit provision is now to be made for a convenience grocery store which may incorporate takeaway food services; that hairdressing and beauty services, florist and suit hire associated with function and/or wedding centre and travellers accommodation is to be provided for; and that fruit and vegetable sales are to be provided for, consistent with the type of retail activity provided for in the context of a Retail Activity – Rural Selling Place in the Rural Resource Area as provided for in terms of Rule 4.7.2(iii) of the Operative District Plan.

It is important to note that any activity within the Business Resource Area (2) that is not listed as a permitted activity under Rule 8.3.1(iii) will default to the status of a non-complying activity. The relevant rule being Rule 8.3.5(iii) also confirms that for the purpose of that rule, any permitted activities listed under Rule 8.3.1(iii) shall not be considered to form part of the permitted baseline for considering an application for resource consent for development within the Business Resource Area (2).

The requestor has proposed definitions of terms including 'Local Product', 'On-site Production', 'Regional Product' and 'Tourist Focus' to provide a basis for interpreting terms used in the proposed Rule 8.3.1(iii) which lists activities to be provided for in the Business Resource Area (2) as a permitted activity. The Council accepts that the definition of such terms is appropriate and will aid in the implementation of Plan Change 12.

The request document was devoid of any assessment (including economic assessment) of what the effects are of providing for retail activity in the Business Resource Area (2) upon the wider Cromwell community. It is acknowledged that the requestor has called economic evidence from Ms Hampson and that she has made a number of recommendations to the requestor to:

- Realign the enabled development in the Business Resource Area (2) with the requestor's original vision to develop a tourist destination (combined with wedding/conference type venue), and
- Better manage adverse effects on the town centre (especially the Cromwell Mall).

Those recommendations have included a reduction in the amount of shop floor space to be permitted in the Business Resource Area (2) in combination with a prescription of the sorts of activities and store types that are to be permitted and non-complying in the Business Resource Area (2) [which have been further amended as detailed above].

Ms Hampson has concluded that the concept of a new tourist focussed village within the Business Resource Area (2) will strengthen Cromwell's position in the tourist market and help meet growing visitor demand; and she confirmed that the amended Business Resource Area (2) provisions will serve to avoid or mitigate potential effects of the Business Resource Area (2) on existing centres and the Cromwell community.

As noted above the maximum building coverage now provided for is 7500m<sup>2</sup> within the 2.47 hectare Business Resource Area (2). The substantial land area to be provided for in the Business Resource Area (2) is to enable travellers accommodation and retail activity to develop within the context of a vineyard setting with ample provision for carparking and manoeuvring. The Council is satisfied that the 7500m<sup>2</sup> limit on maximum building coverage will serve to ensure that built development for commercial activity occupies a relatively small footprint being 30.4% of the Business Resource Area (2).

The Council is satisfied that the configuration of the Business Resource Area (2) is appropriate given the applicant's desire to have some exposure to State Highway 8B and having regard to the tourist orientated nature of development anticipated within the Business Resource Area (2).

Amendments have been made to the relevant rules to provide for buildings in the Business Resource Area (2) to have status as a discretionary (restricted) activity; and for any extension to the winery activity to also be a discretionary (restricted) activity, and not a controlled activity (which the Council could not refuse consent to).

The Council has also given consideration to whether buildings within the Business Resource Area (2) should have a maximum height of 10 metres (as provided for in the requested Plan Change 12); or whether the maximum height should be reduced to, say, 7.5 metres to be consistent with the maximum height which applies in the context of the Residential Resource Area, the Residential Resource Area (3) and the Residential Resource Area (11). The Council has concluded that a maximum height of 10 metres is appropriate as this will provide flexibility with respect to building design, including for the travellers accommodation, which is to be provided for in the Business Resource Area (2).

The Council has concluded that providing for travellers accommodation, shops (as defined) and other activities within the Business Resource Area (2), as provided for in the District Plan provisions summarised at Annex 2 and as presented in detail at Annex 3 to this decision, is appropriate and will be consistent with the relevant objectives and policies of the Operative District Plan including the new Policy 8.2.8.

The submission by P & J Johnstone (21/1) promoted that the land subject to Plan Change 12 should be used instead to redevelop the commercial heart of Cromwell. It is simply noted that any such proposal falls beyond the scope of Plan Change 12 as publicly notified.

### **6.3 Visual Entrance to Cromwell/Soil Resource**

Nine submitters have emphasised that the land subject to Plan Change 12 is sensitive as it creates the first impression for those travelling into Cromwell via State Highway 6 and/or State Highway 8B.

The existing Wooing Tree Vineyard is clearly visible from State Highways 6 and 8B and serves to reinforce the relationship of Cromwell and environs with viticulture on a site that is particularly visible from these routes which provide an entrance to the town as well as being routes utilised by visitors who are passing by. While the vineyard exists on the site the Council's decision on RC 010134 acknowledged that this may be an interim use until such time as the land is required for residential subdivision and development in accordance with its present Resource Area status.

As noted above the land could be subdivided into 48 allotments having a minimum area of 4000m<sup>2</sup>; and substantial dwellings and outbuildings could occur across the subject site (beyond the strips of land subject to the Building Line Restriction notation).

Given the Residential Resource Area (6) status of the land little weight can be placed on the existence of the vineyard in the context of assessing the effects of Plan Change 12. The land could be subdivided and developed for residential purposes at any time and the effect of Plan Change 12 is that such subdivision and development would occur at a greater density than currently provided for in the Residential Resource Area (6).

Plan Change 12 provides for the Rural Resource Area to apply to a strip of land which is 30 metres wide within the site (with a crescent adjacent to the roundabout at the intersection of State Highway 8B and Barry Avenue). The 30 metre strip generally coincides with the extent of the existing Building Line Restriction notation.

Several submitters have taken issue with the practicality of retaining a strip as narrow as 30 metres in grapevines as shown on the Future Development Masterplan. Mr Bews advised that the total area of the buffer zone is approximately 4.27 hectares and that it is the requestor's intention to run the vine rows parallel with the property boundary to maximise the vineyard land use. The requestor proposes to plant 9-11 rows of vines, 2.0 – 2.5 metres in width, parallel with State Highway 8B and State Highway 6. Mr Bews advised that at current average vine yield levels this will produce between 1105 – 1360 cases of wine, being approximately 10% of the requestor's forecasted case sales per annum. The requestor proposes to retain this area to ensure continued upkeep; and retaining the strip within the Rural Resource Area in productive vines will reinforce the link between the Wooing Tree brand and the remaining vineyard.

The Future Development Masterplan provides for tree planting to occur in an Open Space area in the north-western portion of the proposed Rural Resource Area adjacent to State Highway 6. The Council notes that the potential may exist to establish planting/moundings as an alternative to the vineyard elsewhere along the strip to be included in the Rural Resource Area; to provide visual and acoustic screening as suggested by Hessel Christiaan Van Wieren (37/4).

The requestor has proposed a Policy 4.4.2(h) which makes reference to ensuring a vineyard or treed park-like character by strongly discouraging buildings in the Rural Resource Area at Wooing Tree. While the buffer strip is intended to be retained by the requestor there is a potential issue with respect to ensuring the future maintenance of this area if, say, it were transferred to some other party in future. This matter received some attention at the hearing and the outcome is that a matter for discretion in the context of subdivision in that part of the Rural Resource Area that is to be subject to the Wooing Tree Overlay Area is to

be the use of covenants, consent notices or other legal instruments necessary to ensure the long term management of this area so as to bring about an attractive and high amenity highway corridor featuring grapevine plantings or treed park-like character. This matter is addressed in an amendment to Rule 4.7.4(iii) which relates to subdivision in the Rural Resource Area.

Three submitters expressed concern at the loss of highly productive soils; noting that soils are a finite resource.

Again it is acknowledged in this context that the land is subject to the Residential Resource Area (6) provisions at present. The land could be subdivided and developed for residential purposes and given the prior allocation of this land for residential purposes (through the Operative District Plan) the Council does not consider that the proposal will have a significant adverse effect in terms of the loss of productive soils.

#### **6.4 Shortcut Road**

Nineteen submissions raised issues associated with Shortcut Road. Submitters are opposed to any closure of the Shortcut Road intersection with State Highway 8B.

Plan Change 12 does not promote the closure of Shortcut Road. The Traffic Impact Assessment prepared by Opus International Consultants Limited which is presented as Attachment M to the request document confirms on page 4 that:

*“The primary access to the rezoned area would be at the existing State Highway 8B and Barry Avenue intersection. The existing priority T-intersection would be converted to a roundabout. The secondary access to the rezoned area would be onto Shortcut Road on the east side.”*

Reference was made to the potential closure of the Shortcut Road/State Highway 8B intersection in correspondence from the NZ Transport Agency to Opus International Consultants Limited (for the requestor) dated 22 December 2016 which is Attachment G to the request document. That letter stated as follows:

*“The potential roundabout is located reasonably close to the Shortcut Road/SH8B intersection which is currently formed as a give-way controlled T-intersection. Our other initial comment regarding the potential roundabout [apart from the design of the roundabout itself] is that it should probably not only serve the proposed plan change area but also the development of the wider area on the north side of SH8B. To that end, we suggest the applicant explore the possibility of moving Shortcut Road traffic through the subject site and the as yet undeveloped 4<sup>th</sup> leg of the potential roundabout. This would enable the closure of the Shortcut Road/SH8B intersection which would then be no longer necessary.”*

Following careful perusal of the Plan Change 12 documentation the Council has found that the proposed roundabout will provide an alternate route for traffic that would otherwise use the Shortcut Road/SH8B intersection; but that there is no proposal in Plan Change 12 to close that intersection. Any such proposal falls outside the scope of Plan Change 12 and would be the subject of a separate statutory process, if initiated by the road controlling authorities. Mr McColl’s evidence for the NZ Transport Agency confirms that there is no proposal in Plan Change 12 to close the Shortcut Road/State Highway 8B intersection; and that the NZ Transport Agency agrees that any such proposal falls outside the scope of Plan Change 12 and would be subject to a separate statutory process.

For completeness the Council notes that the southern limb of Shortcut Road provides an important link between properties in the Residential Resource Area (6) and the Cromwell Town Centre; and also provides an important link for Cromwell residents who reside south of State Highway 8B to the recreational resources of McNulty Inlet including the boat ramp, jetty/pontoon and Rotary Glen recreation area, the Aquatic Centre and the Lake Dunstan Boat Club. Some submitters have expressed concern that closure of the Shortcut Road/State Highway 8B intersection would mean that those towing boats would have to pass through the Wooing Tree subdivision.

The surveyed traffic volumes and predicted traffic volumes as detailed on pages 14/15 and 29 of the Traffic Impact Assessment indicate that the traffic movements at the Shortcut Road/State Highway 8B intersection will not appreciably change as a consequence of Plan Change 12 when compared to the current situation.

It is reiterated that Plan Change 12 contains no proposal to close the Shortcut Road/State Highway 8B intersection and accordingly the concerns expressed by the submitters are satisfied in this respect.

## **6.5 Roundabout, Underpass & Connectivity**

Sixteen submissions expressed support for the provision of a roundabout at the intersection of Barry Avenue with State Highway 8B; and many submitters also expressed support for the proposed underpass.

The provision of a roundabout and underpass are integral to the proposal to the extent that no new development (other than a new temporary access from the existing Wooing Tree Tasting Room to Shortcut Road or internally within the property to a new road to access Shortcut Road) west of and including the proposed Business Resource Area (2) is to be permitted until the roundabout and underpass is completed and operational. This is an integral part of the proposal as publicly notified that is intended to mitigate traffic effects associated with Plan Change 12.

The restriction contained in proposed Rule 7.3.6(vi)(e) [which requires the provision of a roundabout and underpass] anticipates that new development may occur to the east of the proposed Business Resource Area (2) without the provision of the roundabout and underpass. Mr Bews explained that the development of the land east of the Business Resource Area (2) is likely to be stage 1 of the overall development; and that the development of this area will provide capital resources to assist in funding the roundabout.

Development of the eastern portion of the site will increase use of the State Highway 8B/Shortcut Road intersection. This effect was not assessed in the Traffic Impact Assessment presented at Attachment M to the request document which compares the status quo with the full development as provided for in Plan Change 12, and not partial development of the eastern portion of the site only. Mr Carr confirmed that he has modelled the State Highway 8B/Shortcut Road intersection using the computer software program Sidra Intersection. This modelling demonstrates, in Mr Carr's opinion, that there is sufficient capacity at the State Highway 8B/Shortcut Road intersection to accommodate a large increase in traffic flows without difficulty.

Several submitters have promoted that the roundabout be double lane and not single lane as specified in the relevant provisions of Plan Change 12. The submission by the NZ Transport Agency has suggested various amendments which have the effect of removing the reference to a "single lane" roundabout. Mr McColl noted that at this time it appears unlikely that a two lane roundabout would be required, however he considered that this possibility should not be precluded. Mr McColl emphasised that the NZ Transport Agency

could not require a two lane roundabout if evidence indicated that a single lane roundabout would suffice. In essence the NZ Transport Agency has promoted that a generic reference be made to the provision of a roundabout in Rule 7.3.6(vi)(d), rather than referring to a “single lane roundabout”.

Mr Carr advised that traffic flows from Wooing Tree could be accommodated via a priority intersection only (and not by a roundabout). Notwithstanding this Mr Carr acknowledged that the provision of a roundabout is an integral part of Plan Change 12 as notified.

Mr Carr has assessed the performance of a roundabout with one or two circulating lanes. For this analysis he included traffic that would be generated by the full development of the Wooing Tree site; and he also allowed for a doubling of the traffic flows on State Highway 8B. He advised that such analysis has provided for full summer traffic flows and more than 20 years of traffic growth on State Highway 8B (which increased by 3.1% between 2011 and 2015). Mr Carr’s analysis showed that the single lane roundabout performed well, and that there were minimal differences between the single circulating lane and dual circulating lane options. On this basis Mr Carr is of the view that the single circulating lane option (ie. a single lane roundabout) will continue to provide an excellent level of service with low delays even when tested with traffic flows that allow for extremely high levels of growth.

The requestor has proposed further amendments to Rule 7.3.6(vi)(d) [and Rule 8.3.6(xii)(a)] to provide for a single lane roundabout to be constructed within 10 years of Plan Change 12 becoming operative; with provision for “a roundabout” to be constructed to NZ Transport Agency’s standards thereafter. This would provide for either a single lane or a double lane roundabout to be provided after 10 years of Plan Change 12 becoming operative, depending on which standard of roundabout was found to be required at that time. This proposed amendment to the relevant rules would appear to meet the NZ Transport Agency’s concern that the possibility of providing a two lane roundabout in future should not be precluded.

Ms Caunter noted that the requestor is expected to have to pay the entire cost of the roundabout given that the NZ Transport Agency apparently has no money in its budget for this infrastructure. Accordingly the cost must be funded from the Wooing Tree development and she submitted that a double lane roundabout is not required and does not relate to the effects generated by that development. Ms Caunter strongly submitted that a requirement to provide a double lane roundabout will put the financial viability of Plan Change 12 at risk.

Having considered all of the evidence and submissions with respect to the roundabout issue the Council is satisfied that providing for a “single lane” roundabout for a period of 10 years from Plan Change 12 becoming operative is appropriate as promoted by the requestor. The Council accepts that making specific reference to a “single lane” roundabout is important to the requestor as it provides certainty; and that such reference to a “single lane” roundabout is important to the financial viability of the subdivision and development provided for through Plan Change 12. The Council also accepts Mr Carr’s evidence to the effect that provision of a single lane roundabout will serve to mitigate any traffic associated effects based on current growth projections.

The Council is satisfied that the proposed amendments to the relevant rules that refer to the provision of a roundabout will enable the roundabout to be constructed to an appropriate standard.

Some submitters have expressed concern that the potential underpass (as shown on the Future Development Masterplan at Attachment A to the request document) is located to the east of the Barry Avenue/State Highway 8B intersection.

The Landscape and Visual Effects Assessment at Attachment H to the request document at paragraph 5.12 confirms that it is envisaged that the pedestrian/cycle underpass would be located below the State Highway in the vicinity of the fruit sculpture. This sculpture is located to the west of the Barry Avenue/State Highway 8B intersection.

The Council considers that the pedestrian/cycle underpass should be located to the west of the Barry Avenue/State Highway 8B intersection to provide better connectivity to the Cromwell Town Centre via either the sealed footpath which exists on the west side of Barry Avenue to the south of State Highway 8B or via the paved area to the south of the fruit sculpture (ideally with the underpass surfacing on the Cromwell Mall side of the existing mounding). The western location will avoid pedestrians having to cross Barry Avenue which would be the case for pedestrians passing between any eastern underpass and the Cromwell Town Centre.

Mr Carr agreed that a location on the western side of the Barry Avenue/State Highway 8B intersection is preferable from a connectivity viewpoint; but in his view the location should remain flexible until the location of the underpass has been shown to be feasible. In all the circumstances the Council considers that it is appropriate to amend Rule 7.3.6(vi)(e) and Rule 8.3.6(xii)(b) to refer to the provision of a pedestrian/cycle underpass being incorporated into the western side of the roundabout across State Highway 8B unless such location is found to be impracticable.

It is appropriate that the underpass be suitable for both pedestrian and cycle traffic, given the development of cycle trails which has occurred in this part of the District.

Ms Caunter stressed that the funding of the underpass will not, and should not, fall to the requestor. She submitted that the underpass will provide a clear community benefit that is expected to be funded by other means (eg. community organisations and/or regional funding). The Council notes that this is a matter for the requestor to pursue but emphasises that the relevant rules require the provision of a pedestrian/cycle underpass prior to the development of land to the west of and including the Business Resource Area (2) at Wooing Tree.

The underpass will become popular with pedestrians and cyclists who wish to travel between the Cromwell Town Centre (and residential areas to the south) and the recreation resources which are available at McNulty Inlet. Accordingly the Council supports those submitters who consider that provision should be made for connectivity for pedestrians and cyclists through the land subject to Plan Change 12 to Shortcut Road (and on to McNulty Inlet); and it is acknowledged that Mr Vivian has recommended an amendment to Rule 7.3.3(i), which relates to subdivision, to the effect that provision for pedestrian and cyclist movement and linkages within and through the Wooing Tree Overlay Area, including the provision of footpaths and cycling infrastructure, is to be a matter for the exercise of the Council's discretion when considering an application for subdivision consent. It is noted that Mr Vivian has also recommended a corresponding amendment in the context of Rule 4.7.4(iii) and Rule 8.3.2(ii) which relate to subdivision in the Rural Resource Area and the Business Resource Area [which will be applicable in the Business Resource Area (2)], respectively.

As noted above the relevant rules provide for a new temporary access from the existing Wooing Tree Tasting Room to Shortcut Road or internally within the property to a new

road to access Shortcut Road. The submission by G & J McDowell (23/12) opposes this on the basis that Wooing Tree already has an existing entrance off Shortcut Road. Mr Bews explained that this existing access that serves the development authorised by RC 050408 will be removed during stage 1 of the development as the existing access currently lies on land where new lots are to be created. Mr Bews confirmed that the requestor is proposing a temporary access driveway linking the Wooing Tree cellar door facility through the undeveloped Business Resource Area (2) to meet up with the new formed road access off Shortcut Road within the new residential area. The Council considers that provision for such new temporary access is appropriate.

The NZ Transport Agency (27/6 and 27/16) promoted in its submission that any activity which does not comply with the new Rules 7.3.6(vi)(d)–(f) (and Rules 8.3.6(xii)(a) and (b) that are proposed to apply in the Business Resource Area (2)) be a prohibited activity. These rules, amongst other matters, require the provision of a roundabout and underpass as discussed above. The further submitter, Wooing Tree Holdings Limited (106/1), submitted to the effect that non-complying activity status is appropriate for a breach of the relevant rules. Mr McColl for the NZ Transport Agency confirmed at the hearing that this portion of the NZ Transport Agency submission is now withdrawn on the basis that the Agency is satisfied that non-complying status is appropriate. Mr McColl noted that the NZ Transport Agency has control with respect to the creation of any future access given the Limited Access Road (LAR) status of State Highway 8B.

In summary the roundabout and underpass are integral parts of the proposal and the relevant provisions are to be refined, as discussed above. The amended provisions of Plan Change 12 will provide for a single lane roundabout (with potential for the design to be revisited 10 years after Plan Change 12 becomes operative); for the location of the underpass to the west of the Barry Avenue/State Highway 8B intersection unless such location is found to be impracticable; and for connectivity to be achieved between the underpass and Shortcut Road, to provide access to the recreational resources which exist at McNulty Inlet and beyond.

## **6.6 Designation of Open Space**

GM Stewart (34/16 & 34/17) has promoted that the buffers along the State Highway 6 and 8B frontages (which are proposed to be included in the Rural Resource Area) be vested in the Council as reserve; and that Communal Open Space and Park Open Space, as identified on the Future Development Masterplan at Attachment A, should be designated for recreation purposes or otherwise provided for in the rules of the plan for the Wooing Tree Overlay [the site].

As noted in 6.3 above the requestor proposes to retain the buffer strip which is to be included in the Rural Resource Area; and to run the vine rows parallel with the property boundary to maximise the vineyard land use. An amendment to Rule 4.7.4(iii) is proposed to provide for the use of covenants, consent notices or other legal instruments which may be necessary to ensure the long term management of this land in the context of any future application for subdivision consent. The Council is satisfied that such an approach is preferable to vesting this land as reserve.

Mr Stewart has also promoted that the Communal Open Space and Park Open Space as shown on the Future Development Masterplan be designated or otherwise protected by rules. The Communal Open Space in particular is strategically located with respect to the Residential Resource Area where provision is to be made for an increased density associated with multi-unit development and comprehensive residential development and a maximum lot area of 350m<sup>2</sup>. The Council concurs with Mr Vivian that the protection and



management of any open space will be considered and provided for at the time of subdivision in accordance with the Operative District Plan subdivision provisions.

## **6.7 Infrastructure**

Four submitters referred to effects on infrastructure; and some have noted that substantial upgrading will be required. The effects of stormwater disposal is raised by submitters.

The requestor has provided an infrastructure report prepared by Fluid Infrastructure Solutions Limited (at Attachment L to the request document) which assesses the water supply, wastewater and stormwater (“3 waters”) requirements for the future development of the land subject to Plan Change 12.

The infrastructure report proposes that the site be serviced from the CODC water reticulation network at two connection points to provide a dual feed supply. The preferred option is to connect into the existing 300mm diameter trunk watermain within the south-western area of the site and the 200mm diameter watermain at the intersection of Shortcut Road and Roberts Drive.

The infrastructure report advises that data from the hydraulic model (as provided by Rationale Limited) indicates that the supply pressures for future demand in the area are in the order of 60m; and Mr Chan advised that the additional peak flow demand from the Wooing Tree site is estimated to reduce the network pressures by 8m. The infrastructure report confirms that this pressure is within the target pressure guidelines of 25m to 80m.

While the infrastructure report has not assessed the capacity of the water supply network (source, treatment and storage); it notes that discussions with Council staff have not highlighted a capacity issue for the existing network.

Three options have been identified for servicing the area for wastewater being:

- Option 1 : Divide the site – south-west side of development to the existing Scott Terrace pump station and north-west side to gravity main on Roberts Drive.
- Option 2 : Connect entire development to the existing Scott Terrace pump station and upgrade pumps and rising main.
- Option 3 : Install a new pump station to service the site and pump directly to the Lowburn Rising Main.

The infrastructure report addresses each of these options and notes, in particular, that Option 3 is the most cost-effective option if Option 1 is not viable due to capacity issues in the Roberts Drive network.

There is no stormwater infrastructure in the vicinity of the development. The infrastructure report advises that the management of stormwater can be facilitated within the boundaries of the site with disposal to gravels. Mr Chan recommends that stormwater design is undertaken as part of the subdivision consent process.

The Council’s conclusion, following consideration of the infrastructure report provided with the request document and Mr Chan’s evidence, is that any effects in terms of in-ground 3 waters infrastructure are able to be mitigated by engineering solutions which will be progressed at the subdivision consent stage. It is anticipated that a similar conclusion is likely to be reached with respect to electricity and telecommunication services albeit that the provision of such services falls beyond the scope of the infrastructure report.

## **6.8 Scheduling of Wooing Tree**

Plan Change 12 provides for the inclusion of the Monterey Pine (*pinus radiata*) known as the “Wooing Tree” as Notable Tree number 26 in Schedule 19.4 Part B of the Operative District Plan. Attached to the request document at Attachment J is the relevant entry from The New Zealand Tree Register which relates to The Wooing Tree.

This initiative is supported by the Cromwell and Districts Community Trust (8/3). Given that the Wooing Tree is a local landmark the Council concludes that inclusion in Schedule 19.4, as proposed, is appropriate.

## **6.9 Support for Plan Change 12**

Eight submitters expressed support for Plan Change 12 in whole or in part. It is noted that the submissions by DJ Stark (33/1) and GM Stewart (34/1) express support for residential aspects of the proposal only; and that the support of EA Heal (17/1) is conditional upon residential sections not being subdivided further. It is also acknowledged that further submitters being TJ Affleck, BF Dawson, ML Morpeth and PJ Piebenga have expressed support for the various original submissions which expressed support for Plan Change 12.

## **6.10 Conclusion**

A variety of matters have been raised in the submissions and in some instances submissions relate to several topics, as discussed above. The Council’s conclusion, following consideration of the matters raised in submissions, is that Plan Change 12 should be modified to address various matters raised in submissions, as discussed above and as summarised in Annex 2 and as detailed in Annex 3 to this decision.

## **7.0 EFFECTS ON ENVIRONMENT**

Requested Plan Change 12 will apply a mixture of Resource Area provisions to the 25.4197 hectares of land that is subject to the requested plan change. The result will be to provide for more efficient use of the land resource than can be achieved under the Residential Resource Area (6) zoning of the land that has applied since the Central Otago District Plan became operative on 1 April 2008.

The effects associated with Plan Change 12 have been addressed in the context of the various matters raised in submissions in this decision (see 6.1 - 6.9 above). The primary effect of Plan Change 12 (as modified in terms of this decision) is that a more concentrated form of residential subdivision and development with travellers accommodation with associated “vineyard village” themed tourism retail and commercial activities is to be provided for on the land subject to the plan change.

Such rezoning will have positive effects as it will provide for residential subdivision and development to occur at a greater density than is currently provided for in the Residential Resource Area (6); and as it will provide for a limited range of shops and other commercial activities that will serve local residents and visitors seeking a “vineyard village” themed tourist retail and commercial activity experience – with such development occurring in a manner that complements other business activities in Cromwell.

## **8.0 CONSIDERATION OF ALTERNATIVES**

Section 74(1) confirms that a plan change is to be in accordance with the Council’s obligation (if any) to prepare and have particular regard to an evaluation report prepared in accordance with section 32. Section 32 establishes requirements for preparing and publishing evaluation reports on a proposed plan change and it is noted that a section 32 evaluation has been prepared by the requestor, and this is presented in Section 6.0 of the request document prepared by Vivian + Espie Limited.

There are four primary alternatives now available to the Council. These are to maintain the status quo; to apply an existing zone (eg. Residential Resource Area (11)) to the entire Wooing Tree site; to proceed with Plan Change 12 as notified; or to modify the Plan Change 12 provisions.

### **8.1 Status Quo – RRA(6)**

The status quo would maintain the current Residential Resource Area (6) zoning and rely on the resource consent process to determine the most efficient and effective use of the land.

As previously noted the Residential Resource Area (6) provisions could result in the land being subdivided to provide for 48 lots; with substantial dwellings and outbuildings possible on those properties. A positive effect of such an approach would be to maintain the existing pattern of development which is particularly apparent to the north and east of Shortcut Road. Such an approach would impose a cost as the land would not be efficiently used. It is also acknowledged in this context that important elements of Plan Change 12, such as the roundabout and underpass, are unlikely to be viable if the land is simply subdivided and developed in accordance with the Residential Resource Area (6) provisions.

If this option were maintained it is likely that Residential Resource Area (6) subdivision and development would result in the loss of the opportunity to develop the land on a more integrated and efficient basis, as is now proposed.

In all the circumstances the Council does not favour the status quo option.

### **8.2 Apply a Single Existing Zone eg. RRA(11)**

A benefit of this option is that a uniform pattern of subdivision and development would occur across the Wooing Tree site. If the Residential Resource Area (11) only, say, was applied this would enable subdivision to a minimum lot size of 400m<sup>2</sup>.

A disadvantage with this option is that it does not respond to the specific characteristics of the site, including the strategic location of the site at the visual entrance to Cromwell and to the amenity of the surrounding properties. This option also does not provide for a mixture of housing typologies on the subject site.

In all the circumstances the Council does not favour this option.

### **8.3 Plan Change 12/Mixture of Resource Area Provisions**

This option is the one that is sought through requested Plan Change 12 as publicly notified. This provides for a range of different development typologies; with more concentrated residential subdivision and development to occur generally towards the centre of the site; and for the development of the Business Resource Area (2). Plan Change 12 provides for an efficient use of the land while, to a significant extent, mitigating effects on the amenity values of neighbouring properties.

The analysis contained in this decision has confirmed that various modifications are appropriate to Plan Change 12 as publicly notified. Given that these modifications are appropriate it would not be appropriate to proceed with Plan Change 12 on the basis of the detailed plan provisions as publicly notified.

In all the circumstances the Council does not favour proceeding with Plan Change 12 as notified.

#### **8.4 Modified Plan Change 12 Provisions**

This option makes provision for the residential subdivision and development provided for through Plan Change 12 largely as notified; for modifications to the Business Resource Area (2) provisions to better align the activities to be permitted with the proposed Policy 8.2.8; and for modification of other Plan Change 12 provisions to address concerns raised by various submitters, including modifications which relate to the provision of a roundabout, underpass and connectivity.

This option has benefits in terms of facilitating a range of residential typologies; providing for the existing and future operations of the Wooing Tree Cellar door operation and making provision for complementary travellers accommodation and “vineyard village” themed tourism retail and commercial activity along with a convenience grocery store to serve the local community; and enhancing the provisions which are to be made with respect to traffic effects, particularly the provision of a roundabout to an appropriate standard, an underpass in an optimal location, and for connectivity.

Ms Hampson has identified and assessed the economic and social benefits and costs of the Business Resource Area (2) on the basis of amendments recommended by her. She has concluded that the anticipated economic and social benefits of the Business Resource Area (2) are likely to outweigh the anticipated economic and social costs, although not all of the benefits and costs are quantified or monetised. The Council accepts Ms Hampson’s analysis and conclusions as these relate to the amended Business Resource Area (2) provisions of Plan Change 12.

The Council’s conclusion is that the modified Plan Change 12 option will achieve efficient use of the land resource, will serve to mitigate effects on the amenity values of neighbouring properties, will effectively achieve the objectives and policies specific to the Business Resource Area (2) and the objectives and policies of the District Plan as a whole, and will be effective as it will apply specific existing Resource Area (zones) to the subject site.

The Council favours this option.

#### **8.5 Conclusion : Alternatives**

The Council’s conclusion, following consideration of the four primary alternatives is that the fourth option, being modification of the Plan Change 12 provisions, is the most appropriate alternative. Adoption of this fourth option has necessitated further evaluation of the modifications to Plan Change 12 pursuant to section 32AA(1)(d)(ii) of the Act and such further evaluation as presented in 8.4 (above) is deemed to incorporate the analysis of the effects of the proposal as detailed earlier in this decision (see 6.1 - 6.9 above).

### **9.0 OTHER STATUTORY CONSIDERATIONS:**

#### **9.1 Statutory Provisions**

Clause 29(4) of Part 2 of the First Schedule to the Act provides as follows:

- “(4) *After considering a plan or change, undertaking a further evaluation of the plan or change in accordance with section 32AA, and having particular regard to the evaluation, the local authority-*
- (a) may decline, approve, or approve with modifications the plan or change;*
  - and*
  - (b) must give reasons for its decision.”*

Such decision making is to be guided by the relevant statutory considerations.

The Council acknowledges that the purpose of district plans is stated in section 72 of the Act; that the functions of territorial authorities under the Act are stated in section 31; and that section 74 of the Act sets out the matters any change to a district plan is to be in accordance with. Section 75(3) and (4) provide direction with respect to the contents of district plans.

Section 74(1) confirms that a change to a district plan is to be in accordance with the provisions of Part 2; and achieving the purpose of the Act (section 5 in Part 2) is the purpose of district plans in terms of section 72.

## **9.2 Part 2**

Subject to the modifications provided for in this decision Plan Change 12, which provides for the Residential Resource Area (6) to be removed and a mixture of Resource Area provisions to be applied instead, is consistent with the purpose of the Act as stated in section 5 being to promote the sustainable management of natural and physical resources. Modified Plan Change 12 is entirely consistent with sustainable management as it will provide for managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing while:

- (a) Sustaining the potential of natural and physical resources to meet the reasonable foreseeable needs of future generations; and
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) Avoiding, remedying or mitigating any adverse effects of activities on the environment.

The Council is satisfied that Plan Change 12, as modified, will be entirely consistent with section 5 of the Act.

The Council also considers that Plan Change 12, as modified, is consistent with sections 7(b), (c), (f) and (g) as the plan change is consistent with achieving the efficient use and development of natural and physical resources; the maintenance and enhancement of amenity values; the maintenance and enhancement of the quality of the environment; and recognising any finite characteristics of natural and physical resources. There are no other matters stated in Part 2 which appear to be of any particular relevance to Plan Change 12.

## **9.3 Other Statutory Matters**

The requested plan change is consistent with the functions of the Council in terms of section 31. In terms of sections 74 and 75, the regional policy statement, regional plan and management plans and strategies prepared under other Acts and relevant planning documents recognised by an iwi authority have been discussed in the documentation lodged in support of the requested plan change, and the Council does not consider it necessary to address these matters further in this decision.

## **10.0 SUMMARY OF DECISION FOLLOWING CONSIDERATION**

Following consideration of the requested plan change and the submissions and valid further submissions received in response thereto, having undertaken a further evaluation of alternatives pursuant to section 32AA of the Act and for the reasons given above, the Council's Hearings Panel has resolved pursuant to clause 29(4) of Part 2 of the First Schedule to the Resource Management Act 1991 to approve Plan Change 12 with modifications and as a consequence:

1. The submission by **Bruce Anderson (1/1-1/5)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.


2. The submission by **Gary Anderson (2/1 & 2/2)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
3. The submission by **Viv Buchanan (3/1 & 3/2)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
4. The submission by **Andrew Conyngham Burton (4/1-4/4)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
5. The submission by **Richard Leonard Byrne & Wendy Grace Byrne (5/1-5/18)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
6. The submission by **Central Otago Queenstown Trails Network Trust (6/1-6/3)** supported by **ML Morpeth (102/1 – re 6/1 – 6/3)**, **The NZ Transport Agency (103/1)** and **PJ Piebenga (104/1)** is **accepted**.
7. The submission by **Kelly Checketts (7/1-7/7)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
8. The submission by **Cromwell & Districts Community Trust (8/1-8/3)** supported by **ML Morpeth (102/2 – re 8/1-8/3)** and **PJ Piebenga (104/2)** is **accepted**.
9. The submission by **Chris Cummings (9/1 & 9/2)** is **accepted**.
10. The submission by **Hilliary Cummings (10/1 & 10/2)** is **accepted**.
11. The submission by **William Robert Dunbar & 25 Others (11/1-11/18)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
12. The submission by **Richard & Jolanda Foale (12/1 & 12/2)** is **rejected**.
13. The submission by **Paul James Goodwin & Leslie Robyn Goodwin (13/1-13/4)** is **accepted**.
14. The submission by **Paul James Goodwin & Leslie Robyn Goodwin (14/1-14/4)** is **accepted**.
15. The submission by **Paul James Goodwin & Leslie Robyn Goodwin (15/1-15/3)** is **accepted**.
16. The submission by **Jennifer May Hawker (16/1)** supported by **ML Morpeth (102/3)** and **PJ Piebenga (104/3)** is **accepted in part** to the extent that Plan Change 12 is modified.
17. The submission by **Elizabeth Adrienne Heal (17/1-17/5)** is **accepted in part** to the extent that Plan Change 12 is modified.
18. The submission by **Jill Alexa Herron (18/1-18/8)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
19. The submission by **David Lewis Holden (19/1)** supported by **TJ Affleck (100/1)**, **BF Dawson (101/1)**, **ML Morpeth (102/4)** and **PJ Piebenga (104/4)** is **accepted in part** to the extent that Plan Change 12 is modified.

20. The submission by **Richard & Paula Jackson (20/1-20/7)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
21. The submission by **Paul & Jocelyn Johnstone (21/1-21/5)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
22. The submission by **Basil John Lister (22/1 & 22/2)** is **accepted in part** to the extent that Plan Change 12 is modified.
23. The submission by **Graeme & Jan-Marie McDowell (23/1-23/12)** supported by **PJ Piebenga (104/9 – re 23/10)** is **accepted in part** to the extent that there is no proposal to close the Shortcut Road intersection with State Highway 8B; and the submission is otherwise **rejected**.
24. The submission by **Geoffrey Neil & Margaret Ann McPhee (24/1 & 24/2)** opposed by **ML Morpeth (102/8 – re 24/1)** is **accepted in part** to the extent that there is no proposal to close the Shortcut Road intersection with State Highway 8B; and the submission is otherwise **rejected**.
25. The submission by **Heather McPherson (25/1)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
26. The submission by **David Samuel Moreton (26/1 & 26/2)** is **accepted**.
27. The submission by **NZ Transport Agency (27/1-27/22)** opposed by **Wooring Tree Holdings Limited (106/1 – re 27/6)** is **accepted in part** to the extent that the provisions of Plan Change 12 are to be modified; and it is acknowledged that submission points 27/6 and 27/16 were withdrawn at the hearing.
28. The submission by **Patricia Margaret O’Neill (28/1-28/16)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
29. The submission by **Heather Nola Pryor & John Ian Meredith (29/1-29/4)** is **rejected**.
30. The submission by **Robert Stirling Robinson (30/1 & 30/2)** is **rejected**.
31. The submission by **K Wally Sanford (31/1 – 31/3)** supported by **ML Morpeth (102/5 – re 31/1-31/3)** and **PJ Piebenga (104/5)** is **accepted in part** to the extent that Plan Change 12 is modified.
32. The submission by **The Southern District Health Board c/- Public Health South (32/1 – 32/9)** supported by **NZ Transport Agency (103/2 – re 32/4)** is **accepted**.
33. The submission by **David Garth Stark (33/1 – 33/4)** supported by **PJ Piebenga (104/6 – re 33/1 – 33/3 only)** is **accepted in part** to the extent that Plan Change 12 is modified.
34. The submission by **Gordon McAlpine Stewart (34/1 – 34/17)** opposed by **ML Morpeth (102/9 – re 34/15 & 34/16)** and supported by **GF & A-L Sinnott (105/1 - re 34/1 -34/7, 34/14 – 34/17 inclusive)** is **accepted in part** to the extent that Plan Change 12 provides for a more intensified form of residential subdivision and development on the site and for the roundabout; and the submission is otherwise **rejected**.

35. The submission by **Ruth & Ron Stilwell (35/1)** supported by **PJ Piebenga (104/10)** is **accepted in part** to the extent that Plan Change 12 is modified.
36. The submission by **Robert Tovey (36/1)** supported by **ML Morpeth (102/6)** and **PJ Piebenga (104/7)** is **accepted in part** to the extent that Plan Change 12 is modified.
37. The submission by **Hessel Christiaan Van Wieren (37/1 – 37/6)** is **accepted in part** to the extent that Plan Change 12 is modified; and the submission is otherwise **rejected**.
38. The submission by **Michael & Lisa Wardill (38/1 – 38/7)** is **rejected**.
39. The submission by **Mrs Anne White (39/1 – 39/6)** is **accepted in part** to the extent that Plan Change 12 contains no provision to close Shortcut Road and as provision is to be made for an underpass; and the submission is otherwise **rejected**.
40. The submission by **William Finlayson White (40/1 – 40/9)** is **accepted in part** to the extent that Plan Change 12 contains no provision to close Shortcut Road and as provision is to be made for an underpass; and the submission is otherwise **rejected**.
41. The submission by **Janeen Margaret Wood (41/1 – 41/4)** supported by **ML Morpeth (102/7 – re 41/1 & 41/2)** and **PJ Piebenga (104/8)** is **accepted in part** to the extent that Plan Change 12 is modified.

Modified Plan Change 12 as approved by this decision is summarised at Annex 2 with detailed changes to the District Plan text presented at Annex 3.

Certified to be a correct copy of the decision of the Hearings Panel for the Central Otago District Council.



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**JT Lane**  
**CHAIRPERSON**

23 February 2018