

RESOURCE MANAGEMENT ACT 1991

FORM 5

**SUBMISSION ON NOTIFIED PROPOSED PLAN CHANGE
TO CENTRAL OTAGO DISTRICT PLAN**

Clause 6 of Schedule 1, Resource Management Act 1991



To: Central Otago District Council
PO Box 122
ALEXANDRA 9340

Name of Submitter: **45 South Group of Companies**
..... **(45 South Cherry Orchards Limited and 45 South Management Limited)**
(Full name)

This is a submission on proposed Plan Change 13 to the Central Otago District Plan (the proposal).

We ~~could~~/could not* gain an advantage in trade competition through this submission.
(* Select one)

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

The whole of proposed Plan Change 13
.....
.....
.....

(Please give details and continue on additional page if necessary)

Our submission is:

Please see attached pages
.....
.....
.....

(Please include:

- whether you support or oppose the specific provisions or wish to have them amended; and
 - reasons for your views;
- and continue on additional page if necessary)

We seek the following decision from the local authority:

Proposed Plan Change 13 be declined in full
.....
.....
.....

(Please give precise details)

We wish/~~do not wish~~ to be heard in support of our submission.
(Please strike out as applicable)

If others make a similar submission, we will consider presenting a joint case with them at a hearing.
(Please delete if you would not consider presenting a joint case)


.....
A J Logan
Lawyer for 45 South Group of Companies

20 June 2018
.....
Date

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Contact Person: Alastair Logan, Partner
.....
(name & designation, if applicable)

SUBMISSIONS CLOSE IN RESPONSE TO PROPOSED PLAN CHANGE 13 ON
WEDNESDAY 20 JUNE 2018

Note to person making submission

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that a least 1 of the following applies to the submission (or part of the submission):

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

Our submission is:

Introduction

Proposed Plan Change 13 ("PC13") be rejected in full because:

1. 45 South Group of Companies ("45 South") owns and operates orchards at 3 Ord Road, Cromwell. The orchards have road frontages to State Highway 6, Ripponvale Road and Ord Road. The orchards have been planted since 1994. The orchards comprise 60.2 hectares planted in cherries and plums. The packhouse is on State Highway 6. The packhouse was established in 1984.
2. The closest orchard is 40 metres from the proposed site and the packhouse is 700 metres from the PC13 site.
3. 45 South grows and packs over 30 varieties of cherries and smaller volumes of plums for both the export and domestic markets. In 2017/2018 it produced 470 tonnes of fruit with a value of over \$5.5 million.
4. 45 South is New Zealand's largest cherry exporter.
5. The packhouse packs and distributes cherries from the surrounding area as well. Approximately 1,860 tonnes of cherries are packed annually.
6. 45 South provides, directly and indirectly, employment and contributes to economic activity in Cromwell and the wider district. It has 40 full-time staff and employs 400 seasonal workers. It pays \$4.5 million in wages annually.
7. There are approximately 217 hectares of orchards in the area. The value of fruit produced in 2017/2018 exceeded \$19 million.

Noise

8. Orchards are noisy activities.
9. Sources of noise include the operation of machinery, bird-scaring, frost-fighting and helicopters.
10. The proposed Plan Change provides for residential, retirement living, neighbourhood centre and educational activities. It contemplates up to 900 residential units. The noise generated by the operation of orchards is incompatible with the activities proposed for the PC13 site.
11. Apart from orchards, there are other noisy activities which will impact on the PC13 site. Other sources include roads, the Cromwell Speedway and the Highlands Motorsport Park.
12. Noise from established land uses and other permitted activities in the Rural Resource Area will necessarily impact adversely on people living and working within the PC13 site.

13. Noise will lead to reverse sensitivity issues for existing lawful activities. Proposed PC13 is incompatible with existing land use activities and the zoning of adjoining land.
14. Owners and occupiers of adjacent land cannot and should not be expected to cease or modify noise-generating activities or otherwise curtail their operations to avoid or mitigate nuisance effects from noise on the PC13 site.
15. The rezoning of land will expose people to an unacceptable level of noise.
16. Expectations of residential amenity cannot be met at this site. Conflict of residential (including retirement living) and educational use with adjoining lawful activities is inevitable if the proposed PC13 is adopted.
17. "No complaints" covenants are misconceived. They do not take away the noise. They do not change peoples' expectations of residential amenity. They do not affect peoples' sensitivity to noise. They do not stop complaints. They do not stop regulatory responses. They are expensive and in practice difficult, if not impossible, to enforce. They unreasonably place the burden of enforcement on the "beneficiary" of the covenant. They are not an effective planning tool.

Agrichemicals

18. Orchards use agrichemicals.
19. The use of agrichemicals in proximity to residential activities gives rise to further reverse sensitivity issues, in relation, in particular, to odour and toxicity. While these issues are invariably matters of perception rather than reality, approval of PC13 will inevitably lead to conflict between residents and existing lawful activities.

Burning

20. Pruning and trees that have been removed are burnt; burning is desirable for biosecurity reasons. Fires are another source of land use conflict.

Education Activities

21. There is insufficient evidence provided to support the development of an area for education purposes.
22. Non-private education providers do rely on zonings as justification to locate schools in an area and there is no certainty that this site would be suitable from a catchment perspective at any stage in the future for educational activities.

Traffic

23. Approval of PC13 will lead to a significant increase in traffic volumes on State Highway 6 and other parts of the roading network. This effect cannot be adequately avoided, remedied or mitigated by the developer, or by future landowners.
24. Increased traffic will make the State Highway 6/Ord Road intersection more dangerous.

25. The traffic assessment supporting PC13 considers that traffic will likely use State Highway 6 to travel to and from Cromwell from the plan change site.
26. The high speed environment of State Highway 6 and the increasing delays as the PC13 site becomes more fully developed will lead to more traffic using Sandflat Road/Pearson Road/Bannockburn Roads to travel to and from Cromwell. The transport assessment recommends upgrading part of Sandflat Road only.
27. No assessment of the current state and suitability of the southern part of Sandflat Road and the other rural roads which serve as alternative routes to Cromwell have been provided.
28. Part of Sandflat Road is not sealed, so the effects of increased traffic on this part of the road network could be significant.
29. The PC13 transport assessment contends that pedestrian and cycle connections to Cromwell are unnecessary due to distance. The proposal aims to include a portion of affordable housing and will continue to rely on the amenities and commercial services provided in the Cromwell town centre. On that basis, safe pedestrian and cycle routes are essential.
30. If the PC13 site is not close enough to the Cromwell town centre to warrant pedestrian and cycle infrastructure, it is not a suitable location for urban development, and affordable housing.
31. State Highway 6 is unsuitable for pedestrian and cyclist travel to and from Cromwell.

Loss of Production Land

32. Part of the PC13 site is suitable for horticultural activity. Adoption of PC13 will remove its productive potential.

Objectives, Policies and Rules

33. The proposed Objective, Policy and Rule framework are deficient. By way of example only:
34. Policy 20.4.11 is to manage reverse sensitivity effects on nearby activities. This policy framework is not strong enough to prevent adverse effects on existing lawfully established activities. The policy should be to "avoid" adverse effects because of the gravity of those effects, particularly reverse sensitivity effects.
35. Rule 20.7.3(viii)(f) requires a 2m width vegetation buffer for sites on the boundaries of the plan change site. This appears to be in response to the NZ Standard for the Management of Agrichemicals. The NZS requirements are not provided verbatim in PC13, but it appears that these requirements relate to shelterbelts. The rule requires a minimum height at planting of 2m, however there is no minimum height at maturity specified for this vegetation buffer. There is no certainty that a 2m high vegetation buffer is capable of providing the "shelter" envisaged in the New Zealand Standard.

National Policy Statement for Urban Development Capacity

36. The National Policy Statement seeks effective and efficient urban environments that enable people to provide for their social, economic, cultural and environmental wellbeing. It promotes urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other. The documents supporting PC13 only focus on the urban environment being created within the plan change area, and not the wider environmental context.
37. For the reasons already given, the PC13 site is unsuitable for residential use and will not provide for the wellbeing of its residents.
38. PC13 relies on the amenities and services of the Cromwell township, but the PC13 site is a significant distance from the town centre, and no attempt has been made to provide for connections back to the Cromwell township, except by private vehicle using State Highway 6.
39. The NPS also requires decision makers to consider the effects of urban development at the local, district, regional and greater scales. Both the horticultural industry and the Highlands Motorsport Park have a significant economic benefit to the Cromwell area and beyond. This proposal has the potential to severely compromise the viability of these lawfully established activities and reduce their social and economic contribution to the community.
40. PC13 is not required nor justified by the National Policy Statement on Urban Development Capacity.

Other Planning Instruments

41. PC13 is contrary to the purpose and principles of the Resource Management Act.
42. PC13 is contrary to and does not give effect to the Operative Regional Policy Statement, in particular 5.4.1, 5.4.2, 5.5.2, 5.5.3, 5.5.4, 9.4.1, 9.5.2, 9.5.3, 9.5.4 and 9.5.5.
43. PC13 is contrary to and does not have regard to the Proposed Regional Policy Statement, in particular Chapter 1, Objective 3.1, Policy 3.1.7, Objective 4.3, Objective 4.5, Policies 4.5.1 to 4.5.3, Objective 5.3, and Policy 5.3.1.
44. PC13 is contrary to the objectives and policies of the Central Otago District Plan, in particular Objectives 4.3.1 and 4.3.7, Policies 4.4.3, 4.4.6, 4.4.8, 4.4.9 and 4.4.10, Objectives 6.3.1, 6.3.2, 6.3.3, 6.3.4 and 6.3.6, Policies 6.4.1, 6.4.2 and 6.4.4, Objectives 7.1.1 and 7.1.2, Policy 7.2.1, Objectives 13.3.1, 13.3.2 and 13.3.5, Policy 13.4.2, Objectives 16.3.1, 16.3.2, 16.3.4 and 16.3.5, and Policies 16.4.1, 16.4.3 and 16.4.7.

Resource Management Principles

45. Spot rezoning of the kind contemplated by PC13 is undesirable and inappropriate. Expansion of Cromwell should take place in a rational, orderly and comprehensive manner. The Central Otago District Council has initiated "*An Eye to the Future*" masterplan to inform the systematic and orderly development of the township. That process and related initiatives should not be pre-empted by adoption of PC13.

46. Any expansion of the township should be carried out in a careful, strategic and coordinated manner. PC13 does not represent a careful, strategic or coordinated extension of the township.
47. The proposed development is disconnected from the Cromwell Town Centre and does not represent a logical extension of the township.
48. The PC13 site does not readily connect with or integrate into the existing urban area of Cromwell.
49. PC13 is an unjustified and ad hoc urban encroachment into the Rural Resource Area.
50. The PC13 site is inappropriate for the proposed form, density and type of land development and use.
51. There is currently sufficient land available for residential purposes in Cromwell without adopting PC13.