

## **Response by Section 42A Report Author**

### Preliminary Matter

1. In Part 2.0 of my s42A report I recommended that the late submission of Ricky Paul Larsen (48) be accepted pursuant to section 37 of the RMA. Mr Larsen, who has appeared at the hearing as a witness for the requestor, formally withdrew his submission on 19 May 2020. As a consequence I wish to formally withdraw my recommendation with respect to acceptance of Mr Larsen's submission.

### Introduction

2. My section 42A planning report on requested Plan Change 14 and the submissions and further submissions received thereto is dated 4 May 2020. I do not propose to retrace the contents of that report but will instead take this opportunity to respond to various matters raised in evidence, to assist the Commissioners. The order in which these matters are addressed is not to be taken as any ranking of their relative significance.

### Age of District Plan

3. At para 103 of his evidence Mr Giddens has:

*"... taken into account that the CODP is a 22 year old document made operative in 1998 [sic], and is due for review..."*

4. Reference has been made at various stages during the presentation of the respondent's case to the "22 year old" District Plan.
5. Mr Giddens is incorrect when he says that the District Plan became operative in 1998. I can confirm that the Central Otago District Plan was publicly notified in 1998 and became operative on 1 April 2008. The Proposed District Plan was amended as a result of submissions and appeals; and variations were processed prior to the District Plan becoming operative. Furthermore since the Central Otago District Plan became operative in April 2008 a total of 54 plan changes have been made operative between October 2008 and February 2019. Plan changes have been processed individually or in groups (eg. Plan Changes 2C – 2X). Plan Changes 5A – 5W [that became operative on 15 July 2013] were derived from a comprehensive Rural Study undertaken by the Council; and these plan changes effectively constitute a review of all of the key provisions that relate to the Rural Resource Area, being most of the land in the Central Otago District, including the PC 14 site. I note, in the context of Cromwell, that some plan changes are specific to the town.
6. Plan Change 4A provided for the expansion of the Business Resource Area (1); the 5.8 hectares of land concerned subsequently being developed for the Golden View Lifestyle Village.

7. Plan Change 4B replaced the Residential Resource Area (6) and opened up some 51.6 hectares of land for conventional residential subdivision (minimum lot area 500m<sup>2</sup>) between Waenga Drive and State Highway 6. Part of this land (between Waenga Drive and McNulty Road) has been used for the Summerfields and nearby subdivisions creating approximately 220 allotments in recent years.
8. Plan Change 4C provided for the expansion of the Industrial Resource Area onto an additional 20.3 hectares between McNulty Road and Cemetery Road at Cromwell.
9. Plan Change 11 (a privately requested plan change) provided for 5.8 hectares of land at the corner of McNulty Road and State Highway 6 to be included in the Industrial Resource Area.
10. Plan Change 12, Wooing Tree, is also a privately requested plan change that provides for 210 residential allotments to be created on 25.4 hectares of land, along with development in a new Business Resource Area (2).
11. In my view the 54 plan changes made to the Central Otago District Plan since 2008, including the 5 plan changes specific to Cromwell, are evidence that substantial effort has been applied since 2008 to updating provisions through the plan change process.
12. Taking the above into account I simply note that while the District Plan is due for review key provisions relating to the Rural Resource Area have been reviewed in recent years; and provision has been made for additional development to be accommodated within Cromwell.

#### Cromwell Masterplan

13. At paragraph 11 of his supplementary evidence Mr Giddens agrees with Mr Murray that the Cromwell Masterplan's focus was not on land outside of the Cromwell township, rather its focus was on internal consolidation. During the presentation of his evidence to the Commission Mr Giddens advised that the Masterplan does not address the rural area around Cromwell; and particularly the land to the west of State Highway 6 [at Ripponvale]. I do not agree with this advice.
14. In Part 10.2.3 of my s42A report I discussed the "Cromwell 'Eye to the Future' Masterplan Spatial Framework Stage 1 : Spatial Plan" document dated 5 June 2019. A full copy of this document is attached in Mr Murray's evidence. I note, in the first instance, that a plan at page 009 of the document is entitled "Masterplan Geographical Scope". This identifies an "Area of Focus" being urban Cromwell; and an "Area of Study" that includes surrounding rural land (including Ripponvale) and outlying settlement areas including Bannockburn, Lowburn, Pisa Moorings and Tarras.
15. Section 2.3.1 of Stage 1 : Spatial Plan document (commencing at page 020) presents the spatial framework objectives. This includes Objective 1 and supporting statements as presented below:

***"Objective 1 : sense of place – protecting and celebrating Cromwell's valued landscape, conservation and heritage setting***

- *Enable consolidated urban development, predominantly accommodating future growth within existing Cromwell (including the town centre and nearby localities) at a higher density of development than is currently occurring.*
- *Use an identifiable and enduring urban boundary for Cromwell that recognises the valued productive and landscape setting, and protects the wider Basin from encroaching development.*
- *Plan for growth consistent with landscape, heritage and amenity values.*

- *Protect and reinforce key views within the surrounding landscapes and waterscapes.*  
...”  
(Emphasis Added)

16. Objective 2 on page 021 and a supporting statement specific to Rural Areas states as follows:

***“Objective 2 : manage urban form and settlement to achieve an effective and efficient pattern of development***

- *Retain the productive capacity of rural areas, protecting rural land around the town [Cromwell] and within wider Basin in a considered and strategic manner, acknowledging the significance of climatic and other factors to localised growing environments, allied productivity outputs, and GDP.*  
...”

17. Objective 7 of the Spatial Framework objectives (on page 024) relates specifically to rural productive environments [ie. not within the town of Cromwell], and Objective 7 and the supporting statements are as follows:

***“Objective 7 : rural productive environments, landscape and amenity values***

- *Provide for the efficient and effective functioning of rural areas within the Cromwell Basin.*
- *Manage the subdivision, use and development of rural land cognisant with the productive environment, and its associated operational and investment profile.*
- *Maintain and enhance areas and features of cultural, historical, landscape or ecological value.*
- *Ensure development is compatible with rural character and avoids reverse sensitivity impacts, including managing subdivision to avoid ‘rural residential’ or ‘semi-urban’ development/loss of resources created by fragmentation of productive land.*
- *Provide appropriate separation or buffering for environmental protection.*
- *Clearly demarcate rural and urban boundaries.*
- *Acknowledge the unique ‘A World of Difference’ values and resources within Cromwell’s rural frame and manage in accordance with these attributes to defined environmental objectives (as correlated to the community’s expressed preference to avoid urban sprawl, and to recognise and protect the significant investment, landscape and amenity values).*  
...”  
(Emphasis Added)

18. Part 3 of the document is the Spatial Framework : Spatial Plan. Section 3.3 on page 038 is entitled “Key Moves within the Spatial Framework: Spatial Plan. This includes the following:

***“3.3.1 Delineating the Urban Area***

- *SH6 delineates the outer (western) frame to the urban area.*  
...  
▪ *Amenity planting within a vegetation buffer on the eastern side of SH6 between Cemetery Rd and McNulty Inlet visually link to the wider landscape, and reinforce as an ‘edge’ (also assisting noise attenuation within the urban areas adjacent to the east).*  
...  
▪ *West of SH6 rural productive environments are retained and appropriately zoned in recognition of their ‘special character’, economic significance, landscape values, reverse sensitivity factors, and as allied to a sustainable, diversified future.”*

19. A 20 metre wide Vegetation Buffer is shown on The Spatial Framework Plan at pages 034 and 035. The map opposite the 3.3.1 text entitled “Key Node, Activity Centre and Connectivity Features” on page 038, clearly shows Ripponvale Road and the Ripponvale area. The following map on page 039

entitled “Key Landscape and Open Space Features” includes “Horticultural Uses” at Ripponvale (including the PC 14 site).

20. Taking all of the above into account I do not agree with Mr Giddens that the Masterplan does not address the rural area around Cromwell, including land to the west of State Highway 6 at Ripponvale.

#### Visual Information

21. In Clause 8.1.1 of my s42A report I expressed the view that a concept plan of subdivision would be of material assistance to the Commissioners and the parties in assessing the landscape and visual effects (and other effects) of the proposal. I also suggested that a contour plan and a visual simulation such as a photomontage that depicts future development across the site would also be helpful to the assessment of the landscape and visual amenity effects of the proposal.

22. Mr Milne at his paragraph 103 states:

*“... Having worked on a number of plan change applications, I do not consider there to be insufficient information as the Structure Plan and rule package enable an appropriate level of assessment of effects of PC 14. Nonetheless, I have updated the GS-E to include a contour plan and have included simple simulated views of the Structure Plan draped over topography for each viewpoint photograph in the visual assessment.”*

23. In my experience it is common for a concept plan of subdivision to be presented where a site specific plan change is promoted. I note in this context that an indicative plan of subdivision was provided from the outset in Plan Change 12 (Wooing Tree) [see **Appendix 1**]; and that a Development Parcel Plan and Indicative Master Plan were provided in the context of Plan Change 13 (River Terrace) [see **Appendix 2**].

24. Prior to the resumption of the hearing on Tuesday 26 May 2020 Mr Milne, at the request of the Commission, provided an Indicative Master Plan Area Overlay that indicates that a total of 139 lots are now to be provided for in RLA 1-5 as shown on the amended Structure Plan. This is of material assistance in understanding the subdivision and development to be enabled by PC 14; and in my opinion should have been provided much earlier in the PC 14 process.

25. Mr Milne’s simple simulation views of the Structure Plan draped over topography (as attached to Mr Milne’s evidence) simply shades portions of the site (as depicted in various viewpoints), being those portions of the site in RLA 1-RLA 5 along with the No Build areas. They are not a visual simulation that depicts future built development and roading across the site as enabled by PC 14. Such a depiction was presented in the context of Plan Change 13 in the Indicative Masterplan [see **Appendix 2**] that was presented from the outset in the context of the requested plan change.

26. Sheet 17 of the GS-E presented by Mr Milne shows a “Zone of Theoretical Visibility Study – McFelin Road”. I simply note that the point from which assessment has occurred (the red dot) appears to be at the end of the formation of McFelin Road; rather than being from the southern extreme of McFelin Road being an unformed road to which the public has legal access at the site boundary.

#### Rural Resource Areas 1-4

27. In Part 8.9.1 of my s42A report at page 50, as part of a brief review of the structure of the District Plan in terms of zoning, I stated that:

*“... Parts of the Rural Resource Area are subject to the Rural Residential notation where Rule 4.7.2(ii)(a)(i) permits subdivision as a controlled activity where an average allotment size of no less than 2 hectares is achieved. Elsewhere in the Rural Resource Area (with the explicit exception of the Rural Resource Area (1) – (4)) an average lot area of no less than 8 hectares and a minimum allotment area of no less than 2 hectares is required for subdivision to qualify as a discretionary activity in terms of Rule 4.7.4(iii)(b).”* (Emphasis Added)

28. At paragraph 106 Mr Giddens quotes from the next page of my report where I again refer to the Rural Residential notation providing for subdivision that creates allotments having an average of 2 hectares. Mr Giddens goes on to state:

*“... While this is correct with respect to the Rural Residential notation only, it overlooks the existence of Rural Resource Areas (2) to (4) within Chapter 4 of the CODP. The Rural Resource Area provides for allotment sizes as small as 1,500m<sup>2</sup> to 3,000m<sup>2</sup> in some zones. In my opinion the allotment range promoted for Rural Resource Area (5) is appropriate in the context of Chapter 4 of the CODP.”*

29. It is clear from the former quotation that I have not “overlooked” the Rural Resource Areas (2) to (4) as I had acknowledged this explicit exception in my report. I also note for completeness that Ms Hampson (at para 39(a)) and Mr Milne (at paras 31 and 112) make reference to these specific provisions of the Rural Resource Area.
30. Given that the requestor’s witnesses have referred to the Rural Resource Areas (1) – (4) I propose to briefly discuss each of these for the information of the Commission.
31. The Rural Resource Area (1) [RuRA(1)] is located above State Highway 8 at Bendigo and appears on Maps 41D & E, 48 & 52 of the Operative District Plan. The origin of the RuRA(1) is a Land Management Zone included in the Vincent Section of the Central Otago Transitional District Plan by requested Plan Change 28A (operative 26 May 1997). In essence this plan change was “rolled over” into the Proposed Central Otago District Plan that was publicly notified on 18 July 1998. A minimum lot area of 10 hectares and an average lot area of 25 hectares is required for the RuRA(1) – see Rule 4.7.2(ii)(a)(i) of the ODP. Much of this land has been subdivided and developed for viticultural purposes.
32. The Rural Resource Area (2) [Rural(2)] is located at Rocky Point, north of the RuRA(1) as shown on Maps 41D & E of the Operative District Plan. The origins of the RuRA(2) is the Rocky Point Conservation Zone in the Vincent Section of the Central Otago Transitional District Plan that was introduced by requested Plan Change 28B that became operative on 26 May 1997. The concept plan for the RuRA(2) [at Schedule 19.16 of the ODP] shows a small development area surrounded by a Landscape Protection Area. This is shown on Map 41D; the ONL now applying to land around the development area. Rule 4.7.2(ii)(a)(i) provides for subdivision with a minimum area of 1 hectare which can be further subdivided for residential and travellers accommodation purposes; and Rule 4.7.2(ii)(a)(iii) requires that subdivision comply with a concept plan at Schedule 19.16. In essence the development area is located within a discrete saddle above State Highway 8; and development within the RuRA(2) would not be visible from State Highway 8. I am not aware of any subdivision or development occurring in the RuRA(2).
33. The Rural Resource Area (3) [RuRA(3)] is located at Conroys Road south-west of Alexandra as shown on Map 43. The provisions of the RuRA(3) resulted from appeals [references] in response to the Proposed District Plan. The background to the RuRA(3) is provided in the Reason that follows Rule 4.7.2(ia)(g) in the Operative District Plan as follows:

*“The Rural Resource Area (3) has been applied to land adjacent to State Highway 8 and Conroys Road, north of Butchers Dam. The land was historically subdivided into 4 hectares (10 acre) blocks that has created an unsuitable subdivision pattern for future development. The concept plan attached as Schedule 19.20 takes a comprehensive approach to future subdivision and development, provides for some resubdivision and rationalisation of access to the land, and nominates building platforms to facilitate future development that is sympathetic to the natural values found in this locality. The Rural Resource Area (3) provisions reflect a balance between the interests of private landowners who wish to develop properties in this locality and the community’s long standing recognition of the landscape values of the land contained in Rural Resource Area (3).”*

34. Rule 4.7.2(ii)(a) provides a dual approach to subdivision within the RuRA(3) as follows:

*“In the area identified as “Rural Resource Area (3)” [RuRA(3)] on the planning maps an application for subdivision consent shall:*

- (a) Provide for a minimum allotment area of 1500m<sup>2</sup> and a maximum allotment area of 3000m<sup>2</sup> to contain each of the identified (numbered) building platforms 1-3, 5-7, 13-17 and for the recreational area shown as 60 on the concept plan attached as Schedule 19.20.*
- (b) Provide elsewhere in the Rural Resource Area (3) for a minimum allotment area of 4 hectares.”*

35. It is important to note that Rule 4.7.2(ii)(a)(iii) requires that subdivision comply with the concept plan for the RuRA(3) at Schedule 19.20; and, in particular, that Rule 4.7.2(ii)(a)(iii)(b) stipulates as follows:

*“(b) Provide for the land adjacent to the allotments containing the identified (numbered) building platforms 1-3, 5-7, and 13-17 [the 1500m<sup>2</sup> to 3000m<sup>2</sup> lots] and the recreational area shown as 60 on the concept plan attached as Schedule 19.20 to be held in an allotment that shall be subject to a covenant that serves to protect the natural values and open space values of the land held in that allotment.*

*Note: Such covenant may be a covenant pursuant to section 22 of the Queen Elizabeth the Second National Trust Act 1977 or shall be subject to a consent notice that shall be registered pursuant to section 221(4) of the Resource Management Act 1991.”*  
*(emphasis added)*

36. In essence while allotments between 1500m<sup>2</sup> and 3000m<sup>2</sup> may accommodate building platforms; the land adjacent to those allotments (ie. the balance areas of the existing titles) are to be held in a large allotment to protect the natural values and open space values of that land. As a consequence the average area of the resulting allotments on that part of the RuRA(3) with nominated building platforms will be approximately 4 hectares. As previously noted a minimum allotment area of 4 hectares is required elsewhere in the RuRA(3). Subdivision has now occurred in the RuRA(3), consistent with the above provisions.

37. The Rural Resource Area (4) [RuRA(4)] is located at McArthur Ridge to the north of Alexandra, as shown on Map 42. The origins of the RuRA(4) was a requested plan change (Plan Change 1) that became operative on 1 October 2008 that resulted in a McArthur Ridge Resource Area. Plan Change 10 that became operative on 20 November 2015 provided for the removal of the McArthur Ridge Resource Area. Mediation at appeal resulted in the RuRA(4); being a portion of the land previously included in the McArthur Ridge Resource Area.

38. Rule 4.7.2(ii)(a) stipulates that any application for subdivision consent in the RuRA(4) be in accordance with the development concept plan incorporated in a consent granted under Rule 4.7.3(ix). That rule stipulates the range of activity envisaged in the RuRA(4) and states as follows:

**“(ix) Rural Resource Area (4)**

*A vineyard and golf course development with travellers accommodation and related residential and lifestyle development, including bars, cafes and associated facilities, conference facilities, restaurants, recreational activities such as walking, cycle and riding trails, equestrian centre, cheesery, cellar door, health spa, lodge, swimming pool ice rink, tennis courts, residential activities and accommodation for workers on the site is a discretionary (restricted) activity within the Rural Resource Area (4) provided:*

*(i) The number of residential activities shall not exceed 80 (in addition to any travellers accommodation) in the Rural Resource Area (4).*

*(ii) A golf course and travellers accommodation shall be constructed prior to any other development provided for in this rule.*

*(iii) Reticulated water supply and reticulated wastewater disposal is to be provided.*

*Any application under this rule shall be accompanied by a development concept plan for the Rural Resource Area (4).*

*...”*

*(emphasis added)*

39. I note that a golf course and travellers accommodation are to be constructed prior to any other development as provided for in this rule. A breach of this requirement (or of the other provisos stated in Rule 4.7.3(ix)) is a non-complying activity in terms of Rule 4.7.5(vii).

40. To date no subdivision or development has occurred in the RuRA(4) as provided for in Rule 4.7.2(ii)(a)(i) and Rule 4.7.3(ix).

41. In summary the Rural Resource Areas (1)-(4) contain specific planning provisions that have either rolled over into the Operative District Plan (a legacy from earlier planning instruments), have been introduced to address a particular planning difficulty (eg. the RuRA(3) at Conroys Road), or have provided for a specific resort type development in an isolated location (RuRA(4) at McArthur Ridge). None of these proposals provide for essentially large lot residential development on highly productive land as provided for in PC 14.

Objective 4.3.9

42. At paragraph 107 Mr Giddens has observed that I did not consider Objective 4.3.9 in my section 42A report and he notes that there is no explanation as to why this has not been considered. Objective 4.3.9 states as follows:

**“4.3.9 Objective – Integrated, Comprehensive Mixed-Use Development**

***To recognise and provide for an appropriately located development which integrates farming, horticulture, recreational, visitor, residential and lifestyle development and supporting infrastructure in a sustainable manner, but avoids, remedies or mitigates potential adverse effects on:***

- ***landscape and amenity values of the rural environment;***
- ***natural and physical resources including soils, water and groundwater resources, and existing viticultural areas;***
- ***existing lifestyle amenities;***
- ***core infrastructural resources;***
- ***the functioning of urban areas.”***

*(Emphasis Added)*

43. Objective 4.3.9 is expressed in the singular and enables a particular development. This is evident by the use of the word “an” and by the cross reference opposite Objective 4.3.9 that refers specifically to Policy 4.4.17. That Policy and its associated Explanation state as follows:

***“4.4.17 Policy – Integrated Development – McArthur Ridge***

***To provide for integrated development in the Rural Resource Area (4) at McArthur Ridge to:***

- (a) Develop the economic values of the rural area in a way which ensures beneficial environmental outcomes;***
- (b) Complement, support and sustain the urban areas;***
- (c) Integrate a range of complementary activities within the rural setting including:***
  - vineyards;***
  - golf and other outdoor recreational activities;***
  - travellers accommodation, including conference, health and wellbeing and associated activities;***
  - a range of residential and lifestyle opportunities;***
  - farming and open space;***
- (d) Recognise and complement the rural setting;***
- (e) Recognise the sustainable capacity of the Rural Resource Area (4) in relation to effects on landscape, effects on rural and residential amenities, servicing infrastructure and other matters related to the impact of people on land, and ensure that the area is not overdeveloped, by strictly limiting the number of dwellings within the area;***
- (f) Ensure that development in the Rural Resource Area (4) is consistent with a development concept plan;***
- (g) Ensure that the fundamental basis of the Rural Resource Area (4) is put in place by requiring the travellers accommodation and golf course to be constructed prior to other building development taking place;***
- (h) Integrate development to provide co-ordinated linkages (vehicle, walking, cycling, bridle) within the development area and with other areas, which may include appropriate public access;***
- (i) Provide infrastructural services and ensure their economic viability by requiring connection to those services;***
- (j) Create a focus to attract a variety of visitors to the District;***
- (k) Advance the principles of sustainable building and development design;***
- (l) Limit supporting business and community activities so as to not undermine, but rather support, the functioning of urban areas;***
- (m) Recognise and protect natural, landscape and heritage values of the area through the preparation of a development concept plan supported by site, design, infrastructure and management plans.***



Explanation

*The Rural Resource Area (4) applies to approximately 130 hectares of land at McArthur Ridge, located north of Springvale Road and off McArthur Road, which has a range of qualities that provide the opportunity for an integrated development. The overall design concept for the Rural Resource Area (4) is to build on the established pinot noir vineyard and high country sheep station heritage and to enable the development of a high quality vineyard and golf course development with related travellers accommodation, recreational, residential and lifestyle development.”*

44. Given that the development referred to in Objective 4.3.9 is that provided for in terms of Policy 4.4.17 in the RuRA(4) at McArthur Ridge; I did not consider that Objective 4.3.9 was relevant to Plan Change 14.
45. I acknowledge that PC 14 proposes a cross reference to Objective 4.3.9 in conjunction with the new Policy 4.4.18 (with a corresponding reference to Policy 4.4.18 proposed in relation to Objective 4.3.9). I have difficulty in accepting that Objective 4.3.9 can be relied upon to support the PC 14 proposal given that the objective is expressed in the singular and manifestly relates to the RuRA(4) at McArthur Ridge (only) in terms of the Operative District Plan. Furthermore Objective 4.3.9 is not proposed to be amended in PC 14.

Rural Lifestyle vs Large Lot Residential

46. The purpose of the proposal is stated in Section B5.0 of the request document as follows:

***“Purpose of the Proposal:***

*To enable the subdivision, use and development of approximately 142 hectares of land located at 144 Ripponvale Road to provide a mix of different land use densities to meet demand for rural lifestyle development outside of urban Cromwell; recognise and provide for the natural landscape values of the Pisa Range; and facilitate use of a further approximately 29 hectares of land for horticultural development...”*

(Emphasis Added)”

47. Mr Milne at his paras 17 and 104 states:

*“... Although not defined in the District Plan, I consider ‘rural lifestyle’ or ‘rural living’ to be a residential land use located within a rural area with lot sizes appropriate to the PC14 site and setting.”*

48. It appears, applying Mr Milne’s definition of “rural lifestyle,” that any substantial concentration of residential subdivision and development (without any productive use) would qualify as “rural lifestyle” provided that it is located within a rural area. For example Lowburn or Bannockburn would qualify as “rural lifestyle” in terms of Mr Milne’s definition.
49. Ms Wharfe, at her para 8.11, has provided the description for a Rural lifestyle zone as presented in Table 3 (Zone Framework Standard) from the National Planning Standards published in April 2019 by the Ministry for the Environment. This describes the “Rural lifestyle zone” as follows:
- “Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.”*
50. Enabling primary production to occur (as envisaged within a Rural lifestyle zone by the NPS) is not a component of Mr Milne’s definition of “rural lifestyle”.

51. I have concluded that Plan Change 14, the Indicative Masterplan which now provides for an indicative yield of 94 lots for residential activity having minimum areas between 2000m<sup>2</sup> and 4000m<sup>2</sup> in the Rural Lifestyle Areas 1 – 3 and 27 lots for residential activity having a minimum area of 1 hectare in the Rural Lifestyle Area 4, essentially creates large residential lots for residential activity. Accordingly Plan Change 14 will not “meet demand for rural lifestyle development”.
52. Mr Weir at his para 29 envisages that the lifestyle blocks [in RLA 1-5] will be used, on either a personal or commercial basis, for orchard trees, viticulture, raising livestock for consumption and also recreation (eg. horses), vegetable production, glasshouses/market gardens, plant nursery, poultry, woodlots etc.
53. Mr Edwards at his para 22(c) states, based on his assumption of 1000m<sup>2</sup> for a house and curtilage, that 104 hectares [based on the original Structure Plan yield] will be available for productive land uses within the rural lifestyle development (RLA 1 -5). At para 32 Mr Edwards expresses the “firm opinion” that there is productive capacity on the 104 ha lifestyle area outside of the estimated house and curtilage areas, subject to the ability to provide sufficient irrigation (for example, through collection of rain water).
54. The supplementary evidence of Mr Giddens dated 25 May 2020 details various amendments to the PC 14 provisions. I note in particular that Rule 4.7.2(ib)(e) stipulates that within the RLA 2-4 the landscape plan is to identify an area comprising at least 50% of the site area to be utilised for agricultural or horticultural activity; and Rule 4.7.2(vii) is now to stipulate that a building platform in RLA 2-5 is to be no greater than 1000m<sup>2</sup> in area; and a matter for control is to be the location of the building platform in regard to enabling the horticultural and/or agricultural activity on the remainder of the site.
55. I have fundamental reservations with respect to whether productive rural use is likely across the RLA 1-5 as envisaged by the requestor’s witnesses.
56. Rule 4.7.2(ib)(e) simply requires the identification of an area on the landscape plan; there is no assurance that this area will be utilised for agricultural or horticultural activity. This area could simply be used as part of the dwelling curtilage (garden or landscaping) or for recreational purposes. Once the landscape plan is prepared, land use consent granted, and dwelling established; I see no incentive to utilise this area for agricultural or horticultural activity; or to retain this area for this purpose into the future.
57. As previously noted 94 lots for residential activity having minimum areas between 2000m<sup>2</sup> and 4000m<sup>2</sup> are provided for in the Rural Lifestyle Areas 1-3. Fragmenting the 104 hectares discussed by Mr Edwards into a large number of small allotments reduces the likelihood of productive activity. Furthermore I consider it highly questionable that rain water would provide an adequate source of irrigation water (Mr Edwards’s proviso) for the 50% of allotments in the RLA 2-4 (or land in the RLA 1 and RLA 5) given, as Mr Gibson observes at this para 10.11, that the Cromwell Basin is semi-arid with average annual rainfall under 400mm [Mr James Dicey referred at his para 5.8 to rainfall as being in the 451mm – 500mm range]. It is also my understanding that the reticulated water supply to the RLA 1-5 is not for irrigation purposes (ie. it is a residential supply) as confirmed in clauses 2.1 and 5 of the Mott MacDonald report at Appendix F to the request document.
58. I also note, in the context of the use of smaller lots for productive use, that Ms Wharfe, at her para 8.21, has reported the outcome of a study in the Western Bay of Plenty District that for titles smaller than 1.5 hectares, 82% of lots were not used for primary production after subdivision.

59. As noted in Part 7.2 of my s42A report the minimum lot areas proposed in the RLA 1-4 correspond to average or minimum lot areas required in specific areas within the current Residential Resource Area of the Operative District Plan. Again I note that an average lot area of 2000m<sup>2</sup> is required in the Residential Resource Area (4) at Bannockburn; that a minimum lot area of 3000m<sup>2</sup> is required in the Residential Resource Area (5) at Lowburn; and that a minimum area of 4000m<sup>2</sup> is required at the Residential Resource Area (6) to the north of State Highway 8B at Cromwell. I am familiar with these localities and advise that productive use is not apparent on properties in those locations that are comparable in size to the proposed RLA 1-RLA 3. A cursory inspection of the images attached at Appendix 4 to Ms Wharfe's evidence confirms that this is the case.
60. I maintain the view that what is proposed is an enclave of large lot residential subdivision and development rather than "rural lifestyle [subdivision and] development".

#### Productive Land Resource

61. Commencing at para 53 Ms Hampson has discussed the correlation between highly productive land and land use capability Classes 1-3. She advises at her para 55 that the Central Otago District contains 79,002 ha of LU Class 1-3 land (all but 200 ha of which is LU Class 3 land) and she advises, at para 68, that the RLA 1-5 includes some 65 ha of highly productive land/Class 1-3. At paragraph 70 she concludes that the loss of 65 ha of indicatively productive land is immaterial (not "significant") in percentage terms when compared to the total resource.
62. What Ms Hampson's analysis does not convey is the proportion of Class 3 land that is suitable for orcharding; and the significance of the loss of 65 ha of highly productive land in this context. For example rural land in the Maniototo [being part of the Central Otago District] may well be Class 3 land, but orcharding is not a commercial activity in that part of the District where pastoral farming predominates.
63. In my view the potential significance of the 65 ha is better appreciated having regard to Ms Hampson's statement at para 81 that there are 364 ha of fruit orchards in the wider Cromwell basin; and that an additional 65 ha would represent growth of some 18% [of the area in orchards] in this locality.
64. Mr Gibson has identified some 32 hectares of Waenga fine sandy loam (W5) soils outside of the planned cherry orchard expansion on the site, and therefore in the RuRA(5). Mr Gibson, at his para 10.6, has advised that the W5 soil has been identified as a high class soil by Peter McIntosh; and at his para 10.19 Mr Gibson has expressed the opinion that the total organic matter component of the soils (resulting from previous irrigation) raises the value of these soils very significantly; to the extent that Mr Gibson is of the opinion that W5 soils are lifted from "high class" to "outstanding".
65. In Part 8.8 of my s42A report I acknowledged that Mr Lynn had found that none of the 5 soils mapped at the site met the criteria required to be classified as "high class soils". At para 10.6 Mr Gibson has referred to the report by Peter McIntosh to the Otago Regional Council (1993) where the W5 Waenga fine sandy loam is identified as a high class soil. I attach at **Appendix 3** Table 4 from the McIntosh report that identifies Waenga soil W5 as a high class soil. A total of 1983.11 hectares of Waenga W5 soils are found in the Otago Region.
66. The McIntosh report clearly states that the Waenga W5 soil is a high class soil; and this contradicts the advice of Mr Lynn. Furthermore I note that the McIntosh report was prepared for the Otago Regional Council in 1993; and that this information would have been available to the Otago Regional Council when the now Operative Regional Policy Statement was being prepared. Policy 5.5.2 of the ORPS is to promote the retention of the primary productive capacity of Otago's existing high class soils; and the

Waenga W5 soil would be one of the high class soils that fall within the “existing high class soils” referred to in that policy; such high class soils being present on the PC 14 site.

#### Access to Water

67. An important factor to consider when determining the effects on productive land use is the potential to irrigate that land; and water is also used for frost fighting purposes.
68. Mr Larson at his para 39(a) and (b) confirms that a ground water permit held by Shannon Farm will be used to provide an irrigation and frost fighting water supply for the 22 ha cherry orchard extension. Shannon Farm also has a 213,000m<sup>3</sup> quota allocation from the Ripponvale Irrigation Company Limited. At para 39(e) Mr Larson advises that in extending the orchard operation it becomes even more important that a “back up” contingency supply of irrigation water is available. It is understood that the current Ripponvale Irrigation Company Limited quota for Shannon Farm is to be held as a “back up” for the requestor’s orchard operations.
69. Mr Edwards at para 36 states that NZ Cherry Corp has advised him that they intend to utilise the RICL shares [limited to an irrigation area of 28.4 ha and a maximum annual volume of 213,000m<sup>3</sup>] to improve reliability over the proposed orchard extension, and to support any further planting within the 4 ha area currently reserved for workers accommodation. Based on the information provided to him, by the requestor, Mr Edwards concludes in his para 37 that the remainder of Shannon Farm does not currently have access to water.
70. It appears that an irrigation water supply from the Ripponvale Irrigation Company Limited is currently available to Shannon Farm which could be used to irrigate productive land on the site (apart from the orchard extension) if this land were not held as a “back up” by the requestor. Mr Gibson has noted at his paras 10.14 and 10.15 that careful management of irrigation water can lead to less water needing to be applied. I also note the potential for additional irrigation storage dams to be constructed for the storage of irrigation water for future use.
71. Mr James Dicey, at his para 5.38, states as follows:
- “According to my calculations (contained in **Appendix 16**) there is sufficient water available from the bore located on Shannon Farm and the water available from the Ripponvale Irrigation Company Limited (RIC) for 87 planted hectares of cherries. This uses the same ratio of planted hectares to be allocated water as the NZ Cherry Corp blocks of 87.5% (calculated on 28 planted hectares on a 32 hectare allocation). It would also require the development of a sufficiently sized dam to act as a buffer, in exactly the same way the NZ Cherry Corp has undertaken.”*
72. Yesterday Mr Dicey confirmed that his calculations relate to water availability for both irrigation and frost fighting.
73. It appears that Mr Dicey’s evidence contradicts the requestor’s position that water is not available for irrigation at Shannon Farm (beyond the orchard extension in the Horticulture Area). At para 5.37 Mr Dicey advises that vineyards need water at a rate of 25,000 litres per planted hectare per day; and that, from his discussion with the local cherry growers, cherry orchards need 60,000 litres per planted hectare per day. At para 5.43 Mr Dicey has calculated that 150.2 hectares could theoretically be planted in grapes utilising the water available from the bore and Ripponvale Irrigation Company Limited. This would exceed the requirement for the actual area potentially available for grape planting in Mr Dicey’s opinion, being some 105 ha.
74. It appears that productive land at Shannon Farm (beyond the orchard extension) is not to have access to irrigation water simply because the existing Ripponvale Irrigation Company Limited allocation is to

be retained as “back up” for use at the existing NZCC orchard and potentially to irrigate additional plantings in the Horticulture Area.

75. Ms Hampson at para 81 states:

*“... In Mr Edwards’ expert opinion, this land [65 ha in RLA 1-5] cannot be supplied with sufficient water for it to be used productively at a commercial scale...”*

76. My understanding of Mr Edwards’ position, as summarised at his para 11(a), is that “... NZ Cherry Corp have elected to retain this [Ripponvale Irrigation Company Limited] water to improve reliability. Accordingly, no additional water is available to support productive use over the remainder of Shannon Farm.”

77. In essence NZ Cherry Corp has elected to preclude use of the existing irrigation water allocation for the remainder of Shannon Farm (outside the orchard extension).

78. The existing ground water permit at the site is RM 14.291.01 originally issued by the Otago Regional Council on 17 April 2015. Mr Dymock, during his appearance on Tuesday, advised that the Cromwell Aquifer (that underlies the site) has a maximum allocation of 4 million m<sup>3</sup>; and that currently 3.4 million m<sup>3</sup> has been allocated. The ORC has confirmed to me that there is 611,922 m<sup>3</sup> available to be allocated.

79. Mr Dymock emphasised that there is no guarantee that any application for a water permit would be granted. I understand that an application for more than 25,000 litres per day would be a discretionary activity in terms of Rule 12.2.4.1(i) of the Regional Plan : Water. As an [unrestricted] discretionary activity there can never be a guarantee that consent would be granted.

80. In summary water remains available for allocation in the Cromwell Aquifer; an application for a water permit would have status as a discretionary activity for which resource consent would be required; and a water permit being RM 14.291.01 has previously been granted (as a discretionary activity) with respect to the PC 14 site in April 2015.

81. I also note that Mr Dymock made no mention of storage dams. Mr James Dicey has advised that the use of additional storage dams would be beneficial in terms of managing any water taken for irrigation and frost fighting purposes from any new bore at the PC 14 site.

#### RC 180477

82. Mr Milne referred to a plan entitled “Planning Context” was attached at page 15 of the Landscape Strategy + Structure Plan document that was presented with the Landscape and Visual Assessment at Appendix E to the request document [referred to as the “permitted baseline plan” during this hearing].

83. Since preparing my s42A report I have reviewed resource consent application files held at my office and have located an application for subdivision consent by New Zealand Cherry Corp (Leyser) LP Limited by RC 180477 that was lodged with the Council on 8 November 2018. A copy of the plan of subdivision for RC 180477 is attached at **Appendix 4**; and this provides for the subject site to be subdivided into 30 allotments. When RC 180477 was lodged counsel for the applicant requested that if the Council is considering notification, either publicly or limited, the processing of the application was to be placed on hold. I prepared a report for the Council dated 22 November 2018 that recommended public notification; and I understand that the application RC 180477 was placed on hold from that date.

84. I simply note that the application RC 180477 provides for a subdivision similar to that shown on the Planning Context plan attached to the Landscape Strategy + Structure Plan document. The subdivision plan for RC 180477 provides an indication of a subdivision that could be promoted as a discretionary activity in terms of the rules that apply to the Rural Resource Area (including the ONL). As a discretionary activity there is no certainty that consent would be granted to this subdivision.
85. I also note, for completeness, that Appendix 10.8 to the application RC 180477 was described as a “3D visualisation of roading earthworks”. A copy of that visualisation is attached at **Appendix 5**. I simply note that this appears to be a visualisation not only of roading earthworks but also of future dwellings located on the various allotments promoted in RC 180477. If a visual simulation can be provided with respect to a 30 lot subdivision on the subject site; there appears no real impediment to preparing a visual simulation with respect to the lots/dwellings to be enabled by Plan Change 14 [as suggested in Part 8.1.1 of my s42A report].

#### Landscape and Visual Effects

86. Mr Milne at para 125 presents my conclusion with respect to landscape and visual effects; and at para 126 he finds it difficult to reconcile my conclusions regarding landscape and visual amenity effects with those provided by two independent experts [Mr Milne & Mr Espie].
87. I have tertiary qualifications in planning and economics; and I do not have a tertiary qualification in landscape architecture. As a planning consultant active in Central Otago I have, through necessity, been required to assess the landscape and visual amenity effects of many subdivision and development proposals where specialist landscape architects were not retained. It has been necessary to assess these effects given that the relevant District Plan provisions which require that adverse effects on open space, landscape, natural character and amenity values be assessed in a rural environment.
88. I also note, in the context of Plan Change 14, that when preparing my s42A report I was able to view the PC 14 site in the landscape, informed by the request document including the Landscape and Visual Amenity Assessment presented at Appendix E to that document. This opportunity to view the proposal in the landscape informed my section 42A report. Mr Espie did not have this opportunity due the Covid 19 lockdown restrictions when he prepared his peer review report that is presented at Appendix 1 to my s42A report.
89. Objective 4.3.3 and Policy 4.4.2 of the Operative District Plan, that relate to landscape and amenity values, refer to maintaining the open natural character of hills and ranges. These provisions resulted from Plan Changes 5C and 5D (operative 15 July 2013) being part of a suite of Plan Changes (5A-5W) that resulted from a Rural Study undertaken by the Council in the mid 2000s. My clear recollection is that concern with respect to built development occurring on elevated land around the Cromwell Basin were expressed by the community; resulting in a focus on hills and ranges, skylines and prominent places being introduced into the relevant objectives and policies.
90. Mr Milne has now produced a view of the site from the intersection of State Highway 6 and McNulty Road (View 15 on Sheet 16 of the Graphic Supplement To Landscape Expert Evidence). I wish to discuss the view in particular for the reasons presented below.
91. Mr Gatenby at para 4.3 confirms that State Highway 6 is classified as a Regional Road; and at para 4.4 he observes that State Highway 6 caters for a range of vehicle classifications and types including:
- Tourist trips throughout the area, travelling to and from Queenstown, from Cromwell and beyond; and

- Some level of commuter trips to and from the main employment centres of Frankton and Queenstown.

92. Mr Gatenby also notes that State Highway 6 is used for heavy goods vehicle movements and local work related trips. At para 4.5 he observes that SH 6 is an important transport link, providing the key route between Frankton/Queenstown and most of the rest of the South Island.

93. In Part 8.1.4 of my s42A report I observed that State Highway 6 is the most frequented public place from which the proposal will be viewed; and I consider that Mr Gatenby's evidence supports this observation. Given that View 15 is from the most frequented public place from which the proposal will be viewed I consider that particular attention should be given to the landscape and visual effect of the proposal as viewed from this location.

94. Mr Milne at para 91 confirms that in View 15 the application site is largely visible, including the lower elevations of the site, and this is evidenced by his View 15 simulation. He considers that development on the flats will largely be screened by the proposed amenity edge and tree plantings; but development in the RLA 3, RLA 4 and RLA 5 will be visible. Mr Milne refers to future dwellings enabled by Plan Change 14; but does not quantify the number of dwellings that will be visible in View 15. In Part 8.1.1 of my s42A report I presented a table that I prepared derived from Figure 2 of the Demand & Supply Assessment presented at Appendix G to the request document. I reproduce this table below, amended in accordance with the lot quantity presented on the Indicative Master Plan Overlay provided by Mr Milne on Tuesday.

<u>Rural Lifestyle Area</u>	<u>Minimum Lot Size</u>	<u>Dwelling Lot/Yield</u>
RLA 1	2000m <sup>2</sup>	22
RLA 2	3000m <sup>2</sup>	12
RLA 3	4000m <sup>2</sup>	60
RLA 4	1 ha	27
RLA 5	3 ha	18

95. The above table indicates the total of 105 dwellings/lots are anticipated in RLA 3 – RLA 5 (based on an indicative yield of 139 rather than 160 lots). It is unclear how many of the 105 dwellings will be visible in View 15. In the absence of any definitive information with respect to the number of visible dwellings being provided by Mr Milne, I have reached the conclusion that a substantial number of dwellings, accessory buildings and other structures (such as farm buildings and water tanks [for fire fighting and possibly irrigation water storage] along with roading infrastructure) will in fact be located such that they will be clearly seen from State Highway 6.

96. During his presentation Mr Milne repeatedly referred to future development enabled by PC 14 that “drapes” on the landscape. While colour shading (as presented on View 15 and other images) “drapes” on the landscape as shown; actual built development will simply be seen on the site in the landscape.

97. I suggest that the Commission visit State Highway 6 at the McNulty Road intersection when it conducts the site visit. I note, in particular, that the coppice of conifers on the site and the orchard (the foliage of which had a distinct red colour in autumn) provide a useful point of reference on the site at the centre of Mr Milne's image to enable the visual effects of the proposal to be assessed.

98. Mr Milne has assessed the magnitude of the change to the view from SH 6 at this location as being “likely to be moderate”; and he considers that “adverse effects on visual amenity will be moderate”. Given that a substantial number of dwellings are proposed in an elevated position on the site that will be viewed in a vista that includes the Pisa Range ONL [largely cropped from Mr Milne’s View 15 simulation] I consider that the visual effects will be adverse and significant both in terms of the magnitude of change to this view and in terms of adverse effects on visual amenity. Again I acknowledge that I am not a landscape architect but I am a planner experienced in assessing the visual effects of development proposals on rural land in the Central Otago landscape.
99. Mr Milne has provided views from the east-west limb of Ripponvale Road (View 11 – View 14). Mr Milne at para 83 and elsewhere has referred to the planted edge [Amenity Edge – Ripponvale Road as shown on the Structure Plan] that will serve to provide screening, particularly of development on the lower portions of the site. I simply note that such screening will be deciduous and therefore will not provide year round screening. Built development will be seen through the trees when not in leaf. The establishment of the planted edge will not serve to avoid or mitigate adverse effects on the open space values of the rural environment. Open views across the site will be precluded by the proposed screen plantings, particularly when these are in leaf.
100. The table presented above refers to a yield of 139 dwellings/lots rather than 160 lots provided for in PC 14. Mr Balderston at his para 54 has compared the 160 dwellings to be enabled by PC 14 with the number of private occupied dwellings at Bannockburn (252), Lowburn (117) and Pisa Moorings (309). Based on Mr Balderston’s figures the enclave of large lot residential development proposed on the PC 14 site [based on 139 dwellings/lots and not the 160 lots specified in the amended Rule 4.7.2(ii)(a) on p 4:44] is greater than the total number of occupied dwellings at Lowburn (118.8%); and equates to 55.1% of the scale of development at the township of Bannockburn and to 45.9% of the residential development at Pisa Moorings.

#### Lighting

101. In Part 8.1.7 of my s42A report I noted that submitters had expressed concern at the effect of subdivision and development on the upper portions of the site, including the effects of lighting at night. Mr McKay at his para 13 has confirmed that lights at night are an issue for him. He has observed that a number of houses will give a different evening/night view.
102. Mr Murray at para 71 has observed that the dark sky movement is growing rapidly in Central Otago; and that this is an issue not addressed in the [requestor’s] assessment.
103. Mr Giddens at his para 35 has listed amendments to the proposal and he has noted that at para 35(c) that a standard is to be added to reduce lux spill that requires all exterior lighting on dwellings to be fixed to the building and no higher than 1 metre above finished ground level; and to stipulate that there will be no lighting of vehicle access ways. Mr Dymock confirmed at his para 34 that “... this is a rural subdivision development and street lighting is not proposed.”
104. I note, in the first instance, that street lighting is provided elsewhere in the District where large lot residential subdivision and development has occurred. Examples include Bannockburn [RRA(4)], Lowburn [RRA(5)], and in the residential area north of State Highway 8B at Cromwell [RRA(6)]. Given that a substantial enclave of large lot residential development is proposed on the PC 14 site I question whether not providing street lighting is consistent with providing a safe environment for road users (including motorists, cyclists and pedestrians) travelling at night within the future subdivision to be enabled by PC 14.
105. The addition to Rule 4.7.2(ib)(f) [as attached to Mr Giddens’s evidence at Annexure A] controls exterior lighting on buildings. Interior lighting on dwellings and accessory buildings is not to be



controlled. Interior lighting is therefore likely to be visible on higher portions of the site. Again I note that a substantial number of dwellings are likely to be present on the elevated portions of the PC 14 site. While Mr Giddens's suggested rule relates to exterior lighting on buildings and precludes lighting of vehicle access ways within a site; it does not appear to preclude exterior lighting elsewhere on sites, such as ornamental lighting in garden/curtilage areas (not associated with vehicle access ways), or, say, associated with outdoor recreation facilities such as tennis courts.

106. Lighting effects will also result from headlight sweep as residents and visitors traverse the unlit roading on the PC 14 site at night (particularly on the elevated roading as shown on the Structure Plan/Indicative Master Plan).

#### Lack of Integration

107. In Part 8.13 of my s42A report I concluded that the proposal will have a significant adverse effect in terms of its lack of integration with the existing urban area at Cromwell.

108. Mr Giddens at his para 19(d) has stated:

*"... The level of integration between the proposed rural lifestyle development and Cromwell is a product of its location within the rural area, and in this context, I consider it is comparatively close to the Cromwell centre and "integrated"."*

109. I maintain the view that there is a lack of integration of the large lot residential subdivision and development enabled by PC 14 with the existing urban area of Cromwell. Integration goes beyond a "comparatively close" relationship to the Cromwell centre when, presumably, compared to more distant locations.

110. I also note Mr Balderston's observation at his para 69 that the intensity and scale of development proposed is effectively suburban, creating a new enclave, suburb or neighbourhood; and that despite strong functional links to Cromwell PC 14's distance from urban Cromwell, presence of SH 6 and the existing and expanded cherry operation of NZ Cherry Corp, along with a lack of walking and cycling connectivity, reduce the potential for physical and social integration and connectivity with Cromwell. I also again note that the Spatial Plan for the Cromwell Masterplan at page 035 provides for a 20 metre vegetation buffer on the east side of State Highway 6 to reinforce SH6 as an edge to the Cromwell urban area.

111. Ms McMinn has also referred at her para 7.5 to the severance, connectivity and potential safety effects (in the context of avoiding development like PC 14 to the west of SH 6).

#### Reverse Sensitivity

112. In Part 8.5.4 of my s42A report I concluded that it is likely that frost fans and helicopter use in the vicinity of the site for fruit drying or frost fighting will be a source of annoyance to future residents on the PC 14 site, as will audible bird deterrent devices in the locality. I also noted that reverse sensitivity effects are anticipated in the context of agrichemical spraying.

113. I do not propose to retrace the substantial evidence from Ms Wharfe with respect to reverse sensitivity. I note that Mr McKay at his para 4 advises that he tolerates disturbance from horticultural activities because he is part of the industry and accepts that it is a necessity. Mr McKay has observed in his para 4 that those living in the country who are not part of the industry will not like horticultural noise effects and inevitably some of them will complain; and he anticipates that this will gradually lead to restrictions and create difficulties as to how orchards will operate.

114. Mr Murray at para 55 has confirmed that he can attest that frost fans disturb sleep. Mr Murray lives at Bannockburn in a new double glazed insulated house; and he advises that the frost fan located over 400 metres from his bedroom window has woken him up a number of times. He described his first experience of frost fan operation as sounding like a garbage truck; whereas Mr Eckhoff described his experience of frost fans as sounding like a motor mower outside his bedroom.
115. I also acknowledge the evidence of Mr Dicey, commencing at his para 7.2, which discusses spray drift. Mr Dicey considers that spray drift has the most significant reverse sensitivity effects associated with it. I note in particular that at para 7.11 Mr Dicey notes the appropriate personal protection equipment used by those applying agrichemicals; whereas nearby residents who may be affected by spray drift will have no such protection available to them.
116. I maintain my view (expressed in Part 8.22 of my s42A report) that the proposal will have significant reverse sensitivity effects with respect to existing established activities, particularly orcharding.

#### Transportation Effects

117. In Part 8.3.4 of the s42A report I have recommended that widening of the east-west limb of Ripponvale Road be explicitly provided for in a rule in the event that Plan Change 14 proceeds. In Part 8.3.5 I concluded that if PC 14 is approved that a rule should also be inserted to the effect that a pedestrian/cycle shared footpath be provided on the north side of the east-west limb of Ripponvale Road to provide access between the site entrance and the State Highway 6 intersection; and that a pedestrian/cycle footpath be provided to the north adjacent to State Highway 6 to connect to a crossing point outside the Ripponvale Lifestyle Village that in turn will connect to the sealed walkway to Waenga Drive in Cromwell.
118. At paras 40 and 41 Mr Carr considers that upgrading of Ripponvale Road and the installation of a footpath on part of Ripponvale Road is a matter that should be considered when subdivision consents are sought.
119. I am concerned that if this matter is left simply for consideration at the subdivision consent stage; upgrading Ripponvale Road and providing a footpath on Ripponvale Road will result in costs to the Council (and the wider community) to provide infrastructure necessitated by subdivision and development enabled by PC 14. This is because such upgrading is to occur in the context of an existing legal road and a future subdivider may well mount an argument to the effect that it should only pay a proportion of the costs of such infrastructure provision, given that there are other users (and potential users) of the road.
120. By inserting infrastructure upgrading requirements as a rule there is a greater likelihood that the cost of providing this infrastructure will fall on the developer of the PC 14 land; rather than imposing a cost on the Council. Compliance with the rule must occur if a future subdivision is to proceed. Reference in a rule also provides certainty that these matters will be given consideration by the reporting planner and the consent authority in the context of a future application for a controlled activity subdivision consent. I have recommended amendments to Rule 4.7.2(ii)(a)(vi) below, accordingly.
121. At para 43 Mr Carr has noted that works within the State Highway 6 are within third party [NZTA] land over which the plan change proponents have no control. In my view there is no impediment to providing for such works in the context of PC 14. For example Plan Change 12 (Wooing Tree) that Mr Carr provided advice with respect to as confirmed at para 9 of his evidence, introduced rules into the District Plan that required the provision of a roundabout and underpass under State Highway 8B prior to development occurring on much of that land (see, for example, Rule 7.3.6(vi)(e) of the Operative District Plan). The pedestrian/cyclist underpass and roundabout referred to in that rule would

necessitate works on the state highway on third party land which the Plan Change 12 proponents have no control over.

122. Mr Gatenby at his para 7.6 has noted that the 3-4 km trip to/from Cromwell is well within a suitable typical commuter or leisure cycle distance; and at para 7.7 that the safe crossing of SH 6 for non-car modes would be expected to be a key issue. Mr Bartrum (for the Cromwell Mountain Bike Club) anticipated that a large percentage of local riders (using the proposed MTB trails) would be just as likely to ride out to the trail zone instead of driving.
123. Mr Gatenby has noted that a Safe System assessment has not been provided; and at para 8.5 he notes that PC 14 should allow an assessment of how to link PC 14 into the wider Cromwell walk and cycle network, and specifically to address the need for a dedicated safe and convenient crossing point to cross the state highway.
124. I understand the NZTA position to be that, in the absence of Safe System assessment, it is not possible to determine whether the provision of a cycle/footpath for 400 metres along SH 6 connecting to a crossing place in the vicinity of the Ripponvale Lifestyle Village is the most appropriate option rather, say, that an underpass. As a consequence I consider it appropriate that a rule should provide a generic reference to providing for pedestrian/cycle crossing to Cromwell; rather than referring to a specific configuration for such a connection.
125. I note that Mr Gatenby at para 7.7 has advised that it is not expected that an at-grade crossing of SH 6 would be suitable in safety terms, without a significant reduction in the current operating speed of 100 kph; and that a Safe System – compliant intersection would have the speed of vehicles lowered to below 30 kph.
126. I simply note, in this context, that there are existing crossings of state highways within the Central Otago District provided for cyclists where the operating speed of those highways is 100 kph. I note in this context crossings associated with the Otago Central Rail Trail at Chatto Creek and Wedderburn. I also note that multiple crossings have been provided for a cycleway between Beaumont and Lawrence on State Highway 8 in the Clutha District.
127. Mr Gatenby commencing at para 6.11 discusses the SH 6/Ripponvale Road/Pearson Road intersection; being the intersection to the south of the north-south limb of Ripponvale Road. Mr Gatenby has concerns that a worst case scenario would result in Queenstown-bound trips from the PC 14 development utilising the north-south limb of Ripponvale Road and turning right towards Queenstown. The consequence of the worst case scenario would, as described in Mr Gatenby's para 6.7, raise concerns that the performance of the intersection would be below that considered acceptable in efficiency terms albeit that Mr Gatenby now accepts Mr Carr's findings about efficiency (para 26 of Mr Carr's supplementary evidence).
128. Having considered Mr Gatenby's evidence I have suggested wording below for a rule that provides for the potential upgrading of this intersection in Rule 4.7.2(a)(vi) for the consideration of the Commission. My suggested rule recommends a Safe System assessment of the intersection and provides for upgrading of that intersection if such action is found to be required.
129. I **recommend**, in the event that PC 14 is to be approved with modifications [which I do not recommend] that Rule 4.7.2(ii)(a)(vi) be amended to include the following bullet points under "● Rooding layout having regard to the indicative rooding layout on the Structure Plan" :-
  - Upgrading the east-west portion of Ripponvale Road between the subdivision entrance and State Highway 6 to achieve a sealed width of at least 7.5 metres.

- Constructing a pedestrian/cycle footpath on the north side of the east-west limb of Ripponvale Road between the subdivision entrance and State Highway 6.
- Making provision for pedestrian/cycle traffic to achieve access from Ripponvale Road across State Highway 6 to Cromwell on the east side of State Highway 6.
- Providing a Safe System assessment of the SH6/Ripponvale Road/Pearson Road intersection; and making provision for upgrading of that intersection if improvements to that intersection are found to be necessary as a consequence of the Safe System assessment.

130. Mr Giddens noted that, following discussions with the requestor, that a Stage 1 of 50 lots was envisaged; and he considered that this could be an appropriate trigger point for the road widening of the east-west portion of Ripponvale Road. Mr Facey has suggested a trigger of 85 lots (for the widening and construction of a pedestrian/cycle footpath at Ripponvale Road). I consider that requiring the provision of this infrastructure from the outset is preferable.

#### FENZ Condition

131. FENZ has promoted an amendment to Rule 4.7.2(ii)(a)(vi) to require that the following be provided:

- “● *A water supply connection to newly created lots or dwellings, that complies with the provisions set out in the New Zealand Fire Service Firefighting Code of Practice SNZ PAS 4509:2008.*”

132. Having considered the evidence presented by Ms Vincent for FENZ and by Mr Dymock; I consider that it is appropriate to insert this rule as promoted by FENZ. I note, in particular, that the rule is specific to the Rural Resource Area (5) and would not be applicable to any subdivision or development elsewhere in the Rural Resource Area.

#### Controlled Activity Status

133. Plan Change 14 provides for up to 160 allotments to be used for residential activity on the site albeit that 139 lots are shown on the Indicative Master Plan Area Overlay.

134. PC 14 provides (through Rule 4.7.2(ii)(a)(i)) for subdivision within the RuRA(5) as a controlled activity, for which resource consent must be granted by the consent authority pursuant to section 104A of the RMA. Similarly the new Rule 4.7.2(i)(b) also stipulates that residential activity is also to be a controlled activity (and therefore must be consented). Accordingly if the Commission decides to approve PC 14 or approve PC 14 with modifications, that retain controlled activity status, the consent authority will not have the opportunity to exercise discretion as to whether the resulting applications for subdivision and land use consent are granted or refused. They must be granted. This contrasts, say, to a situation where future subdivision and development is to be scrutinised through a discretionary resource consent regime.

135. As a consequence the decision on PC 14 is in reality a decision that will effectively consent subdivision and residential activity on up to 160 allotments on the PC 14 site [subject, of course, to the statutory controlled activity resource consent process].

#### Conclusions

136. I have reviewed the conclusions expressed in my s42A report particularly as presented in Part 8.22 on pages 63-64 (effects), Clause 9.4 on page 68 (alternatives, where I address District Plan objectives), and Clause 10.5 on page 83 (other statutory provisions including planning documents). Having


considered the submissions and evidence presented at this hearing I confirm that my conclusions stand.

137. Having regard to the matters traversed in my s42A report and having regard to the submissions and evidence presented at this hearing it is my opinion that the site is not suitable for the subdivision and development proposed to be enabled through requested PC 14.

Recommendations

138. In Clause 11.0 on pages 83 and 84 of the s42A report I make a series of recommendations with respect to whether submissions and further submissions should be accepted, accepted in part or rejected. These recommendations stand.

139. Consistent with those recommendations, and for the reasons expressed in my s42A report (and as expanded upon above), I confirm my overall recommendation that requested PC 14 be declined.



**W D WHITNEY**  
**Planning Consultant**

28 May 2020

APPENDIX 6:



LEGEND

- Lowest Density Residential - R [RRA (3)]
- Medium Density Residential - R [RRA (11)]
- Highest Density Residential - R
- Light Commercial / Visitor Accommodation - B IBA (2)





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DEVELOPMENT  
MASTERPLAN

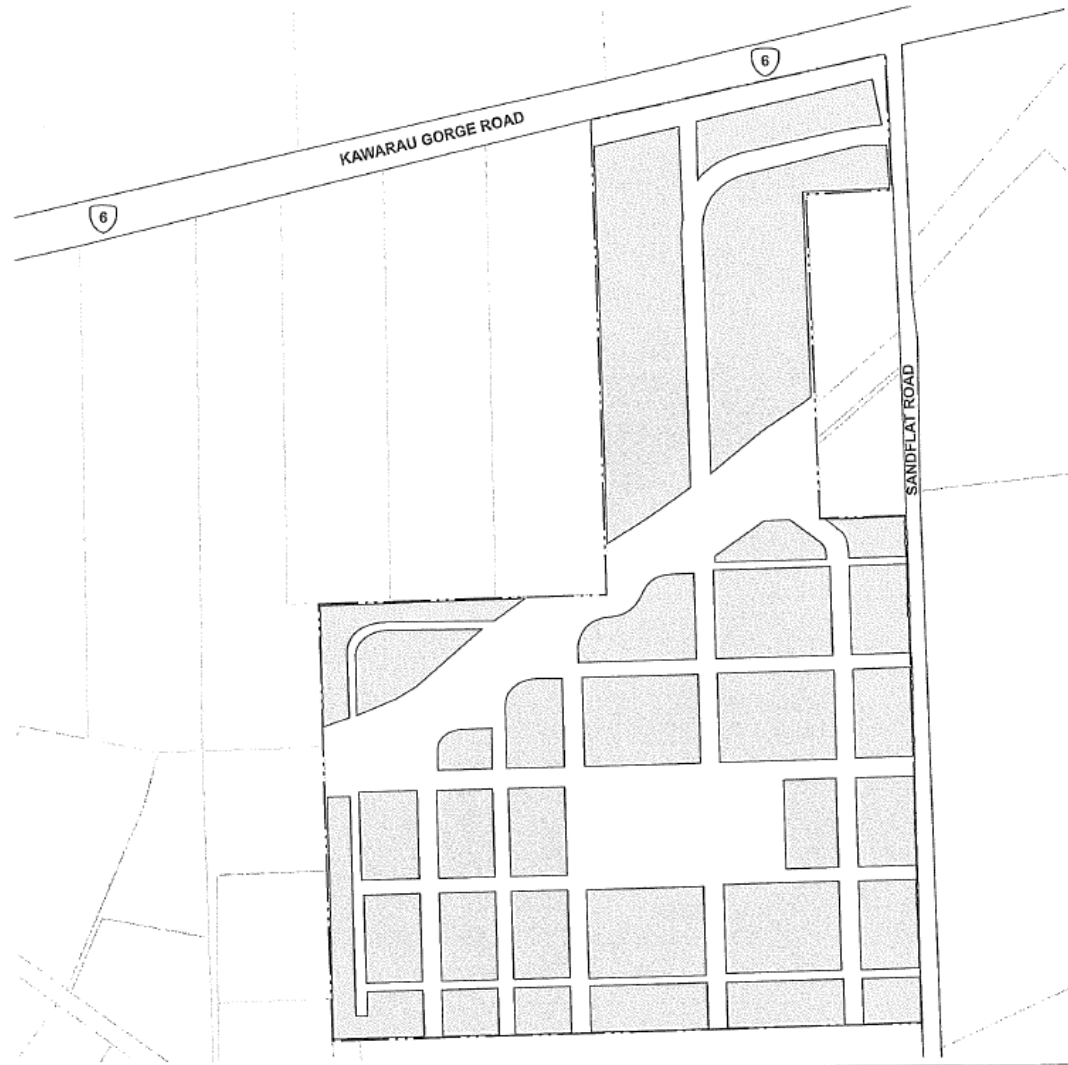
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DATE 09.02.2017



APPENDIX 6

# DEVELOPMENT PARCEL PLAN

-  RESOURCE AREA BOUNDARY
-  DEVELOPMENT PARCEL



*Appendix 2*



# INDICATIVE MASTERPLAN

The following spreads are a suite of indicative 'artist-impression' visualisations prepared to help convey an understanding of the design intent for the River Terrace as a neighbourhood and place.



# APPENDIX 3

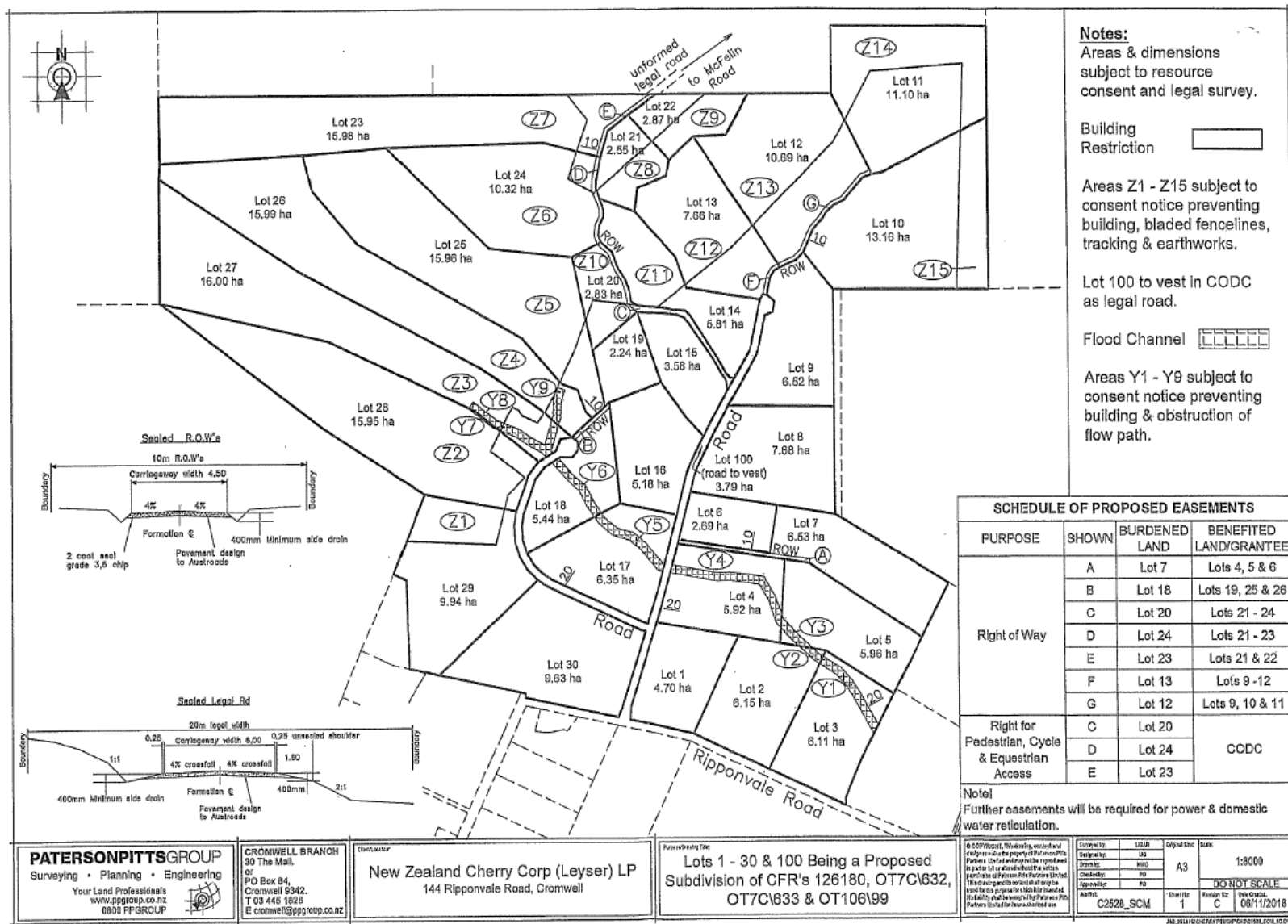
Table 4. List of high class soils in Otago

Soil <sup>1</sup>	Code	Survey	LUC class	Estimated OSUI classes		Area (ha)
				Arable Hort.	Non-arable Hort.	
Clutha zl	Cl	Lands and Survey	I	2	1	1063.76
Wingatui	Wg	(undated)		2	1	2018.12
Clutha	95c	N.Z. Soil Bureau	II	2	1	1501.88
Mataura	98f	(1968)		2	1	5622.58
Middlemarch	6			3	2	561.10
Shotover	9b			2	1	2454.81
Kaipoi sl	41b	Kear <i>et al.</i>	II	3	2	139.42
Templeton zl	31	(1967)		3	2	634.14
Waiareka cl	3a			1	1	2739.49
Matau	M	Lands and Survey	II	2	2	164.73
Pomahaka	P	(undated)		2	1	622.07
Wingatui mott.	Wgg			2	1	775.30
Wingatui sh	Wgs			2	1	121.58
Clutha	38	N.Z. Soil Bureau	II	2	1	350.30
Waitati	2	(1968)		2	1	66.07
Wingatui	40			2	1	631.67
Clutha fsl	C	Cutler	II	2	1	1319.35
Clutha sl	Cl	(1957)		2	1	583.90
Koau	K			3	3	235.66
Koau peaty	Kp			3	3	127.91
Cargill	76a	N.Z. Soil Bureau	III	2	2	98.07
Clutha	95c	(1968)		2	1	2312.20
Gladbrook	96			3	2	4521.42
Mataura	98f			2	1	1914.30
Molyneux	2d			3	1	27.72
Owaka	36			2	2	7724.14
Pigburn	2a			3	1	840.48
Ripponvale	2c			2	1	104.17
Shotover	9b			2	1	2303.34
Waenga	2b			3	1	1124.88
Waikakahi	71c			1	1	344.76
Wanaka	9c			3	1	625.65
Waiareka	3	Kear <i>et al.</i>	III	1	1	356.93
Templeton	31	(1967)		3	2	68.75
Lochar sl	LC3	Leamy and Saunders	III	2	1	454.67
Lochar sh sl	LC2	(1967)		3	2	302.46
Maungawera fsl	M2			2	1	75.77
Maungawera sh l	M3			3	2	84.83
Mangawera zl	M4			2	1	1265.59

Table 4. Continued

Pigburn sl	PB			2	1	210.49
Pigburn sh sl	PB2			3	2	988.36
Pigburn fsl	PB4			2	1	94.55
Pigburn zl	PB5			3	1	980.24
Queensberry sl	Q4			2	1	573.78
Queensberry sh sl	Q3			3	2	630.79
Ripponvale sl	R3			2	1	278.40
Speargrass sl	S			2	1	102.42
Speargrass sl	S2			2	1	64.39
Speargrass sl	S3			2	1	184.51
Speargrass zl	S4			2	1	1203.11
Waenga fsl	W5			2	1	1983.11
Waenga sh sl	W3			3	2	432.03
Eweburn fsl	E1	Orbell	III	2	1	3414.03
Pigburn fsl	PB3	(1974)		2	1	276.91
Pigburn sh fsl	PB2			3	2	422.84
Blackmans	BK	McCraw	III	3	2	150.06
Blackmans fsl	BK2	(1964)		3	2	661.75
Waenga	W1-8			2	1	190.06
Galloway sl	G	Leamy and Wilde	III	2	1	98.57
Pigburn fsl	PB	(1972)		2	1	164.53
Pigburn sh fsl	PBs			3	2	390.78
Ripponvale sl	R			2	1	87.09
Waenga fsl	Wd			2	1	496.00
Waenga sh fsl	W			3	2	127.67
Clutha	Cl	Lands and Survey	III	2	1	2563.07
Gladbrook	G	(undated)		3	2	1547.00
Middlemarch	Md			3	2	3305.38
Pomahaka	P			2	1	527.77
Cargill cl	1	Campbell	I	2	2	3249.21
Waikakahi	34	(1978)		1	1	96.22
Clutha fsl	C	Cutler	III	2	1	30.58
Clutha fsl mott.	Cm	(1957)		2	1	354.66
Pomahaka sl	P			2	1	582.16
Pomahaka fsl	Pl			2	1	409.88
Waitepeka zl	W			3	2	805.04
<b>Total Area of High Class Soils</b>						<b>71266.81</b>

<sup>1</sup>zl = silt loam; cl = clay loam; sl = sandy loam; sh = shallow; fsl = fine sandy loam; mott. = mottled.



**Notes:**  
Areas & dimensions subject to resource consent and legal survey.

Building Restriction

Areas Z1 - Z15 subject to consent notice preventing building, bladed fencelines, tracking & earthworks.

Lot 100 to vest in CODC as legal road.

Flood Channel

Areas Y1 - Y9 subject to consent notice preventing building & obstruction of flow path.

SCHEDULE OF PROPOSED EASEMENTS			
PURPOSE	SHOWN	BURDENED LAND	BENEFITED LAND/GRANTEE
Right of Way	A	Lot 7	Lots 4, 5 & 6
	B	Lot 18	Lots 19, 25 & 28
	C	Lot 20	Lots 21 - 24
	D	Lot 24	Lots 21 - 23
	E	Lot 23	Lots 21 & 22
	F	Lot 13	Lots 9 - 12
	G	Lot 12	Lots 9, 10 & 11
Right for Pedestrian, Cycle & Equestrian Access	C	Lot 20	CODC
	D	Lot 24	
	E	Lot 23	

**Note!**  
Further easements will be required for power & domestic water reticulation.

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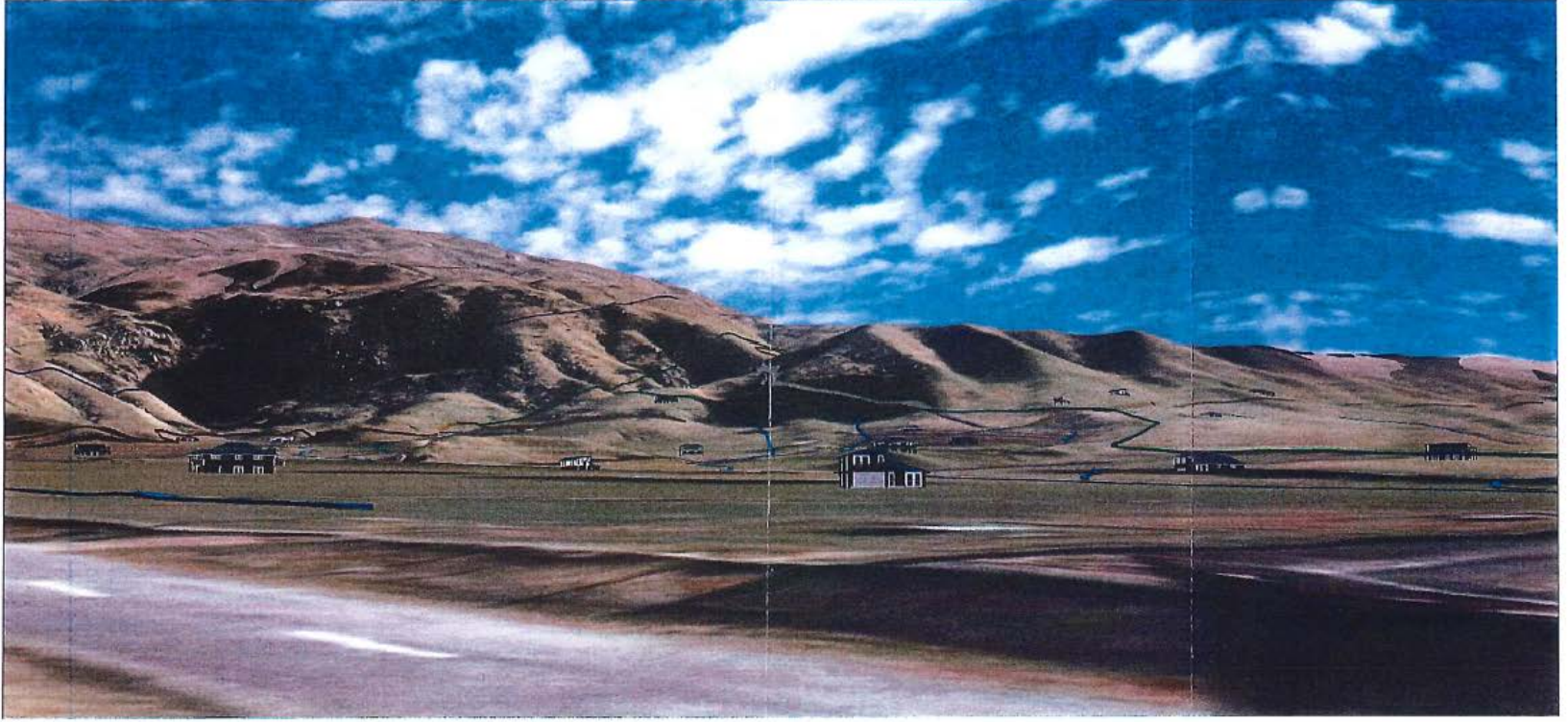
**New Zealand Cherry Corp (Leyser) LP**  
144 Ripponvale Road, Cromwell

**Proposed Title:**  
Lots 1 - 30 & 100 Being a Proposed  
Subdivision of CFR's 126180, OT7C\632,  
OT7C\633 & OT106199

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Checker:	KRD	A3	
Drawn by:	MD	DO NOT SCALE	
Approved:	MD	Issue No.:	08/11/2018
AS/IT:	C2628_SCM	Sheet No.:	1 of 1

APPENDIX 4



APPENDIX 5