

**BEFORE THE HEARING COMMISSIONERS  
AT CENTRAL OTAGO**

**IN THE MATTER** of the Resource Management Act 1991 (“**the Act**”)

**AND**

**IN THE MATTER** of the Proposed Plan Change 14 to the Central Otago District Plan

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**SUPPLEMENTARY STATEMENT OF EVIDENCE  
BY LYNETTE PEARL WHARFE  
FOR HORTICULTURE NEW ZEALAND  
27 MAY 2020**

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## **1. SUMMARY**

- 1.1 I am Lynette Wharfe, consultant planner to HortNZ.
- 1.2 I have prepared a statement of evidence for this hearing (EIC), which sets out my qualifications and experience.
- 1.3 I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out in Appendix 3 of my EIC. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **2. MY EVIDENCE IN CHIEF AND THIS SUMMARY STATEMENT**

- 2.1 My Evidence in Chief provides a planning assessment of those provisions on which HortNZ submitted and addresses the matters pertaining to effects of the proposal on horticulture land use arising from the proposed PC14 and includes:
  - a) Overview of rural context and plan philosophy
  - b) Terminology
  - c) Rural Lifestyle
  - d) Rural Character
  - e) Need for Rural Lifestyle development
  - f) Soil Resource and loss of production land
  - g) Noise
  - h) Discharges to Air
  - i) Reverse sensitivity
  - j) Integrated location
  - k) Other matters
  - l) Key issue
  - m) Operative Central Otago District Plan
  - n) Regional Policy Statement
  - o) Statutory considerations for assessing PC14

- 2.2 Since writing my EIC there has been additional information presented, including the Concept Plan, and suggested amendments to the PC14 provisions. Therefore, some of the matters addressed may now be different than when I wrote my EIC.
- 2.3 I take my EIC as read and am happy to take questions on any of the matters addressed.
- 2.4 This summary statement includes comment on matters that have arisen out of the hearings thus far, suggested amendments and issues that appear to require further explanation. It does not claim to be an exhaustive statement addressing the issues but rather identifying matters that I specifically want to draw the Commissioners attention to. Key topics I address in this statement are:
- a) Focus of my evidence
  - b) Concept Plan
  - c) Response to changes proposed
  - d) Response to issues raised
  - e) Conclusion

### **3. FOCUS OF MY EVIDENCE**

- 3.1 My evidence seeks to assess the impacts of the Plan Change. Key issues include rural lifestyle, rural character, loss of soils and production, integration and reverse sensitivity. In assessing the relevant provisions of the Operative District Plan I particularly want to highlight Objective 4.3.9 and whether PC14 is appropriately located.

#### *Rural lifestyle*

- 3.2 My evidence sets out my understanding of 'rural lifestyle' and refers to the National Planning Standards to assist in providing greater clarity about what can be anticipated within Rural Lifestyle Zones. My assessment leads me to consider that the PC14 development does not neatly fit this description, so is more akin to large lot residential.
- 3.3 This was supported by the findings of a report on the impacts of subdivision in Western Bay of Plenty where small lot subdivision does not include a primary production component of 'rural lifestyle'.

*Rural character and amenity*

- 3.4 In assessing the effects of PC14 on rural character I posed two questions:
- Is the current environment in Ripponvale Rd accurately described as rural lifestyle?
  - Does the proposal continue the existing environment into the development?
- 3.5 Through my analysis I determined that the existing environment is predominantly rural with evidence of horticultural activity undertaken on reasonably sized lots of 4-8ha. While there is evidence of some smaller rural residential living it appears to be absorbed into the rural context.
- 3.6 Provision of the Concept Plan has reinforced my position that the proposal does not continue the existing environment into the development.
- 3.7 During the hearing the Commissioners have asked:
- What may be expected in the current environment?
  - Is proposal out of odds with the current setting?
- 3.8 The Landscape Strategy Page 15 (provided with the Request documents) sets out a potential layout for subdivision under the current Rural zoning of 29 lots with an average lot size of 8.2ha and is what could reasonably be expected in the current environment if the entire site was to be subdivided under the provisions in the ODP. Such a subdivision would be a Discretionary Activity and would need to meet a range of objectives, policies and standards. It should be noted that the layout in the Landscape Strategy includes subdivision of the ONL, which is not an issue being considered in the PC14 proposal.
- 3.9 What could be expected in the current setting as depicted reflects the provisions in Section 4 Rural Resource Area of the ODP, subject to meeting the tests for the subdivision.
- 3.10 If the Concept Plan that was provided to the Hearing Commissioners on 26 May 2020 was overlaid on the plan in the Landscape Strategy there would be significant differences in the intensity of development, which is considerably greater than what could be expected in the current environment, particularly on the lower portions of the site. The intensity is greater partly because the ONL and the 29ha orchard development area are not included in the subdivision. So, in effect, 110 extra lots are confined within the

central part of the site over and above what could be provided for within the existing provisions of the ODP, if discretionary consent was granted.

- 3.11 A sense of the density that may result is demonstrated in the Images of areas in the Cromwell environs with lots ranging from 2000m<sup>2</sup> to 2ha which are attached to my EIC.
- 3.12 I consider that the proposal is out of odds with the current setting. As such it is also at odds with the provisions in the ODP which seeks to protect amenity, rural character, and soils and productive value.

#### *Soils*

- 3.13 My evidence provides an analysis of the issues relating to the soils and significance of production land, relying on the evidence of Roger Gibson. I focused on the use of 'high class soils' as the defined term in the RPS and the ODP, rather than the use of 'highly productive land', which currently has no statutory basis.
- 3.14 The conclusion I reach is that PC14 does not give effect to the Operative RPS, particularly Policy 5.5.2. Nor does it give effect to the Partially Operative RPS in respect of Policy 5.3.1 Rural Activities. It also does not meet Objective 4.3.7 in the ODP in respect of land with special qualities. It should be noted that the objective and land with special qualities is not limited to high class soils.
- 3.15 While the Requestor has produced evidence and proposed changes to try and mitigate the effects on the soil resource, I maintain my position that the tests in the RPS and ODP are not met.

#### *Reverse sensitivity*

- 3.16 While the potential for reverse sensitivity arising from PC14 development is somewhat mitigated through acoustic insulation provisions and setbacks from boundaries, the potential for adverse effects is not totally alleviated. This is a concern.
- 3.17 Given the nature of the horticultural activity in the vicinity the threat of a large number of residential dwellers in close proximity raises concern about the potential for complaints.
- 3.18 *Ngatarawa Developments Ltd v Hastings District Council* provides an interesting context:

*We find that it is not appropriate to permit the number of notional noise boundaries surrounding working rural land to proliferate beyond the number permitted by the district plan. To do so would*

*unreasonably and unfairly constrain the activities appropriately located in the Plains Zone. (63)*

- 3.19 I consider the same principle applies to PC14 development.
- 3.20 The provisions in the Partially Operative RPS are very clear in respect to avoiding reverse sensitivity effects on rural production and I do not consider that they have been met in PC14.

*Integration*

- 3.21 In my evidence I identified the need for integration with the community as a matter of concern.
- 3.22 It appears that the focus of the Requestor has been on integration 'within the site' rather than 'without.'
- 3.23 There also appears to be a debate as to whether development in 'rural' areas should be subject to a similar level of integration as an urban setting. In my opinion the level of integration is relative to the site and scale of the proposal. For instance: assessing a site in the rural zone for up to 160 lots is different from assessing the need for integration for a proposal that creates a small number of rural residential lots in an area zoned rural residential.
- 3.24 It is important that the environment in which a large number of lots are created is adequately integrated into the wider environment. The disjunct between PC14 and Cromwell township is an issue in this regard, because of the requirements of living in a rural environment. People in a PC14 type development do not exist in an 'island' – they are dependent on resources beyond the development and there needs to be clarity that such resources are accessible and efficient.
- 3.25 The partially Operative RPS has Policy 1.2.1 Integrated Management that seeks the coordinated management of interconnected natural and physical resources. I do not consider that PC14 has demonstrated that this policy can be met.
- 3.26 In addition one of the Council's function under s31 (1) a) is:  
  
*The establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district.*
- 3.27 Integrated management is not limited to particular areas of the district and is a core function of the Council.

*ODP Objective 4.3.9*

- 3.28 I focus on Objective 4.3.9 Integrated Comprehensive Mixed Use Development as it is the key objective that PC14 relies on.
- 3.29 Objective 4.3.9 seeks that development is 'appropriately located'.
- 3.30 In my evidence (18.14) I set out a number of reasons why I consider that PC14 is not appropriately located:
- It is not integrated with the surrounding community
  - It has the potential to result in reverse sensitivity complaints
  - It is incompatible with existing horticultural activity in the area
  - It will lead to the loss of high class soils and loss of productive capacity
  - It will not retain existing rural character and amenity
  - It is incompatible with the existing rural environment
- 3.31 While PC14 may provide for a range of activities on the site the effects of the development are such that it does not, in my assessment, meet the test of being 'appropriately located'. Therefore PC14 is inconsistent with Objective 4.3.9.

**4. CONCEPT PLAN**

- 4.1 The Requestor has now provided an indicative Concept Plan which greatly assists with better understanding the proposal and would have been useful at the time of preparing evidence.
- 4.2 The Concept Plan has also been amended to provide for 139 lots as a result of changes due to development on Waenga 5 soils.
- 4.3 The Concept Plan reinforces the position I reached in assessing the Plan Change, in that there are a significant number of small lots more akin to large lot residential development.
- 4.4 The response from the Requestor appears to dismiss evidence that considers that PC14 is large lot residential and that this 'colours' the assessment of the Plan Change.<sup>1</sup>

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<sup>1</sup> E.g. Legal submissions S Everleigh Para 15)

- 4.5 In my EIC I raised a number of issues relating to Recreational use of the land and the lack of any information, as this is to be addressed in the resource consent process by the Requestor.
- 4.6 The presumption in the Request documents is that the tracks will use existing tracks to provide public access.<sup>2</sup>
- 4.7 The Concept plan shows the existing hill track in the ONL area but the start and end points do not link to any roads or tracks – rather terminating within specific lots. Therefore, it is not clear to me how the recreational network will operate.
- 4.8 This is a concern. Obviously from the number of submitters in support associated with the Cromwell Mountain Bike Club there are expectations for public access and use of the tracks but the Plan Change does not provide any surety of this or any detail as to how it will operate.

## **5. RESPONSE TO CHANGES PROPOSED**

- 5.1 A number of changes have been proposed to the Plan Change and Structure Plan in response to evidence.
- 5.2 A key change that is proposed is the requirement that lots in RLA 2, 3 and 4 are to identify areas comprising at least 50% of the site to be utilised for horticultural or agricultural activity, in an attempt to mitigate the effects of loss of high class soil and loss of production.
- 5.3 Ms McClung has identified issues relating to such use.
- 5.4 Operating horticultural or agricultural activity on an area of 1500m<sup>2</sup> to 5000m<sup>2</sup> raises issues about the ability to operate such sites.
- 5.5 Firstly: They will be unable to comply with NZS8409:2004 Management of Agrichemicals in terms of setbacks for agrichemical spraying as the setback for dwellings in these areas are 6m in RLA 2 and 3 and 10m in RLA 4. There is potential for reverse sensitivity effects within the PC14 site that have not been assessed.
- 5.6 Secondly: Operating a horticultural operation requires investment in infrastructure. Much has been made by the Requestor of what is required to operate a horticultural operation. For instance, matters such as water supply, frost protection, bird protection, spraying and maintenance. To do so on a small lot is inefficient.
- 5.7 The partially Operative RPS requires that the subdivision of productive land into smaller lots does not result in a loss of its productive capacity or productive efficiency.<sup>3</sup>

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<sup>2</sup> Legal submissions S Everleigh Para 22c)



- 5.8 In my experience the size of lots requiring 50% to be used for agriculture or horticultural activity will be inefficient and lead to the land being lost to subdivision.
- 5.9 In my evidence I included a report that considered the impacts of subdivision in Western Bay of Plenty District Council. A significant finding was that lots under 1.5ha were lost to production as a result of subdivision. I have discussed the findings with Mr Martelli at WBOPDC and he considers that the finding is still valid in describing the effects of subdivision of small lots.
- 5.10 Therefore while the approach of the Requestor responds to an issue identified in evidence I do not consider the proposed change adequately mitigates the loss of land and in fact raises additional matters of reverse sensitivity and effects on existing operations through potential biosecurity effects.
- 5.11 While there may be some horticultural or agricultural activity able to be undertaken on the land it is likely to be small scale and not retain the primary productive capacity of the high class soils as sought in the RPS Policy 5.5.2, as some soil is still removed from production.

## **6. RESPONSE TO ISSUES RAISED**

- 6.1 Reverse sensitivity: The Legal submissions for the Requestor (Para 24) refer to the Schooner Development subdivision consent and notes that no additional measures were put in place to address potential reverse sensitivity effects. As the subdivision was non-notified I consider that potentially affected parties may have been precluded from submitting, resulting in the lack of provisions regarding reverse sensitivity.
- 6.2 Submissions in support: I note that the Requestor seems to consider that because 75% of submitters support the proposal it increases its merit.<sup>4</sup> An analysis of the submissions in support indicates that there are a number of 'pro-forma' submissions and the focus is on the potential recreational provisions resulting from the Plan Change. While this may be a positive effect, the degree of support from a particular group for a particular aspect should not override the need to consider the wider implications and effects of the Plan Change. It is not simply a numbers game.
- 6.3 Water: Issues have been raised through the hearing about availability and use of water, with the contention being that the lack of additional water is a reason why the PC14 development is appropriate.

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<sup>3</sup> Policy 5.3.1 d)

<sup>4</sup> Legal submissions S Everleigh Para 45)

- 6.4 In my opinion the focus should be on the optimum use of available water, which may, or may not, be the Requestors proposal.
- 6.5 While the matter is covered briefly in some submitters evidence I consider that there has been a lack of time and appropriate expertise to adequately canvas this issue in the context of matters raised through the hearing. For instance I understand that there is to be a summary of the verbal evidence of Mr Dymock, but as yet I have not had the opportunity to read and assess that statement so cannot provide any response to what it may contain.
- 6.6 Cromwell MasterPlan: I consider that the principles of the Cromwell MasterPlan are relevant. While the Requestor has placed much emphasis on the MasterPlan being for 'urban' Cromwell it does include direction for the rural area including a 'key move' of demarcating the rural and urban environment and sustainable management of the rural environment (Pg 61). I do not consider the MasterPlan to be an exclusive 'urban' document as it articulates community aspirations for Cromwell which is important in the context of PC14.
- 6.7 The Masterplan seeks for growth to be focussed within the existing town area with a consolidated urban form and recognising the importance of the rural community to the district and town.
- 6.8 Objective 7 of the plan seeks to provide for the effective and efficient functioning of rural areas within the Cromwell Basin, ensuring that development if compatible with rural character and avoids reverse sensitivity effects, provides appropriate separation or buffering for environmental protection and clearly demarcates rural and urban boundaries.
- 6.9 These outcomes are similar to the principles that underpin the ODP and reinforce the community's recognition of the rural contribution to the district.
- 6.10 Therefore in my opinion the Cromwell Master Plan is relevant to PC14 to test the extent to which the Plan Change will achieve the objectives set out in the Masterplan.

## **7. CONCLUSION**

- 7.1 The PC 14 development is more akin to large lot residential than rural lifestyle.
- 7.2 PC14 seeks to develop an intensive 'rural lifestyle' development within the Rural Resource Area. It would effectively be an 'island' or enclave of residential use surrounded by rural zoned land that is

used for activities that are appropriately located in the rural environment, such as orchards, vineyards and packhouses.

- 7.3 The development does not continue the existing character of the surrounding environment
- 7.4 The effect of PC14 goes beyond the immediate effect of the rezoning of the PC14 because the change would breach the clearly defined rural boundary and threaten the cohesion of the rural zone and the provisions in the Plan which provide for rural production activities to be undertaken.
- 7.5 PC14 needs to demonstrate that the adverse effects of the development can adequately avoid, remedy or mitigate the adverse effects on adjoining rural areas.
- 7.6 While a number of mechanisms are proffered by the Requestor to mitigate adverse effects, my assessment is that these mechanisms will not adequately address the effects, including reverse sensitivity effects.
- 7.7 The request does not demonstrate that the provisions of the existing objectives and policies of the Operative District Plan are achieved through the Plan Change.
- 7.8 My assessment has determined that the objectives of the Operative District Plan to define a robust rural boundary to ensure that rural production activities can be undertaken is not met by PC14.
- 7.9 The integrity and cohesion of the Rural Resource Area is threatened by PC14. The site contributes to the integrity of the RRA as it comprises an important link in the rural zone. In my opinion the site is important not only for its productive potential but also as a key component of the RRA, which is necessary to be retained to ensure that reverse sensitivity effects do not adversely affect the rural activities in the RRA.
- 7.10 The request does not give effect to the Partially Operative Regional Policy Statements and does not provide for the economic wellbeing of the district through enabling high value horticulture production.
- 7.11 When reverse sensitivity effects are placed alongside other aspects of the proposal such as effects on the soil resource, it is apparent that it fails to meet the tests of the district plan, RPS and Pt 2 of the RMA.
- 7.12 In my assessment I consider that PC14 presents a significant deviation from the overall approach in the ODP is inconsistent with the objectives and policies of the ODP.

7.13 For these reasons, I recommend that the plan change be declined.

**Lynette Wharfe**

**27 May 2020**

