

RESOURCE MANAGEMENT ACT 1991 – FORM 5

SUBMISSION ON NOTIFIED PROPOSED PLAN CHANGE TO CENTRAL OTAGO DISTRICT COUNCIL

Clause 6 of Schedule 1, Resource Management Act 1991

To: **Central Otago District Council**  
**PO Box 122**  
**Alexandra 9340**

**SUBMITTERS: DJ Jones Family Trust and Suncrest Orchard Limited**

1. This is a submission on proposed Plan Change 13 to the Central Otago District Plan (Plan Change 13).
2. DJ Jones Family Trust or Suncrest Orchard Limited could not gain an advantage in trade competition through this submission.
3. This submission relates to Plan Change 13 in its entirety. Specific comment on provisions of Plan Change 13 are set out in Appendix 1 to this submission.
4. DJ Jones Family Trust and Suncrest Orchard Limited wish to be heard in support of this submission and will consider presenting a joint case with other parties that make a similar submission.

**General Submission:**

5. DJ Jones Family Trust owns the adjoining orchard to the west of the subject plan change property which fronts onto Kawarau George Road/SH6. DJ Jones Family Trust began planting this Orchard in 1981. The orchard consists predominantly of plantings of Cherries, but also includes plantings of Nectarines, Peaches, Apples, Pears and Plums. These plantings have been undertaken to utilise the unique micro climate and soil conditions and are currently managed by Suncrest Orchard Limited. Horticulture activities involve long hours, many workers, loud noise and sometimes agrichemical spraying. These are acceptable within the rural environment and the Plan provides for them.
6. The land Owned by the DJ Jones Family Trust along Kawarau Gorge Road/SH6 and Ripponvale Road, and operated by Suncrest Orchard Limited, produced 9.75% of the total NZ cherry export crop in 2017-2018 and 9.8% of the NZ domestic cherry market crop. In addition, other fruit types are produced for the New Zealand domestic market and the Jones Family Fruit Stall.
7. Suncrest Orchard Limited is a significant employer of staff in Cromwell, with gross wages for staff employed for 2016/17 being \$3,343,642 and for 2017/18 being \$3,571,901. Suncrest Orchard also utilises the services of a large number of local independent service providers,

including mechanics, engineers, builders, plumbers, transport operators, electricians and horticultural suppliers thus is a valuable contributor to the Central Otago economy.

8. DJ Jones Family Trust own Jones Family Fruit Stall which is located on the orchard on State Highway 6 and is Cromwell's largest international tourist attraction. Tourists visiting in the summer can undertake orchard tours and sample the fruit from the trees. To be able to pick the cherries off the trees is the highlight of their visit. Jones Family Fruit Stall has been a major player in putting Cromwell on the international tourist map.
9. DJ Jones Family Trust and Suncrest Orchard Limited have serious concerns with the proposed plan change eroding the ability to continue the lawful horticulture activities currently undertaken at this location. This location is unique with a specific mix of local soil conditions, available water supply and an ideal micro climate that provides suitable winter chilling and dry summer conditions that are essential for summer fruit growing. There is a limited amount of land such as this, with appropriate local district zoning, available in the Cromwell basin.
10. The DJ Jones Family Trust invested huge amounts of capital, effort and time in developing and maintaining their orchard and would have had serious reservations about the risk of setting up their business at this location had they known that residential land could be potentially established on adjoining land in the future. The reason for this is the risk of reverse sensitivity from adjoining residential landholders to the existing and legitimate rural activities which are undertaken on the property.
11. There is an inherent incompatibility between Horticultural activities and residential activities.
12. For these reasons DJ Jones Family Trust and Suncrest Orchard Limited oppose Plan Change 13 in its entirety.

**Specific Reasons:**

13. There is inadequate recognition within the introduction, objectives and policies of the plan change document about the effect of Horticulture and other rural activities on the receiving environment. Significant areas of the River Terraces Development will be subject to the effects of general orchard duties including horticultural spraying, bird control and to noise levels above those generally accepted to be appropriate for residential activity on a day and night basis. All of the River Terrace site will be exposed to high noise levels when frost fighting and harvesting is occurring on the site.
14. Plan Change 13 fails to protect the existing rural activities being undertaken on DJ Jones Family Trust Land by Suncrest Orchard Limited from reverse sensitivity effects.
15. The Plan Change 13 site is surrounded by non-residential noise sources (Highlands, Speedway, Orchards and State Highway) meaning residents will be subjected to noise from multiple sources through out the day and night. This will result in poor residential amenity for residents. Specifically, Suncrest Orchard Limited operate 8 existing wind machines on their orchard adjacent to State Highway 6, which can be in operation from mid to late August through until January. These machines start automatically when the critical temperature is

reached, usually around 0.5-1.0 degree Celsius. There are no normal operating hours for these machines, they can operate at any time day or night, depending on when the critical temperature is reached. Helicopters are also used at different times during the season to assist with frost fighting and to remove excess water from fruit after a rain event to prevent fruit from splitting. Other orchard machinery is operated on the site all year round. When harvesting, up to 150 people can be present within the orchard, and these picking teams can generate significant noise also.

16. It is inevitable that future residents would seek to limit their exposure to these effects by trying to reduce the noise generating activities of adjoining land through controls on land use activities.
17. Horticultural spraying is subject to strict operating guidelines, which have specific setback from residential land and neighbour notification requirements. These guidelines are in The Hazardous Substances Regulations 2017, Approved Code of Practice; New Zealand Standard, NZS8409:2004 (or NZS8409:1999). There are various setbacks from residential activities depending on the type of spraying being undertaken as contained in the Code of Practice and Work Safe guidelines. However spraying regulations as contained in the code of practice are updated over time and have the potential to get a lot stricter, which could increase the setback distances required from residential activities which may restrict the ability to manage existing horticultural crops. If residential is established on the Plan Change 13 site, this will limit Suncrest Orchard Limited's ability to spray their trees and affect their ability to produce quality fruit.
18. There is also inadequate recognition of the value of the shelterbelt planted as windbreak, planted on the boundary between the properties. This shelterbelt is an important tool to manage airflow into the orchard. But this shelterbelt causes significant shading to adjoining land.
19. The only mechanics promoted by Plan Change 13 is a no complaints covenant. DJ Jones Family Trust and Suncrest Orchard Limited consider this to be wholly inadequate and transfers responsibility for managing reverse sensitivity effects to the surrounding rural land users and Council. Evidence from other locations demonstrates that no-complaints covenants are not overly effective particularly as time passes and the original developer moves on.
20. DJ Jones Family Trust and Suncrest Orchard Limited are significant contributors to Cromwell and Central Otago District. Development of high density residential activities in such close proximity is entirely incompatible with the established horticultural activities, other surrounding rural activities and existing consented activities occurring in the surrounding environs. There are other more appropriate locations for the type of development proposed, to be located, which would have less effects on surrounding landowners.
21. There is no consideration given to the security of the adjoining tree crops and orchard property from residential activities increasing the number of people in the environs. Theft of the very valuable crops from established fruit trees is a real concern along with vandalism and people encroaching within orchard boundaries which compromises the health and safety management of the business. With any increase in numbers of people in the vicinity of the orchard, these risks increase.

22. DJ Jones Family Trust and Suncrest Orchard Limited have concerns about increased traffic volume on the surrounding roads created by the proposed zoning change to residential, and believe that the developer has not addressed the significant increase in traffic flows from River View Terrace and the effects on SH6 as this will significantly increase the number of road users in the immediate environs.

**Relief Requested:**

23. A. DJ Jones Family Trust and Suncrest Orchard Limited request that Plan Change 13 be refused in its entirety.

OR

24. B. If Plan Change 13 is not refused, DJ Jones Family Trust and Suncrest Orchard Limited seek amendments to the provisions to protect their existing use rights and provide a one hundred metre buffer along their boundary to reduce their future complexity in undertaking their ongoing orcharding activities and the no complaints covenant should contain something similar to the following.

*“Any sites created by subdivision are required to have a restrictive covenant registered against the certificate of title(s) acknowledging the operation of orchards and other rural activities on land in the vicinity and requiring the owner and subsequent owners, not to bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the reasonable and responsible use of lands in the vicinity for orchard operations and other rural activities, so long as those operations are carried out in accordance with relevant District Plan provisions, or those of any replacement Plan”*

**Address for service:**

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