Presented at hearing 3 July 2019 by K. Scott

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In the matter of A Proposed Private Plan Change 13 to the Central Otago District Plan

By River Terrace Developments Limited

"the requestor"

HEARING STATEMENT OF KATE LOUISE SCOTT
ON BEHALF OF HIGHLANDS MOTORSPORT PARK LIMITED (SUBMITTER 144) AND CENTRAL SPEEDWAY CLUB CROMWELL INC (SUBMITTER 45)

3 JULY 2019

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1. INTRODUCTION

1.1 My full name is Kate Louise Scott, and I have been engaged by Highlands Motorsport Park (Highlands) and Central Speedway Club Cromwell Inc (Speedway) to provide planning evidence in relation to the request by River Terraces Development Limited (RTDL).

1.2 I have prepared a primary statement of evidence dated 22 May 2019, as well as having prepared a supplementary statement of evidence dated 28 June 2019, which addresses matters relating to housing affordability, and the revised Section 32AA evaluation.

1.3 My qualifications and experience are detailed in my primary evidence, dated 22 May 2019.

1.4 I was unable to participate in the planning caucusing conference call, but subsequent to the call I had the opportunity to review and input into the final Joint Witness Statement.

1.5 I have complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on another person, and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

1.6 I take my evidence in chief and my supplementary evidence as read and am happy to take questions on the matters raised in these two statements.

1.7 This hearing statement is intended to provide a summary of the matters raised within my primary and supplementary evidence and focuses on the matters that I would like to bring to the attention of the Commissioners.

1.8 It is my intention to keep this summary statement brief given that we have already heard from a number of planning experts prior to now. I have not therefore attempted to attend to a full planning assessment within this statement, and accordingly refer you back to my previous statements.

1.9 The matters I seek to address in this summary statement include;

(a) Summary of Existing Environment (Highlands & Speedway Operations)

(b) Overview of Effects of PC13

(c) Matters under the Operative District Plan

(d) Cromwell Master Plan

(e) NPS – UDC

(f) Affordable Housing

(g) Regional Policy Statement

(h) Mitigation Measures

(i) Conclusion

2. EXITING ENVIRONMENT – HIGHLANDS MOTORSPORT PARK & CROMWELL SPEEDWAY

2.1 Highlands and Central Speedway have submitted in opposition to the development proposed by River Terraces Development Limited.

2.2 The specific matters raised by these two parties include;

- Reverse Sensitivity Effects;
- Incompatibility of motorsport and noise sensitive activities;
- Failure of PC13 to avoid, remedy or mitigate the effects of urban development on existing physical resources;
- Poor residential amenity;
- Increased constraints on Highlands and Speedway's ability to develop and evolve in the future.

2.3 I think it is helpful to understand the nature of activities undertaken at both Highlands and Speedway as this provides context to the nature of the existing environment and the matters of reverse sensitivity and noise, which in my view (in part formed by expert evidence) will be significant should PC13 proceed.

2.4 In regard to the Speedway, as outlined in the Section 42A Report [Section 7.10.2.3] the 1980 planning consent for the Speedway contains no specific controls relating to noise emissions; and does not restrict the number of days or hours of operations of the speedway facility. As outlined by Mr Staples and Mr Erskine, approximately 12 race meetings are held per year (with some variability from year to year), and these typically run until around 10pm.

2.5 The motorsport park was granted resource consent in 2009 and has been operating since construction was completed in 2013. In 2015 Highlands sought to reconsent it's activities to address a variety of uncertainties within existing consent conditions and to authorise a wide range of motorsport and tourism related activities as was outlined by Ms Spillane.

2.6 RM150225 was granted subject to an extensive set of conditions which were imposed to ensure that the effects of the proposed activities on adjoining and adjacent properties were avoided, remedied or mitigated.

2.7 RM150225 Condition 35 and 37 authorises 'Tier 1 Days' on any day of the year excluding Christmas Day and before 1pm on Anzac Day. On Tier 1 day's noise levels from Highlands are consented to a noise limit of 55dB LAeq at the notional boundary of any dwelling identified on the plan attached to the consent, between the hours of 0800 and 1800 and

40dB LAeq between the hours of 1800 and 0800, with the exception that the 55dB LAeq shall apply until 2100 hours on a maximum of five Tier 1 days per year.

2.8 RM150225 also authorises up to 16 'Tier 2 Days' which are considered to be race or major event days. Such events typically result in large numbers of people and vehicles attending the site, with there being no conditions limiting the number of attendees at such events. These Tier 2 Days have no noise limit applying to them other than the requirement that all race vehicles meet a limit of 95dB LAmax when measured at 30 metres from the sound source. A noise limit of 40dB LAeq between the hours of 1800 and 0800 applies on Tier 2 Days.

2.9 In addition, RM150225 also authorises helicopter landing and take-off's which are ancillary to the use of the motorsport facility. The consent authorises a maximum of 30 helicopter movements (15 flights) on any Tier 2 Day; and a limit of 6 helicopter movements per day (3 flights) or up to 10 per week (5 flights) on Tier 1 Days.

2.10 Mr Staples notes at Paragraph 2.3 of his evidence that "*In addition to the high motorsport noise levels generated on 28 days per year by Highlands and Speedway, Highlands operates on every non-Tier 2 day of the year generating a lesser, but still significant noise level across much of the River Terrace site. This noise is not characteristic of a residential environment*".

2.11 The decision which originally authorised activities at the motorsport park (Decision 131/2008), clearly states that the facility would have adverse noise effects on surrounding dwellings/properties, and based on my knowledge of the previous consenting process, consent was granted on the balance of fact being that the site was located in the rural zone, in close proximity to existing Speedway facilities and <u>was not surrounded by extensive residential development</u> (underlined for my emphasis).

2.12 RM150225, also includes review provisions as set out in Condition 99;

> *99. In accordance with Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed on and in the period within six (6) months upon each anniversary of the date of this consent, if on reasonable grounds the consent authority finds that;*
>
> *a. There is or is likely to be an adverse environmental effect as a result of the exercise of this consent which was unforeseen when the consent was granted.*
>
> *b. Monitoring of the exercise of the consent has revealed there is or is likely to be a significant adverse effect on the environment.*
>
> *c. There has been a change in circumstances such that the conditions of consent are no longer appropriate in terms of the purpose of the Act.*

2.13 Section 128 (1) (I) – (iii) RMA provides for review of consent conditions where;

(i) It may be appropriate to deal with effects at a later date;
(ii) Not Relevant [Refers to Sec 15 RMA Discharges]
(iii) For any other purpose specified in a consent.

2.14 Condition 99 provides for a different range of triggers for review as set out above (Para 2.12), but essentially in the event that PC13 were approved, adverse effects which were not foreseen at the time consent was granted to Highlands would arise.

2.15 A significant effect would occur in relation to high ~~dentistry~~ density residential zoning now located immediately adjacent to the motorsport park. Because this effect was not foreseen when consent was granted, there is in my view an ability for the Council to seek to review and subsequently impose further conditions to address the effects of the motorsport parks activities on up to 900 residential dwellings.

2.16 The second matter which may trigger a review relates to where monitoring reveals significant adverse effects on the environment. If PC13 is granted, then the environment will now also encompass the high-density RTRA (and its 900 residential dwellings). In considering the agreed evidence of the acoustic engineers that there are significant adverse noise effects arising from the motorsport park (and speedway), it may give rise for Council to seek to review and subsequently impose further conditions to address the effects of the motorsport parks activities due to the significant adverse effects which arise in relation to the high-density residential development occurring on the adjacent site.

2.17 It is my opinion, that if approved, PC13 would be a significant change in circumstances (i.e. a rural neighbour to up to 900 residential neighbours), which it would not be unreasonable to assume could also warrant the need for a review of the Highlands consent, resulting in additional or more stringent conditions to address the effects of motorsport activities on an adjacent 900 residential dwellings.

2.18 I expect that RTDL would hold the view that PC13 would not give rise to any unnecessary review of the existing consents held by Highlands, on the grounds that the effects of this review have been incorporated into the proposed covenant.

2.19 However, in my view a covenant does not address this issue because;

(a) The review obligations set out in Condition 99 is a function of the Council, and the Council are not bound by the proposed covenant; and

(b) Any assessment at the time of the review will have to look at the environment as it exists at the relevant time, meaning it is not possible to ignore those dwellings who are subject to a covenant as they are part of the environment irrespective of the covenant or not,

2.20 I remain of the view therefore, that the effects of noise and reverse sensitivity effects that will arise in the event PC13 is approved will be significant and will not be adequately avoided, remedied or mitigated by a no-complaints covenant as promoted by the proponent.

3. ASSESSMENT OF EFFECTS

3.1 I have touched on the effects of noise and reverse sensitivity at a high level but would like to expand further on these two matters, in relation to the cumulative and constant effects of noise and reverse sensitivity.

3.2 We have heard evidence of the effects of noise and reverse sensitivity on both existing orcharding and motorsport facilities, but for the most part these effects have been considered as isolated issues specific to orcharding/horticulture or to motorsport activities.

3.3 I am also of the view that PC13 would give rise to an environment that is going to be subject to constant and ongoing nuisance noise effects from all of the sites neighbours, which in my view results in cumulative effects (an effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration or frequency of the effect) which are significant and which can not be avoided, remedied or mitigated.

3.4 If we take the range and frequency of activities that can be undertaken on orchards as described by both Mr. Michael Jones and Mr. Tim Jones, i.e. year round effects generating activities, including bird scarring, frost fighting, spraying, pruning, burning and we combine these with the operation of Highlands on every day of the year except Christmas Day and up to 1pm on Anzac Day. Also take the operation of the Speedway up to 12 times per year, it is clear to me that we start to build a picture of the layers and layers of effects which occur in the rural environment, and how incompatible residential development is with the existing environment.

3.5 We must also consider effects on amenity. Whilst PC13 makes provision for acoustic insulation, this will only address the effects of internal noise and amenity, it does not address the effects on people's ability to utilise their entire property, including outdoor areas free from the effects of noise, and dust, spraying etc. Adopting the position that acoustic insulation mitigates the effects of noise internally in my view fails to adequately address the effects of surrounding land use on amenity values.

3.6 Central Otago is well recognised as being a climate conducive to extended outdoor living, especially over the summer period. Not being able to utilise your property for this purpose because of the adverse effects that arise when you do serves to highlight the incompatibility of the site for residential development.

4. OPERATIVE DISTRICT PLAN

4.1 I do not intend to cover off all of the relevant provisions of the district plan here, as I have covered these in my primary and supplementary evidence. I do however wish to provide some further clarification to points raised in relation to the 'baseline' for the PC13 site.

4.2 There have been a number of discussions on the capacity of the existing site for development, and I note that I support the view of Mr Denley, that the land is rurally zoned subject to a residential overlay.

4.3 I am in agreement with the position of Mr Brown that the site could potentially accommodate around 18 rural residential allotments, plus one rural allotment however I believe it is important to clarify that to achieve this position a series of resource consents dependent upon the underlying zoning (rural resource area or rural residential notation) are required, and that such a development cannot occur as of right. *Ref Para 2.7 – 2.10 Primary Evidence.*

4.4 In this regard, I note that it would not be possible to achieve 18 allotments in one application as a controlled activity subdivision, due to Rule 4.7.2 (a)(iv) which sets out that the maximum number of allotments on a plan of subdivision in the rural residential notation area shall be 5. A breach of this standard would require consent for a discretionary activity subdivision under Rule 4.7.4 (iii) ODP.

4.5 Accordingly, a series of applications (up to 4) would be required to achieve the controlled activity subdivision standard. I agree this is certainly a possible consenting path, albeit a convoluted one, which would in my view likely add un-necessary cost and process for a client to undertake a subdivision as a series of controlled activities, rather than applying for consent outright to achieve the same end albeit with a discretionary activity status.

4.6 In the event that an applicant were to proceed with a discretionary activity subdivision under Rule 4.7.4 (iii), Rule 4.7.4(iii) sets out a number of matters that will be given particular consideration in assessing an application for subdivision, including the following matters (I have only included those of relevance to PC13);

- 3. Capability for sustainable use of the productive land and soil resource.
- 4. The potential for reverse sensitivity effects and methods to address such effects on existing rural production activities and on existing infrastructure, including the use of separation distances and yards.
- 17. The appropriate size of any allotment bearing in mind any of the factors.

4.7 If we considering the matters that the council will have particular regard to in assessing an application for subdivision, it is my view that any application for up to 18 allotments would likely struggle to meet the matters (3), (4) and (17) identified above, due to residential development removing the capability for sustainable use of productive land and soil resources, as well as the subdivision giving rise to reverse sensitivity effects, especially from Highlands, Speedway and adjoining horticultural activities.

4.8 In addition to requiring consent for subdivision, land use consent will also be required to be obtained to establish residential dwellings.

4.9 A controlled activity consent for residential activity (subject to meeting the controlled activity standards) in the rural residential notation area is required in accordance with Rule 4.7.2 (i). This rule states at (a) that the relevant General Standards of Rule 4.7.6 are complied with.

4.10 Turning to the General Standards, Rule 4.7.6 E (d) would require any new activity located within any part of the Rural Resource Area and that activity includes any noise sensitive activity, the activity or any building associated with the noise sensitive activity shall be sited, orientated and constructed so as to ensure that habitable spaces within the building shall be adequately isolated from any noise source on another site. For completeness I note that this provision relates to protecting from noise generated from bird deterrents and wind machines for frost control.

4.11 Any breach of this provision will require consent for a Restricted Discretionary Activity in accordance with Rule 4.7.3 (iv), under which the Council may restrict its discretion to the effects of noise on amenity values of the neighbourhood, particularly on the amenity of values of adjoining properties.

4.12 Overall, in my view it is important to keep in context that there is the potential for 18 allotments to be created from the subject site, albeit that doing so will require a series of resource consents to be obtained. Further to this point, I would also emphasise that there remains in my view a significant difference in effects when contemplating 18 or 19 residential dwellings compared with the proposed 900, and assuming that the effects will be the same is in my view flawed.

5. CROMWELL MASTER PLAN

5.1 Turning to the matter of the Cromwell Masterplan, in my opinion, it is appropriate to have regard to this plan. Section 74 (2)(b)(i) RMA directs that regard be given to any management plan or strategy prepared under other Acts.

5.2 The Cromwell Masterplan has been prepared under the Local Government Act, and therefore it is appropriate to have regard to the Cromwell Masterplan in reaching a decision on PC13. The weight which shall be applied to it in reaching a decision is I contend a matter for the Commissioners to determine.

5.3 In my opinion, however, the masterplan and associated spatial framework sets out what the CODC and the community considered to be appropriate in terms of integrated management for Cromwell, and therefore I believe this also enables the Council to give effect to its functions in accordance with Section 31 RMA, and is thus also a relevant consideration under Section 31 RMA.

5.4 Having considered Section 74 RMA and Section 31 RMA, I turn to the content of the Cromwell Masterplan. In having regard to the plan, and its associated direction I do not believe that overall PC13 would be consistent with the objectives of the Masterplan.

5.5 Specifically, the Masterplan recognises the importance to the community of consolidating growth within the existing town of Cromwell and its satellite communities such as Bannockburn and Pisa Moorings. It also recognises the importance of effective and efficient functioning rural areas, and seeks to 'celebrate the horticultural, viticultural and agricultural environment'. Importantly the plan also directs that development shall be compatible with rural character and avoids reverse sensitivity effects, and clearly demarcates rural and urban boundaries.

5.6 Plan change 13 fails to deliver against these objectives, albeit acknowledging however that PC13 would provide for increase diversity of housing choices.

6. NPS – UDC

6.1 There has been much discussion amongst the various experts as to whether the NPS – UDC is relevant to the proposal. At the risk of prolonging the debate, I do however wish to touch on a couple of points relating to the NPS – UDC.

6.2 Firstly, the NPS – UDC is in my view of limited relevance to the proposal. The NPS provides direction to decision makers under the RMA on planning for urban environments, and by virtue of this purpose it must I contend be considered from a general perspective. However, by definition of the NPS, Cromwell is not currently in my view an Urban Environment, as it is not a concentrated settlement of 10,000 people or more.

6.3 This is not to say that in the future the NPS may become relevant should Cromwell experience sufficient growth such that it has a concentrated settlement of 10,000 people or more.

6.4 In my view the Cromwell Masterplan through the Spatial Framework, has identified that there is sufficient zoned land to meet short to medium term (up to 10 years out timeframe) housing demand, thus it could be considered that the NPS-UDC has been taken into account up to the point of applicability to Cromwell at the current time out to the medium term window.

6.5 The NPS-UDC will require consideration at a future date and is not in my view relevant to the proposal by RTDL as this project falls into the short to medium term timeframe, where it has been confirmed that there is sufficient development capacity within existing zoned land.

6.6 I understand that through the next phase of the masterplan process the Council will be seeking to meet its obligations under the NPS-UDC to develop an Infrastructure Strategy that seeks to address the long term (30 year) horizon.

6.7 The NPS aims to ensure that planning decisions enable the supply of housing needed to meet demand. Based on the evidence, I am of the opinion that at present, and in both the short and medium term, there is sufficient land available within Cromwell which would provide the for the

7. AFFORDABLE HOUSING

7.1 The proponent has strongly promoted that the merits of their proposal turn on the affordability of their development to future purchasers.

7.2 As set out in my supplementary evidence, I am a trustee of the Central Otago Community Housing Trust, which was established to consider the issues of affordable housing with the Central Otago District.

7.3 I have significant concerns about the assertions made by RTDL that their proposed pricing levels are in fact affordable, when no evidence to demonstrate what level of affordability is applicable to Cromwell has been provided.

7.4 Until a needs assessment has been completed which identifies the extent of housing affordability within the Central Otago District, it is in my view premature to suggest that there is a housing affordability crisis.

7.5 Based on my experience and understanding of the issues of affordable housing, delivery of affordable housing solutions will require a mixed delivery method, which means a series of approaches will be required to achieve greater housing affordability.

7.6 This may include private development of affordable housing by housing developers, development of non-traditional home ownership models such as those undertaken by the Queenstown Lakes Community Housing Trust (QLCHT) Secure Home Program, as well as the implementation of tools such as developer contributions to make land available for affordable housing where private developers are seeking to undertake residential subdivision and development.

7.7 My understanding is that when the delivery of affordable housing solutions is left to one method only, i.e. relying on private development, that invariably market forces will dictate that prices will rise as demand rises, therefore whilst a developer may intend to provide housing which is deemed affordable, this position is quickly eroded by high demand which ultimately pushes prices beyond an affordable level.

7.8 I appreciate that RTDL have proposed to overcome this issue through the insertion of fixed pricing into the plan, but I have some reservations with the rules as promoted by Mr Brown.

7.9 Firstly, Mr Brown has set out what in his view is considered to be affordable, i.e., a lot which is sold for a price between $180,000 to $250,000 or less, or a residential unit sold in the range of $485,000 to $600,000 or less. However, I have not seen any evidence, which would

indicate that $180,000 to $250,000 or $485,000 to $600,000 is in fact considered to be affordable in a Cromwell market, as no affordable housing needs assessment has been undertaken.

7.10 Furthermore, if the market price for sections dictates that $180,000 to $250,000 is the appropriate price for sections (and $485,000 to $600,000 for houses), and all sections sell in this range, does this then give rise to unintended consequences that PC13 will not actually give rise to the provision of affordable houses and affordable lots?

7.11 In my opinion the mechanisms promoted by RTDL do not provide certainty or clarity that PC13 will in fact provide for affordable housing in the short to medium term, not to mention the proposal still fails to address the adverse effects of the proposal in relation to adverse noise effects and effects of reverse sensitivity.

7.12 For these reasons, I also have concerns about the safety and wellbeing of residents within the RTRA on the grounds of potential adverse noise and amenity effects because of the nature of the adjoining land use (Motorsport Park, Speedway & Horticultural Land Use).

7.13 In cost constrained households, there is limited financial means to choose affordable housing, which is not impacted by noise, i.e. if the cheapest housing in town is located across the road from noise generating activities, then these people have limited choice in where to purchase based on what they can afford. These cost constrained households also have limited financial means to then vacate their dwellings during noise generating events if the noise is not acceptable to them. In my opinion this creates an issue of safety and wellbeing for residents.

7.14 In my opinion, there is a role for developments such as RTRA to provide for some level of affordable housing, however I question whether this is possible on this site given the noise attenuation measures required to try to mitigate the adverse effects of noise.

8. REGIONAL POLICY STATEMENT

8.1 I will not traverse the RPS in great detail here, as I have covered these matters within my primary evidence, I do however wish to reiterate my view that PC13 does not give effect to the policies of the RPS for a number of reasons, including not having regards to the importance of rural production or significant soils as outlined by Ms Wharfe.

8.2 Further, I am of the view that the proposal is contrary to Policy 4.5.1(h) which directs that urban growth and development shall manage reverse sensitivity effects. It is clear from the evidence that PC13 fails to address reverse sensitivity effects on all of its neighbouring land uses, including motorsport activities, and horticultural activities.

8.3 Policy 5.3.1 Rural Activities seeks to restrict establishment of incompatible activities that are likely to lead to reverse sensitivity effects. In my opinion Plan Change 13 is contrary to this policy as the proposal will directly give rise to reverse sensitivity effects which will not be adequately avoided, remedied or mitigated via the proposed measures.

8.4 In my opinion, the measures promoted by the proponent (no-complaints covenant) fail to manage effects, therefore PC13 does not adequately give effect to these provisions of the RPS.

9. SUMMARY

9.1 Overall, I believe that the proposal fails to meet the suite of statutory tests required. Specifically, the proposal fails to adequately identify and manage effects of noise, including cumulative noise effects, gives rise to reverse sensitivity effects, as well as being inconsistent with the NPS, PRS and ODP.

9.2 I also have reservations regarding the assertion that there is a housing affordability 'crisis' in Cromwell when there has been no expert evidence presented which sets forward the housing affordability needs for Cromwell.

9.3 I have considered the additional changes promoted by the proponent, but do not consider that the mechanisms promoted by PC13 (specifically Objective 20.3.1, and Rules 20.7.6 and 20.7.7) give rise to changes which alter my original view that PC13 is contrary to the District Plan, the Cromwell Masterplan and the Resource Management Act.

Kate Scott
3 July 2019