

IN THE MATTER

Proposed Plan Change 12 to the
Central Otago District Plan. Wooing
Tree, Cromwell

BY

Wooing Tree Holdings Limited
Requestor

TO

**CENTRAL OTAGO DISTRICT
COUNCIL**
Territorial Authority

**EVIDENCE OF CAREY VIVIAN
(PLANNER)
1 November 2017**

1. Qualifications and Experience

- 1.1 My name is Carey Vivian. I hold the qualification of Bachelor of Resource and Environmental Planning (Hons) from Massey University. I am a member of the New Zealand Planning Institute and the Resource Management Law Association. I am a director of Vivian + Espie Limited, which was established in 2004, and is a resource management and landscape planning consultancy based in Queenstown. I have been practising as a resource management planner in Queenstown for twenty years, having held positions with the Queenstown-Lakes District Council (QLDC), Civic Corporation Limited, Clark Fortune McDonald and Associates and Woodlot Properties Limited.
- 1.2 I have read the Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2014 and agree to comply with it. This evidence is within my area of expertise, except where I state that I am relying on information I have been given by another person. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed herein.

2. Purpose and Scope of this Evidence

- 2.1 The purpose of this evidence is to assist the Commissioners on matters within my expertise of resource management planning in relation to Plan Change 12 (**PC12**), being an application for a plan change by Wooing Tree Holdings Limited (**WTHL**, the Applicant or the Requestor).
- 2.2 I prepared the PC12 application, including:
- Section 32 evaluation;
 - Consideration of relevant objectives and policies (both CODC and ORC);
 - Assessment of effects on the environment;
 - Consideration of Part II of the RMA.
- 2.3 Rather than repeat my findings in respect of those matters, I simply rely on the application documentation and am happy to answer any questions in respect of it.
- 2.4 My evidence therefore focuses on the key issues raised in submissions and Mr. Whitney's Section 42A Report (**S42AR**).

3. Preliminary Issues

The Subject Site and Locality

- 3.1 The S42AR refers correctly to the subject site and locality and it is agreed that the site comprises 25.419ha with frontage to State Highway 8B, State Highway 6 and Shortcut Road at Cromwell. The site is legally described as Section 3 SO 461514.

The Proposal

- 3.2 Section 4 of the S42AR correctly identifies the scope of the Proposal at Section 4 and provides a useful summary of the new rules specific to the Wooing Tree Overlay Area (**WTOA**) at Page 3.

Public Notification and Submissions

- 3.3 The S42AR identifies the matters raised in submissions at Section 6, and addresses the matters raised in submissions on a collective basis. I agree with this approach, and I agree with the summary provided in the Section 42A Report.

Future Development Masterplan

- 3.4 At page 6 Mr. Whitney states that in his view caution should be exercised when considering the Future Development Masterplan in the context of PC12. Mr. Whitney states that 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 the Resource Areas provided in PC12 to their full potential. Mr. Whitney considers *“This may result in a different outcome in terms of provision for open space and retention of vineyards, to that shown in the Future Development Masterplan.”*
- 3.5 I noted the same point in my PC12 assessment.

“The proposed development is conceptually shown on the Future Master Plan attached as **Appendix A** to this report. This Future Master Plan is only one option for the development of the subject site. However, at this stage it is the preferred development option of the applicant. It is noted that it is not intended that Future Master Plan is included in the CODC District Plan as a reference or structure plan for the development of the property. It is simply an idea of how the applicant would like to develop their land in the future and thus a basis for the zoning requested by this Plan Change.” (S42AR Page 6).

4. Key Issues

4.1 As stated above, the key issues identified in Mr. Whitney's report include the following:

- Provision for higher density housing;
- Business Resource Area (2);
- Visual Entrance to Cromwell/Soil Resource;
- Shortcut Road;
- Roundabout, Underpass and Connectivity;
- Designation of Open Space;
- Infrastructure;
- Scheduling of Wooing Tree.

4.2 I address each of these key issues in turn.

Key Issue 1 - Provision for Higher Density Housing

4.3 As identified at page 5 of the S42AR the Plan Change as notified provides for a range of densities. It is proposed that Rural Resource Area (11) (**RRA(11)**) is adopted across a total of 8.32ha. Within the RRA(11) area a minimum lot size of 400m² is required, with a maximum number of 100 lots.

4.4 The highest density is provided centrally within the site, and is provided for by Residential Resource Area (**RRA**). This enables small sections down to 250m² in size, with a maximum of 350m². The rules also restrict the number of residential lots to a maximum of 50. Therefore 1.75 hectares of the RRA can be used for the residential allotments, with the balance 1.03 hectares being used for roading, reserves, open space etc. Overall the zone will have a density of 1 residential unit per 556m².

4.5 Larger lots are provided around the periphery of the site, which is zoned Residential Resource Area (3) (**RRA(3)**). This allows 60 lots with a minimum lot size of 1000m².

4.6 Overall, the proposal enables a total of 210 lots across a 25ha site. If the areas proposed for Business Resource Area (2) (**BRA(2)**) and the Building Line Restriction (**BLR**) are removed, there remains 17.42ha available for residential development. A maximum of 210 lots equates to an

overall, average density of 829m² (this doesn't include roads). If the BRA and BLR are included within the developable area, the average lot size is 1,190m² per lot.

- 4.7 The S42AR accurately summarises the submissions as they relate to density. I agree with the S42AR that the key issues raised in submissions are concerns in regard to the level of density, particularly in terms of effects on neighbouring sites, views, and traffic generation.

Sub-Issue 1(a) - Residential Resource Area 11 (RRA11) vs. 12 (RRA12)

- 4.8 At Page 6 of his S42AR, Mr. Whitney states the following with respect to the minimum lot size of the proposed RRA11 Zone:

“Several submitters have promoted that Plan Change 12 should be amended to provide for a minimum lot area of 500m² (or 1000m²). For example Heather McPherson (25/1) has promoted that the Residential Resource Area (12), which provides for a minimum allotment area of 500m², be substituted for the Residential Resource Area (11). We note 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. We anticipate that the requestor, at the hearing, will explain why a minimum lot area of 400m² is more appropriate than, say, a minimum lot area of 500m² with respect to land currently identified as Residential Resource Area (11) in Plan Change 12.” (S42AR Page 6).

- 4.9 I confirm that a number of zones (with corresponding minimum lot sizes) were considered in the formulation of the WTOA. The proposed zones were selected for the following reasons:

- They provide a hybrid mix of existing residential zone and new specialist business zone and provides for increased density in a manner that responds to the site context, providing a range of housing choices that can respond to community needs and market conditions, as well as balancing growth against the importance of retaining amenity values.
- They also enable a mix of uses, creating the potential for a live-work environment, and recognise the need to accommodate tourist activities that support the existing cellar door and wedding venue operations.
- They respond best to areas of landscape sensitivity, and provide an opportunity to achieve good urban design outcomes by providing for well-planned residential layout and amenities.

- 4.10 The AEE does not specifically address the Residential Resource Area (12) (**RRA(12)**) zone. The reason for this is the RRA(12) is specific to a particular area (as opposed to a general zone that could be applied anywhere). However, in hindsight, there are a lot of synergies between what the

RRA(12) and the various WTOA zones are trying to achieve. That is, dense residential subdivision internally (500m²) with a periphery of larger lots adjacent to the State Highway (1000m²).

- 4.11** The major difference is that the RRA(12) requires the pre-approval from Council in relation to open space designations, provision of a greenway and pedestrian linkages. Once that approval has been obtained from Council, future subdivision shall be in general accordance with that approval. In my opinion, the WTOA area is significantly different to that, as it does not have any adjoining designated land or greenways to integrate with. The WTOA is a true greenfield site, where open space will need to be developed through the subdivision consent process. To that extent, it is difficult, but not impossible, to apply the RRA(12) zoning to the WTOA without affecting the intent of the zone.
- 4.12** With respect to density, Ms. Skidmore addresses the appropriate minimum lot size from an urban design point-of-view at paragraph 4.4 of her evidence. I agree with Ms. Skidmore that while the minimum lot size of 400m² is proposed, this does not mean that all lots within the zone will necessarily be created at this scale. This is because in addition to the minimum lot size, the proposed zone also includes a maximum number of lots which is likely to ensure a diversity of lots within the RRA(11) which maintains a degree of open space.
- 4.13** I also agree with Ms. Skidmore that 400m² is a suitable size to accommodate a standard dwelling with associated outdoor living space (particularly given the projection for smaller households in the future). I also agree it is appropriate to enable smaller sites that are suitable for more compact developments. By way of example, low-density residential development in the Queenstown-Lakes District is now proposed to develop down to 1 unit per 350m² of land under the Proposed District Plan. The purpose of this is to prevent the outward expansion of urban areas thereby creating efficiencies in terms of infrastructure (an important ORC policy).
- 4.14** I further agree with Ms. Skidmore that enabling lots with a minimum lot size of 400m² will contribute positively to the diversity of house sites enabled within the WTOA. Ms. Hampson provides a detailed analysis of the growth projections for Cromwell, and concludes at paragraph 68 that there is evidence that a range of dwelling types and prices are required to meet future demand. The RRA(11) zone is, in my opinion, the most appropriate zone to achieve such diversity.
- 4.15** I further add that Ms. Hampson provides a detailed analysis of projected demand for residential development, and concludes that from an economic perspective the proposal is an efficient use of land. Importantly, Ms. Hampson identifies that it is smaller, more affordable dwellings that are

needed in Cromwell. At paragraph 69 Ms. Hampson states that a higher minimum lot size does not take into account the benefits of providing for a range of lot (and therefore dwelling) sizes for which there is a growing demand and the benefits of a more compact urban form. The range of zoning options promoted by PC12 enables this to occur. Additionally, Ms. Skidmore considers from an urban design perspective the subject site is an appropriate location for increased density, given its proximity to the town centre. I concur with that finding.

4.16 The overall development yield is also a relevant factor in terms of this particular plan change, given the imposition of Rules **7.3.6 STANDARDS (vi) Access** and **8.3.6 STANDARDS (xii)** which requires significant capital be spent in the formation of a roundabout and underpass prior to the development of a large portion of the zone. The WTOA has been carefully designed to ensure this is financially viable. The reduction of development potential from RRA(11) to RRA(12) for the largest part of the zone could therefore affect the feasibility of the positive aspects of the WTOA, with little environmental gain.

4.17 In my opinion, for the reasons expressed above, the RRA(11) zone (in combination with other proposed zones) is the most appropriate within the WTOA as required by section 32 of the RMA. However, that said, the RRA(12) zone is still more appropriate than the status quo zone if it was to replace the RU, RRA(3), and RRA(11) zones in their entirety (and maintaining the 30m BLR, central highest-density RRA area and BA(2) area). If the Hearings Panel is minded to accept the submissions requesting RRA(12) zoning over the WTOA then I would recommend the Rule 7.3.3 (i) Subdivision (c) be amended as follows:

“Residential Resource Area (12)

- (i) Minimum Allotment Area - 500m² provided that the minimum allotment area adjacent to State highway 6 is no less than 1000m²
- (ii) Prior to an application for subdivision consent being made in the Residential Resource Area (12) between Waenga Drive and McNulty Road the landowner shall provide a concept plan which provides for the following, to the extent that this is relevant to the land concerned:
 - Connection with the extended designation D72 and D73, including a 10 metre wide reserve adjacent to the northern boundary of the Residential Resource Area (12) that is shared with Lot 1 DP 23737.
 - Provision for a strip of greenway adjacent to State highway 6 that is wide enough to accommodate a walkway.
 - Provision of additional land to complement the existing pedestrian link in D74.
 - Opportunity to link with existing greenways on the opposite side of Waenga Drive (D77).
- (iii) Prior to an application for subdivision consent being made in the Residential Resource Area (12) within the Wooing Tree Overlay Area the landowner shall provide a concept plan which provides for the following, to the extent that this is relevant to the land concerned:
 - Connection with designation (D88) in the form of a pedestrian underpass under the State Highway.

- Provision for a strip of greenway adjacent to State Highway 6 that is wide enough to accommodate a walkway.
- Opportunity to create greenways throughout the zone.

(iv) The plan of subdivision shall be in general accordance with the concept plan referred to in (ii) above, subject to any amendments that result from the consultation with the Chief Executive with respect to the contents of the concept plan."

4.18 I stress that I consider RRA(12) is not the most appropriate option, but is a more appropriate option than the status quo.

Sub-Issue 1(b) - RRA11 adjacent SH8B

4.19 Mr. Whitney states with respect to the RRA11 proposed to the north of SH8B:

"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. We anticipate that the requestor will also give consideration to whether the Residential Resource Area (3), which has a minimum lot area of 1000m² should apply to the strip of land closest to State Highway 8B. Such an amendment would appear consistent with the intent of providing for lower density residential subdivision and development at the periphery, with provision for higher density residential subdivision and development located centrally within the site." (S42AR Page 6).

4.20 Ms. Skidmore addresses this issue in paragraph 4.5 of her evidence. Ms. Skidmore notes that this area sits across from the town centre core of Cromwell and is therefore more appropriate to accommodate the higher intensity of development given its location adjacent to the urban core. Ms. Skidmore also considers the buffer created by the RU zone will create a sense of spaciousness and character that is established by the vineyard activity. In Ms. Skidmore's opinion, the additional area of RRA(3) in this area is not necessary, nor would it be beneficial. I agree with Ms. Skidmore's urban design opinion in respect of this area of land.

Sub-Issue 1(c) – Multi Unit Developments

4.21 Mr. Whitney notes in section 4.0 of his report the following with respect to the RRA:

"Plan Change 12 provides for a mixture of residential subdivision and development to occur across the subject site. We note that the intention is to provide for the Residential Resource Area (3), where a minimum lot area of 1000m² applies, generally at the periphery; to apply the Residential Resource Area (11) where a minimum lot area of 400m² applies more centrally; and to apply the Residential Resource Area where a minimum lot area of 250m² applies to a discrete area that is centrally located on the site. Within the Residential Resource Area provision is to be made for multi-unit development (as a controlled activity) with an associated relaxation of yards and recession planes; for increased site coverage of 80%; and for a maximum lot area of 350m² to apply." [Underlining my emphasis] (S42AR Page 5).

4.22 At paragraph 6.6 of his report, Mr. Whitney discusses the submission of Mr. Stewart who requested the Communal Open Space and Park Open Space as shown on the Future Development Masterplan be designated or otherwise protected by rules. Mr. Whitney acknowledges that the Communal Open Space is strategically located with respect to the RRA where provision is to be made for an increased density associated with multi-unit development and a maximum lot area of 350m².

4.23 Mr. Stewart's submission has promoted a re-examination of open space/ density provisions of the RRA. This is particularly important given the RRA has the highest density of development within the WTOA. Ms. Skidmore and I have come to the conclusion that the proposed RRA rules for multi-unit developments are not comprehensive enough to achieve the desired level of control for this high-density area.

4.24 Proposed Rule 7.3.2.(i)(vi) states the following is a controlled activity in the RRA Zone:

“(vi) Multi-Unit Developments in the Residential Resource Area (other than Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area

Multi-Unit Developments in the Residential Resource Area (other than Residential Resource Areas 3 and 11) within the Wooing Tree Overlay Area shall be a Controlled Activity.

Council shall restrict the exercise of its control to the following matters:

- (i) Urban Design and External Appearance; and
- (ii) The provision of access, parking, loading and manoeuvring areas associated with the building; and
- (iii) Landscaping; and
- (iv) Servicing.

For the purpose of this Rule, a Multi-Unit Development means a comprehensively planned and designed collection of two or more Residential units where the building and subdivision consents are submitted and assessed together.

Reason

The Residential Resource Area within the Wooing Tree Overlay Area is a new greenfield residential area aimed at promoting high density residential development, with a high percentage of open space. Being a greenfield area is appropriate to control the nature, scale and look of buildings in this area to ensure the sustainability of high quality development which will appeal to future residents.”

4.25 Any breach of this rule is a discretionary activity pursuant to Rule 7.3.4(i).

4.26 For the purpose of this Rule, a Multi-Unit Development means a comprehensively planned and designed collection of two or more Residential units where the building and subdivision consents are submitted and assessed together. In hindsight, there is little value in submitting a multi-unit development as a controlled activity when the subdivision aspect of the development is a restricted

discretionary activity. That would, in my opinion, create inconsistency given controlled activity resource consents must be approved and restricted discretionary resource consents may be declined.

- 4.27** In my opinion, for the RRA, I consider an alternative Comprehensive Residential Development rule should be adopted for the RRA as a restricted discretionary activity as follows:

**“7.3.3.DISCRETIONARY (RESTRICTED) ACTIVITIES
(viii) Comprehensive Residential Developments**

Comprehensive Residential Developments in the Residential Resource Area (other than Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area

Comprehensive Residential Developments in the Residential Resource Area (other than Residential Resource Areas 3 and 11) within the Wooing Tree Overlay Area shall be a Restricted Discretionary Activity, with the exercise of Council’s control restricted to the following matters:

- (i) Urban Design and External Appearance; and
- (ii) The provision of access, parking, loading and manoeuvring areas associated with the building(s); and
- (iii) Landscaping and the provision of open space; and
- (iv) Servicing.

For the purpose of this Rule, a Comprehensive Residential Development means a comprehensively planned and designed collection of five or more Residential units where the building and subdivision consents are submitted and assessed together.”

- 4.28** A breach of this rule should be a discretionary activity pursuant to Rule 7.3.4(i), amended as follows:

“7.3.4 DISCRETIONARY ACTIVITIES

(i) Breach of Standards

Any activity that fails to comply with the following rules:

- Rule 7.3.2(i) Subdivision**
- Rule 7.3.2(ii) Residential Activities in Residential Resource Area (8)**
- Rule 7.3.2(iii) Residential Activities in Residential Resource Area (9)**
- Rule 7.3.2(iv) Residential Activities in Residential Resource Area (10)**
- Rule 7.3.3(i)(a) and (b) Subdivision**
- Rule 7.3.3(v) Keeping of Bees**
- Rule 7.3.3(vi) Multi-Unit Development**
- Rule 7.3.3(viii) Comprehensive Residential Developments**
- Rule 7.3.6(i) Traffic Generation and Characteristics of Activities**
- Rule 7.3.6(ii) Sense of Amenity, Security and Companionship**
- Rule 7.3.6(vi) Access (a) to (c)**
- Rule 7.3.6(viii) Keeping of Animals**
- Rule 7.3.6(ix) Tree Planting – Residential Resource Area (8)**

is a discretionary activity.

Reason

Breach of the rules listed can have significant adverse effects on the character and

amenity values of the residential environment.”

4.29 I consider this recommendation is within scope, given any multi-unit development would have been processed as a restricted discretionary activity.

4.30 If this recommendation is adopted, I recommend the following consequential changes to various provisions proposed by the plan change:

(i) Deletion of proposed **Rule 7.3.2 CONTROLLED ACTIVITIES (vi) Multi-Unit Developments** in the Residential Resource Area (other than Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area.

(ii) Amend **7.3.6 STANDARDS (iii) Bulk and Location of (c) Side and Rear Yards (iii)** as follows:

“Minimum side yards of 1.8 metres are required on all side and rear yards in Residential Resource Area (excluding Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area, unless the development is a ~~Multi-Unit Comprehensive Residential Development~~ under Rule ~~7.3.2(vi)~~ 7.3.3(viii) and buildings are adjoined by a common wall ~~then~~ in which case no side yards are required.”

(iii) Amend **7.3.6 STANDARDS (iii) Bulk and Location of (f) Height (5)** as follows:

“5) Residential Resource Area (excluding Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area
For ~~Multi-Unit Comprehensive Residential~~ Developments under Rule ~~7.3.2(vi)~~ 7.3.3(viii) in the Residential Resource Area (excluding Residential Resource Areas 3 and 11) of the Wooing Tree Overlay Area no recession planes are applicable for buildings which are adjoined by a common wall.”

Sub-Issue 1(d) - Other

4.31 I agree with Mr. Whitney’s statement with respect to the Wardill submission. Such a restriction would be unreasonable given the underlying Residential Resource Area (6) (**RRA(6)**) zoning and the BLR.

4.32 I also agree with Mr. Whitney’s conclusion that the RRA(6) zoning is an inefficient use of the land resource and PC12 will make more efficient use of this land resource which is strategically located with respect to commercial and community facilities at Cromwell. I also agree with Mr. Whitney’s findings that the provision for higher density housing is appropriate and consistent with the relevant Objectives and Policies of the ODP.

Key Issue 2 – Business Resource Area 2 (BRA(2))

4.33 Mr. Whitney correctly identifies at paragraph 6.2 (Page 7) that PC12 provides for 2.47 hectares of land to be included in the BRA(2) zone with restrictions in respect to the maximum floor space of 12,000m² divided as follows:

- No more than 6000m² is to be used for Travellers Accommodation;
- No more than 4000m² is to be used for Shops;
- No more than 2000m² to be used for any activities other than Travellers Accommodation or Shops.

4.34 Mr. Whitney states:

“Furthermore the maximum building coverage is not to exceed 8000m² of the total Business Resource Area (2) area; and we understand that this will result in a maximum of 8000m² of the 12000m² being at ground floor level. We also acknowledge that within the Business Resource Area (2) a shop is to have a maximum floor area of 200m². The effect of this rule in combination with the maximum floor space rule is that a maximum of 20 shops having a floor area of 200m² would be permitted. Additional shops would be provided for (up to a maximum aggregate floor space of 4000m²) if the floor area of shops is less than 200m².” (S42AR Page 7).

4.35 I concur with Mr. Whitney’s statement.

Sub-Issue 2(a) - Appropriateness of the BRA(2)

4.36 Mr. Whitney states:

“We have significant reservations whether the Business Resource Area (2) is necessary to enable the continued operation of the Wooing Tree Cellar door and associated operations. As noted above this activity has been authorised by resource consent and we note that RC 050408, in particular, is subject to 28 conditions which, amongst other matters, serve to protect the amenities of neighbouring residential properties from effects associated with the consented commercial development on the site. We consider that the existing resource consent is sufficient to enable the continued operation of the Wooing Tree Cellar door activity; and we note that if the Business Resource Area (2) were applied that the existing Cellar door and associated operations may no longer be subject to the controls provided for in the conditions of RC 050408.” (S42AR Page 7).

4.37 With respect, the purpose of the BRA(2) is not solely about enabling the continued operation of the existing cellar door operations. The application refers to the BRA(2) zone as:

- (a) Provision for some small business use that supports the vineyard and tourism activities;
- (b) 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;

- (c) Contributes to the growth and vibrancy of Cromwell;
- (d) The Business Resource Area (2) area of the Wooing Tree Sub-Zone is a new greenfield commercial area aimed at promoting tourism, community and travellers accommodation facilities and activities. Being a greenfield area is appropriate to control the nature, scale and look of buildings in this area to ensure the sustainability of high quality development which will appeal to visitors and the wider community.

As reflected in Policy 8.2.8 as follows:

“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.”

4.38 Mr. Whitney is critical that the request documents are devoid of any assessment of what the effects (particularly economic effects) are of providing for retailing activity in the BRA(2) upon the wider Cromwell community. To assist in this matter, the applicant has called economic evidence from Ms. Hampson who has examined the proposed business zoning in respect to:

- i) The role of the Cromwell town centre in providing social and functional amenity to the resident community, including relevant objectives and policies and non-statutory documents that support and protect that role.
- ii) The role of the Historic Precinct (“Old Cromwell”) in meeting the tourism demand in Cromwell and its relationship with the town centre.
- iii) The types of retail store types and activities that are commonly associated with tourism demand and the degree to which the proposed business zone will result in the dispersal of core retail and service activity.
- iv) The anticipated retail and service floorspace demand arising from future households within PC12.

4.39 At paragraph 80 of her evidence, Ms. Hampson refers to a number of recommendations she made to the applicant that:

- i) realign the enabled development in the BRA(2) with the Requestor’s original vision to develop a tourist destination (combined with wedding/conference type venue), and
- ii) better manage adverse effects on the town centre (especially the Mall).

4.40 At paragraph 81 Ms. Hampson states:

“In short, those recommendations included a reduction in the amount of shop floorspace permitted in the zone, combined with prescription of the sorts of activities and store types that are permitted and non-complying within the shop and ‘other’ floorspace. These recommendations have now been incorporated in an amended version of PC and detail is provided in the evidence of Mr Vivian.” (Ms. Hampson evidence, Paragraph 81).

4.41 I consider the following amendments and additions address both Ms. Hampson’s concerns with respect to economic effects and Mr. Whitney’s concerns in relation to the extent of existing activities authorised on the property:

(a) Amending proposed **Standard 8.3.6 (xiii) Maximum Floor Space within the Business Resource Area (2) of the Wooing Tree Overlay Area** as follows:

“Maximum Floor Space within the Business Resource Area (2) of the Wooing Tree Overlay Area

The maximum Floor Space (as defined) within the Business Resource Area (2) within the Wooing Tree Overlay Area shall be ~~42,000~~ 10,000 m² divided as follows:

- (a) No more than 6,000 m² of the permitted Floor Space shall be used for Travellers Accommodation;
- (b) No more than ~~4,000~~ 3,000 m² of the permitted Floor Space shall be used for Shops;
- (c) No more than ~~2,000~~ 1,000 m² of the permitted Floor Space shall be used for any activities other than Traveller’s Accommodation or Shops.

In addition to above, the maximum building coverage shall not exceed ~~8,000~~ 7,500 m² of the total Business Resource Area (2) area.”

(b) Addition of a new rule **8.3.1 PERMITTED ACTIVITIES (iii)** as follows:

“In the Business Resource Area (2) zone of the Wooing Tree Overlay Area the following shops and other activities shall be permitted activities:

- (i) Shop (as defined) floor space limited to the following activities:
 - (a) Grocery Stores, excluding supermarkets;
 - (b) Other Specialised Food Retailing, including retail associated with on-site production
 - (c) Flower Retailing;
 - (d) Cafes and Restaurants;
 - (e) Takeaway Food Services;
 - (f) Pubs, Taverns and Bars – including cellar doors and retail associated with on-site production;
 - (g) Hairdressing and Beauty Services;
 - (h) Photographic Film Processing;
 - (i) Sport and Camping Equipment Retailing – limited to bike/bike accessory or ski/snowboard/snow sport accessory or water sports equipment retail and service;

- (j) Fruit and Vegetable Retailing – primarily local/regional product focus;
 - (k) Liquor Retailing – limited to local/regional product or tourist focus, includes cellar doors and retail associated with on-site production;
 - (l) Clothing Retailing – limited to local/regional product or tourist focus;
 - (m) Houseware Retailing – limited to local/regional product or tourist focus, including retail associated with on-site production;
 - (n) Watch and Jewellery Retailing – limited to local/regional product or tourist focus, including retail associated with on-site production;
 - (o) Other Personal Accessories Retailing – limited to local/regional product or tourist focus, including retail associated with on-site production;
 - (p) Other Store-Based Retailing – limited to art gallery operation, craft goods retailing, souvenir retailing only, including retail associated with on-site production;
 - (q) Other Goods and Equipment Rental and Hiring – limited to bike rental, water sports equipment hire, snow sports equipment hire and suit hire only;
 - (r) Travel Agency and Tour Arrangement Services– limited to local/regional product focus.
- (ii) Other floor space (refer to **Standard 8.3.6 (xiii)**) limited to the following activities:
- (a) Catering Services;
 - (b) Taxi and Other Road Transport;
 - (c) Scenic and Sightseeing Transport;
 - (d) Passenger Car Rental and Hiring;
 - (e) Professional Photographic Services;
 - (f) Other Administrative Services;
 - (g) Museum Operation;
 - (h) Performing Arts Venue Operation;
 - (i) Sports and Physical Recreation Venues, Grounds and Facilities Operation;
 - (j) Amusement Parks and Centres Operation;
 - (k) Amusement and Other Recreation Activities;
 - (l) Other Personal Services– limited to marriage celebrant services and wedding chapel operation (except church) only.”
- (c) Addition of a new rule **8.3.2 CONTROLLED ACTIVITIES (vi)** as follows:
- “Shops in the Business Resource Area (2) of the Wooing Tree Overlay Area**
- Notwithstanding Rule 8.3.1(iii) above, any expansion of the of the Wooing Tree Tasting Room and Wedding Venue activities authorised by resource consent RC 050408 shall be a controlled activity in respect of:
- (i) Hours of Operation;
 - (ii) Scale of activity;
 - (iii) Car parking;
 - (iv) Monitoring;
 - (v) Noise Management;
 - (vi) Signage.”
- (d) Addition of new rule **8.3.4 DISCRETIONARY ACTIVITIES (i)** as follows:
- “In the Business Resource Area (2) zone of the Wooing Tree Overlay Area the following shops and other activities shall be discretionary activities:

- (i) Any shop or other activity not listed as a permitted, controlled or non-complying activity.”

- (e) Addition of new rule **8.3.5 NON-COMPLYING ACTIVITIES (iii)** as follows:

“In the Business Resource Area (2) zone of the Wooing Tree Overlay Area the following shops and other activities shall be non-complying activities:

- (i) Shop (as defined) limited to the following activities:
 - (a) Fresh Meat, Fish and Poultry Retailing;
 - (b) Furniture Retailing;
 - (c) Floor Coverings Retailing;
 - (d) Manchester and Other Textile Goods Retailing;
 - (e) Electrical, Electronic and Gas Appliance Retailing;
 - (f) Computer and Computer Peripherals Retailing;
 - (g) Other Electrical and Electronic Goods Retailing;
 - (h) Hardware and Building Supplies Retailing;)
 - (i) Garden Supplies Retailing;
 - (j) Entertainment Media Retailing;
 - (k) Toy and Game Retailing;
 - (l) Newspaper and Book Retailing;
 - (m) Marine Equipment Retailing;
 - (n) Footwear Retailing;
 - (o) Department Stores;
 - (p) Pharmaceutical, Cosmetic and Toiletry Goods Retailing;
 - (q) Stationery Goods Retailing;
 - (r) Clubs (Hospitality);
 - (s) Postal Services;
 - (t) Laundry and Dry-Cleaning Services;
 - (u) Antique and Used Goods Retailing;
 - (v) Repair and Maintenance;

- (ii) Other floor space (refer to **Standard 8.3.6 (xiii)**) limited to the following activities:
 - (a) Non-store retailing – such as direct mail retailing of books, cosmetics or goods, internet retailing, milk vending, mobile food retaining (except takeaway food) and vending machine operation. Excludes permitted activity shops selling via the internet or phone;
 - (b) Wholesale Trade;
 - (c) Real Estate, finance and banking services;
 - (d) Medical, health and care services;
 - (e) Professional, scientific and technical services not otherwise permitted;
 - (f) Community and civic services;
 - (g) Vehicle, vehicle parts and fuel retailing and vehicle servicing and repair.”

- (d) Amend Rule 8.3.6 STANDARDS (i) Shops - Business Resource Area (1) and (2) as follows:

“Shops - Business Resource Areas (1) and (2)”

- (a) A shop (as defined at page 18:10 but excluding a convenience shop associated with the sale of fuel and oil for motor vehicles and the sale of food prepared on the premises) in the Business Resource Area (1) shall have a minimum floor area of 600m²
- (b) A shop (as defined at page 18:10) in the Business Resource Area (2) of the Wooing Tree Overlay Area shall have a maximum floor area of 200m².
- (b) No Shop (as defined at page 18:10) within the Business Resource Area (2) of the Wooing Tree Overlay Area shall be located closer than 60 metres to the northern boundary of the Business Resource Area (2) zone.”

- (e) Addition of the following four definitions:

“Local Product - In the Business Resource Area (2) Zone of the Wooing Tree Overlay Area means grown or produced in the Cromwell area, including rural surrounds. Includes local designers, artists, and producers. Manufacturing of local product not limited to local area.”

“Regional Product - In the Business Resource Area (2) Zone of the Wooing Tree Overlay Area means grown or produced in the Otago Region, and particularly central Otago and Queenstown Lakes District. Includes regional designers, artists, and producers. Manufacturing of regional product not limited to regional area.”

“Tourist Focus - In the Business Resource Area (2) Zone of the Wooing Tree Overlay Area means a business selling goods or services targeted primarily at tourists/visitors. May include products that reflect local, regional or New Zealand character or culture.”

“On-site production - In the Business Resource Area (2) Zone of the Wooing Tree Overlay Area means produced or manufactured in the same premises as the retail shop. This may or may not include areas visible/accessible to the public as part of the retail experience. Examples may include (but are not limited to) beer brewing, wine making, wood/stone carving, jewellery making, weaving, cheese making, cake making, ice cream making, chocolate or confectionary making, coffee roasting, pottery making, candle making, leather work, or glass making.”

4.42 I consider there are no scope issues with respect to these amendments.

4.43 On the basis of these amendments, Ms. Hampson concludes that the anticipated economic and social benefits of the proposed business zone (although not all quantified or monetised) considerably outweigh the anticipated economic and social costs. Ms. Hampson considers that on that basis, the proposed zoning is considered an efficient use of the land and the proposed provisions will effectively achieve the policies and objectives of the BRA(2) zone and wider District Plan. I concur with her findings.

Sub-Issue 2(b) - Travellers Accommodation

4.44 With respect to Travellers Accommodation, Mr. Whitney states:

“If travellers accommodation is required this could be provided for by, say, including part of the Business Resource Area (2) in the Residential Resource Area where travellers accommodation is a discretionary activity in terms of Rule 7.3.4(iii). It is important to note in this context that Rule 7.3.5(iii) confirms that travellers accommodation in the Residential Resource Areas (1) to (13) [which includes the Residential Resource Area (3) and the Residential Resource Area (11)] is a non-complying activity.” (S42AR Page 8).

4.45 Under the notified PC12 provisions Travellers Accommodation is a permitted activity in the BRA(2) zone pursuant to 8.3.1(i) subject to:

- (a) Obtaining a controlled activity resource consent for the built form, including urban design, external appearance, access, parking, loading and maneuvering, landscaping and servicing (proposed Rule 8.3.2 Controlled Activity (v)); and
- (b) The roundabout and pedestrian underpass across the State Highway is completed and operational (proposed Standard 8.3.6 (xii)); and
- (c) Not exceeding a total Floor Space of 6,000m² (proposed Standard 8.3.6 (xiii)).

4.46 When combined, these rules and standards control the look, timing and size of visitor accommodation activities within the BRA(2) Zone. Additionally, proposed and operative Standard 8.3.1 (ii) requires buildings:

- (a) to be setback 15m from the north-eastern boundary of the zone; and
- (b) to have a maximum height of 10m; and
- (c) control signage, noise, lightspill and outdoor storage; and
- (d) undertake landscaping.

4.47 In my opinion the PC12 provisions are comprehensive and adequately control the effects of Travellers Accommodation within the BRA(2) site and the wider environment. The only advantage to the Council, in my opinion, in approving Travellers Accommodation as a discretionary activity in terms of Rule 7.3.4(iii) as Mr. Whitney suggests is a circumstance occurring where the Council wished to decline consent. In this location, with this level of control now proposed and outlined above, I fail to see a circumstance where the Council would need to decline consent for Travellers Accommodation.

Sub-Issue 2(c) – Cromwell’s Fragmented Retail

4.48 With respect to retailing activity generally, Mr. Whitney states:

“Currently retail activity is fragmented at Cromwell. Conventional retail activity is provided for in the Business Resource Area at the Cromwell Mall. Large scale (or “big box”) retailing is provided for in the Business Resource Area (1) in the Iles Street/Elspeth Street locality. Retail activity has also occurred in the Industrial Resource Area at Cromwell, including at McNulty Road; and visitor orientated retail activity is found in the Old Cromwell Heritage Precinct. In our view additional provision for retail activity in the Business Resource Area (2), as proposed in Plan Change 12, has the potential to further fragment retail activity at Cromwell. We also note that the request document is 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. We do not consider that further fragmentation of retail activity is in the best interests of the Cromwell community.” (S42AR Page 8).

- 4.49** I disagree that retail activity in Cromwell is fragmented. Each of the areas Mr. Whitney describes above serve a different function, and given the size of town (and its corresponding growth pressure), it is not unusual for such activities to be separated from one another. That does not make Cromwell’s retailing activities fragmented. They are in fact evolving and the proposed BRA(2) is, in my opinion, part of that evolution.

Key Issue 3 - Visual Entrance to Cromwell/Soil Resource

- 4.50** Mr. Whitney addresses submissions raising issue about visual effect of development and loss of productive soils in Section 6.3 of his S42AR. I discuss this issue in three sub-headings as follows.

Sub-Issue 3(a) – The Permitted Baseline/Receiving Environment

- 4.51** Mr. Whitney states:

“Given the Residential Resource Area (6) status of the land we consider that little weight should 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).” (S42AR Page 9).

- 4.52** I concur with this statement, but add the resource consent for the tasting room facility does form part of the receiving environment including its commercial nature.

Sub-Issue 3(b) – Buffer Strip

- 4.53** Mr. Whitney states:

“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 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. We note in this context that a headland space approximately 8 metres deep is currently provided between the State Highway 8B frontage and the commencement of the vine support structures. If a similar headland were provided adjacent to internal roads/residential allotments the strip retained or planted as vineyard would be very narrow. We also question the practicality of retaining the vines in terms of future maintenance if, say, this part of the site were transferred to some other party.

We note that 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 potential may exist to establish planting/moundings 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). Similar mounding and planting has occurred adjacent to greenfields residential development at Alexandra (Molyneux Estate) and commercial development at Cromwell (adjacent to Business Resource Area (1)) albeit that such mounding and planting has occurred on land designated for Recreation Purposes being D2 and D72, respectively. It is also acknowledged in this context that that portion of the proposed vineyard in the Rural Resource Area adjacent to the roundabout is significantly below the level of State Highway 8B and that any planting/mounding in this locality is likely to provide little, if any, visual and acoustic screening.

An alternative technique, which has recently been used in the context of Plan Change 11 which applied the Industrial Resource Area to the former Cromwell Saleyards site, was to impose a rule with respect to landscaping. Such rule has the effect of requiring that landscaping be established by the subdividing owner at the time of subdivision; and maintained, in future, by the owners of the respective allotments. Such an approach would overcome potential issues with respect to future maintenance of the land currently shown as being in the Rural Resource Area in the context of Plan Change 12. The disadvantage of such an approach is that individual owners may fail to maintain those portions of their properties which form part of the landscape buffer.

Given that the practicality of the current provisions for the buffer strip have been raised by submitters we anticipate that the requestor will address the above matters further at the hearing." (S42AR Page 9).

4.54 Mr. Whitney raises a number of options available to the applicant in the future management of the buffer strip. As stated in the evidence of Mr. Bews, it is the Requestor's preference at this time to retain the buffer strip in private ownership and grow grapes on the land in accordance with the theme of a vineyard village. Mr. Bews confirms that this is both feasible and desirable. Mr. Espie does not anticipate any adverse visual effects should this option be exercised.

4.55 I note, as referred to in Mr. Espie's evidence, that the policies for the buffer area include "*vineyard or treed park like character with an absence of built form.*" If the buffer area was to be managed in a treed like character I would support it being designated as a reserve.

Sub-Issue 3(c) - Loss of Productive soils

- 4.56** With respect to this issue, Mr. Whitney's refers to the receiving environment created by the underlying RRA(6) zoning, and the fact that the resource consent to establish the vineyard was anticipated to be temporary (i.e. acknowledged that this may be an interim use until such time as the land is required for residential subdivision and development). I concur with Mr. Whitney's conclusion that the land could be subdivided and developed for residential purposes under the RRA(6) zoning and as such, the proposal will not have a significant adverse effect in terms of the loss of productive soils.

Key Issue 4 - Shortcut Road

- 4.57** In response to submissions on the closure of Shortcut Road, Mr. Whitney concludes:

"Following careful perusal of the Plan Change 12 documentation we have come to the conclusion that the proposed roundabout will provide an alternate means 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." (S42AR Page 10).

- 4.58** I concur with Mr. Whitney's conclusion in respect of this matter.

Key Issue 5 - Roundabout, Underpass and Connectivity

- 4.59** At section 6.5 of his S42AR, Mr. Whitney states:

"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. In our view this is an integral part of the proposal that is necessary to mitigate traffic effects associated with Plan Change 12." (S42AR Page 11).

- 4.60** I agree with Mr. Whitney that the roundabout and underpass are integral to the proposal.

Sub-Issue 5(a) – Partial development of the Eastern Portion of the Site

- 4.61** Mr. Whitney states the following with respect to proposed Rule 7.3.6(vi)(e):

"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. We anticipate that the requestor will provide justification for this aspect of the proposal at the

hearing. We note in particular that an effect of such development on the eastern portion of the site will be to increase use of the State Highway 8B/Shortcut Road intersection and this effect does not appear to have been 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.” (S42AR Page11).

4.62 The reason for this provision is to enable some development to occur ahead of the financial commitment to construct the roundabout and underpass. The RRA(3) and RRA(11) zoning on the eastern side of the BRA(2) was chosen for this purpose as development could access directly onto Shortcut Road in the interim period. The amount of development that could be enabled in this area is similar to what could be achieved under the operative RRA(6) zoning.

4.63 I note that New Zealand Transport Authority (NZTA) have not opposed this aspect of the rule.

Sub-Issue 5(b) – Single vs. Double Roundabout

4.64 Mr. Whitney states the following with respect to proposed Rule 7.3.6(vi)(e):

“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. Those provisions also refer to the underpass being for pedestrians and cyclists. In our view these amendments are appropriate and will enable the roundabout to be constructed to an appropriate standard (which may or may not be double lane).” (S42AR Page12).

4.65 PC12 has been promoted on the basis that the majority of the development is unable to be developed until the construction of a single lane roundabout and underpass is completed. NZTA advised in their preliminary consultation letter (Attached as G to the application) that they agreed with the Traffic Impact Assessment (Attached as M to the application) submitted by Opus International Consultants (OIC) that a single lane roundabout is a suitable mitigation measure.

4.66 The Requestor understands the construction of the roundabout will likely be at their expense. NZTA have advised the Requestor that they do not have any foreseeable budget to construct a roundabout at that location. Likewise, without the roundabout being proposed, it is likely NZTA would be opposing PC12.

4.67 The whole development has therefore been predicated on the cost of constructing a single lane roundabout as recommended by OIC (who are also NZTA’s traffic engineering consultants, and hence the reason they could not present evidence at this hearing). I understand the cost of

constructing a double lane roundabout is approximately double that of a single lane roundabout. The financial viability of the entire development is therefore at risk should NZTA insist on a double lane roundabout before development west of, and including the BRA(2), takes place under these rules. That is unfair, in my view, especially in light of Mr. Carr's evidence that a second lane would have little effect (as the first lane is greatly under-utilised).

4.68 I therefore oppose the deletion of the reference to a single lane roundabout on the basis of fairness to the Requestor. It is clear from NZTA's submission that their concern is a future cumulative effect of other development in the area should the Wooing Tree development "*be put on hold or is not progressed for some time*". I therefore recommend, rather than deleting reference to a single lane roundabout, to amend the rule so that within 10 years of PC12 becoming operative the rule refers to a single lane roundabout and after ten years of PC12 becoming operative the either single or double roundabout is considered. I note that I have selected ten years for the reason that is a reasonable time period for the Requestor to develop the land and for the Council to consider future urban expansion in the area (as part of the District Plan Review).

4.69 I have no issue with deleting the reference to Ausroads Guide to Traffic Engineering and replacement with NZTA's standards. I understand they are the same thing at present.

4.70 Accordingly I recommend the following amendments to Rules **7.3.6 STANDARDS (vi) Access** and **8.3.6 STANDARDS (xii)** be adopted as follows:

"7.3.6 STANDARDS (vi) - Access – Within the Residential Resource Areas of the Wooing Tree Overlay Area

- (d) No vehicle access is permitted from the Wooing Tree Overlay Area to the State Highway except:
 - (i) Within 10 years of Plan Change 12 becoming operative, via a single lane roundabout (incorporating a 44m diameter central island as recommended by Ausroads Guide to Traffic Engineering) constructed to NZ Transport Agency's standards at the corner intersection of SH8B and Barry Avenue; or
 - (ii) After 10 years of Plan Change 12 becoming operative, via a roundabout constructed to NZ Transport Agency's standards at the intersection of SH8B and Barry Avenue (n.b. this may or may not require roundabout to be double-lane).
- (e) 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 Business Resource Area (2) of the Wooing Tree Overlay Area shall be permitted until the ~~single lane~~ roundabout referred to in Rule 7.3.6 (vi)(d) and a pedestrian underpass is completed and operational. Development that is permitted to occur shall be designed to connect to the ~~single lane~~ roundabout referred to in Rule 7.3.6 (vi)(d) as the primary access to the State Highway once completed and operational.
- (f) Legal road access shall be included in the design of the subdivision so that Shortcut Road connects to the ~~single lane~~ roundabout referred to in Rule 7.3.6 (vi)(d)."

“8.3.6 STANDRDS (xii) - Access – Within the Business Resource Area (2) of the Wooing Tree Overlay Area

- (a) No vehicle access is permitted from the Business Resource Area (2) of the Wooing Tree Overlay Area to the State Highway except:
- (i) Within 10 years of Plan Change 12 becoming operative, via a single lane roundabout (incorporating a 44m diameter central island as recommended by Ausroads Guide to Traffic Engineering) constructed to NZ Transport Agency's standards at the corner intersection of SH8B and Barry Avenue; or
 - (ii) After 10 years of Plan Change 12 becoming operative, via a roundabout constructed to NZ Transport Agency's standards at the intersection of SH8B and Barry Avenue (n.b. this may or may not require roundabout to be double-lane).
- (b) 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) within the Business Resource Area (2) of the Wooing Tree Overlay Area shall be permitted to occur until the ~~single lane~~ roundabout referred to in Rule 8.3.6(xii)(a) and pedestrian underpass across the State Highway 8B is completed and operational.

Sub-Issue 5(c) – Underpass

4.71 With respect to the proposed underpass Mr. Whitney states:

“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.

In our view 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 paved area to the south of the fruit sculpture (ideally with the underpass surfacing on the Cromwell Mall side of the existing mounding) or via the sealed footpath which exists on the west side of Barry Avenue to the south of State Highway 8B. Such an arrangement will avoid pedestrians having to cross Barry Avenue when passing between any eastern underpass and the Cromwell Town Centre.” (S42AR Page 12).

4.72 I have no preference with respect to the location of the underpass. It is anticipated that such detail would be considered as part of a future subdivision resource consent. However, if the community, through this plan change, have a clear preference for the underpass to be located to the west of Barry Avenue then I am happy to amend the rules to accommodate that.

4.73 However, as per the discussion on the roundabout above, it is the Requestor's understanding that the underpass is required to be constructed prior to obtaining development rights to the bulk of their property. To that extent, there is significant economic benefit in constructing the underpass as part of the proposed roundabout construction. I therefore oppose a general reference to the

underpass being located to “the west of the Barry Avenue/State Highway 8B intersection” as recommended by Mr. Whitney as that could be some distance from the roundabout construction.

- 4.74 I therefore recommend further amendment (double underlined) to Rules **7.3.6 STANDARDS (vi) Access** and **8.3.6 STANDARDS (xii)** as follows:

“7.3.6 STANDARDS (vi) - Access – Within the Residential Resource Areas of the Wooing Tree Overlay Area

- (d) No vehicle access is permitted from the Wooing Tree Overlay Area to the State Highway except:
- (i) Within 10 years of Plan Change 12 becoming operative, via a single lane roundabout (incorporating a 44m diameter central island as recommended by Ausroads Guide to Traffic Engineering) constructed to NZ Transport Agency’s standards at the corner intersection of SH8B and Barry Avenue.
 - (ii) After 10 years of Plan Change 12 becoming operative, via a roundabout constructed to NZ Transport Agency’s standards at the intersection of SH8B and Barry Avenue (n.b. this may or may not require roundabout to be double-lane).
- (e) 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 Business Resource Area (2) of the Wooing Tree Overlay Area shall be permitted until the single lane roundabout referred to in Rule 7.3.6 (vi)(d) and a pedestrian/cycle underpass incorporated into the western side of the roundabout across the State Highway is completed and operational. Development that is permitted to occur shall be designed to connect to the single lane roundabout referred to in Rule 7.3.6 (vi)(d) as the primary access to the State Highway once completed and operational.
- (f) Legal road access shall be included in the design of the subdivision so that Shortcut Road connects to the single lane roundabout referred to in Rule 7.3.6 (vi)(d).”

“8.3.6 STANDARDS (xii) - Access – Within the Business Resource Area (2) of the Wooing Tree Overlay Area

- (a) No vehicle access is permitted from the Business Resource Area (2) of the Wooing Tree Overlay Area to the State Highway except:
- (i) Within 10 years of Plan Change 12 becoming operative, via a single lane roundabout (incorporating a 44m diameter central island as recommended by Ausroads Guide to Traffic Engineering) constructed to NZ Transport Agency’s standards at the corner intersection of SH8B and Barry Avenue.
 - (ii) After 10 years of Plan Change 12 becoming operative, via a roundabout constructed to NZ Transport Agency’s standards at the intersection of SH8B and Barry Avenue (n.b. this may or may not require roundabout to be double-lane).
- (b) 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) within the Business Resource Area (2) of the Wooing Tree Overlay Area shall be permitted to occur until the single lane roundabout referred to in Rule 8.3.6(xii)(a) and a pedestrian/cycle underpass incorporated into the western side of the roundabout and pedestrian underpass across the State Highway is completed and operational.

Sub-Issue 5(d) - Prohibited Activity Status

- 4.75 With respect to the proposed prohibited activity status requested by NZTA Mr. Whitney states:

“The NZ Transport Agency (27/6 and 27/16) has promoted 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.

Currently prohibited activities are rare in the Central Otago District Plan. Prohibited activities include tree plantings with Lodgepole pine (*pinus contorta*) in terms of Rule 4.7.5A(i) in the Rural Resource Area; and the production of nuclear power anywhere in the District in terms of Rule 13.7.4(iv). In our view prohibited activity status as promoted by the NZ Transport Agency is excessive in this instance and we support the position of the further submitter, Wooing Tree Holdings Limited (106/1), to the effect that non-complying activity status is appropriate for a breach of the relevant rules.” (S42AR Page 12).

4.76 I concur with Mr. Whitney’s assessment of this submission. Prohibited activity status is excessive.

Sub-Issue 5(e) – Pedestrian and Cycle Connectivity

4.77 At section 6.5 of his S42AR Mr. Whitney states:

“We envisage that 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 we support 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).” (S42AR Page 12).

4.78 I note that subdivision of the RRA zones is a restricted discretionary activity pursuant to Rule 7.3.3 **DISCRETIONARY (RESTRICTED) ACTIVITIES (i)**. The Council’s discretion is restricted to the following matters:

“7.3.3 DISCRETIONARY (RESTRICTED) ACTIVITIES (i)

...

Council shall restrict the exercise of its discretion to the following:

1. The provision of adequate network utility services (given the intended use of the subdivision) and in particular the location, design and construction of these services.
2. The location, design and construction of access to public roads and its adequacy for the intended use of the subdivision.
3. The provision of landscaping, including road berms.
4. Earthworks necessary to prepare the site for development occupation, and/or use.
5. Subdivisional design including the shape and arrangement of allotments to:
 - Facilitate convenient, safe, efficient and easy access.
 - Facilitate access to passive solar energy sources.
 - Facilitate the safe and efficient operation and the economic provision of roading and network utility services to secure an appropriate and co-ordinated ultimate pattern of development.
 - Maintain and enhance amenity values.
 - Facilitate adequate access to back land.
 - Protect existing water races.
6. The provision of or contribution to the open space and recreational needs of the community.
7. The provision of buffer zones adjacent to roads, network utilities or natural features.

8. The protection of important landscape features, including significant rock outcrops and escarpments.
9. Provision for pedestrian movement, including the provision of walkways.
10. The provision of esplanade strips or reserves and/or access strips.
11. Any financial contributions necessary for the purposes set out in Section 15 of this Plan.
12. Any amalgamations and easements that are appropriate.
13. The extension of the Cromwell greenway system into the Residential Resource Area (12).
14. Any other matters provided for in section 220 of the Act.
15. The provision of screening at the southern end of any residential subdivision of part Lot 2 DP 347065 to provide partial screening of future residential development from the Ranfurly Naseby Road.
16. The provision of design controls to address the scale, external design and appearance of future buildings on the block of land in the Residential Resource Area (3) that has frontage to Broom Street, Rannoch Street, Avoca Street, Oughter Street, Carrowmore Street and Lomond Street at Naseby, such design controls to be sympathetic to the heritage values of the Heritage Precinct at Naseby.”

4.79 In my opinion, these discretions (in particular 6, 7 and 9) provide ample opportunity for connectivity of pedestrians through the site. However, they do lack with respect to cycleways and possible connectivity to beyond the site. I therefore recommend the following addition to this list:

“17. In the Wooing Tree Overlay Area, the provision for pedestrian and cyclist movement, including the provision of footpaths and cycling infrastructure.”

4.80 I also recommend a similar amendment to Rule **8.3.2 CONTROLLED ACTIVITIES (ii) Subdivision** as follows:

“(ii) Subdivision

Subdivision shall be a controlled activity.

Council shall exercise its control in respect of the following matters:

1. Subdivisional design including the shape and arrangement of allotments to:
 - Facilitate convenient, safe and efficient access.
 - Maintain and enhance amenity values of the Business Resource Area.
 - Maintain and enhance the safety and convenience of pedestrians and motorists.
 - Comply with any concept plan.
 - In the Wooing Tree Overlay Area, the provision for pedestrian and cyclist movement, including the provision of footpaths and cycling infrastructure.
2. With respect to unreticulated areas, the size of the allotment and its ability to effectively dispose of effluent within the site.”

Key Issue 6 - Open Space

Sub-Issue 6(a) – Designation of Open Space

4.81 At section 6.6 of his S42AR, Mr. Whitney addresses the submission on Mr. Stewart who submitted that it’s unclear whether the communal open space and park open space in the Master Plan are to be public or private spaces. As stated above, the Master Plan is for information purposes only

and will not necessarily represent the eventual development design. The management/protection of any open space will therefore be considered and provided for (in accordance with the ODP's subdivision provisions) at the time of subdivision.

Sub-Issue 6(b) – Buffer Strip

4.82 Mr. Whitney states:

“As noted above submitters have raised questions with respect to the practicality of establishing and maintaining vines in the buffer strip. If these areas were to be vested as Reserve the responsibility for maintaining the land would transfer to the Council. We acknowledge in this context that land on the opposite side of State Highway 8B is designated D72 and D82 for “Recreation Purposes” and “Amenity Planting Purposes”, respectively, in the Operative District Plan. Other options would be to maintain this land in the ownership of the requestor as one lot (as proposed) or for landscaping to be established at the time of subdivision and the land held in individual allotments. Individual ownership applies with respect to properties in the Residential Resource Area (6) which is subject to a Building Line Restriction to the east of Shortcut Road albeit that a landscaped strip was not provided on those properties at the time of the original subdivision.” (S42AR Page 13).

4.83 I have previously discussed the proposed buffer strip under Sub-Issue 3B above.

4.84 As noted by Mr. Bews, it is the Requestor's preference at this time to retain the buffer strip in private ownership and grow grapes on the land in accordance with the theme of a vineyard village. Mr. Bews confirms that this is both feasible and desirable. Mr. Espie does not anticipate any adverse visual effects should this option be exercised.

4.85 Mr. Espie notes in his evidence, that the policies for the buffer area include “*vineyard or treed park like character with an absence of built form.*” If the buffer area was to be managed in a treed like character I would support it being designated as a reserve.

Key Issue 7 - Infrastructure

4.86 Mr. Whitney concludes that having considered the infrastructure report provided with the request document, is that any effects in terms of in-ground three waters infrastructure are able to be mitigated by engineering solutions which we anticipate will be progressed at the subdivision consent stage. Mr. Whitney anticipates that a similar conclusion is likely to be reached with respect to electricity and telecommunication services albeit that these services fall beyond the scope of the infrastructure report. Relying on Mr. Chan's evidence, I concur with Mr. Whitney's assessment.

Key Issue 8 - Scheduling of Wooing Tree

- 4.87** At section 6.9 of his S42AR, Mr. Whitney addresses the proposed scheduling of the Wooing Tree. Mr. Whitney concludes the Wooing tree is a local landmark and its inclusion in Schedule 19.4, as proposed, is appropriate. I concur with that assessment.

5. Amended Zone Provisions

- 5.1** I have suggested a number of amendments to the PC12 zone provisions through this evidence. I have not produced actual amended zone provisions at this time. I would prefer to receive the submitters evidence before doing so, as there may be useful suggestions to the zone provisions as a result of that evidence. I therefore intend to present amended zone provisions at the hearing.

6. Conclusion

- 6.1** I do not resile from the conclusions I reach in the application documentation. While I have suggested a number of amendments to the PC12 provisions through this evidence, those amendments are none other than refinements to what was publicly notified.